

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL11

By: Senator Canada

As engrossed 1-28-87 As engrossed 3-2-87

As engrossed 2-5-87 As engrossed 2-2-87 As engrossed 2-3-87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 453 OF 1959, AS AMENDED [ARK. STAT. 21-221 ET SEQ.], THE ARKANSAS BOATING SAFETY ACT TO REQUIRE ALL VESSELS PROPELLED BY SAIL OR MACHINERY IN EXCESS OF TEN HORSEPOWER TO BE REGISTERED IN THIS STATE; TO INCREASE BOAT REGISTRATION FEES; TO GRANT CONCURRENT JURISDICTION TO COUNTY SHERIFFS, STATE POLICE AND GAME AND FISH COMMISSION OFFICERS FOR ENFORCEMENT; TO AMEND SECTION 1 OF ACT 395 OF 1973 [ARK.STAT. 21-248]; TO REPEAL SECTION 1 OF ACT 442 OF 1965; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 2 of Act 453 of 1959, as amended, the same being Arkansas Statute 21-222, is hereby amended to read as follows:

"Section 2. As used in this act, unless the context clearly requires a different meaning:

(1) 'Vessel' means every description of watercraft; other than a seaplane on the water, used or capable of being used as a means of transportation. Provided, the term 'vessel' shall not include a canoe, kayak, raft, or inner-tube or similar flotation device.

(2) 'Motorboat' means any vessel propelled by sail or machinery in excess of ten horsepower, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto. Provided, that the term 'motorboat' as used in this Act shall also include any vessel propelled by machinery in excess of ten horsepower, manual power or other means when used upon any of the waters of this State at any time between the hours from one (1) hour after sunset to one (1) hour before sunrise. Provided, the term 'motorboat' shall not include a

canoe, kayak, raft or innertube or similar flotation device.

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

(4) 'Waters of this State' means any public waters within the territorial limits of the State of Arkansas.

(5) 'Person' means an individual, partnership, firm, corporation, association, or other entity.

(6) 'Operate' means to navigate or otherwise use a motorboat or a vessel.

(7) 'Length' means the extreme deck fore-and-aft measurement of a vessel."

SECTION 2. Section 4 of Act 453 of 1959, as amended, the same being Arkansas Statutes 21-224, is hereby amended to read as follows:

"Section 4. (a) The Arkansas Game and Fish Commission is hereby authorized and directed, on or before July 1, 1959, to establish a system of identification numbering for all motorboats used in this State pursuant to this Act. The Arkansas Game and Fish Commission shall assign to each county in this State a block of identification numbers for motorboats registered in each county. Such identification numbers shall be assigned to each county in the state and it shall be the duty of the Commissioner of Revenues to issue such identification numbers to the owners of motorboats in accordance with the provisions of this Act. All necessary registration certificates, and other forms required by this Act shall be furnished to the Commissioner of Revenues by the Arkansas Game and Fish Commission.

In the event that an agency of the United States Government shall have in force an over-all system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this Act by the Arkansas Game and Fish Commission shall be in conformity therewith.

(b) The owner, or owners, of each motorboat requiring numbering by this State shall file an application for number with the Commissioner of Revenues on forms approved by the Arkansas Game and Fish Commission. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee as hereinafter provided. Upon receipt of the application in approved

form, accompanied by proof that such motorboat has been duly assessed or listed for assessment, the Commissioner of Revenues shall enter the same upon the records of his office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The owner shall procure and attach to each side of the bow of the motorboat numbers conforming to the certificate of number issued to the owner by the Commissioner of Revenues. The numbers to be procured and attached shall be at least three (3) inches in height, red in color with a reflecting finish and shall be attached in such manner and position on the boat as may be prescribed by rules and regulations of the Arkansas Game and Fish Commission in order that they may be clearly visible. These numbers shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation. Such certificate of number shall be issued in triplicate, with the original copy to be furnished the owner of the motorboat, the duplicate to be retained as a record by the Commissioner of Revenues and the triplicate copy to be furnished to the Arkansas Game and Fish Commission to be retained as a permanent record.

(c) The owner of a motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or federally approved numbering system of another state shall record the number prior to operating the motorboat on the waters of this State in excess of ninety (90) days reciprocity period provided for in Section 6(1) of this act. Such recordation shall be in the manner and pursuant to the procedure required for the award of a number under subsection (b) of this Section, except that no additional or substitute number shall be issued.

