

1-1 By: Parker (Senate Sponsor - Watson) H.B. No. 1395
1-2 (In the Senate - Received from the House May 5, 2011;
1-3 May 9, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 17, 2011, reported
1-5 favorably by the following vote: Yeas 6, Nays 0; May 17, 2011, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the requirements to operate personal watercraft and
1-10 certain boats.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 31.106(a), Parks and Wildlife Code, is
1-13 amended to read as follows:

1-14 (a) No person shall operate a personal watercraft in the
1-15 following manner or under the following circumstances:

1-16 (1) unless each person riding on or towed behind the
1-17 vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V
1-18 personal flotation device;

1-19 (2) if the vessel is equipped by the manufacturer with
1-20 a lanyard type engine cutoff switch, unless such lanyard is
1-21 attached to the person, clothing, or personal flotation device of
1-22 the operator as appropriate for the vessel involved;

1-23 (3) during the period between sunset and sunrise;

1-24 (4) within 50 feet of any other vessel, person,
1-25 stationary platform or other object, or shore, except at headway
1-26 speed;

1-27 (5) if the operator is under 13 [~~16~~] years of age
1-28 unless the operator is supervised by another person who:

1-29 (A) is at least 18 years of age;

1-30 (B) can lawfully operate the watercraft; and

1-31 (C) is on board the watercraft when under way [7

1-32 ~~unless the operator:~~

1-33 ~~[(A) is accompanied by a person at least 18 years~~
1-34 ~~of age; or~~

1-35 ~~[(B) is at least 13 years of age and has~~
1-36 ~~successfully completed a boating safety course prescribed and~~
1-37 ~~approved by the department];~~

1-38 (6) if the personal watercraft is a motorboat, within
1-39 any area prohibited for operation of a motorboat by state law or
1-40 local rule or regulation;

1-41 (7) while towing water skis, an aquaplane, a
1-42 surfboard, a tube, or any other similar device, unless the towing
1-43 vessel is designed to carry on board a minimum of two persons;

1-44 (8) by jumping the wake of another vessel recklessly
1-45 or unnecessarily close to that vessel; or

1-46 (9) in a manner that requires the operator to swerve at
1-47 the last possible moment to avoid collision.

1-48 SECTION 2. Section 31.107, Parks and Wildlife Code, is
1-49 amended to read as follows:

1-50 Sec. 31.107. OPERATION OF MOTORBOAT. No person may operate
1-51 a motorboat powered by a motor with a manufacturer's rating of more
1-52 than [~~over~~] 15 horsepower on the public waters of this state unless
1-53 the person is [~~16 years of age or older or:~~

1-54 ~~(1) is accompanied by a person (18) years of age or~~
1-55 ~~older; or~~

1-56 ~~(2) is] at least 13 years of age~~ or is supervised by
1-57 another person who:

1-58 (1) is at least 18 years of age;

1-59 (2) can lawfully operate the motorboat; and

1-60 (3) is on board the motorboat when under way [~~and has~~
1-61 ~~successfully passed a boating safety course prescribed and approved~~
1-62 ~~by the department].~~

1-63 SECTION 3. Section 31.109, Parks and Wildlife Code, is
1-64 amended by amending Subsections (a), (b), and (e) and adding

2-1 Subsection (f) to read as follows:

2-2 (a) This section applies only to a person who is:

2-3 (1) born on or after September 1, 1993 [~~1984~~]; and

2-4 (2) operating on the public water of this state:

2-5 (A) a vessel powered by a motor with a
2-6 manufacturer's rating of more than 15 [10] horsepower [or more]; or

2-7 (B) a windblown vessel over 14 feet in length.

2-8 (b) A person subject to this section must have in the
2-9 person's possession[+]

2-10 [~~(1)~~] a photographic identification card[+] and
2-11 either:

2-12 (1) [~~(2)~~] a boater identification card issued by the
2-13 department; or

2-14 (2) proof of completion of the requirements to obtain
2-15 a vessel operator's license issued by the United States Coast
2-16 Guard.

2-17 (e) If, on or before the trial of a person charged with an
2-18 offense for failing to possess a document required under Subsection
2-19 (b), the person produces for the court or the prosecuting attorney a
2-20 document required by Subsection (b) that was issued to the person
2-21 and was valid at the time of the offense, the court shall dismiss
2-22 the charge [Upon proof of completion of a boater safety education
2-23 course a court shall dismiss a violation of Subsections (b)(1) and
2-24 (2)].

2-25 (f) A person charged with a Class C Parks and Wildlife Code
2-26 misdemeanor for failing to possess a document required under
2-27 Subsection (b) may make to the court not later than the 10th day
2-28 after the date of the alleged offense an oral or written motion
2-29 requesting permission to take a boater education course approved by
2-30 the department or a vessel operator's licensing course provided by
2-31 the United States Coast Guard. The court shall defer the
2-32 proceedings brought against a person who makes a motion described
2-33 by this subsection and allow the person 90 days to present written
2-34 evidence that the person has successfully completed the course
2-35 approved by the department or provided by the United States Coast
2-36 Guard. If the person successfully completes the course and the
2-37 court accepts the presented evidence, the court shall dismiss the
2-38 charge.

2-39 SECTION 4. Section 31.110, Parks and Wildlife Code, is
2-40 amended to read as follows:

2-41 Sec. 31.110. EXEMPTION FROM BOATER EDUCATION COURSE
2-42 REQUIREMENT; DEFERRAL PROGRAM. (a) A person is not required to
2-43 comply with Section 31.109 if the person:

2-44 (1) holds a master's, mate's, or operator's license
2-45 issued by the United States Coast Guard;

2-46 (2) is supervised by a person who is at least 18 years
2-47 of age and who[+]

2-48 [~~(A)~~] is otherwise exempt from the requirements
2-49 of Section 31.109 or possesses a boater identification card as
2-50 required by Section 31.109; [~~and~~

2-51 [~~(B) is at least 18 years of age,~~

2-52 (3) [~~is at least 18 years of age,~~

2-53 [~~(4)~~] is not a resident of this state and has proof
2-54 that the person has successfully completed a boater education
2-55 course or equivalency examination in another state that is approved
2-56 by the department;

2-57 (4) is exempt by rule of the commission as a customer
2-58 of a business engaged in renting, showing, demonstrating, or
2-59 testing boats; or

2-60 (5) is exempt by rule of the commission [department].

2-61 (b) For purposes of this section, to be considered to be
2-62 supervising the operator of a watercraft, the person must be on
2-63 board the watercraft when under way.

2-64 (c) The commission by rule shall establish a boater
2-65 education deferral program. The deferral program must be available
2-66 at no cost to boat dealers, manufacturers, and distributors.

2-67 SECTION 5. The changes in law made by this Act apply only to
2-68 an offense committed on or after the effective date of this Act. An
2-69 offense committed before the effective date of this Act is covered

3-1 by the law in effect when the offense was committed, and the former
3-2 law is continued in effect for that purpose. For purposes of this
3-3 section, an offense was committed before the effective date of this
3-4 Act if any element of the offense was committed before that date.

3-5 SECTION 6. This Act takes effect immediately if it receives
3-6 a vote of two-thirds of all the members elected to each house, as
3-7 provided by Section 39, Article III, Texas Constitution. If this
3-8 Act does not receive the vote necessary for immediate effect, this
3-9 Act takes effect September 1, 2011.

3-10

* * * * *