

*As Engrossed: 1/24/95 1/26/95 2/27/95*

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# A Bill

**ACT 517 OF 1995**  
**SENATE BILL 126**

4 **By: Senators Canada, Scott, Hoofman, Fitch, Jeffries, Ross, Gwatney, Bookout, Smith,**  
5 **Gordon, Webb, Keet, Russ, Walters, Boozman, Brown**  
6 *By: Representatives Mullenix, Lynn, Allen and T. Smith*

## For An Act To Be Entitled

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8  
9 "AN ACT TO REVISE THE ARKANSAS BOATING SAFETY LAWS; AND  
10 FOR OTHER PURPOSES."

### Subtitle

11  
12  
13 "TO REVISE THE ARKANSAS BOATING SAFETY  
14 LAWS."

15  
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17  
18 SECTION 1. Arkansas Code §27-101-103 is amended to read as follows:  
19 "27-101-103. Definitions.

20 As used in subchapters 1-3 of this chapter, unless the context otherwise  
21 requires:

22 (1) Vessel means every description of watercraft, other than a  
23 seaplane on the water, used or capable of being used as a means of  
24 transportation.

25 (2) Motorboat means any vessel operated upon water and which is  
26 propelled by sail or machinery, whether or not the machinery is the principal  
27 source of propulsion, but shall not include a vessel which has a valid marine  
28 document issued by the Bureau of Customs of the United States Government or  
29 any federal agency successor thereto.

30 (3) Owner means a person, other than a lien holder, having the  
31 property in or title to a motorboat. The term includes a person entitled to  
32 the use or possession of a motorboat subject to an interest in another person,  
33 reserved or created by agreement and securing payment or performance of an  
34 obligation, but the term excludes a lessee under a lease not intended as  
35 security;

36 (4) Waters of this state means any public waters within the

1 territorial limits of the State of Arkansas;

2 (5) Person means an individual, partnership, firm, corporation,  
3 association, or other entity;

4 (6) Operate means to navigate or otherwise use a motorboat or a  
5 vessel;

6 (7) Length means the extreme deck fore-and-aft measurement of a  
7 vessel;

8 (8) Operator means a person who is controlling the speed and  
9 direction of a vessel or a person who is in direct physical control of a  
10 vessel;

11 (9) Personal Watercraft means a vessel which uses an inboard motor  
12 powering a water jet pump as its primary source of motive power and which is  
13 designed to be operated by a person sitting, standing, or kneeling on the  
14 vessel, rather than the conventional manner of sitting or standing inside the  
15 vessel; and

16 (10) Commission means the Arkansas Game & Fish Commission."  
17

18 SECTION 2. Arkansas Code §27-101-104 is amended to read as follows:

19 "(a) Any person who violates any provision of §§27-101-202(8),  
20 27-101-203, 27-101-301, 27-101-303 - 27-101-306, and 27-101-308 - 27-101-312  
21 shall be guilty of a misdemeanor and shall be subject to a fine of not less  
22 than one hundred dollars (\$100) and not to exceed two hundred fifty dollars  
23 (\$250.00) for each violation.

24 (b) Any person who violates any provision of §§27-101-202(2)-(6), (9),  
25 and (13) and 27-101-204 shall be guilty of a misdemeanor and shall be subject  
26 to a fine of not less than one hundred dollars (\$100) and not to exceed five  
27 hundred dollars (\$500) for each violation.

28 (c) Any person who violates any provision of §27-101-202(1), (7), (10),  
29 (11) or (12) shall be guilty of a misdemeanor and shall be subject to a fine  
30 of not less than two hundred fifty dollars (\$250) and not to exceed one  
31 thousand dollars (\$1,000) or imprisonment not to exceed six (6) months, or  
32 both fine and imprisonment, for each violation."  
33

34 SECTION 3. Subsection (a)(2) of Arkansas Code §27-101-105 is amended to  
35 read as follows:

1           "(a) (2) In the exercise thereof, they shall have the authority to stop  
2 and board any vessel subject to subchapters 1-3 of this chapter, and to  
3 investigate any accident or violation involving vessels subject to subchapters  
4 1-3 of this chapter."

