

By: Parker

H.B. No. 1395

A BILL TO BE ENTITLED

1 AN ACT
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 [~~7~~
21 ~~unless the operator:~~

22 [~~(A) is accompanied by a person at least 18 years~~
23 ~~of age, or~~

24 [~~(B) is at least 13 years of age and has~~

1 ~~successfully completed a boating safety course prescribed and~~
2 ~~approved by the department];~~

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

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

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

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

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

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

19 ~~[(1) is accompanied by a person (18) years of age or~~
20 ~~older, or~~

21 ~~[(2) is] at least 13 years of age [and has successfully~~
22 ~~passed a boating safety course prescribed and approved by the~~
23 ~~department].~~

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

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

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

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

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

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

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

8 [~~(1)~~] a photographic identification card[+] and
9 either:

10 (1) [~~(2)~~] a boater identification card issued by the
11 department; or

12 (2) proof of completion of the requirements to obtain
13 a vessel operator's license issued by the United States Coast
14 Guard.

15 (e) If, on or before the trial of a person charged with an
16 offense for failing to possess either required document under
17 Subsection (b)(1) or (2), the person produces for the court or the
18 prosecuting attorney a document required by Subsection (b)(1) or
19 (2) that was issued to the person and was valid at the time of the
20 offense, the court shall dismiss the charge [~~Upon proof of~~
21 ~~completion of a boater safety education course a court shall~~
22 ~~dismiss a violation of Subsections (b)(1) and (2)].~~

23 (f) A person charged with a Class C Parks and Wildlife Code
24 misdemeanor for failing to possess either required document under
25 Subsection (b)(1) or (2) may make to the court not later than the
26 10th day after the date of the alleged offense an oral or written
27 motion requesting permission to take a boater education course

1 approved by the department or a vessel operator's licensing course
2 provided by the United States Coast Guard. The court shall defer
3 the proceedings brought against a person who makes a motion
4 described by this subsection and allow the person 90 days to present
5 written evidence that the person has successfully completed the
6 course approved by the department or provided by the United States
7 Coast Guard. If the person successfully completes the course and
8 the court accepts the presented evidence, the court shall dismiss
9 the charge.

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

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

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

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

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

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

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

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

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

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

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

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

11 SECTION 5. The changes in law made by this Act apply only to
12 an offense committed on or after the effective date of this Act. An
13 offense committed before the effective date of this Act is covered
14 by the law in effect when the offense was committed, and the former
15 law is continued in effect for that purpose. For purposes of this
16 section, an offense was committed before the effective date of this
17 Act if any element of the offense was committed before that date.

18 SECTION 6. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2011.