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SENATE BILL NO. 52

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 30, 2014)

(Patron Prior to Substitute—Senator Stuart)

A BILL to amend and reenact §§ 22.1-142 and 29.1-735.2 of the Code of Virginia, relating to conditions satisfying boating safety course requirement.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-142 and 29.1-735.2 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-142. How Fund constituted; management.

There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund," the present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary Fund pursuant to Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 and the proceeds of (i) all public lands donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture except those items specifically exempted, (v) all fines collected for offenses committed against the Commonwealth, and (vi) *civil penalties assessed pursuant to § 29.1-735.2, and (vii) the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board of Education as prescribed by § 22.1-145.*

§ 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;

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; or

10. Provides documentation that he is serving or has qualified as a surface warfare officer or enlisted surface warfare specialist in the United States Navy; or

11. Is 45 years of age or older.

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,

60 2011;

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

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

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

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

65 8. Motorboat operators *younger than* 45 years of age ~~or younger~~ to meet the requirements by July 1,

66 2014;

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

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

69 E. Such regulations may include, but not be limited to, provisions for compliance, statewide
70 availability of NASBLA-approved courses including through the Internet, the issuance of certificates to
71 document successful course completion, duplicate certificates, recordkeeping, requirements for course
72 providers, instructor certification, student name and address changes, equivalency exam criteria,
73 provisions for an open-book test for classroom based courses, requirements for motorboat rental and
74 leasing businesses, issuance of a temporary operator's certificate, and the establishment of fees (not to
75 exceed the cost of giving such instruction for each person participating in and receiving the instruction)
76 for boating safety courses and certificates.

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

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

82 H. Any person who violates any provision of this section or any regulation promulgated hereunder
83 shall be subject to a civil penalty of \$100. All civil penalties assessed under this section shall be
84 deposited in the ~~Motorboat and Water Safety Fund of the Game Protection Fund~~ and used as provided
85 ~~for in § 29.1-701 Literary Fund as established pursuant to § 22.1-142.~~

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