

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1287

Introduced by Assembly Member Davis

February 26, 1999

An act to amend ~~Section 668.1~~ of Sections 658.3 and 668.1 of, and to repeal and add Section 658.6 of, the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 1287, as amended, Davis. Operation of vessels: boating safety courses.

(1) Existing law prohibits a person from operating a motorboat, sailboat, or vessel that is 26 feet or less in length unless every person who is 6 years of age or younger is wearing a type I, II, or III Coast Guard-approved personal flotation device, or unless the person is operating a sailboat on which the person who is 6 years of age or younger is restrained, as provided, or the person is operating a vessel on which the person who is 6 years of age or younger is in an enclosed cabin.

This bill would make those requirements that currently apply to a person who is 6 years of age or younger, instead, apply to a person who is 11 years of age or younger, and would require the flotation device to be a type I, II, III, or V Coast Guard-approved personal flotation device. The bill would also require any person aboard a personal watercraft or any person being towed behind a vessel on water skis, an aquaplane, or similar device to wear a type I, II, III, or V Coast

Guard-approved personal flotation device, except as provided. Because other existing law makes a violation of these requirements a crime, the bill would impose a state-mandated local program.

(2) Under existing law, the Department of Boating and Waterways was required to report to the Legislature, by October 1, 1998, on its recommendations for enhancement and expansion of boating safety and education. Existing law required the Director of Boating and Waterways, by February 1, 1998, to appoint a Boating and Safety Advisory Committee.

This bill would repeal those provisions. The bill would require the department, on or before June 1, 2000, to develop and make available to all interested parties, a model curriculum for the instruction of recreational boaters in safe boating principles and regulations. The bill would require the department to develop a written test, on or before January 1, 2002, to test persons on their knowledge and understanding of the curriculum and would provide for the issuance of a Class A or B certificate, as provided, to any person who successfully passes the test.

The bill would provide that beginning September 1, 2002, no person under the age of 21, except as specified, may operate a vessel powered by a motor of greater than 15 horsepower upon the waters of the state unless the person has successfully passed the test and has a valid certificate, as provided. The bill would make that prohibition applicable to persons under the age of 31 beginning June 1, 2003, to persons under the age of 41 beginning June 1, 2004, and to all persons beginning June 1, 2005. The bill would make any person who violates those provisions guilty of an infraction, thereby imposing a state-mandated local program.

Existing

(3) Existing law provides that any person convicted of specified provisions of existing law governing the operation of vessels may be ordered by the court to complete and pass a boating safety course approved by the ~~Department of Boating and Waterways~~ department, when the conviction resulted from the unlawful operation of a vessel.

This bill would require, rather than permit, the person to be ordered by the court to complete and pass the course.



(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. *This act shall be known and may be cited*
2 *as the California Boating and Safety Act.*

3 SEC. 2. *Section 658.3 of the Harbors and Navigation*
4 *Code is amended to read:*

5 658.3. (a) No person shall operate a motorboat,
6 sailboat, or vessel that is 26 feet or less in length unless
7 every person on board who is ~~six~~ 11 years of age or less is
8 wearing a type I, II, ~~or~~ III, or V Coast Guard-approved
9 personal flotation device while that motorboat, sailboat,
10 or vessel is underway.

11 (b) Subdivision (a) does not apply to a person
12 operating a sailboat on which a person who is ~~six~~ 11 years
13 of age or less is restrained by a harness tethered to the
14 vessel, or to a person operating a vessel on which a person
15 who is ~~six~~ 11 years of age or less is in an enclosed cabin.

16 (c) *Any person on board a personal watercraft or any*
17 *person being towed behind a vessel on water skis, an*
18 *aquaplane, or similar device shall wear a type I, II, III, or*
19 *V Coast Guard-approved personal flotation device, unless*
20 *that person is described in paragraph (1), (2), or (3) of*
21 *subdivision (c) of Section 658.5.*

22 (d) Subdivision (a) ~~does~~ and (c) do not apply to a
23 person operating a motorboat, sailboat, or vessel if the
24 operator is reacting to an emergency rescue situation.

25 ~~(d)~~

26 (e) The following definitions govern the construction
27 of this section:

28 (1) "Enclosed cabin" means a space on board a vessel
29 that is surrounded by bulkheads and covered by a roof.



1 (2) "Operate a motorboat, sailboat, or vessel" means to
2 be in control or in charge of a motorboat, sailboat, or
3 vessel while it is underway.

4 (3) "Underway" means all times except when the
5 motorboat, sailboat, or vessel is anchored, moored, or
6 aground.

7 ~~(e)~~

8 (f) A violation of this section is an infraction
9 punishable as provided in subdivision (a) of Section 668.

