

Assembly Bill No. 1287

Passed the Assembly September 7, 1999

Chief Clerk of the Assembly

Passed the Senate September 3, 1999

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

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, 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 requires the Director of Boating and Waterways, by February 1, 1998, to 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 written 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 all persons who successfully pass the 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.

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

SECTION 1. This act shall be known and may be cited as the California Boating Safety Act of 1999.

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

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

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

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

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

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

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

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

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



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

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

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

658.6. (a) On or before December 31, 2000, the department shall develop and make available to all interested parties a model educational course in safe boating principles and regulations. Except as otherwise provided by law, no person shall be required to take the course. The model educational course shall not be designed or intended to instruct participants on how to operate any particular type of boat, but rather shall be designed to instruct participants on safe boating principles and laws that apply to all boaters. In addition, the model educational course shall include actions that can be taken to avoid boating-related environmental pollution. To the greatest degree practicable, the model educational course shall be designed to ensure reciprocity with similar programs in other states. To advise the director in development of the model educational course, the director, on or before February 1, 2000, shall appoint a Boating Safety Advisory Committee, which shall include, but need not be limited to, boat owners; representatives of the Boating and Waterways Commission; boating law enforcement agencies; the United States Power Squadron; the United States Coast Guard Auxiliary; entities that provide boating education courses; personal watercraft organizations; boat dealers and yacht brokers; boating, sailing, and yachting organizations; owners and operators of public and private marina facilities; boat rental operators; lifeguards and harbormasters; and boating accident victims.

(b) On or before January 1, 2002, the department shall develop written tests to test persons on their knowledge and understanding of the model educational course described in subdivision (a). The test for the class B certificate shall be an abbreviated version of the test for the class A certificate. The department shall determine



an appropriate passing grade for the tests. A wallet-sized certificate shall be issued to any person who successfully passes a test. Testing under this section may be administered by any person who is 18 years of age or older and who is specifically designated by the department including, but not necessarily limited to, a rental agent, boat dealer, yacht club official, yacht broker, marina operator, the United States Coast Guard Auxiliary, the United States Power Squadron, a boating law enforcement agency, or a marine dealer. A person authorized to administer testing under this section shall keep adequate records, as specified by the department, which the department may inspect at any time to ensure compliance. The department may revoke the right to administer tests for good cause. There shall be no less than one location available for testing in each county, except as provided for in regulations adopted by the department based on the difficulty of developing a testing location in sparsely populated counties. Testing locations shall be designated in a manner intended to make them as convenient as possible to the maximum number of persons. Two classes of certificates shall be issued as follows:

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

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



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

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

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

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

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

(5) This subdivision does not apply to any person who is not a resident of California if that person has met the requirements of a boater safety education program listed by the department pursuant to subdivision (c) and has proof of meeting that requirement in the form required by the state of issuance.

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



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

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

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

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

(h) Commencing January 1, 2003, the department shall include within its annual California Boating Safety Report an update on the progress of this program and its impact on boating safety. In addition, the department shall conduct a study to determine the effect of the program on boating safety and on the boating-related economy. The boating safety portion of the study shall evaluate boating accident statistics in all the categories currently tracked and published in the department's annual California Boating Safety Report throughout the study period. The economic analysis portion of the study shall determine the impact of boating on the California economy and evaluate the effect of this program on that economic sector over the study period. The study shall include, for both sections of the study, an analysis of changes in statistical trends to determine the impact of the program. The study period shall commence on



September 1, 2002, and conclude on August 31, 2009. Notwithstanding Section 7550.5 of the Government Code, the report shall be completed and submitted to the Legislature and the Secretary of the Resources Agency no later than December 31, 2009.

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

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

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

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

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

(d) The department shall adopt regulations to carry out this section, including approval of boating safety



education courses, prescribing the forms for proof of completion and passage, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

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



Approved _____, 1999

Governor

