

AMENDED IN SENATE JULY 6, 1999
AMENDED IN ASSEMBLY MAY 28, 1999
AMENDED IN ASSEMBLY MAY 6, 1999
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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.

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~~ *requires* the Director of Boating and Waterways, by February 1, 1998, to ~~appoint~~ *have appointed* 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~~ *tests*, 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~~ *all persons* who successfully ~~passes~~ *pass* the ~~test~~ *tests*.

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.

Vote: 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~~ *Safety Act of*
3 *1999*.

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

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

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

17 (c) Any person on board a personal watercraft or any
18 person being towed behind a vessel on water skis, an



1 aquaplane, or similar device shall wear a type I, II, III, or
2 V Coast Guard-approved personal flotation device, unless
3 that person is described in paragraph (1), (2), or (3) of
4 subdivision (c) of Section 658.5.

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

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

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

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

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

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

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

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

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



1 model educational course, the director, on or before
2 February 1, 2000, shall appoint a Boating Safety Advisory
3 Committee, which shall include, but need not be limited
4 to, boat owners; representatives of the Boating and
5 Waterways Commission; boating law enforcement
6 agencies; the United States Power Squadron; the United
7 States Coast Guard Auxiliary; entities that provide
8 boating education courses; personal watercraft
9 organizations; boat dealers and yacht brokers; boating,
10 sailing, and yachting organizations; owners and operators
11 of public and private marina facilities; boat rental
12 operators; lifeguards and harbor masters; and boating
13 accident victims.

14 (b) On or before January 1, 2002, the department shall
15 develop ~~a written test~~ *written tests* to test persons on their
16 knowledge and understanding of the model educational
17 course described in subdivision (a). *The test for the class*
18 *B certificate shall be an abbreviated version of the test for*
19 *the class A certificate.* The department shall determine
20 an appropriate passing grade for the ~~test~~ *tests*. A
21 wallet-sized certificate shall be issued to any person who
22 successfully passes ~~the test.~~ *The test a test.* *Testing under*
23 *this section* may be administered by any person who is 18
24 years of age or older and who is specifically designated by
25 the department including, but not necessarily limited to,
26 a rental agent, boat dealer, yacht club official, yacht
27 broker, marina operator, *the United States Coast Guard*
28 *Auxiliary, the United States Power Squadron, a boating*
29 *law enforcement agency,* or a marine dealer. A person
30 authorized to administer ~~the test~~ *testing under this*
31 *section* shall keep adequate records, as specified by the
32 department, which the department may inspect at any
33 time to ensure compliance. The department may revoke
34 the right to administer tests for good cause. There shall be
35 no less than one location available for testing in each
36 county, *except as provided for in regulations adopted by*
37 *the department based on the difficulty of developing a*
38 *testing location in sparsely populated counties.* Testing
39 locations shall be designated in a manner intended to
40 make them as convenient as possible to the maximum



1 number of persons. Two classes of certificates shall be
2 issued as follows:

3 (1) A class A certificate shall be primarily intended for
4 a resident of the state or a regular visitor, but shall be
5 available to any person. A class A certificate shall be issued
6 by the department and shall be valid for the life of the
7 recipient on any waterway within the state. The
8 department shall develop a statewide database,
9 accessible to law enforcement officers, of persons who
10 successfully pass ~~the~~ a test and who have been issued a
11 class A certificate.

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

20 (c) On or before January 1, 2002, the department shall
21 devise a system to determine the boater educational
22 programs accepted under mandatory boater education
23 programs in other states that meet standards substantially
24 equivalent to the requirements of subdivisions (a) and
25 (b) and shall maintain an updated public data base
26 thereof.

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

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

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

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



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 ~~aboard the vessel~~
6 ~~being operated in a form prescribed by the department.~~
7 *in the form required by the state of issuance.*

8 (6) This subdivision does not apply to any person who
9 holds a valid master's, mate's, or operator's license issued
10 by the United States Coast Guard or to any person
11 exempted by regulation of the department or to any
12 person who holds a for-hire vessel operator license issued
13 by the department, as long as the person has evidence
14 thereof in a manner prescribed by the department
15 aboard the vessel being operated. Any person so qualified
16 may request and be issued a class A certificate at the
17 normal cost without the need to submit to the testing and
18 may display this certificate as evidence of compliance.

19 (7) *This subdivision does not apply to any person*
20 *engaged in an organized regatta, vessel race, or water ski*
21 *race.*

22 (e) Any person who violates subdivision (d) is guilty
23 of an infraction punishable by a fine of not more than fifty
24 dollars (\$50) and shall be required to take a course,
25 approved by the department, that meets the curriculum
26 requirements of subdivision (b).

27 (f) The department may establish the cost to issue a
28 certificate pursuant to subdivision (b) and may recover
29 that cost from any person who is issued a certificate. The
30 cost for issuance of a certificate shall be no more than the
31 cost, on a prorated basis, to implement the requirements
32 of this section, not to exceed ten dollars (\$10). However,
33 the amount recovered from any person who is issued a
34 certificate that covers the cost for issuance of the
35 certificate may be adjusted annually, commencing
36 January 1, 2001, ~~to reflect~~ *in an amount no greater than*
37 *required to implement the requirements of this section*
38 *and not to exceed* changes in the consumer price index
39 ~~and~~. *This amount* may exceed ten dollars (\$10) upon the
40 adjustment.



1 (g) The department shall adopt regulations to
2 implement this section.

3 (h) Commencing January 1, 2003, the department
4 shall include within its annual California Boating Safety
5 Report an update on the progress of this program and its
6 impact on boating safety. In addition, the department
7 shall conduct a study to determine the effect of the
8 program on boating safety and on the boating-related
9 economy. The boating safety portion of the study shall
10 evaluate boating accident statistics in all the categories
11 currently tracked and published in the department's
12 annual California Boating Safety Report throughout the
13 study period. The economic analysis portion of the study
14 shall determine the impact of boating on the California
15 economy and evaluate the effect of this program on that
16 economic sector over the study period. The study shall
17 include, for both sections of the study, an analysis of
18 changes in statistical trends to determine the impact of
19 the program. The study period shall commence on
20 September 1, 2002, and conclude on August 31, 2009.
21 Notwithstanding Section 7550.5 of the Government
22 Code, the report shall be completed and submitted to the
23 Legislature and the Secretary of the Resources Agency no
24 later than December 31, 2009.

25 (i) This section shall remain in effect only until
26 January 1, 2011, and as of that date is repealed, unless a
27 later enacted statute, that is enacted before January 1,
28 2011, deletes or extends that date.

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

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

38 (b) Any person convicted of a violation of subdivision
39 (a) of Section 655 or of Section 655.2, 655.6, 658, or 658.5
40 of this code, or Section 191.5 of the Penal Code, when the



1 conviction resulted from the unlawful operation of a
2 vessel, shall be ordered by the court to complete and pass
3 a boating safety course approved by the department.

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

18 (d) The department shall adopt regulations to carry
19 out this section, including approval of boating safety
20 education courses, prescribing the forms for proof of
21 completion and passage, and setting forth any fees to be
22 charged to course participants, which fees shall not
23 exceed the expenses associated with providing the
24 course.

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

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