

By: Hopson

H.B. No. 3051

Substitute the following for H.B. No. 3051:

By: Hilderbran

C.S.H.B. No. 3051

A BILL TO BE ENTITLED

AN ACT

relating to boating and water safety.

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

SECTION 1. Sections 31.063-31.066, Parks and Wildlife Code, are amended to read as follows:

Sec. 31.063. CLASSES OF VESSELS [~~MOTORBOATS~~]. Vessels [~~Motorboats~~] subject to the provisions of this chapter are divided into four classes according to length as follows:

Class A. Less than 16 feet in length.

Class 1. 16 feet or over and less than 26 feet in length.

Class 2. 26 feet or over and less than 40 feet in length.

Class 3. 40 feet in length or over.

Sec. 31.064. LIGHTS. A vessel [~~or motorboat~~] when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel [~~or motorboat~~] when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by federal regulations [~~the commandant of the Coast Guard~~] for vessels [~~boats~~] of its class. No other lights that may be mistaken for those prescribed may be exhibited.

Sec. 31.065. SOUND-PRODUCING DEVICES. A vessel [~~motorboat~~] must have an efficient whistle or other sound-producing device if one is required by federal regulations [~~the commandant of the Coast Guard~~].

1 Sec. 31.066. LIFE PRESERVING DEVICES. (a) A vessel
2 ~~[motorboat]~~ must have at least one life preserver ~~[, life belt, ring~~
3 ~~buoy, or other device]~~ of the sort prescribed by federal ~~[the]~~
4 regulations ~~[of the commandant of the Coast Guard]~~ for each person
5 on board, so placed as to be readily accessible.

6 (b) A vessel ~~[motorboat]~~ carrying passengers for hire must
7 have a readily accessible life preserver of the sort prescribed by
8 federal ~~[the]~~ regulations ~~[of the commandant of the Coast Guard]~~
9 for each person on board.

10 (c) The operator of a class A or class 1 vessel ~~[motorboat]~~,
11 while underway, shall require every passenger under 13 years of
12 age, unless below decks or in an enclosed cabin, to wear a life
13 preserver of the sort prescribed by federal ~~[the]~~ regulations ~~[of~~
14 ~~the commandant of the Coast Guard. A life belt or ring buoy does not~~
15 ~~satisfy this requirement]~~.

16 SECTION 2. Sections 31.106(a) and (d), Parks and Wildlife
17 Code, are amended to read as follows:

18 (a) No person shall operate a personal watercraft in the
19 following manner or under the following circumstances:

20 (1) unless each person riding on or towed behind the
21 vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V
22 personal flotation device;

23 (2) if the vessel is equipped by the manufacturer with
24 a lanyard type engine cutoff switch, unless such lanyard is
25 attached to the person, clothing, or personal flotation device of
26 the operator as appropriate for the vessel involved;

27 (3) during the period between sunset and sunrise;

1 (4) within 50 feet of any other vessel, person,
2 stationary platform or other object, or shore, except at headway
3 speed;

4 (5) [~~if the operator is under 16 years of age, unless~~
5 ~~the operator:~~

6 [(A) ~~is accompanied by a person at least 18 years~~
7 ~~of age; or~~

8 [(B) ~~is at least 13 years of age and has~~
9 ~~successfully completed a boating safety course prescribed and~~
10 ~~approved by the department;~~

11 [~~(6)~~] if the personal watercraft is a motorboat,
12 within any area prohibited for operation of a motorboat by state law
13 or local rule or regulation;

14 (6) [~~(7)~~] while towing water skis, an aquaplane, a
15 surfboard, a tube, or any other similar device, unless the towing
16 vessel is designed to carry on board a minimum of two persons;

17 (7) [~~(8)~~] by jumping the wake of another vessel
18 recklessly or unnecessarily close to that vessel; or

19 (8) [~~(9)~~] in a manner that requires the operator to
20 swerve at the last possible moment to avoid collision.

21 (d) An owner of a personal watercraft may not allow
22 [~~permitting~~] a person under 18 years of age to operate the personal
23 watercraft in a manner prohibited by this section [~~may be notified~~
24 ~~of the violation~~].

25 SECTION 3. Section 31.108(f), Parks and Wildlife Code, is
26 amended to read as follows:

27 (f) An agent acting under authority of Subsection (d):

1 (1) shall collect a \$10 examination or course fee and
2 forward the fee and any examination documentation to the department
3 not later than the 30th day after the date the examination or course
4 is administered; and

5 (2) may collect and keep up to \$5 of the examination or
6 course [a \$3 service] fee to defray out-of-pocket expenses
7 associated with administering a course or examination or issuing an
8 identification card under Subsection (d).