(d) Should the ownership of a motorboat change, the new owner thereof shall file an application with the Commissioner of Revenues for the transfer of the certificate of number of such motorboat to such new owner. Upon receipt of such application, the Commissioner of Revenues shall cancel the certificate of number issued to the former owner of said motorboat and shall assign such number to the new owner of such motorboat, and issue a certificate of number therefor to such new owner. Such application for transfer of the certificate of number shall be accompanied by a fee of two dollars (\$2.00).

(e) The certificates of numbers issued pursuant to this Act may be for a period of two (2) years or four (4) years. The Commissioners shall establish

a system in such manner that the expiration dates of the various certificates of numbers will be evenly distributed throughout the year and each year thereafter, to the end that boat certificates of numbers will be renewable as uniformly as practicable throughout each of the twelve (12) months of the license year in each year after July 1, 1987. The Commissioner shall, upon request, assign to any owner of two (2) or more boats the same registration period. A fee based on the length of the motorboat as set forth below shall be charged for the issuance of a certificate of number and for each renewal of each such certificate of number. Notice shall be given to the Arkansas Game and Fish Commission of each certificate of number renewed and of the transfer of any certificate of number.

The fee to be collected for certificates shall be as follows:

Fee Category	2 Years	4 Years
Vessels less than 16 feet in length	\$4.00	\$ 8.00
Vessels 16 feet to less than 26 feet	8.00	16.00
Vessels 26 feet or more	12.00	24.00

(f) All records of the Commissioner of Revenues and of the Arkansas Game and Fish Commission made or kept pursuant to this Section shall be public records.

(g) Every certificate of number awarded pursuant to this Act shall continue in full force and effect until the expiration of each numbering period unless sooner terminated or discontinued in accordance with the provisions of this Act. Certificate of number may be renewed by the owner in the same manner provided herein for initially securing the same and upon payment of the fee as set forth above. Unless a certificate of number is renewed on or before the fifteenth (15th) day following the expiration thereof, the same shall lapse and shall no longer be of any force and effect unless renewed in the manner prescribed in this Act.

(h) Whenever any motorboat numbered under the provisions of this Act shall be destroyed or abandoned, the owner thereof shall notify the Commissioner of Revenues within fifteen (15) days after such destruction or abandonment, and the certificate of number of such motorboat shall be terminated. The Commissioner of Revenues shall notify the Arkansas Game and Fish Commission of the termination of any certificate of number.

(i) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this Act shall be painted, attached, or otherwise

displayed on either side of the bow of such motorboat.

(j) All fees collected by the Commissioner of Revenues under the provisions of this Act shall be deposited as 'Special Revenues' in the State Treasury to the credit of the Special Revenue Fund Account of the State Apportionment Fund. All such funds shall be credited to the 'Boating Safety Account' which is hereby established on the books of the State Treasurer, State Auditor and the Chief Fiscal Officer of the State and the State Treasurer, on or before the fifth of the month next following the month during which such funds shall have been received by him, shall distribute the same in the manner provided hereafter in this section:

(1) Three percent (3%) of the amount to the Constitutional and Fiscal Agencies Fund to be used for defraying the necessary expenses of the State Government; and

(2) Ninety-seven percent (97%) of the amount thereof, as follows:

(A) Ten percent (10%) to the Constitutional and Fiscal Agencies Fund.

(B) Forty-five percent (45%) to the 'Game Protection Fund' for use by the Arkansas Game and Fish Commission as provided by law.

(C) Forty-five percent (45%) to the County Aid Fund, which, on or before the tenth (10th) of the month following the end of each calendar quarter, shall be remitted by state warrants to the various county treasurers in the proportions thereof as between the respective counties that, as certified by the Commissioner to the State Treasurer, the total fees produced from each such county bears to the total of such fees produced from all counties. Upon receipt of any such fees, each county treasurer shall deposit same into the County Treasury to the credit of the 'Boating Safety and Enforcement Fund' if the county sheriff of that county has established a patrol on the waterways within the county. In the event the county sheriff has not established a patrol on the waterways within the county and if either, the county or any city or town within a county, or both, has established an emergency rescue service, each county treasurer shall deposit his county's share of the total fees collected into the 'County Emergency Rescue Fund' for use exclusively by either, the county or the cities within the county, or both, for operating and maintaining emergency rescue services within the county and cities within the county and after the treasurer receives such funds, he shall divide the funds in the 'County Emergency Rescue Funds'

equally among the county and the cities within the county, if any, having emergency rescue services. Otherwise, the fees shall be deposited into the Game Protection Fund for use by the Arkansas Game and Fish Commission.

