

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.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S2/12/09 S2/23/09 S3/10/09

A Bill

SENATE BILL 38

5 By: Senator Faris
6
7

For An Act To Be Entitled

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

Subtitle

17
18 AN ACT TO BE KNOWN AS "RACHEL'S BILL"
19 FOR THE PURPOSE OF IMPROVING PERSONAL
20 WATERCRAFT SAFETY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

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

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

35 *SECTION 2. Arkansas Code § 27-101-205 is amended to add a new*
36 *subsection 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 or she can do so without
4 serious danger to his or her own vessel, crew, and passengers, if any, to
5 render to other persons affected by the collision, accident, or other
6 casualty assistance that may be practicable and that may be necessary in
7 order to save them from or minimize any danger caused by the collision,
8 accident, or other casualty and also to give his or her name, address, and
9 identification of his or her vessel in writing to any person injured and to
10 the owner of any property damaged in the collision, accident, or other
11 casualty.

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

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

34 ~~(e)~~(d) In accordance with any request duly made by an authorized
35 official or agency of the United States, any information compiled or
36 otherwise available to the Arkansas State Game and Fish Commission pursuant

1 to this section shall be transmitted to that official or agency of the United
2 States.

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

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

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

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

16

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

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

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

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

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

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

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

34 *(2) Beginning January 1, 2010, The the program shall include,
35 but not be limited to, without limitation:*

36 *(A)(i) a A course of instruction designed to teach*

1 the safe and proper handling of ~~boats~~ motorboats, personal watercraft, and
2 any other related matters as shall be deemed appropriate by the commission.

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

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

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

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

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

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

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

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

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

32 (2) The commission shall issue boating education certificates
33 and furnish a copy of the state laws pertaining to the operation of ~~boats~~ a
34 motorboat or personal watercraft or informational material based on these
35 laws to persons successfully completing an approved safe boating course and
36 examination.

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

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

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

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

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

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

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

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

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

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

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

33 (B) Is in a position to take immediate control of the
34 vessel.
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/s/ Faris