9 SECTION 4. Sections 31.109(a), (b), and (e), Parks and
10 Wildlife Code, are amended to read as follows:

11 (a) This section applies only to a person who is:

12 (1) born on or after September 1, 1984, or who operates
13 a vessel carrying passengers for hire; and

14 (2) operating on the public water of this state:

15 (A) a vessel powered by a motor of 10 horsepower
16 or more; or

17 (B) a windblown vessel over 14 feet in length.

18 (b) A person subject to this section must have in the
19 person's possession[+]

20 [~~1~~] a photographic identification card[+] and:

21 (1) [~~2~~] a boater identification card issued by the
22 department; or

23 (2) proof of completion of the requirements to obtain
24 a vessel operator's license issued by the United States Coast
25 Guard.

26 (e) Upon proof of completion of a boater safety education
27 course approved by the department or a vessel operator's licensing

1 course provided by the United States Coast Guard a court shall
2 dismiss a violation of Subsection [~~Subsections~~] (b)(1) or [~~and~~]
3 (2).

4 SECTION 5. Section 31.110, Parks and Wildlife Code, is
5 amended to read as follows:

6 Sec. 31.110. EXEMPTION FROM BOATER EDUCATION COURSE
7 REQUIREMENT. A person is not required to comply with Section
8 31.109 if the person:

9 (1) holds a master's, mate's, or operator's license
10 issued by the United States Coast Guard;

11 (2) is accompanied and supervised by a person who:

12 (A) is otherwise exempt from the requirements of
13 Section 31.109 or possesses the documents required under [~~a boater~~
14 ~~identification card as required by~~] Section 31.109; and

15 (B) is at least 18 years of age;

16 (3) [~~is at least 18 years of age,~~

17 [~~4~~] is not a resident of this state and has proof
18 that the person has successfully completed a boater education
19 course or equivalency examination in another state that is approved
20 by the department; or

21 (4) [~~5~~] is exempt by rule of the department.

22 SECTION 6. Section 11.032(b), Parks and Wildlife Code, is
23 amended to read as follows:

24 (b) The department shall deposit to the credit of the game,
25 fish, and water safety account all revenue, less allowable costs,
26 from the following sources:

27 (1) all types of fishing licenses and stamps and

- 1 shrimping licenses, except as provided by Section 77.120;
- 2 (2) all types of hunting licenses and stamps;
- 3 (3) trapping licenses and other licenses relating to
4 the taking, propagation, and sale of fur-bearing animals or their
5 pelts;
- 6 (4) sale of marl, sand, gravel, shell, and mudshell;
- 7 (5) oyster bed rentals and permits;
- 8 (6) federal funds received for fish and wildlife
9 research, management, development and conservation, resource
10 protection, and law enforcement, unless the funds are received for
11 the specific purposes of Subchapter F, Chapter 77;
- 12 (7) sale of property, less advertising costs,
13 purchased from this account or a special fund or account that is now
14 part of this account;
- 15 (8) fines and penalties collected for violations of a
16 law pertaining to the protection and conservation of wild birds,
17 wild fowl, wild animals, fish, shrimp, oysters, game birds and
18 animals, fur-bearing animals, alligators, and any other wildlife
19 resources of this state;
- 20 (9) sale of rough fish by the department;
- 21 (10) fees for importation permits;
- 22 (11) fees from supplying fish for or placing fish in
23 water located on private property;
- 24 (12) sale of seized pelts;
- 25 (13) sale or lease of grazing rights to and the
26 products from game preserves, sanctuaries, and management areas;
- 27 (14) contracts for the removal of fur-bearing animals

1 and reptiles from wildlife management areas;

2 (15) vessel registration fees;

3 (16) vessel manufacturer or dealer licensing fees;

4 (17) fines or penalties imposed by a court for
5 violation of water safety laws contained in Chapter 31 [~~of this~~
6 ~~code~~];

7 (18) alligator hunter's or alligator buyer's licenses;

8 (19) sale of alligators or any part of an alligator by
9 the department;

10 (20) fees and revenue collected under Section
11 11.027(b) or (c) [~~of this code~~] that are associated with the
12 conservation of fish and wildlife;

13 (21) any other source provided by law; [~~and~~]

14 (22) vessel and outboard motor titling fees; and

15 (23) fees forwarded to the department under Section
16 31.108(f) under the boater education program.

17 SECTION 7. Sections 31.107 and 31.131(b), Parks and
18 Wildlife Code, are repealed.

19 SECTION 8. Section 31.108(f), Parks and Wildlife Code, as
20 amended by this Act, applies only to a course or examination held on
21 or after September 1, 2005. For purposes of this section, a course
22 or examination is held before September 1, 2005, if any part of the
23 course or examination is held before that date. A course or
24 examination held before September 1, 2005, is governed by the law as
25 it existed on the date the course or examination was held, and that
26 law is continued in effect for that purpose.

27 SECTION 9. This Act takes effect September 1, 2005.