

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 29.1-735.2 of the Code of Virginia, relating to boating safety education; database.

[S 866]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-735.2. of the Code of Virginia is amended and reenacted 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;

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;

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. Provides documentation that he is serving or has qualified as an Officer of the Deck Underway, boat coxswain, boat officer, boat operator, watercraft operator, or Marine Deck Officer in any branch of the Armed Forces of the United States, United States Coast Guard, or Merchant Marine.

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

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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. *The Department shall, by July 1, 2018, establish and thereafter shall maintain a database listing every person who, at any time prior to that date, has completed and passed a boating safety course pursuant to subdivision B 1. The database shall list each person's full name and date of birth and the date on which he passed the safety course, and it shall allow any person who completes and passes the course after July 1, 2018, to add his own information. The Department shall make the database available to law-enforcement officers and, to the extent possible or appropriate, shall maintain the confidentiality of information in the database.*

H. 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 *in physical or electronic form* that he has complied with subsection B. *The law-enforcement officer shall not issue a citation until he has checked the boating safety course passage database created pursuant to subsection G. The listing of the operator in such database shall constitute satisfactory evidence that he has complied with subsection B.*

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