

By: Parker

H.B. No. 1395

Substitute the following for H.B. No. 1395:

By: Elkins

C.S.H.B. No. 1395

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirements to operate personal watercraft and
3 certain boats.

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

5 SECTION 1. Section 31.106(a), Parks and Wildlife Code, is
6 amended to read as follows:

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

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

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

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

17 (4) within 50 feet of any other vessel, person,
18 stationary platform or other object, or shore, except at headway
19 speed;

20 (5) if the operator is under 13 [~~16~~] years of age
21 unless the operator is supervised by another person who:

22 (A) can lawfully operate the watercraft; and

23 (B) is on board the watercraft when under way[7

24 ~~unless the operator:~~

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

3 ~~[(B) is at least 13 years of age and has~~
4 ~~successfully completed a boating safety course prescribed and~~
5 ~~approved by the department];~~

6 (6) if the personal watercraft is a motorboat, within
7 any area prohibited for operation of a motorboat by state law or
8 local rule or regulation;

9 (7) while towing water skis, an aquaplane, a
10 surfboard, a tube, or any other similar device, unless the towing
11 vessel is designed to carry on board a minimum of two persons;

12 (8) by jumping the wake of another vessel recklessly
13 or unnecessarily close to that vessel; or

14 (9) in a manner that requires the operator to swerve at
15 the last possible moment to avoid collision.

16 SECTION 2. Section 31.107, Parks and Wildlife Code, is
17 amended to read as follows:

18 Sec. 31.107. OPERATION OF MOTORBOAT. No person may operate
19 a motorboat powered by a motor with a manufacturer's rating of more
20 than [over] 15 horsepower on the public waters of this state unless
21 the person is ~~[16 years of age or older or:~~

22 ~~[(1) is accompanied by a person (18) years of age or~~
23 ~~older; or~~

24 ~~[(2) is]~~ at least 13 years of age or is supervised by
25 another person who:

26 (1) can lawfully operate the motorboat; and

27 (2) is on board the motorboat when under way ~~[and has~~

1 ~~successfully passed a boating safety course prescribed and approved~~
2 ~~by the department].~~

3 SECTION 3. Section 31.109, Parks and Wildlife Code, is
4 amended by amending Subsections (a), (b), and (e) and adding
5 Subsection (f) to read as follows:

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

7 (1) born on or after September 1, 1993 [~~1984~~]; and

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

9 (A) a vessel powered by a motor with a
10 manufacturer's rating of more than 15 [~~10~~] horsepower [~~or more~~]; or

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

12 (b) A person subject to this section must have in the
13 person's possession[~~+~~

14 [~~(1)~~] a photographic identification card[~~+~~] and
15 either:

16 (1) [~~(2)~~] a boater identification card issued by the
17 department; or

18 (2) proof of completion of the requirements to obtain
19 a vessel operator's license issued by the United States Coast
20 Guard.

21 (e) If, on or before the trial of a person charged with an
22 offense for failing to possess a document required under Subsection
23 (b), the person produces for the court or the prosecuting attorney a
24 document required by Subsection (b) that was issued to the person
25 and was valid at the time of the offense, the court shall dismiss
26 the charge [~~Upon proof of completion of a boater safety education~~
27 ~~course a court shall dismiss a violation of Subsections (b)(1) and~~

1 ~~(2)~~].

2 (f) A person charged with a Class C Parks and Wildlife Code
3 misdemeanor for failing to possess a document required under
4 Subsection (b) may make to the court not later than the 10th day
5 after the date of the alleged offense an oral or written motion
6 requesting permission to take a boater education course approved by
7 the department or a vessel operator's licensing course provided by
8 the United States Coast Guard. The court shall defer the
9 proceedings brought against a person who makes a motion described
10 by this subsection and allow the person 90 days to present written
11 evidence that the person has successfully completed the course
12 approved by the department or provided by the United States Coast
13 Guard. If the person successfully completes the course and the
14 court accepts the presented evidence, the court shall dismiss the
15 charge.

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

18 Sec. 31.110. EXEMPTION FROM BOATER EDUCATION COURSE
19 REQUIREMENT; DEFERRAL PROGRAM. (a) A person is not required to
20 comply with Section 31.109 if the person:

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

23 (2) is supervised by a person who is at least 18 years
24 of age and who [+

25 [~~(A)~~] is otherwise exempt from the requirements
26 of Section 31.109 or possesses a boater identification card as
27 required by Section 31.109; [~~and~~

1 [~~(B) is at least 18 years of age,~~]

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

3 [~~(4)~~] is not a resident of this state and has proof
4 that the person has successfully completed a boater education
5 course or equivalency examination in another state that is approved
6 by the department;

7 (4) is exempt by rule of the commission as a customer
8 of a business engaged in renting, showing, demonstrating, or
9 testing boats; or

10 (5) is exempt by rule of the commission [~~department~~].

11 (b) For purposes of this section, to be considered to be
12 supervising the operator of a watercraft, the person must be on
13 board the watercraft when under way.

14 (c) The commission by rule shall establish a boater
15 education deferral program. The deferral program must be available
16 at no cost to boat dealers, manufacturers, and distributors.

17 SECTION 5. The changes in law made by this Act apply only to
18 an offense committed on or after the effective date of this Act. An
19 offense committed before the effective date of this Act is covered
20 by the law in effect when the offense was committed, and the former
21 law is continued in effect for that purpose. For purposes of this
22 section, an offense was committed before the effective date of this
23 Act if any element of the offense was committed before that date.

24 SECTION 6. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2011.