5

6           SECTION 4. Arkansas Code §§27-101-202(1) and (2) are amended to read as  
7 follows:

8           "(1) Shall operate any motorboat or vessel or manipulate any water  
9 skis, aquaplane, personal watercraft, or similar device in a reckless or  
10 negligent manner that endangers the life, limb, or property of any person;  
11 including but not limited to weaving through congested vessel traffic, jumping  
12 the wake of another vessel too close to such other vessel, or when visibility  
13 around such other vessel is obstructed and swerving at the last possible  
14 moment to avoid collision shall constitute reckless operation of a vessel;

15           (2) Shall operate a motorboat on the waters of this state at a rate of  
16 speed that creates a hazardous wash or wake upon approaching or passing  
17 vessels; including, but not limited to a wake that causes other vessels to  
18 take-on water, or a wake sufficient to toss occupants of other vessels about  
19 *in a manner to cause injury or the risk of injury;*

20

21           SECTION 5. Arkansas Code §§27-101-202(5) and (6) are amended to read as  
22 follows:

23           "(5) Shall operate a vessel on any waters of this state for towing a  
24 person or persons on water skis, or an aquaplane, personal watercraft or  
25 similar device, unless there is in the vessel a person, twelve (12) years of  
26 age or older, in addition to the operator, in a position to observe the  
27 progress of the person or persons being towed. However, if the towing boat is  
28 equipped with a wide-angle convex marine rear-view mirror in a position to  
29 observe the skiers being towed, the above requirement shall not apply;

30           (6) Shall operate a vessel on any waters of this state towing a person  
31 on water skis or an aquaplane or similar device; nor shall any person engage  
32 in waterskiing, aquaplaning, or similar activity at any time between the hours  
33 from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.  
34 However, the provisions of this subdivision do not apply to night waterskiing  
35 or aquaplaning on controlled areas designated for those purposes where

1 adequate lighting is provided;"

2

3 SECTION 6. Arkansas Code Annotated §27-101-202(8) is amended to read as  
4 follows:

5 "(8) Shall load any vessel used on the waters of this state with  
6 passengers or cargo beyond its safe carrying capacity, as indicated on the  
7 manufacturers capacity plate, or power any vessel with an outboard motor which  
8 exceeds the maximum horsepower rating specified by the manufacturer; in  
9 addition, no person shall load a boat, without a capacity plate, in a manner  
10 that is unsafe or that results in the sinking or capsizing of the boat;"

11

12 SECTION 7. Arkansas Code §27-101-202 is amended by inserting two  
13 additional subsections at the end thereof to read as follows:

14 "(12) Shall operate any vessel or manipulate any water skis, aquaplane,  
15 personal watercraft or similar device in a grossly negligent manner that  
16 results in serious injury or death to any person; and

17 (13) Shall operate a vessel upon the waters of this state in a  
18 negligent manner, including but not limited to, inattentive operation, failure  
19 to keep a proper lookout, failure to observe the inland navigation rules of  
20 the road as implemented by the United States Coast Guard, or operating in a  
21 manner which results in a collision with another vessel or object."

22

23 SECTION 8. Subchapter 2 of Chapter 1 of Title 27 of the Arkansas Code  
24 is amended by inserting an additional section at the end thereof to read as  
25 follows:

26 "27-101-206

27 Law enforcement vessels while being used in the enforcement of this  
28 chapter shall be exempt from the provisions of Section 27-101-202; however,  
29 this exemption does not relieve the operator of the responsibility to operate  
30 his vessel in a reasonable and prudent manner that does not endanger life,  
31 limb, or property."

32

33 SECTION 9. Subsection (a) of Arkansas Code §27-101-203 is amended to  
34 read as follows:

35 "(a) Every vessel shall have aboard:

1                   (1) One (1) Type I, II, III, or V (if used according to its  
2 approved conditions) personal flotation device (PFD) which is U.S. Coast Guard  
3 approved in good and serviceable condition and of proper size for each person  
4 on board. *In addition, every vessel sixteen (16) feet and longer shall have*  
5 aboard one (1) Type IV throwable PFD. Each person being towed on water skis,  
6 an aquaplane, or a similar device behind any motorboat or motor-driven device  
7 used for towing persons upon the water must wear or have securely upon his  
8 body a life preserver or buoyant vest of the type described above in good and  
9 serviceable condition at all times while engaging in this activity. In  
10 addition, all occupants of personal watercraft must wear a PFD of the types  
11 described above while aboard the vessel. Occupants of a vessel who are twelve  
12 (12) years of age or younger must wear a personal flotation device (PFD) of  
13 the type described above securely fastened to their person at all times while  
14 aboard any vessel unless such occupant is within the enclosed area of a  
15 *houseboat or cruiser unless underway or within the area enclosed by railings*  
16 *on a party barge, cruiser or houseboat unless underway.* In addition, the  
17 requirements of this subdivision (a) (1) shall not be applicable to organized  
18 water carnivals, waterskiing exhibitions, or other organized water sports  
19 exhibitions, nor to persons participating in those activities or exhibitions;

20                   (2) *When in operation during hours of darkness on waters under*  
21 *the jurisdiction of the United States, a motorboat's* lighting shall be in  
22 accordance with the following specifications:

