

Introduced by Senator BerryhillFebruary 20, 2014

An act to amend Sections 307, 655.2, and 668 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, as introduced, Berryhill. Vessels: violations.

(1) Existing law makes a person who moors a vessel to, or hangs on with a vessel to, a buoy or beacon, except as provided, or who willfully removes, damages, or destroys a buoy or beacon, placed by a competent authority in any navigable waters of this state, is guilty of a misdemeanor.

This bill would instead make a person who violates that provision guilty of an infraction, punishable by a fine of not more than \$100.

Existing law provides that an owner, operator, or person in command of any vessel propelled by machinery who uses it, or permits it to be used, at a speed in excess of 5 miles per hour in any portion of specified beach, swimming, or boat landing areas, not otherwise regulated by local rules and regulations, is guilty of a misdemeanor, punishable as specified.

This bill would instead make those persons guilty of an infraction, punishable as specified.

Existing law makes any person who violates specified regulations governing the piloting of vessels on state waters, guilty of a misdemeanor, punishable by a fine of not more than \$100 or imprisonment in a county jail for not more than 5 days, or by both that fine and imprisonment, for each violation.

This bill would instead make any person who violates specified regulations relating to proper operation of blinding lights or navigation

lights guilty of an infraction, punishable by a fine of not more than \$100.

Existing law makes any person who violates specified standards for vessels and associated equipment guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail for not more than 6 months, or by both that fine and imprisonment.

This bill would make any person who violates certain standards for those vessels and associated equipment by riding on the bow, gunwale, or transom of a vessel propelled by machinery, or who violates certain other regulations prescribing safety requirements for vessels guilty of an infraction, and would impose specified fines for those violations.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 307 of the Harbors and Navigation Code
2 is amended to read:

3 307. A person who moors a vessel to, or hangs on with a vessel
4 to, a buoy or beacon, except a designated mooring buoy, or who
5 willfully removes, damages, or destroys; a buoy or beacon, placed
6 by competent authority in any navigable waters of this state, is
7 guilty of a ~~misdemeanor~~ *an infraction, punishable by a fine of not*
8 *more than one hundred dollars (\$100).*

9 SEC. 2. Section 655.2 of the Harbors and Navigation Code is
10 amended to read:

11 655.2. (a) Every owner, operator, or person in command of
12 any vessel propelled by machinery is guilty of a ~~misdemeanor~~ *an*
13 *infraction* who uses it, or permits it to be used, at a speed in excess
14 of five miles per hour in any portion of the following areas not
15 otherwise regulated by local rules and regulations:

16 (1) Within 100 feet of any person who is engaged in the act of
17 bathing. A person engaged in the sport of water skiing shall not
18 be considered as engaged in the act of bathing for the purposes of
19 this section.

20 (2) Within 200 feet of any of the following:

21 (A) A beach frequented by bathers.

22 (B) A swimming float, diving platform, or lifeline.

23 (C) A way or landing float to which boats are made fast or which
24 is being used for the embarkation or discharge of passengers.

1 (b) This section does not apply to vessels engaged in direct law
2 enforcement activities—~~which~~ *that* are displaying the lights
3 prescribed by Section 652.5. Those vessels are also exempt from
4 any locally imposed speed regulation adopted pursuant to Section
5 660.

6 SEC. 3. Section 668 of the Harbors and Navigation Code is
7 amended to read:

8 668. (a) Any person who violates subdivision (c) of Section
9 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or
10 754, or any regulations adopted pursuant thereto, or any regulation
11 adopted pursuant to Section 655.3 relating to vessel equipment
12 requirements, is guilty of an infraction, punishable by a fine of not
13 more than two hundred fifty dollars (\$250).

14 (b) (1) ~~Any person who violates Section 655.2, or any regulation~~
15 ~~adopted pursuant thereto, or, except—~~(A) *Except* as provided in
16 subdivision (a), any *person who violates any regulation* adopted
17 pursuant to Section 655.3; is guilty of a misdemeanor and shall be
18 punished by a fine of not more than one hundred dollars (\$100)
19 or imprisonment in a county jail for not more than five days, or
20 by both that fine and imprisonment, for each violation.

21 (B) *Notwithstanding subparagraph (A), any person who violates*
22 *subdivision (b) of Section 6695 of Article 5 of Chapter 1 of Division*
23 *4 of Title 14 of the California Code of Regulations relating to*
24 *blinding lights, is guilty of an infraction, punishable by a fine of*
25 *not more than one hundred dollars (\$100).*

26 (C) *Notwithstanding subparagraph (A), any person who violates*
27 *Section 6600.1 of Article 5 of Chapter 1 of Division 4 of Title 14*
28 *of the California Code of Regulations, by violating United States*
29 *Coast Guard Navigation Rule 20, relating to navigation lights, is*
30 *guilty of an infraction, punishable by a fine of not more than one*
31 *hundred dollars (\$100).*

32 (2) Any person who violates subdivision (a) or (b) of Section
33 658 is guilty of ~~a misdemeanor~~ *an infraction* and shall be punished
34 by a fine of not more than two hundred dollars (\$200) for each
35 violation.

