

By: Estes

S.B. No. 1775

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to the licensing of marine manufacturers, dealers, and distributors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.003. Definitions.

In this chapter:

(1) "Boat" means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer.

(2) "Vessel" means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(3) "Motorboat" means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

(4) "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

(5) "Water of this state" means any public water within the territorial limits of this state.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

1 (7) "Dealer" means a person [~~customarily~~] engaged in
2 the business of buying, selling, selling on consignment, displaying
3 for sale, and [~~or~~] exchanging at least five vessels not exempted
4 from numbering under Section 31.022(c) of this code, motorboats, or
5 outboard motors during a calendar year at an established or
6 permanent place of business in this state. [~~and that~~] At [~~at~~] each
7 place of business there shall be [~~is~~] a sign conspicuously
8 displayed showing the name of the dealership so that it may be
9 located by the public and sufficient space to maintain an office,
10 service area, and display of products.

11 (8) "Vessel livery" means a business establishment
12 engaged in renting or hiring out vessels for profit.

13 (9) Repealed by Acts 1997, 75th Leg., ch. 1363, Sec.
14 12, eff. Sept. 1, 1997.

15 (10) "Reasonable time" means 15 days.

16 (11) "Manufacturer" means a person engaged in the
17 business of manufacturing new and unused vessels and outboard
18 motors for the purpose of sale or trade.

19 (12) "New" means every vessel or outboard motor after
20 its manufacture and before its sale or other transfer to a person
21 not a manufacturer or dealer.

22 (13) "Outboard motor" means any self-contained
23 internal combustion propulsion system, excluding fuel supply,
24 which is used to propel a vessel and which is detachable as a unit
25 from the vessel.

26 (14) "Personal watercraft" means a type of motorboat
27 that is specifically designed to be operated by a person or persons

1 sitting, standing, or kneeling on the vessel rather than in the
2 conventional manner of sitting or standing inside the vessel.

3 (15) "Authorized agent" means a dealer who is
4 authorized by the department under Section 31.006 of this code to
5 collect taxes and fees and issue certificates of number.

6 (16) "Distributor" means a person who offers for sale,
7 sells, or processes for distribution new boats and outboard motors
8 to dealers in Texas.

9 SECTION 2. Section 31.041, Parks and Wildlife Code, is
10 amended to read as follows:

11 Sec. 31.041, Dealer's, Distributor's, and Manufacturer's
12 License [Number] (a) A person may not engage in business as a
13 dealer, distributor, or manufacturer, directly or indirectly,
14 without a license for each location from which the person engages in
15 business. The form and manner of the display of the license shall
16 be prescribed by the department.

17 (b) The department shall issue a dealer, distributor, or
18 manufacturer number to each dealer, distributor, or manufacturer
19 licensed under the authority of Section 31.041(a) of this code. The
20 number shall be patterned as prescribed by Section 31.031(b).

21 (c) [~~a~~] A dealer, distributor, or manufacturer may use
22 [~~obtain~~] a dealer's, distributor's, or [~~and~~] manufacturer's number
23 for vessels the dealer, distributor, or manufacturer wishes to
24 show, demonstrate, or test on the water of this state instead of
25 securing a certificate of number for each vessel. Show,
26 demonstrate, or test does not include the use of a vessel for
27 recreational purposes or participation in a contest or event. The

1 number shall be attached to any vessel that the dealer,
2 distributor, or manufacturer sends temporarily to the water.

3 (d) [~~(b)~~] The application for a license [~~number~~] must state
4 that the applicant is a dealer, distributor, or manufacturer within
5 the meaning of this chapter, and the facts stated on the application
6 must be sworn before an officer authorized to administer oaths. The
7 application must be accompanied by photographs of the business
8 sufficient to show any sign the business is required to display and
9 the extent of the space the business is required to maintain. The
10 application must also be accompanied by a copy of the tax permit of
11 the dealer or manufacturer issued by the comptroller under Chapter
12 151, Tax Code, if the dealer or manufacturer has a tax permit. The
13 two-year fee for a dealer's, distributor's, or [~~and~~] manufacturer's
14 number is \$500 [~~\$45~~] or an amount set by the commission, whichever
15 amount is more. No license [~~number~~] may be issued until the
16 provisions of this section have been satisfied.

17 (e) [~~(c)~~] A dealer, distributor or manufacturer holding a
18 dealer's, distributor's and manufacturer's license [~~number~~] may
19 issue a reasonable temporary facsimile of the number which may be
20 used by any authorized persons. A person purchasing a vessel may
21 use the dealer's number for a period not to exceed 15 days prior to
22 filing an application for a certificate of number. The form of the
23 facsimile and the manner of display of the number shall be
24 prescribed by the department.

25 (f) [~~(d)~~] A dealer, distributor or manufacturer holding a
26 dealer's, distributor's or manufacturer's license [~~number~~] may
27 transfer a certificate of number or a certificate of title to a

1 vessel or outboard motor without securing a certificate of number
2 or certificate of title in the dealer's, distributor's or
3 manufacturer's name if the vessel or outboard motor is sold in the
4 course of the dealer's, distributor's or manufacturer's business.
5 Any other person transferring a vessel or outboard motor must
6 secure a certificate of number or certificate of title in the
7 person's name before transferring the certificate of number or
8 certificate of title.

