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SENATE BILL NO. 528

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 29.1-748 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 29.1-735.2 and 29.1-735.3, and to repeal § 29.1-739.2 of the Code of Virginia, relating to boating safety on any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within the Commonwealth; penalty.

Patron—Newman

Referred to Committee on Agriculture, Conservation and Natural Resources

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 sections numbered 29.1-735.2 and 29.1-735.3 as follows:

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

A. It is unlawful for any person to operate a motorboat or personal watercraft on any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within 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 permit 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 that lists the person as the authorized operator of the motorboat;

6. Operates the motorboat under supervised training;

7. Demonstrates that he is not a resident, is temporarily using the waters of any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within the Commonwealth 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; or

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.

C. The Board shall promulgate regulations by July 1, 2007, to implement a mandatory boating safety education program for all motorboat and personal watercraft operators operating motorboats or personal watercraft on any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within the Commonwealth, 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, 2008;

2. Personal watercraft operators 35 years of age or younger to meet the requirements by July 1, 2009;

3. Personal watercraft operators 50 years of age or younger to meet the requirements by July 1, 2010;

4. All personal watercraft operators, regardless of age, to meet the requirements by July 1, 2011;

5. Motorboat operators 20 years of age or younger to meet the requirements by July 1, 2010;

6. Motorboat operators 30 years of age or younger to meet the requirements by July 1, 2011;

7. Motorboat operators 40 years of age or younger to meet the requirements by July 1, 2012;

8. Motorboat operators 45 years of age or younger to meet the requirements by July 1, 2013;

9. Motorboat operators 50 years of age or younger to meet the requirements by July 1, 2014;

10. All motorboat operators, regardless of age, to meet the requirements by July 1, 2015.

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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, requirements for motorboat rental and leasing businesses, issuance of a temporary operator's permit, 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 business community in the promulgation of such regulations.

G. Any person who operates a motorboat on any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within 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 is guilty of a Class 4 misdemeanor.

§ 29.1-735.3. Maximum nighttime speed limit on certain lakes.

A. That the maximum speed for a motorboat, as defined in § 29.1-700, operating on the waters of any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within the Commonwealth shall be 25 miles per hour between sunset and sunrise.

B. Any person who violates this section shall be subject to a fine not to exceed $250.

C. The provisions of this act shall be enforced as provided for in § 29.1-745.

§ 29.1-748. Restrictions on operation; penalty.

A. It shall be 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 on any lake more than 500 feet above sea level and of 20,000 acres or more and wholly located within the Commonwealth unless he has complied with the provisions of § 29.1-735.2, regarding board regulations for mandatory 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.

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 § 29.1-739.2 of the Code of Virginia is repealed.