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**SENATE BILL NO. 554**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact § 29.1-700 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 29.1-735.01, relating to personal flotation devices; civil penalty.*

Patrons—Lucas and Devolites

Referred to Committee on Agriculture, Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-700 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 29.1-735.01 as follows:**

§ 29.1-700. Definitions.

As used in this chapter, unless the context clearly requires a different meaning:

"Motorboat" means any vessel propelled by machinery whether or not the machinery is the principal source of propulsion.

"No wake" means operation of a motorboat at the slowest possible speed required to maintain steerage and headway.

"Operate" means to navigate or otherwise control the movement of a motorboat or a vessel.

"Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment of performance of an obligation, but the term excludes a lessee under a lease not intended as security.

"Personal watercraft" means a motorboat less than ~~sixteen~~ 16 feet in length which uses an inboard motor powering a jet pump, as its primary motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside, the vessel.

"Recreational vessel" means a vessel manufactured or operated for leisure or recreational purposes, or a vessel leased, rented or chartered for noncommercial use. Recreational vessel includes motorboats, sailboats, canoes, kayaks, rowboats, and any other vessel capable of being used for transportation on water, when the vessel is being used for other than commercial purposes.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include surfboards, bodyboards, inflatable tubes or toys, swimming rafts, or similar devices routinely used as water toys or swimming aids.

"Waters of the Commonwealth" means any public waters within the territorial limits of the Commonwealth, the adjacent marginal sea, and the high seas when navigated as a part of a journey or ride to or from the Virginia shore.

§ 29.1-735.01. *Personal flotation devices required for children; civil penalty.*

A. No person shall operate or permit the operation of a recreational vessel less than 21 feet in length while there is a child 12 years of age or younger onboard and not wearing a Type I, II, III, or Type V United States Coast Guard-approved personal flotation device that is in good and serviceable condition and of the proper size for the child. This section does not apply to a recreational vessel that is moored or anchored, or to a child who is below deck or in an enclosed cabin.

B. The Director shall assess a civil penalty of not more than \$250 to any person who violates this section. However, the Director may waive such civil penalty for any person who completes an approved boating safety education course subsequent to the date of the violation. All penalties collected pursuant to this section shall be paid into the Motorboat and Water Safety Fund of the Game Protection Fund and used for the purposes provided in § 29.1-701. The Attorney General shall assist the Director in collecting the penalties, upon request.

**2. That the provisions of this act shall become effective on January 1, 2005.**

INTRODUCED

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