

Senate Bill No. 1162

CHAPTER 67

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

[Approved by Governor June 28, 2014. Filed with
Secretary of State June 28, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, Berryhill. Vessels: violations.

Existing law makes a person who moors a vessel to, or hangs on with a vessel to, a buoy or beacon, except as provided, 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.

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

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

307. (a) A person who moors a vessel to, or hangs on with a vessel to, a buoy or beacon, except a designated mooring buoy, is guilty of an infraction, punishable by a fine of not more than one hundred dollars (\$100).

(b) A person who willfully removes, damages, or destroys a buoy or beacon, placed by competent authority in any navigable waters of this state, is guilty of a misdemeanor.

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

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

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

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

(A) A beach frequented by bathers.

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

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

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

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

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

(b) (1) (A) Except as provided in subdivision (a), any person who violates any regulation adopted pursuant to Section 655.3 is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100) or imprisonment in a county jail for not more than five days, or by both that fine and imprisonment, for each violation.

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

(C) Notwithstanding subparagraph (A), any person who violates Section 6600.1 of Article 5 of Chapter 1 of Division 4 of Title 14 of the California

Code of Regulations, by violating United States Coast Guard Navigation Rule 20, relating to navigation lights, is guilty of an infraction, punishable by a fine of not more than one hundred dollars (\$100).

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

(3) (A) Any person who violates subdivision (d) of Section 652, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment in a county jail for not more than six months, or by both that fine and imprisonment, for each violation.

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

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

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

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

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

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

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

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

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

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

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

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

persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

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

(2) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of subdivision (a) or (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153 of the Vehicle Code, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in a county jail for not less than 90 days or more than one year, and pay a fine of not less than two hundred fifty dollars (\$250) or more than five thousand dollars (\$5,000), and the court, as a condition of probation, may order that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

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

(j) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of subdivision (a) or (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153 of the Vehicle Code, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal

by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

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

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