

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY MAY 6, 1999

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 Sections 658.3 and 668.1 of, and to repeal, add, and repeal Section 658.6 of, the Harbors and Navigation Code, relating to vessels, ~~and making an appropriation therefor.~~

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 December 31, 2000, to develop and make available to all interested parties, a model educational course for the instruction of recreational boaters in safe boating principles and regulations. The bill would require the director to appoint a Boating Safety Advisory Committee on or before February 1, 2000, to advise the director in the development of the model program. 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 model educational course 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 born on or after January 1, 1960, 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. The bill would require the department to conduct a study to determine the effect of the program.



These provisions would be repealed on January 1, 2011.

(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, 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.

~~(5) The bill would appropriate \$200,000 from the Harbors and Watercraft Revolving Fund to the department for specified purposes, which would be reimbursed as prescribed.~~

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: 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 11 years of age or less is
8 wearing a type I, II, 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 11 years of
13 age or less is restrained by a harness tethered to the vessel,
14 or to a person operating a vessel on which a person who
15 is 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



1 V Coast Guard-approved personal flotation device, unless
2 that person is described in paragraph (1), (2), or (3) of
3 subdivision (c) of Section 658.5.

4 (d) Subdivision (a) and (c) do not apply to a person
5 operating a motorboat, sailboat, or vessel if the operator
6 is reacting to an emergency rescue situation.

7 (e) The following definitions govern the construction
8 of this section:

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

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

14 (3) "Underway" means all times except when the
15 motorboat, sailboat, or vessel is anchored, moored, or
16 aground.

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

19 SEC. 3. Section 658.6 of the Harbors and Navigation
20 Code is repealed.

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

23 658.6. (a) On or before December 31, 2000, the
24 department shall develop and make available to all
25 interested parties a model educational course in safe
26 boating principles and regulations. Except as otherwise
27 provided by law, no person shall be required to take the
28 course. The model educational course shall not be
29 designed or intended to instruct participants on how to
30 operate any particular type of boat, but rather shall be
31 designed to instruct participants on safe boating
32 principles and laws that apply to all boaters. In addition,
33 the model educational course shall include methods
34 boaters can employ to help protect the environment. To
35 the greatest degree practicable, the model educational
36 course shall be designed to ensure reciprocity with similar
37 programs in other states. To advise the director in
38 development of the model educational course, the
39 director, on or before February 1, 2000, shall appoint a
40 Boating Safety Advisory Committee, which shall include,



1 but need not be limited to, boat owners; representatives
2 of the Boating and Waterways Commission; boating law
3 enforcement agencies; the United States Power
4 Squadron; the United States Coast Guard Auxiliary;
5 entities that provide boating education courses; personal
6 watercraft organizations; boat dealers and yacht brokers;
7 boating, sailing, and yachting organizations; owners and
8 operators of public and private marina facilities; boat
9 rental operators; lifeguards and harbormasters; and
10 boating accident victims.

11 (b) On or before January 1, 2002, the department shall
12 develop a written test to test persons on their knowledge
13 and understanding of the model educational course
14 described in subdivision (a). The department shall
15 determine an appropriate passing grade for the test. A
16 wallet-sized certificate shall be issued to any person who
17 successfully passes the test. The test may be administered
18 by any person who is 18 years of age or older and who is
19 specifically designated by the department including, but
20 not necessarily limited to, a rental agent, boat dealer,
21 yacht club official, yacht broker, marina operator, or a
22 marine dealer. A person authorized to administer the test
23 shall keep adequate records, as specified by the
24 department, which the department may inspect at any
25 time to ensure compliance. The department may revoke
26 the right to administer tests for good cause. There shall be
27 no less than one location available for testing in each
28 county. Testing locations shall be designated in a manner
29 intended to make them as convenient as possible to the
30 maximum number of persons. Two classes of certificates
31 shall be issued as follows:

32 (1) A class A certificate shall be primarily intended for
33 a resident of the state or a regular visitor, but shall be
34 available to any person. A class A certificate shall be issued
35 by the department and shall be valid for the life of the
36 recipient on any waterway within the state. The
37 department shall develop a statewide database,
38 accessible to law enforcement officers, of persons who
39 successfully pass the test and who have been issued a class
40 A certificate.



1 (2) A class B certificate shall be primarily intended for
2 a boat renter or short-term visitor, but shall be available
3 to any person. A class B certificate may be issued by any
4 person who is 18 years of age or older and who is
5 specifically designated by the department. A class B
6 certificate shall be valid for no more than 14 consecutive
7 days and shall allow for operation only of vessels specified,
8 and only upon waters designated, on the certificate.

9 (c) On or before January 1, 2002, the department shall
10 devise a system to determine the boater educational
11 programs accepted under mandatory boater education
12 programs in other states that meet standards substantially
13 equivalent to the requirements of subdivisions (a) and
14 (b) and shall maintain an updated public data base
15 thereof.

16 (d) (1) Except as provided in paragraph (5),
17 commencing September 1, 2002, no person under the age
18 of 21 may operate a vessel powered by a motor of greater
19 than 15 horsepower upon the waters of the state, unless
20 that person has successfully passed the test referenced in
21 subdivision (b) and has, upon that person, or aboard the
22 vessel being operated, a valid certificate as specified in
23 subdivision (b).