36 (3) (A) Any person who violates subdivision (d) of Section
37 652, ~~Section 652.5~~, subdivision (a) of Section 655, Section 655.05,
38 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6
39 or 665, or any rules and regulations adopted pursuant to subdivision
40 (b) or (c) of Section 660, is guilty of a misdemeanor and shall be

1 punished by a fine of not more than one thousand dollars (\$1,000)
2 or imprisonment in a county jail for not more than six months, or
3 by both that fine and imprisonment, for each violation.

4 *(B) Notwithstanding subparagraph (A), any person who violates*
5 *subdivision (a) of Section 655 by violating subdivision (a) of*
6 *Section 6697 of Article 5 of Chapter 1 of Division 4 of Title 14 of*
7 *the California Code of Regulations, relating to riding on the bow,*
8 *gunwale, or transom of a vessel propelled by machinery is guilty*
9 *of an infraction, punishable by a fine of not more than two hundred*
10 *fifty dollars (\$250).*

11 *(4) Any person who violates Section 652.5 is guilty of an*
12 *infraction, punishable by a fine of not more than one hundred*
13 *dollars (\$100).*

14 *(5) Any person who violates Section 655.2, or any regulation*
15 *adopted pursuant thereto, is guilty of an infraction, punishable by*
16 *a fine of not more than one hundred dollars (\$100).*

17 (c) (1) Any person convicted of a violation of Section 656.2 or
18 656.3 shall be punished by a fine of not less than one thousand
19 dollars (\$1,000) or more than ten thousand dollars (\$10,000), or
20 by imprisonment pursuant to subdivision (h) of Section 1170 of
21 the Penal Code, or in a county jail for not more than one year, or
22 by both that fine and imprisonment.

23 (2) In imposing the minimum fine required by this subdivision,
24 the court shall take into consideration the defendant's ability to
25 pay the fine and, in the interest of justice for reasons stated in the
26 record, may reduce the amount of that minimum fine to less than
27 the amount otherwise required by this subdivision.

28 (d) Any person convicted of a violation of Section 658.5 shall
29 be punished by a fine of not more than one hundred dollars (\$100).

30 (e) Any person convicted of a first violation of subdivision (b),
31 (c), (d), or (e) of Section 655, or of a violation of Section 655.4,
32 shall be punished by a fine of not more than one thousand dollars
33 (\$1,000) or imprisonment in a county jail for not more than six
34 months, or by both that fine and imprisonment. If probation is
35 granted, the court, as a condition of probation, may require the
36 person to participate in, and successfully complete, an alcohol or
37 drug education, training, or treatment program, in addition to
38 imposing any penalties required by this code. In order to enable
39 all persons to participate in licensed programs, every person
40 referred to a program licensed pursuant to Section 11836 of the

1 Health and Safety Code shall pay that program's costs
2 commensurate with that person's ability to pay as determined by
3 Section 11837.4 of the Health and Safety Code.

4 (f) Any person convicted of a second or subsequent violation
5 of subdivision (b), (c), (d), or (e) of Section 655 within seven
6 years of the first conviction of any of those subdivisions or
7 subdivision (f) of Section 655, or any person convicted of a
8 violation of subdivision (b), (c), (d), or (e) of Section 655 within
9 seven years of a separate conviction of subdivision (a) or (b) of
10 Section 192.5 of the Penal Code, or a separate conviction of Section
11 23152 or 23153 of the Vehicle Code or Section 191.5 or
12 subdivision (a) of Section 192.5 of the Penal Code, when the
13 separate conviction resulted from the operation of a motor vehicle,
14 shall be punished by a fine of not more than one thousand dollars
15 (\$1,000) or imprisonment in a county jail for not more than one
16 year, or by both that fine and imprisonment. If probation is granted,
17 the court, as a condition of probation, may require the person to
18 do either of the following, if available in the county of the person's
19 residence or employment:

20 (1) Participate, for at least 18 months subsequent to the
21 underlying conviction and in a manner satisfactory to the court,
22 in a program licensed pursuant to Chapter 9 (commencing with
23 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
24 Code, as designated by the court. In order to enable all required
25 persons to participate, each person shall pay the program costs
26 commensurate with the person's ability to pay as determined
27 pursuant to Section 11837.4 of the Health and Safety Code.

28 (2) Participate, for at least 30 months subsequent to the
29 underlying conviction and in a manner satisfactory to the court,
30 in a program licensed pursuant to Chapter 9 (commencing with
31 Section 11836) of Part 2 of Division 10.5 of the Health and Safety
32 Code. A person ordered to treatment pursuant to this paragraph
33 shall apply to the court or to a board of review, as designated by
34 the court, at the conclusion of the program to obtain the court's
35 order of satisfaction. Only upon the granting of that order of
36 satisfaction by the court may the program issue its certificate of
37 successful completion. A failure to obtain an order of satisfaction
38 at the conclusion of the program is a violation of probation. In
39 order to enable all required persons to participate, each person
40 shall pay the program costs commensurate with the person's ability

1 to pay as determined pursuant to Section 11837.4 of the Health
2 and Safety Code. No condition of probation required pursuant to
3 this paragraph is a basis for reducing any other probation
4 requirement.

