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HOUSE BILL NO. 1380

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Conservation and Natural Resources
on February 11, 1998)

(Patron Prior to Substitute—Delegate Tata)

A BILL to amend and reenact §§ 29.1-700, 29.1-748, and 29.1-749 of the Code of Virginia, and to repeal § 29.1-747 of the Code of Virginia, relating to the minimum age for operation of a personal watercraft; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-700, 29.1-748 and 29.1-749 of the Code of Virginia are amended and reenacted 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.

"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 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.

"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.

"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.

§ 29.1-748. Restrictions on operation; penalty.

A. It shall be unlawful for any person to:

1. Operate a personal watercraft unless he is at least ~~fourteen~~ 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 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. 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. Operate a personal watercraft on the waters of the Commonwealth between sunset and sunrise;

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

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.

§ 29.1-749. Owner of personal watercraft permitting violation; penalty.

A. It shall be unlawful for the owner of or any person having control of a personal watercraft to authorize or knowingly permit a person under the age of ~~fourteen~~ sixteen to operate the personal watercraft, unless the person ~~fourteen or fifteen years of age has successfully completed a boating safety education course as required under subdivision A 1 of § 29.1-748.~~

2. That § 29.1-747 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on January 1, 1999.