

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1539

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By: Representatives Molinaro, Bryant, Dietz, Faris, Flanagan, Ingram, Lynn, Rodgers, Stalnaker, Wallis, Willems, and Wren

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 27-101-103 TO ADD A
10 DEFINITION OF APPROVED DIVE FLAG; TO AMEND ARKANSAS CODE
11 ANNOTATED 22-101-104 TO CHANGE THE PENALTY FOR VIOLATION
12 OF CERTAIN BOATING LAWS; TO AMEND ARKANSAS CODE
13 ANNOTATED 27-101-202 TO PROHIBIT TOWING SKIERS BEHIND A
14 VESSEL DESIGNED FOR LESS THAN THREE (3) PERSONS; TO RAISE
15 THE AGE TO OPERATE A MOTORBOAT OF TEN HORSEPOWER OR MORE
16 TO FOURTEEN (14); TO REQUIRE THE ON BOARD SUPERVISION OF A
17 PERSON UNDER FOURTEEN (14) WHO IS OPERATING A MOTORBOAT OF
18 TEN HORSEPOWER OR MORE; TO PROHIBIT OPERATION OF A VESSEL
19 WITHIN THREE HUNDRED (300) FEET OF AN APPROVED DIVE FLAG;
20 TO PROHIBIT DIVING WITHOUT A DIVE FLAG; TO AMEND ARKANSAS
21 CODE ANNOTATED 27-101-203 TO REQUIRE PERSONAL FLOTATION
22 DEVICES TO BE READILY ACCESSIBLE; AND FOR OTHER
23 PURPOSES."

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Subtitle

"TO MAKE VARIOUS REVISIONS TO THE
ARKANSAS BOATING LAWS" "

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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31 SECTION 1. Arkansas Code Annotated § 27-101-103, which defines terms
32 for provisions of Chapter 101 of Title 27 pertaining to boating, is amended by
33 adding the following definition:

34 "(11) Approved dive flag means a rectangular red flag no smaller than
35 twelve inches (12") by fourteen inches (14") with a two inch white diagonal
36 stripe running from top left to bottom right corner when the flag is visible

1 for three hundred and sixty (360) degrees of the compass and, if displayed on
 2 a buoyant device, the top of the flag is a minimum of three feet above the
 3 water."

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

7 "27-101-104. Penalties.

8 (a) Any person who violates any provision of §§ 27-101-301, 27-101-303
 9 - 27-101-306, and 27-101-308 - 27-101-312 shall be guilty of a misdemeanor and
 10 shall be subject to a fine of not less than twenty-five dollars (\$25) and not
 11 to exceed one hundred dollars (\$100) for each violation.

12 ~~—— (a) (b)~~ Any person who violates any provision of §§ 27-101-202(8), and
 13 ~~27-101-203, 27-101-301, 27-101-303 - 27-101-306, and 27-101-308 - 27-101-312~~
 14 shall be guilty of a misdemeanor and shall be subject to a fine of not less
 15 than one hundred dollars (\$100) and not to exceed two hundred fifty dollars
 16 (\$250) for each violation.

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

21 ~~—— (c) (d)~~ Any person who violates any provision of § 27-101-202(1), (7),
 22 (10), (11), or (12) shall be guilty of a misdemeanor and shall be subject to a
 23 fine of not less than two hundred fifty dollars (\$250) and not to exceed one
 24 thousand dollars (\$1,000) or imprisonment not to exceed six (6) months, or
 25 both fine and imprisonment, for each violation."

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 27 SECTION 3. Arkansas Code Annotated § 27-101-202 is amended to read as
 28 follows:

29 "27-101-202. Restrictions on manner of operation.

30 No person:

31 (1) Shall operate any motorboat or vessel or manipulate any water skis,
 32 aquaplane, personal watercraft, or similar device in a reckless or negligent
 33 manner that endangers the life, limb, or property of any person, including,
 34 but not limited to, weaving through congested vessel traffic, operating within
 35 one hundred feet (100') of a towboat that is underway, jumping the wake of
 36 another vessel too close to such other vessel, or when visibility around such

1 other vessel is obstructed and swerving at the last possible moment to avoid
2 collision shall constitute reckless operation of a vessel;

3 (2) Shall operate a motorboat on the waters of this state at a rate of
4 speed that creates a hazardous wash or wake upon approaching or passing
5 vessels, including, but not limited to, a wake that causes other vessels to
6 take on water, or a wake sufficient to toss occupants of other vessels about
7 in a manner to cause injury or the risk of injury;

8 (3) Shall operate a motorboat upon the waters of this state within one
9 hundred feet (100') of a designated recreation area, dock, pier, raft, float,
10 anchored boat, dam, intake structure, or other obstruction at a speed
11 exceeding five (5) miles per hour unless a contrary speed limit shall have
12 been established in the designated area. However, in no case shall any motor
13 boat be driven in a manner or at a speed that exceeds the safe and reasonable
14 limits under the existing circumstances;