23                   (A) Class A and Class 1 (under twenty-six [26] feet) -  
24 combination red and green light on bow, with red on the port side and green on  
25 the starboard side and a white horizon light aft (on the stern) that is  
26 visible for three hundred sixty (360) degrees of the compass;

27                   (B) Class 2 and Class 3 (twenty-six [26] feet to not more  
28 than sixty-five [65] feet) - twenty (20) point white light forward, red port  
29 and green starboard side lights and white horizon light aft; and

30                   (C) Lights must conform to the specifications contained in  
31 the U.S. Coast Guard Inland Rules of Navigation;

32                   (3) *When in operation during hours of darkness on state*  
33 *controlled waters, a motorboat's lighting shall be sufficient to make the*  
34 *motorboat's presence and location known to any and all other vessels within a*  
35 *reasonable distance.*

1           (4) *If carrying or using any inflammable or toxic fluid in any*  
2 *enclosure for any purpose, and if not an entirely open motorboat, an efficient*  
3 *natural or mechanical ventilation system which shall be capable of removing*  
4 *resulting gases prior to and during the time the motorboat is occupied by any*  
5 *person;*

6           (5) *Additional equipment designed to promote the safety of*  
7 *navigation and of persons that the Arkansas State Game and Fish Commission may*  
8 *find to be appropriate and for which it has provided in its rules and*  
9 *regulations. However, before making those rules and regulations, or changes or*  
10 *additions thereto, the Arkansas State Game and Fish Commission shall hold*  
11 *public hearings, after reasonable notice thereof, of any proposed rule or*  
12 *regulation to be adopted."*

13

14           SECTION 10. Subsection (c) of Arkansas Code §27-101-203 is amended to  
15 read as follows:

16           "*(c) The use of dry stack headers or pipes extending directly from the*  
17 *engine of a motorboat which does not have any type of muffler is prohibited*  
18 *except for motorboats competing in a sanctioned regatta or boat race and for*  
19 *those motorboats while on trial runs during a period not to exceed forty-eight*  
20 *(48) hours immediately preceding such regatta or race and for those motorboats*  
21 *while competing in official trials for speed records during a period not to*  
22 *exceed forty-eight (48) hours immediately following the regatta or race and*  
23 *only on the body of water where the regatta or boat race is being held."*

24

25           SECTION 11. Subsection (a) of Arkansas Code §27-101-204 is amended to  
26 read as follows:

27           "(a) The owner of a boat livery shall cause to be kept a record of:

28           (1) The name and address of the person or persons hiring any  
29 vessel which is designed or permitted by him to be operated as a motorboat;

30           (2) The registration number thereof;

31           (3) The departure date and time;

32           (4) The expected time of return;

33           (5) The number of persons to be on board the vessel."

34

35           SECTION 12. Arkansas Code §27-101-205 is amended to read as follows:

1 "27-101-205. Collision or accident.

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

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

21 (c) In accordance with any request duly made by an authorized official  
22 or agency of the United States, any information compiled or otherwise  
23 available to the Arkansas State Game and Fish Commission pursuant to this  
24 section shall be transmitted to that official or agency of the United States.

25 (d) Any law enforcement agency in the state of Arkansas investigating a  
26 boating accident will forward a copy of the completed accident report to the  
27 boating safety office of the Arkansas Game & Fish Commission within thirty  
28 (30) days of the accident.

29 (e) It shall be unlawful for any person involved in a boating accident  
30 to purposely leave the scene of the accident without complying with the  
31 requirements in paragraphs (a) and (b) of this section. Violation of this  
32 section shall be punishable with a fine or not less than two hundred fifty  
33 dollars (\$250) no more than five hundred dollars (\$500). In the event the  
34 accident resulted in grave personal injury or death, violations of this  
35 section shall be a Class "D" felony, and, upon conviction, punished

1 accordingly."

2

3 SECTION 13. Arkansas Code §27-101-302 is amended to read as follows:

4 "27-101-302. Exceptions - Dealer's permit.

