

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 693 of the Regular Session

1 State of Arkansas As Engrossed: S2/12/09 S2/23/09 S3/10/09 H3/18/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

SENATE BILL 38

4

5 By: Senator Faris

6 By: Representative Harrelson

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For An Act To Be Entitled

10 AN ACT TO INCREASE THE MINIMUM AGE FOR OPERATION  
11 OF A PERSONAL WATERCRAFT; TO APPLY THE ALCOHOL  
12 AND DRUG TESTING REQUIREMENTS USED FOR MOTOR  
13 VEHICLES TO OPERATION OF BOATS AND PERSONAL  
14 WATERCRAFT; TO REQUIRE PARENTAL CONSENT FOR  
15 RECEIPT OF A BOATER EDUCATION CERTIFICATE; TO  
16 AMEND THE EXAMINATION REQUIREMENTS FOR A BOATER  
17 EDUCATION CERTIFICATE; AND FOR OTHER PURPOSES.

18

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Subtitle

20 AN ACT TO BE KNOWN AS "RACHEL'S BILL"  
21 FOR THE PURPOSE OF IMPROVING PERSONAL  
22 WATERCRAFT SAFETY.

23

24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26

27 SECTION 1. Arkansas Code § 5-76-101(3), concerning the definition of  
28 motorboat for purposes of prohibiting operation of motorboats while  
29 intoxicated, is amended to read as follows:

30 (3)(A) "Motorboat" means any vessel operated upon water and that  
31 is propelled by machinery, whether or not the machinery is the principal  
32 source of propulsion.

33 (B) "Motorboat" includes personal watercraft as  
34 defined in § 27-101-103(10);

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1           SECTION 2. Arkansas Code § 27-101-205 is amended to add a new  
2 subsection to read as follows:

3           27-101-205. Collision or accident.

4           (a) It shall be the duty of the operator of a vessel involved in a  
5 collision, accident, or other casualty, so far as he or she can do so without  
6 serious danger to his or her own vessel, crew, and passengers, if any, to  
7 render to other persons affected by the collision, accident, or other  
8 casualty assistance that may be practicable and that may be necessary in  
9 order to save them from or minimize any danger caused by the collision,  
10 accident, or other casualty and also to give his or her name, address, and  
11 identification of his or her vessel in writing to any person injured and to  
12 the owner of any property damaged in the collision, accident, or other  
13 casualty.

14           (b) In the case of collision, accident, or other casualty involving a  
15 vessel, if the collision, accident, or other casualty results in death or  
16 injury to a person or damage to property in excess of five hundred dollars  
17 (\$500) or the disappearance of a person from a vessel under circumstances  
18 that indicate death or injury, the Arkansas State Game and Fish Commission or  
19 local sheriff's department having an established water patrol shall be  
20 immediately notified in order for an investigation to be conducted. In  
21 addition, the operator of the vessel shall submit a Department of  
22 Transportation, United States Coast Guard Form CG-3865 to the Arkansas State  
23 Game and Fish Commission Boating Safety Office within ten (10) working days.

24           (c) When a person operating a vessel is involved in a collision,  
25 accident, or other casualty resulting in loss of human life or when there is  
26 reason to believe death may result, or a law enforcement officer has  
27 reasonable cause to believe that the person, while operating a vessel, is  
28 intoxicated or under the influence of any narcotic drug, barbituate, or  
29 marijuana or while under any physical or mental disability so as to be  
30 incapable of operating the vessel safely under the prevailing circumstances,  
31 a law enforcement officer shall request and the person shall submit to a  
32 chemical test of the person's blood, breath, or urine in accordance with the  
33 provisions of § 5-76-104, even if the person is fatally injured, for the  
34 purpose of determining the alcohol or controlled substance content of his or  
35 her blood, breath, or urine.

36           ~~(e)~~(d) In accordance with any request duly made by an authorized

1 official or agency of the United States, any information compiled or  
2 otherwise available to the Arkansas State Game and Fish Commission pursuant  
3 to this section shall be transmitted to that official or agency of the United  
4 States.

5 ~~(d)~~(e) Any law enforcement agency in the State of Arkansas  
6 investigating a boating accident will forward a copy of the completed  
7 accident report to the Boating Safety Office of the Arkansas State Game and  
8 Fish Commission within thirty (30) days of the accident.

9 ~~(e)~~(f)(1) It shall be unlawful for any person involved in a boating  
10 accident to purposely leave the scene of the accident without complying with  
11 the requirements in subsections (a) and (b) of this section.

12 (2) Violation of this subsection shall be punishable with a fine  
13 of not less than two hundred fifty dollars (\$250) nor more than five hundred  
14 dollars (\$500).

15 (3) In the event the accident resulted in grave personal injury  
16 or death, violations of this section shall be a Class D felony and, upon  
17 conviction, punished accordingly.