10 *SEC. 3. Section 658.6 of the Harbors and Navigation*
11 *Code is repealed.*

12 ~~658.6. (a) The department, by October 1, 1998, shall~~
13 ~~report to the Legislature on its recommendations for~~
14 ~~enhancement and expansion of boating safety and~~
15 ~~education. The recommendations shall consider the~~
16 ~~findings and data in the department's annual California~~
17 ~~Boating Accident Report and shall focus on strategies to~~
18 ~~improve vessel operator knowledge and boating safety.~~
19 ~~The department's study shall include, but not be limited~~
20 ~~to, an examination of both voluntary and mandatory~~
21 ~~education.~~

22 ~~(b) In preparing the report required by subdivision~~
23 ~~(a), the director, by February 1, 1998, shall appoint a~~
24 ~~Boating Safety Advisory Committee which shall include,~~
25 ~~but not be limited to, representatives of the Boating and~~
26 ~~Waterways Commission; boating law enforcement~~
27 ~~agencies; the United States Power Squadron; the United~~
28 ~~States Coast Guard Auxiliary; entities that provide~~
29 ~~boating education courses; personal watercraft~~
30 ~~organizations; boat dealers and yacht brokers; boating,~~
31 ~~sailing, and yachting organizations; owners and operators~~
32 ~~of public and private marina facilities; boat rental~~
33 ~~operators; lifeguards and harbormasters; and boating~~
34 ~~accident victims. The committee shall meet and present~~
35 ~~recommendations to the department by July 1, 1998. The~~
36 ~~members of the committee shall serve without~~
37 ~~compensation and shall not be reimbursed by the state for~~
38 ~~expenses. The department shall assist the committee in~~
39 ~~carrying out its duties.~~



1 SEC. 4. Section 658.6 is added to the Harbors and
2 Navigation Code, to read:

3 658.6. (a) On or before June 1, 2000, the department
4 shall develop and make available to all interested parties
5 a model curriculum for the instruction of recreational
6 boaters in safe boating principles and regulations. The
7 curriculum shall not be designed or intended to instruct
8 participants on how to operate any particular type of
9 boat, but rather shall be designed to instruct participants
10 on safe boating principles and laws that apply to all
11 boaters. To the greatest degree practicable, the
12 curriculum shall be designed to ensure reciprocity with
13 similar programs in other states.

14 (b) On or before January 1, 2002, the department shall
15 develop a written test to test persons on their knowledge
16 and understanding of the curriculum described in
17 subdivision (a). The department shall determine an
18 appropriate passing grade for the test. A wallet-sized
19 certificate shall be issued to any person who successfully
20 passes the test. Two classes of certificates shall be issued
21 as follows:

22 (1) A Class A certificate shall be primarily intended for
23 a resident of the state or a regular visitor, but shall be
24 available to any person. A Class A certificate shall be
25 issued by the department and shall be valid for the life of
26 the recipient on any waterway within the state. Testing
27 for a Class A certificate shall be proctored by persons
28 specifically designated by the department. There shall be
29 no less than one location available for testing in each
30 county. Testing locations shall be designated in a manner
31 intended to make them as convenient as possible to the
32 maximum number of persons. The department shall
33 develop a statewide database, accessible to law
34 enforcement officers, of persons who successfully pass the
35 test and who have been issued a Class A certificate.

36 (2) A Class B certificate shall be primarily intended for
37 a boat renter or short-term visitor, but shall be available
38 to any person. A Class B certificate may be issued by any
39 person who is 18 years of age or older and who is
40 specifically designated by the department to administer



1 *the test and issue the certificate, including, but not*
2 *limited to, a rental agent, boat dealer, yacht club official,*
3 *or any other person designated by the department. A*
4 *person designated under this paragraph to administer the*
5 *test shall be authorized to conduct testing onsite at his or*
6 *her facility. A Class B certificate shall be valid for no more*
7 *than 14 consecutive days and shall allow for operation*
8 *only of vessels specified, and only upon waters*
9 *designated, on the certificate. A person authorized to*
10 *administer the test shall keep adequate records, as*
11 *specified by the department, that the department may*
12 *inspect at any time to ensure compliance. The*
13 *department may revoke the right to administer tests and*
14 *issue Class B certificates for good cause. Prior to*
15 *developing the requirements for a Class B certificate, the*
16 *department shall solicit comments from interested*
17 *parties for a period of not less than 30 days.*

18 *(c) On or before January 1, 2002, the department shall*
19 *review boater education programs developed in other*
20 *states pursuant to mandatory boater education*
21 *requirements and shall determine which of those*
22 *programs meet standards substantially equivalent to the*
23 *requirements of subdivisions (a) and (b). The*
24 *department shall maintain an updated public database*
25 *that lists those programs.*