5 (g) Any person convicted of a violation of subdivision (f) of
6 Section 655 shall be punished by imprisonment pursuant to
7 subdivision (h) of Section 1170 of the Penal Code, or in a county
8 jail for not less than 90 days or more than one year, and by a fine
9 of not less than two hundred fifty dollars (\$250) or more than five
10 thousand dollars (\$5,000). If probation is granted, the court, as a
11 condition of probation, may require the person to participate in,
12 and successfully complete, a program licensed pursuant to Chapter
13 9 (commencing with Section 11836) of Part 2 of Division 10.5 of
14 the Health and Safety Code, if available in the person's county of
15 residence or employment, as designated by the court. In order to
16 enable all required persons to participate, each person shall pay
17 the program costs commensurate with the person's ability to pay
18 as determined pursuant to Section 11837.4 of the Health and Safety
19 Code.

20 (h) (1) If any person is convicted of a violation of subdivision
21 (f) of Section 655 within seven years of a separate conviction of
22 a violation of subdivision (b), (c), (d), or (e) of Section 655 and
23 is granted probation, the court shall impose as a condition of
24 probation that the person be confined in a county jail for not less
25 than five days or more than one year and pay a fine of not less than
26 two hundred fifty dollars (\$250) or more than five thousand dollars
27 (\$5,000).

28 (2) If any person is convicted of a violation of subdivision (f) of
29 Section 655 within seven years of a separate conviction of a
30 violation of subdivision (f) of Section 655, of subdivision (a) or
31 (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153
32 of the Vehicle Code or Section 191.5 or subdivision (a) of Section
33 192.5 of the Penal Code, when the separate conviction resulted
34 from the operation of a motor vehicle, and is granted probation,
35 the court shall impose as a condition of probation that the person
36 be confined in a county jail for not less than 90 days or more than
37 one year, and pay a fine of not less than two hundred fifty dollars
38 (\$250) or more than five thousand dollars (\$5,000), and the court,
39 as a condition of probation, may order that the person participate
40 in a manner satisfactory to the court, in a program licensed pursuant

1 to Chapter 9 (commencing with Section 11836) of Part 2 of
2 Division 10.5 of the Health and Safety Code, if available in the
3 county of the person's residence or employment. In order to enable
4 all required persons to participate, each person shall pay the
5 program costs commensurate with the person's ability to pay as
6 determined pursuant to Section 11837.4 of the Health and Safety
7 Code.

8 (i) The court shall not absolve a person who is convicted of a
9 violation of subdivision (f) of Section 655 within seven years of
10 a separate conviction of a violation of subdivision (b), (c), (d), (e),
11 or (f) of Section 655, of subdivision (a) or (b) of Section 192.5
12 of the Penal Code, or Section 23152 or 23153 of the Vehicle Code
13 or Section 191.5 or subdivision (a) of Section 192.5 of the Penal
14 Code, when the separate conviction resulted from the operation
15 of a motor vehicle, from the minimum time in confinement
16 provided in this section and a fine of at least two hundred fifty
17 dollars (\$250), except as provided in subdivision (h).

18 (j) Except in unusual cases where the interests of justice demand
19 an exception, the court shall not strike a separate conviction of an
20 offense under subdivision (b), (c), (d), (e), or (f) of Section 655
21 or of subdivision (a) or (b) of Section 192.5 of the Penal Code,
22 or Section 23152 or 23153 of the Vehicle Code or Section 191.5
23 or subdivision (a) of Section 192.5 of the Penal Code, when the
24 separate conviction resulted from the operation of a motor vehicle,
25 for purposes of sentencing in order to avoid imposing, as part of
26 the sentence or as a term of probation, the minimum time in
27 confinement and the minimum fine, as provided in this section.
28 When a separate conviction is stricken by the court for purposes
29 of sentencing, the court shall specify the reason or reasons for the
30 striking order. On appeal by the people from an order striking a
31 separate conviction, it shall be conclusively presumed that the
32 order was made only for the reasons specified in the order, and
33 the order shall be reversed if there is no substantial basis in the
34 record for any of those reasons.

35 (k) A person who flees the scene of the crime after committing
36 a violation of subdivision (a), (b), or (c) of Section 192.5 of the
37 Penal Code shall be subject to subdivision (c) of Section 20001
38 of the Vehicle Code.

1 *(l)* Any person who violates Section 654.3 is guilty of an
2 infraction punishable by a fine of not more than five hundred
3 dollars (\$500) for each separate violation.

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