VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 29.1-748 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 29.1-735.2, relating to boating safety education requirements; civil penalty.

[H 1627]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-748 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 29.1-735.2 as follows:

§ 29.1-735.2. Boating safety education required; Board to promulgate regulations.

A. No person shall operate a motorboat with a motor of 10 horsepower or greater or personal watercraft on the public waters of the Commonwealth, unless the operator has met the requirements for boating safety education in accordance with the age provisions established in subsection D.

B. A person shall be considered in compliance with the requirements for boating safety education if the person meets one of the following:

1. Completes and passes a boating safety course approved by the National Association of State Boating Law Administrators (NASBLA) and accepted by the Department;

2. Passes a proctored equivalency examination that tests the knowledge of information included in the curriculum of an approved course;

3. Possesses a valid license to operate a vessel issued to maritime personnel by the United States Coast Guard or a marine certificate issued by the Canadian government;

4. Possesses a state-approved nonrenewable temporary operator's certificate to operate a motorboat for 90 days that was issued with the certificate of number for the motorboat, if the boat is new or was sold with a transfer of ownership;

5. Possesses a rental or lease agreement from a motorboat rental or leasing business, which lists the person as the authorized operator of the motorboat;

6. Operates the motorboat under onboard direct supervision of a person who meets the requirements of this section;

7. Demonstrates that he is not a resident, is temporarily using the waters of Virginia for a period not to exceed 90 days, and meets any applicable boating safety education requirements of the state of residency, or possesses a Canadian Pleasure Craft Operator's Card;

8. Has assumed operation of the motorboat due to the illness or physical impairment of the initial operator, and is returning the motorboat to shore in order to provide assistance or care for the operator; or

9. Is registered as a commercial fisherman pursuant to § 28.2-241 or a person who is under the onboard direct supervision of the commercial fisherman while operating the commercial fisherman's boat.

C. The Board shall promulgate regulations by July 1, 2008, to implement a boating safety education program for all motorboat and personal watercraft operators to meet boating safety education requirements.

D. Such regulations shall include provisions that phase-in the requirements for boating safety education according to the following:

1. Personal watercraft operators 20 years of age or younger to meet the requirements by July 1, 2009;

2. Personal watercraft operators 35 years of age or younger to meet the requirements by July 1, 2010;

3. Personal watercraft operators 50 years of age or younger to meet the requirements by July 1, 2011;

4. All personal watercraft operators, regardless of age, to meet the requirements by July 1, 2012;

5. Motorboat operators 20 years of age or younger to meet the requirements by July 1, 2011;

6. Motorboat operators 30 years of age or younger to meet the requirements by July 1, 2012;

7. Motorboat operators 40 years of age or younger to meet the requirements by July 1, 2013;

8. Motorboat operators 45 years of age or younger to meet the requirements by July 1, 2014;

9. Motorboat operators 50 years of age or younger to meet the requirements by July 1, 2015; and

10. All motorboat operators, regardless of age, to meet the requirements by July 1, 2016.

E. Such regulations may include, but not be limited to, provisions for compliance, statewide

availability of NASBLA-approved courses including through the Internet, the issuance of certificates to document successful course completion, duplicate certificates, recordkeeping, requirements for course providers, instructor certification, student name and address changes, equivalency exam criteria, provisions for an open book test for classroom based courses, requirements for motorboat rental and leasing businesses, issuance of a temporary operator's certificate, and the establishment of fees (not to exceed the cost of giving such instruction for each person participating in and receiving the instruction) for boating safety courses and certificates.

F. The Board shall consult and coordinate with the boating public, professional organizations for recreational boating safety, and the boating retail, leasing, and dealer business community in the promulgation of such regulations.

G. Any person who operates a motorboat on the waters of the Commonwealth shall, upon the request of a law-enforcement officer, present to the officer evidence that he has complied with subsection B.

H. Any person who violates any provision of this section or any regulation promulgated hereunder shall be subject to a civil penalty of $100. All civil penalties assessed under this section shall be deposited in the Motorboat and Water Safety Fund of the Game Protection Fund and used as provided for in § 29.1-701.

I. The provisions of this section shall not apply to law-enforcement officers while they are engaged in the performance of their official duties.

§ 29.1-748. Restrictions on operation; penalty.

A. It ~~shall be~~ *is* unlawful for any person to:

1. Operate a personal watercraft unless he is at least sixteen years of age, except any person fourteen or fifteen years of age shall be allowed to operate a personal watercraft if he (i) has successfully completed a boating safety education course approved by the Director and (ii) carries on his person, while operating a personal watercraft, proof of successful completion of such course. Upon the request of a law-enforcement officer, such person shall provide proof of having successfully completed an approved course;

2. *Operate a personal watercraft unless he has complied with the provisions of § 29.1-735.2, regarding board regulations for boating safety education;*

3. Operate a personal watercraft unless each person riding on the personal watercraft is wearing a type I, type II, type III, or type V personal flotation device approved by the United States Coast Guard;

~~3~~ *4.* Fail to attach the lanyard to his person, clothing, or personal flotation device, if the personal watercraft is equipped with a lanyard-type engine cut-off switch;

~~4~~ *5.* Operate a personal watercraft on the waters of the Commonwealth between sunset and sunrise;

~~5~~ *6.* Operate a personal watercraft while carrying a number of passengers in excess of the number for which the craft was designed by the manufacturer; or

~~6~~ *7.* Operate a personal watercraft in excess of the slowest possible speed required to maintain steerage and headway within fifty feet of docks, piers, boathouses, boat ramps, people in the water, and vessels other than personal watercraft. Nothing in this section shall prohibit a personal watercraft from towing a person with a rope less than fifty feet in length.

B. A violation of any provision of this section shall constitute a Class 4 misdemeanor, *except that any person who violates subdivision A 2 shall be subject to the penalty provided in § 29.1-735.2.*

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a personal watercraft, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action, nor shall this section bar any claim which otherwise exists.

2. That the Board of Game and Inland Fisheries shall submit the proposed and final regulations authorized under the provisions of this act to the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources at the same time such regulations are submitted to the Virginia Register, so that the Committees may exercise their oversight responsibilities pursuant to § 2.2-4014 of the Code of Virginia.