5 A motorboat shall not be required to be numbered under this subchapter  
6 if it is:

7 (1) Already covered by a number in full force and effect which has been  
8 awarded to it pursuant to federal law or a federally approved numbering system  
9 of another state, provided that the boat shall not have been within this state  
10 for a period in excess of ninety (90) consecutive days;

11 (2) A motorboat from a country other than the United States temporarily  
12 using the waters of this state;

13 (3) A motorboat whose owner is the United States, a state, or a  
14 subdivision thereof;

15 (4) A ship's lifeboat;

16 (5) A motorboat used, for demonstration purposes or testing  
17 purposes only, by a recognized motorboat dealer or manufacturer or agent  
18 thereof to promote the sale or development of the motorboat. All motorboat  
19 dealers or manufacturers wishing to obtain the benefits of this subdivision  
20 shall obtain a permit from the Revenue Division of the Department of Finance  
21 and Administration to operate as a motorboat dealer or manufacturer and for  
22 each annual license period shall pay a fee of two dollars (\$2.00) for the  
23 permit. The Revenue Division of the Department of Finance and Administration  
24 may issue, subject to the rules and regulations of the Arkansas State Game and  
25 Fish Commission, to a motorboat dealer or manufacturer an identifying  
26 certificate of number and require the attachment or display of the number on  
27 both sides of the bow of any motorboat used for demonstration or testing  
28 purposes while the motorboat is being operated for demonstration or testing  
29 purposes on the waters of this state. This section does not apply to vessels  
30 being used as rental boats;

31 (6) A newly purchased motorboat may be operated for a period not to  
32 exceed *twenty (20)* working days from the date of purchase, provided that the  
33 owner or operator of the motorboat has aboard the vessel the bill of sale or  
34 acceptable proof of purchase indicating the date of purchase, the name and  
35 address of the owner, and description and Hull Identification Number of the



1 vessel."

2

3 SECTION 14. Subsection (a) of Arkansas Code §27-101-304 is amended to  
4 read as follows:

5 "(a) The owner of each motorboat for which numbering is required by  
6 this state shall file an application for number, within *twenty (20)* working  
7 days after the date of purchase, with the Director of the Department of  
8 Finance and Administration on forms approved by the Arkansas State Game and  
9 Fish Commission."

10

11 SECTION 15. Subsection (a) of Arkansas Code §27-101-306 is amended to  
12 read as follows:

13 "(a) The certificates of numbers issued pursuant to subchapters 1-3 of  
14 this chapter may be for a period of three (3) years."

15

16 SECTION 16. Effective January 1, 1996, Subsection (d)(2) of Arkansas  
17 Code 27-101-306 is amended to read as follows:

18 "(d)(2) The fee to be collected for certificates shall be as follows:

19 Fee Category	3 Years
20 -----	-----
21 Vessels less than 16 feet in length .....	\$6.00
22 Vessels 16 feet to less than 26 feet .....	12.00
23 Vessels 26 feet or more .....	18.00"

24

25 SECTION 17. Subsection (a) of Arkansas Code §27-101-309 is amended to  
26 read as follows:

27 "(a) Should the ownership of a motorboat change, the new owner shall  
28 file an application with the Director of the Department of Finance and  
29 Administration for the transfer of the certificate of operation of the  
30 motorboat to the new owner within ten (10) working days after the date of  
31 ownership change."

32

33 SECTION 18. Subsection (d) of Arkansas Code §27-14-1205 is hereby  
34 amended to read as follows:

35 "(d) Registration shall be valid for three (3) years from the date

1 thereof and shall continue for three-year periods thereafter, as long as  
2 renewed every three (3) years within the time required by law."

3

4 SECTION 19. All provisions of this act of a general and permanent  
5 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
6 Code Revision Commission shall incorporate the same in the Code.

7

8 SECTION 20. If any provision of this act or the application thereof to  
9 any person or circumstance is held invalid, such invalidity shall not affect  
10 other provisions or applications of the act which can be given effect without  
11 the invalid provision or application, and to this end the provisions of this  
12 act are declared to be severable.

13

14 SECTION 21. All laws and parts of laws in conflict with this act are  
15 hereby repealed.

16

17 SECTION 22. EMERGENCY. It is hereby found and determined by the  
18 General Assembly that the boating safety laws of the State of Arkansas are in  
19 immediate need of revision, including, increased penalties for violation of  
20 the state\_s boating laws; providing capacity restrictions for loading  
21 passengers and cargo on vessels; providing penalties for negligent operation  
22 of vessels; providing restrictions for personal flotation devices; providing  
23 restrictions for vessel lighting after dark; and providing procedures for  
24 investigating boating accidents. Further, it is found that operation of  
25 vessels on the waters of the state under the current laws are creating  
26 unnecessary dangers to the life and property of the citizens of this state,  
27 and that increasing the penalties for this dangerous conduct and providing the  
28 stated restrictions for vessel operators will reduce the number of accidents  
29 and injuries to persons and property on the waters of the state. Therefore,  
30 an emergency is hereby declared to exist, and this act being necessary for the  
31 immediate preservation of the public peace, health, and safety shall be in  
32 full force and effect from and after May 1, 1995.

33

34

*/s/Canada et al*

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APPROVED: 3-6-95