15 (4) Shall operate or manipulate any vessel, tow rope, or other device
16 by which the direction or location of water skis, an aquaplane, or similar
17 device may be affected or controlled in a way that causes the water skis,
18 aquaplane, or similar device, or any person thereon, to collide with or strike
19 against any object or persons;

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

27 (6) Shall operate a vessel on any waters of this state for towing a
28 person or persons on water skis, or an aquaplane, or similar device unless the
29 vessel is designed for three (3) or more occupants;

30 ~~——(6) (7)~~ Shall operate a vessel on any waters of this state towing a
31 person on water skis, or an aquaplane or similar device, nor shall any person
32 engage in water skiing, aquaplaning, or similar activity at any time between
33 the hours from one-half (1/2) hour after sunset to one-half (1/2) hour before
34 sunrise. However, the provisions of this subdivision (6) do not apply to night
35 water skiing or aquaplaning on controlled areas designated for those purposes
36 where adequate lighting is provided;

1 ~~_____ (7)~~ (8) Shall operate any motorboat or vessel or manipulate any water
 2 skis, aquaplane, or similar device while intoxicated or under the influence of
 3 any narcotic drug, barbiturate, or marijuana or while under any physical or
 4 mental disability so as to be incapable of operating the motorboat or vessel
 5 safely under the prevailing circumstances;

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

12 ~~_____ (9)~~ (10) If operating a motorboat of twenty-six feet (26') or less in
 13 length, shall allow any person to ride or sit on the gunwales or on the
 14 decking over the bow of the vessel while underway unless the vessel is
 15 equipped with adequate guards or railing to prevent passengers from being lost
 16 overboard. However, this restriction shall not apply to persons occupying the
 17 gunwales or the decking over the bow for necessary purposes such as mooring or
 18 casting off;

19 ~~_____ (10)~~ (11) If owning or having control of a motorboat of ten horsepower
 20 (10 HP) or more, shall permit a person under ~~twelve (12)~~ fourteen (14) years
 21 old to operate the motorboat of ten horsepower (10 HP) or more except under
 22 the direct ~~visible and audible~~ on board supervision of a parent, guardian, or
 23 other person over seventeen (17) years of age;

24 ~~_____ (11)~~ (12) Shall operate any vessel or manipulate any water skis,
 25 aquaplane, personal watercraft, or similar device in a grossly negligent
 26 manner that results in serious injury or death to any person; ~~or~~

27 ~~_____ (12)~~ (13) Shall operate a vessel upon the waters of this state in a
 28 negligent manner, including, but not limited to:

- 29 (A) Inattentive operation;
- 30 (B) Failure to keep a proper lookout;
- 31 (C) Failure to observe the inland navigation rules of the road,
 32 as implemented by the United States Coast Guard; or
- 33 (D) Operating in a manner which results in a collision with
 34 another vessel or object; or

35 (14) Shall operate a motorboat, personal watercraft, or other similar
 36 vessel upon the waters of this state within three hundred (300) feet of an

1 approved dive flag. All divers shall use an approved dive flag when diving;
2 however, flags shall not be placed so as to block access of a motorboat,
3 personal watercraft, or other similar vessel to any area of a lake or stream."
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5 SECTION 4. Arkansas Code Annotated § 27-101-203(a)(1), pertaining to
6 equipment requirements for motorboats or vessels operating on the waters of
7 this State, is amended to read as follows:

8 "(a)(1) Every vessel shall have aboard:

9 (A) One (1) type I, II, III, or V, if used according to its
10 approved conditions, personal flotation device which is United States Coast
11 Guard-approved, in good and serviceable condition, readily accessible, and of
12 proper size for each person on board;

13 (B) If carrying or using any inflammable or toxic fluid in any
14 enclosure for any purpose, and if not an entirely open motorboat, an efficient
15 natural or mechanical ventilation system which shall be capable of removing
16 resulting gases prior to and during the time the motorboat is occupied by any
17 person;

18 (C) Additional equipment designed to promote the safety of
19 navigation and of persons that the Arkansas State Game and Fish Commission may
20 find to be appropriate and for which it has provided in its rules and
21 regulations. However, before making those rules and regulations, or changes or
22 additions thereto, the Arkansas State Game and Fish Commission shall hold
23 public hearings, after reasonable notice thereof, of any proposed rule or
24 regulation to be adopted;

25 (D) In addition, every vessel sixteen feet (16) and longer shall
26 have aboard one (1) United States Coast Guard-approved type IV throwable
27 personal flotation device."
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29 SECTION 5. All provisions of this act of a general and permanent nature
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
31 Revision Commission shall incorporate the same in the Code.
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33 SECTION 6. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3 SECTION 7. All laws and parts of laws in conflict with this act are
4 hereby repealed.

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