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

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

28 (4) Commencing June 1, 2005, paragraph (1) shall
29 apply to all persons born on or after January 1, 1960.

30 (5) This subdivision does not apply to any person who
31 is not a resident of California if that person has met the
32 requirements of a boater safety education program listed
33 by the department pursuant to subdivision (c) and has
34 proof of meeting that requirement aboard the vessel
35 being operated in a form prescribed by the department.

36 (6) This subdivision does not apply to any person who
37 holds a valid master's, mate's, or operator's license issued
38 by the United States Coast Guard or to any person
39 exempted by regulation of the department or to any
40 person who holds a for-hire vessel operator license issued



1 by the department, as long as the person has evidence
2 thereof in a manner prescribed by the department
3 aboard the vessel being operated. Any person so qualified
4 may request and be issued a class A certificate at the
5 normal cost without the need to submit the testing and
6 may display this certificate as evidence of compliance.

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 establish the cost to issue a
13 certificate pursuant to subdivision (b) and may recover
14 that cost from any person who is issued a certificate. The
15 cost for issuance of a certificate shall be no more than the
16 cost, on a prorated basis, to implement the requirements
17 of this section, not to exceed ten dollars (\$10). However,
18 the amount recovered from any person who is issued a
19 certificate that covers the cost for issuance of the
20 certificate may be adjusted annually, commencing
21 January 1, 2001, to reflect changes in the consumer price
22 index and may exceed ten dollars (\$10) upon the
23 adjustment.

24 (g) The department shall adopt regulations to
25 implement this section.

26 (h) Commencing January 1, 2003, the department
27 shall include within its annual California Boating Safety
28 Report an update on the progress of this program and its
29 impact on boating safety. In addition, the department
30 shall conduct a study to determine the effect of the
31 program on boating safety and on the boating-related
32 economy. The boating safety portion of the study shall
33 evaluate boating accident statistics in all the categories
34 currently tracked and published in the department's
35 annual California Boating Safety Report throughout the
36 study period. The economic analysis portion of the study
37 shall determine the impact of boating on the California
38 economy and evaluate the effect of this program on that
39 economic sector over the study period. The study shall
40 include, for both sections of the study, an analysis of



1 changes in statistical trends to determine the impact of
2 the program. The study period shall commence on
3 September 1, 2002, and conclude on August 31, 2009.
4 Notwithstanding Section 7550.5 of the Government
5 Code, the report shall be completed and submitted to the
6 Legislature and the Secretary of the Resources Agency no
7 later than December 31, 2009.

8 (i) This section shall remain in effect only until
9 January 1, 2011, and as of that date is repealed, unless a
10 later enacted statute, that is enacted before January 1,
11 2011, deletes or extends that date.

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

14 668.1. (a) Any person convicted of a violation of
15 subdivision (b), (c), (d), (e), or (f) of Section 655
16 pertaining to a mechanically propelled vessel but not to
17 manipulating any water skis, an aquaplane, or similar
18 device, when the conviction resulted from the operation
19 of a vessel, shall be ordered by the court to complete and
20 pass a boating safety course approved by the department.

21 (b) Any person convicted of a violation of subdivision
22 (a) of Section 655 or of Section 655.2, 655.6, 658, or 658.5
23 of this code, or Section 191.5 of the Penal Code, when the
24 conviction resulted from the unlawful operation of a
25 vessel, shall be ordered by the court to complete and pass
26 a boating safety course approved by the department.

27 (c) Any person who has been ordered by the court to
28 complete and pass a boating safety course pursuant to this
29 section shall submit to the court proof of completion and
30 passage of the course within seven months of the time of
31 his or her conviction. The proof shall be in a form that has
32 been approved by the department and that provides for
33 the ability to submit the form to the court through the
34 United States Postal Service. If the person who has been
35 required to complete and pass a boating safety course is
36 under 18 years of age, the court may require that the
37 person obtain parental consent to enroll in the course. If
38 the person does not complete and pass the boating safety
39 course, the court may extend the period for completion
40 or impose another penalty as prescribed by statute.



1 (d) The department shall adopt regulations to carry
2 out this section, including approval of boating safety
3 education courses, prescribing the forms for proof of
4 completion and passage, and setting forth any fees to be
5 charged to course participants, which fees shall not
6 exceed the expenses associated with providing the
7 course.

8 SEC. 6. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution because the only costs that may be incurred
11 by a local agency or school district will be incurred
12 because this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition
16 of a crime within the meaning of Section 6 of Article
17 XIII B of the California Constitution.

18 ~~SEC. 7. The sum of two hundred thousand dollars~~
19 ~~(\$200,000) is hereby appropriated from the Harbors and~~
20 ~~Watercraft Revolving Fund to the Department of~~
21 ~~Boating and Waterways to implement subdivision (h) of~~
22 ~~Section 658.6 of the Harbors and Navigation Code. The~~
23 ~~appropriation shall be fully reimbursed by the cost~~
24 ~~recovery process described in subdivision (f) of Section~~
25 ~~658.6 of the Harbors and Navigation Code.~~