9 (g) No person may refuse to allow an authorized employee of
10 the department or peace officer to inspect a vessel, outboard
11 motor, or records relating to the possession, origination,
12 ownership, or transfer of a vessel or outboard motor at a
13 dealership, distributor or manufacturers place of business during
14 normal business hours.

15 (h) The Commission may adopt rules for the administration of
16 this chapter relating to Dealer's, Distributor's and
17 Manufacturer's, including application and renewal requirements,
18 record keeping, and reporting requirements.

19 (i) A proclamation of the Commission under this section
20 prevails over any conflicting provision of this chapter to the
21 extent of the conflict.

22 SECTION 3. Chapter 31, Parks and Wildlife Code, is amended
23 by adding new Section 31.0411 to read as follows:

24 Section 31.0411. Expiration and Transfer of Licenses. (a)
25 All licenses issued under the authority of Section 31.041 of this
26 code are valid only for a period of two years from the date of
27 issuance.

1 (b) All licenses issued under the authority of Section
2 31.041 of this code may not be transferred to another person except
3 that:

4 (1) a license issued in the name of a business shall
5 remain valid for the business location specified on the license if a
6 change of ownership and/or business name occurs; or

7 (2) a license may be transferred to a new address if
8 the business moves to another location and no change of ownership
9 occurs.

10 (c) The commission, by regulation, may prescribe
11 requirements necessary to clarify license transfer procedures and
12 may prescribe, by regulation, forms to be used and fees to be
13 charged for transfer of license issued under the authority of
14 Section 31.041 of this code and for replacement licenses.

15 SECTION 4. Section 31.021, Parks and Wildlife Code, is
16 amended to read as follows:

17 Section 31.021. Required Numbering (a) Each
18 [~~undocumented~~] vessel on the water of the state shall be numbered in
19 accordance with the provisions of this chapter unless specifically
20 exempted. The numbering system shall be in accord with the Federal
21 Boating Act of 1958 and subsequent federal legislation.

22 (b) No person may operate or give permission for the
23 operation if any vessel or may dock, moor, or store a vessel owned
24 by the person on the water of this state unless:

- 25 (1) the vessel is numbered as required by the chapter;
26 (2) the certificate of number awarded to the vessel is
27 in full force and effect; and

1 (3) the identifying number set forth in the
2 certificate is properly displayed on each side of the bow of the
3 vessel as required by this chapter.

4 SECTION 5. Section 31.032, Parks and Wildlife Code is
5 amended to read as follows:

6 Sec. 31.032. Numbering on Bow (a) The owner shall paint on
7 or attach to each side of the vessel near the bow the identification
8 number and a validation decal in the manner prescribed by the
9 department. The number shall read from left to right and shall be
10 of block characters of good proportion of not less than three inches
11 in height. The numbers shall be of a color which will contrast with
12 the hull material of the vessel and so maintained as to be clearly
13 visible and legible.

14 **(b) A vessel documented by the United States Coast Guard and**
15 **required to be numbered by this chapter is exempt from attaching the**
16 **identification number near the bow. The owner shall attach the**
17 **validation decal in a manner prescribed by the department.**

18 SECTION 6. Section 31.042, Parks and Wildlife Code, is
19 amended to read as follows:

20 Section 31.042. Cancellation of Certificates of Number;
21 Grounds (a) A certificate of number may be cancelled and the
22 identification number voided by the department even though the
23 action occurs before the expiration date on the certificate and
24 even though the certificate is not surrendered to the department.

25 (b) Causes for cancellation of certificates and voiding
26 numbers include:

27 (1) surrender of the certificate for cancellation;

1 (2) issuance of a new number for the same vessel;

2 [~~(3) issuance of a marine document by the Bureau of~~
3 ~~Customs for the same vessel,~~]

4 (3) [~~(4)~~] false or fraudulent certification in an
5 applicant for number;

6 (4) [~~(5)~~] failure to pay the prescribed fee; and

7 (5) [~~(6)~~] dismantling, destruction, or other change
8 in the form or character of the vessel or outboard motor so that it
9 is no longer correctly described in the certificate or it no longer
10 meets the definition of a vessel or outboard motor.

11 SECTION 7. Section 31.127, Parks and Wildlife Code, is
12 amended to read as follows;

13 Section 31.127. Penalties (a) A person who violates or
14 fails to comply with any provision of this chapter, or who violates
15 or fails to comply with a proclamation of the commission entered
16 under this chapter, a city ordinance or order of a commissioners
17 court or a political subdivision of the state made or entered under
18 this chapter commits an offense that is a Class C Parks and Wildlife
19 Code misdemeanor.

20 (b) A person who violates Section 31.043(c) or 31.096 of
21 this code commits an offense that is a Class B Parks and Wildlife
22 Code misdemeanor.

23 (c) A person who operates a vessel in violation of Section
24 31.021(b) or 31.095 commits an offense punishable by a fine of not
25 less than \$100 or more than \$500.

26 (d) The operator of a vessel who is involved in a collision,
27 accident, or other casualty that results in death or serious bodily

1 injury to another person and fails to comply with Section 31.104
2 commits an offense that is a Parks and Wildlife Code felony.

3 (e) Except as provided by Subsection (d), the operator of a
4 vessel who is involved in a collision, accident, or other casualty
5 and fails to comply with Section 31.104 commits an offense that is a
6 Class A Parks and Wildlife Code misdemeanor.