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19 SECTION 2. Arkansas Code § 27-101-501 is amended to read as  
20 follows:

21 (a) The General Assembly finds and determines that:

22 (1) The regulation of boating and boaters in the state is the  
23 primary responsibility of the Arkansas State Game and Fish Commission under  
24 Arkansas Constitution, Amendment 35;

25 (2) Most boating accidents in the state are due primarily to the  
26 lack of training or the improper training of boaters;

27 (3) The establishment of a boater training and safety program in  
28 this state would greatly improve and facilitate boater safety in this state;  
29 and

30 (4) It is the purpose and intent of this section to authorize  
31 the commission to establish and operate a boater safety and training program  
32 in this state.

33 (b)(1) *The commission is authorized and encouraged to establish,  
34 maintain, and operate a program of boater training and boater safety in this  
35 state.*

36 *(2) Beginning January 1, 2010, ~~The~~ the program shall include,*

1 ~~but not be limited to, without limitation:~~

2 (A)(i) a course of instruction designed to teach  
 3 the safe and proper handling of ~~boats~~ motorboats, personal watercraft, and  
 4 any other related matters as shall be deemed appropriate by the commission.

5 (ii) With regard to personal watercraft, the course  
 6 of instruction shall include electronic simulation of personal watercraft  
 7 operation and actual hands-on familiarization with the personal watercraft.

8 (B)(i) A written examination that shows the  
 9 applicant's ability to have common knowledge to exercise ordinary and  
 10 reasonable control in the operation of a motorboat and a personal  
 11 watercraft.

12 (ii) The examination shall be administered in person  
 13 at a time and place designated by the commission.

14 (3) The course of instruction may be offered in  
 15 cooperation with schools, private clubs and organizations, and may be offered  
 16 by the commission in areas where requested and where other sponsorship is  
 17 unavailable.

18 (4) The commission shall also prepare and disseminate  
 19 information on water safety to the public, including informational pamphlets,  
 20 which shall be made available at popular tourist locations.

21 (c) The commission may adopt and enforce rules and regulations it  
 22 shall deem appropriate and necessary to properly carry out the purposes and  
 23 intent of this section.

24 (d)(1) ~~Effective January 1, 2001,~~ In order to operate a motorboat or a  
 25 personal watercraft in Arkansas, all Arkansas residents born on or after  
 26 January 1, 1986, and of legal age to operate a motorboat or personal  
 27 watercraft must have successfully completed:

28 (A) ~~an~~ An approved commission safe boating course  
 29 and examination under subdivision (b)(2) of this section to obtain a  
 30 permanent boater education certificate; or

31 (B) ~~completed~~ A questionnaire to obtain a temporary  
 32 boater education certificate under subsection (d)(4) of this section ~~in order~~  
 33 ~~to operate a motorboat in Arkansas.~~

34 (2) The commission shall issue boating education certificates  
 35 and furnish a copy of the state laws pertaining to the operation of ~~boats~~ a  
 36 motorboat or personal watercraft or informational material based on these

1 laws to persons successfully completing an approved safe boating course and  
2 examination.

3 (3) Valid boating education certificates issued by other states  
4 to nonresidents shall be honored by this state if the boating education  
5 course is approved by the National Association of State Boating Law  
6 Administrators.

7 (4) Prior to operating a motorboat or a personal watercraft on  
8 the waters of this state, a nonresident or resident born on or after January  
9 1, 1986, and of legal age to operate a motorboat or a personal watercraft may  
10 obtain a temporary boater education certificate, which shall be valid for  
11 thirty (30) days, by completing a questionnaire developed by the commission.

12 (5)(A) The application of any person under eighteen (18) years  
13 of age for a permanent or temporary boater education certificate shall be  
14 signed and verified before a person authorized to administer oaths by either  
15 the custodial parent or guardian of the applicant.

16 (B) For purposes of this section, duly authorized agents  
17 of the commission shall be authorized to administer oaths without charge.

18  
19 SECTION 3. Arkansas Code § 27-101-602 (d), concerning the minimum age  
20 for operating a personal watercraft, is amended to read as follows:

21 (d) No person under ~~fourteen (14)~~ sixteen (16) years of age shall  
22 operate a personal watercraft on the waters of this state, except:

23 (1) A person at least twelve (12) years of age may operate a  
24 personal watercraft if a person at least eighteen (18) years of age is aboard  
25 *the vessel who:*

26 (A) Was born before January 1, 1986, or has a valid boater  
27 education certificate; and

28 (B) Is in a position to take immediate control of the  
29 vessel; or

30 (2) A person under twelve (12) years of age may operate a  
31 personal watercraft if a person at least twenty-one (21) years of age is  
32 *aboard the vessel who:*

33 (A) Was born before January 1, 1986, or has a valid boater  
34 education certificate; and

35 (B) Is in a position to take immediate control of the  
36 vessel.

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*/s/ Faris*

**APPROVED: 3/30/2009**