SECTION 3. Section 9 of Act 453 of 1959, as amended, the same being Arkansas Statute 21-229, is hereby amended to read as follows:

"Section 9. (a) No person shall operate any motorboat or vessel, or manipulate any water skis, aquaplane, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

(b) No person shall operate any motorboat or vessel, or manipulate any water skis, aquaplane, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marihuana or while under any physical or mental disability so as to be incapable of operating such motorboat or vessel safely under the prevailing circumstances.

(c) No person owning or having control of a motorboat of ten (10) horsepower or more shall permit a person under 12 years old to operate the motorboat of ten (10) horsepower or more except under the direct visible and audible supervision of a parent, guardian, or other person over 17 years old."

SECTION 4. Section 13 of Act 453 of 1959, as amended, the same being Arkansas Statute 21-233, is hereby amended to read as follows:

"Section 13. (a) The provisions of this Act, and of other applicable laws of this State shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this State, or when any activity regulated by this Act shall take place thereon; but nothing in this Act shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to, or are not in conflict with, the provisions of this Act, amendments thereto or regulations issued thereunder.

(b) Any law enforcement office of a subdivision of this State may, at any time, but only after public notice, make formal application to the Arkansas Game and Fish Commission for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits including but not limited to the establishment, and marking, of speed limits and 'no-wake' zones and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

(c) The Arkansas Game and Fish Commission shall consider the application and approve such special rules and regulations or disapprove same and state in writing the commission's reasons for disapproving same within ninety (90) days of their submission or such shall be considered properly adopted by ordinance or local law. However, nothing herein shall prevent the Arkansas Game and Fish Commission from making special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this State where the local law enforcement office has not established a water patrol.

(d) Nothing in this act shall be construed to grant the power to the Arkansas Game and Fish Commission or to any person to authorize the use of, or use, any vessel on any waters of this state where the same shall be prohibited. In addition, nothing in this Act shall be construed to permit the use of vessels on any municipal or privately owned city water supply in violations of the applicable laws, rules or regulations that may have been, or may be, established for the protection of the public health in preserving said water supply for human consumption."

SECTION 5. Section 19 of Act 453 of 1959, as amended, the same being Arkansas Statute 21-339, is hereby amended to read as follows:

"Section 19. (a) It shall be the duty of every sheriff, deputy sheriff, state police officer and enforcement officers of the Arkansas Game and Fish Commission to enforce the provisions of this act and in the exercise thereof shall have the authority to stop and board any vessel subject to this act and upon investigation may direct the operator of any vessel in violation of this act to return to the dock where the voyage originated or to the nearest dock if appropriate.

(b) Failure to follow the directive of a law enforcement officer as set forth above shall constitute a separate offense in addition to any violations which the operator may be charged.

(c) Any person who violates the provisions of this Section of this Act shall be guilty of a misdemeanor and subject to a fine not to exceed two-hundred fifty dollars (\$250.00) or imprisonment of not to exceed three (3) months, or both."

SECTION 6. Section 21 of Act 453 of 1959, as amended, the same being

Arkansas Statute 21-241, is hereby amended to read as follows:

"Section 21. All fines collected for violations of this act shall be remitted to the issuing law enforcement office to be used by that office for the administration and enforcement of this act."

SECTION 7. Section 1 of Act 395 of 1973, the same being Arkansas Statute 21-248, is hereby amended to read as follows:

"Section 1. For the purposes of this Act, the term - 'Motorboat' means any vessel operated upon water and which is propelled by sail or machinery in excess of ten horsepower, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto and shall not include any canoe, kayak, raft, or innertube or similar flotation device."

SECTION 8. Section 1 of Act 442 of 1965, the same being Arkansas Statute 21-224.1, is hereby repealed.

SECTION 9. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Canada