26 *(d) (1) Except as provided in paragraph (5),*
27 *commencing September 1, 2002, no person under the age*
28 *of 21 may operate a vessel powered by a motor of greater*
29 *than 15 horsepower upon the waters of the state, unless*
30 *that person has successfully passed the test referenced in*
31 *subdivision (b) and has, upon that person, or aboard the*
32 *vessel being operated, a valid certificate as specified in*
33 *subdivision (b).*

34 *(2) Commencing June 1, 2003, paragraph (1) shall*
35 *apply to any person under the age of 31.*

36 *(3) Commencing June 1, 2004, paragraph (1) shall*
37 *apply to any person under the age of 41.*

38 *(4) Commencing June 1, 2005, paragraph (1) shall*
39 *apply to all persons.*



1 (5) *This subdivision does not apply to any person who*
2 *is not a resident of California if that person has met the*
3 *requirements of a boater safety education program listed*
4 *by the department pursuant to subdivision (c) and has*
5 *proof of meeting that requirement in a form prescribed*
6 *by the department.*

7 (e) *Any person who violates subdivision (d) is guilty*
8 *of an infraction punishable by a fine of not more than fifty*
9 *dollars (\$50) and shall be required to take a course,*
10 *approved by the department, that meets the curriculum*
11 *requirements of subdivision (b).*

12 (f) *The department may charge a fee to each person*
13 *who is issued a certificate pursuant to subdivision (b).*
14 *The fee shall be no more than the cost, on a prorated basis,*
15 *to implement the requirements of this section, not to*
16 *exceed ten dollars (\$10). However, the fee may be*
17 *adjusted annually, commencing January 1, 2001, to reflect*
18 *changes in the consumer price index and may exceed ten*
19 *dollars (\$10) upon the adjustment.*

20 (g) *The department shall adopt regulations to*
21 *implement this section.*

22 (h) *Commencing January 1, 2001, the department*
23 *shall include within its annual California Boating Safety*
24 *Report an update on the progress of this program and its*
25 *impact on boating safety.*

26 SEC. 5. Section 668.1 of the Harbors and Navigation
27 Code is amended to read:

28 668.1. (a) Any person convicted of a violation of
29 subdivision (b), (c), (d), (e), or (f) of Section 655
30 pertaining to a mechanically propelled vessel but not to
31 manipulating any water skis, an aquaplane, or similar
32 device, when the conviction resulted from the operation
33 of a vessel, shall be ordered by the court to complete and
34 pass a boating safety course approved by the department.

35 (b) Any person convicted of a violation of subdivision
36 (a) of Section 655 or of Section 655.2, 655.6, 658, or 658.5
37 of this code, or Section 191.5 of the Penal Code, when the
38 conviction resulted from the unlawful operation of a
39 vessel, shall be ordered by the court to complete and pass
40 a boating safety course approved by the department.



1 ~~(c) Any person convicted of a violation of Section~~
 2 ~~655.2, 655.6, 658, or 658.5 of this code, or Section 191.5 of~~
 3 ~~the Penal Code, when the conviction resulted from the~~
 4 ~~operation of a vessel within seven years of a previous~~
 5 ~~conviction of any of those violations, shall be ordered by~~
 6 ~~the court to complete and pass a boating safety course~~
 7 ~~approved by the department.~~

8 ~~(d)~~

9 (c) Any person who has been ordered by the court to
 10 complete and pass a boating safety course pursuant to this
 11 section shall submit to the court proof of completion and
 12 passage of the course within seven months of the time of
 13 his or her conviction. The proof shall be in a form that has
 14 been approved by the department and that provides for
 15 the ability to submit the form to the court through the
 16 United States Postal Service. If the person who has been
 17 required to complete and pass a boating safety course is
 18 under 18 years of age, the court may require that the
 19 person obtain parental consent to enroll in the course. If
 20 the person does not complete and pass the boating safety
 21 course, the court may extend the period for completion
 22 or impose another penalty as prescribed by statute.

23 ~~(e)~~

24 (d) The department shall adopt regulations to carry
 25 out this section, including approval of boating safety
 26 education courses, prescribing the forms for proof of
 27 completion and passage, and setting forth any fees to be
 28 charged to course participants, which fees shall not
 29 exceed the expenses associated with providing the
 30 course.

31 *SEC. 6. No reimbursement is required by this act*
 32 *pursuant to Section 6 of Article XIII B of the California*
 33 *Constitution because the only costs that may be incurred*
 34 *by a local agency or school district will be incurred*
 35 *because this act creates a new crime or infraction,*
 36 *eliminates a crime or infraction, or changes the penalty*
 37 *for a crime or infraction, within the meaning of Section*
 38 *17556 of the Government Code, or changes the definition*



1 *of a crime within the meaning of Section 6 of Article*
2 *XIII B of the California Constitution.*

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