

## **BILL ANALYSIS**

C.S.H.B. 1395  
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Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

An advisory panel on recreational boating safety was recently created to study the current state of recreational safety on public waters in Texas and to make recommendations for improving safety. The panel has recommended to the legislature the adoption of a phase-in approach to the requirement that all operators of recreational boats complete a boater education course. C.S.H.B. 1395 follows this recommendation by making the requirement applicable to all boat operators born on or after September 1, 1993. In addition, the bill provides for exemption from and deferral of the requirement in certain circumstances.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 4 of this bill.

### **ANALYSIS**

C.S.H.B. 1395 amends the Parks and Wildlife Code to decrease from 16 years of age to 13 years of age the minimum age required for a person to operate a personal watercraft or to operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of Texas. The bill includes as conditions for an exception to the age requirement that the operator is supervised by another person who can lawfully operate the watercraft and who is on board the watercraft when under way and removes as conditions for an exception to the age requirement that the operator is accompanied by a person at least 18 years of age or that the operator is at least 13 years of age and has successfully completed a boating safety course prescribed and approved by the Parks and Wildlife Department (TPWD). The bill clarifies language referring to a motorboat of over 15 horsepower to instead refer to a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower.

C.S.H.B. 1395 revises provisions of law requiring a boater education course in order to operate certain vessels on the public waters of Texas to make them applicable to a person born on or after September 1, 1993, who is operating a vessel powered by a motor with a manufacturer's rating of more than 15 horsepower, rather than to a person born on or after September 1, 1984, who is operating a vessel powered by a motor of 10 horsepower or more. The bill provides, as an alternative to the requirement that a person to whom the provision is applicable possess a boater identification card issued by TPWD, that the person possess proof of completion of the requirements to obtain a vessel operator's license issued by the United States Coast Guard. The bill requires a court to dismiss a charge of the offense of failing to possess either of those required documents if, on or before the trial, the person charged with the offense produces for the court or the prosecuting attorney a required document that was issued to the person and was valid at the time of the offense. The bill removes the requirement that the court dismiss a violation of the requirement to possess proper documentation under these provisions of law upon proof of completion of a boater safety education course. The bill authorizes a person charged with a Class C Parks and Wildlife Code misdemeanor for failing to possess either required document to make to the court not later than the 10th day after the date of the alleged offense an

oral or written motion requesting permission to take a boater education course approved by TPWD or a vessel operator's licensing course provided by the United States Coast Guard. The bill requires the court to defer the proceedings brought against a person who makes such a motion and allow the person 90 days to present written evidence that the person has successfully completed the course. The bill requires the court to dismiss the charge if the person successfully completes the course and the court accepts the presented evidence.

C.S.H.B. 1395 exempts a person from the boater education course requirement if the person is supervised by a person who is exempt by rule of the Parks and Wildlife Commission as a customer of a business engaged in renting, showing, demonstrating, or testing boats or is otherwise exempt by rule of the commission, rather than by rule of TPWD. The bill removes the exemption from the course requirement for a person who is at least 18 years of age. The bill requires a person to be on board the watercraft when under way to be considered to be supervising the operator of the watercraft. The bill requires the commission by rule to establish a boater education deferral program and requires the program to be available at no cost to boat dealers, manufacturers, and distributors. The bill makes conforming and nonsubstantive changes.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1395 contains provisions not included in the original providing as conditions for an exception to the minimum age required for a person to operate a personal watercraft or to operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of Texas that the operator is supervised by another person who can lawfully operate the watercraft or motorboat and who is on board the watercraft or motorboat when under way.

C.S.H.B. 1395 differs from the original in nonsubstantive ways.