

3760

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

Introduced by Sens. DeFRANCISCO, JOHNSON, LARKIN, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT to amend the navigation law, in relation to increasing the penalties for persons leaving the scene of a boating accident without making a report

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (b) of subdivision 2 of section 47 of the navigation law, as added by chapter 297 of the laws of 2009, is amended to
2 read as follows:
3
4 (b) The first violation of the provisions of paragraph (a) of this
5 subdivision involving personal injury to another person resulting solely
6 from the failure of a vessel operator to provide the name and address of
7 the vessel owner and/or the identification number of the vessel shall
8 constitute a class [B] A misdemeanor punishable by a fine of not less
9 than two hundred fifty nor more than five hundred dollars in addition to
10 any other penalties provided by law. Any subsequent such violation after
11 a conviction for such violation within the preceding five years shall
12 constitute a class [A misdemeanor] E FELONY punishable by a fine of not
13 less than five hundred nor more than one thousand dollars in addition to
14 any other penalties provided by law. Any violation of the provisions of
15 paragraph (a) of this subdivision, other than the mere failure of a
16 vessel operator to provide the name and address of the vessel owner
17 and/or the identification number of the vessel, shall constitute a class
18 [A misdemeanor] E FELONY, punishable by a fine of not less than five
19 hundred nor more than one thousand dollars in addition to any other
20 penalties provided by law. Any such violation committed by a person
21 after such person has previously been convicted of such a violation
22 shall constitute a class [E] D felony, punishable by a fine of not less
23 than one thousand nor more than two thousand five hundred dollars in

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 addition to any other penalties provided by law. Any violation of the
2 provisions of paragraph (a) of this subdivision, other than the mere
3 failure of a vessel operator to provide the name and address of the
4 vessel owner and/or the identification number of the vessel where the
5 personal injury involved (i) results in serious physical injury, as
6 defined in section 10.00 of the penal law, or where a person has disap-
7 peared under the water as the result of the incident shall constitute a
8 class [E] D felony or (ii) results in death shall constitute a class [D]
9 C felony.

10 S 2. Subdivision 2 of section 73-c of the navigation law, as amended
11 by chapter 320 of the laws of 2007, is amended to read as follows:

12 2. Every person convicted of a violation for a violation of any of the
13 provisions of this article or of any ordinance, order, rule or regu-
14 lation adopted pursuant to this article for which another penalty is not
15 provided shall for a first conviction thereof [be punished] CONSTITUTE A
16 CLASS B MISDEMEANOR PUNISHABLE by a fine of not less than one hundred
17 nor more than two hundred fifty dollars [or by imprisonment for not more
18 than seven days or by both such fine and imprisonment] IN ADDITION TO
19 ANY OTHER PENALTIES PROVIDED BY LAW; for a conviction of a second
20 violation, both of which were committed within a period of twenty-four
21 months, such [person shall be punished] CONVICTION SHALL CONSTITUTE A
22 CLASS A MISDEMEANOR PUNISHABLE by a fine of not less than two hundred
23 fifty nor more than five hundred dollars [or by imprisonment of not more
24 than fifteen days or by both such fine and imprisonment] IN ADDITION TO
25 ANY OTHER PENALTIES PROVIDED BY LAW; upon a conviction for a third or
26 subsequent violation, all of which were committed within a period of
27 twenty-four months, such [person] CONVICTION shall [be punished] CONSTI-
28 TUTE A CLASS E FELONY PUNISHABLE by a fine of not less than five hundred
29 nor more than one thousand dollars [or by imprisonment for not more than
30 thirty days or by both such fine and imprisonment] IN ADDITION TO ANY
31 OTHER PENALTIES PROVIDED BY LAW.

32 S 3. Section 47-b of the navigation law, as added by chapter 587 of
33 the laws of 2003, is amended to read as follows:

34 S 47-b. Report to the commissioner required upon accident. Every
35 person operating a vessel, including, but not limited to, rowboats and
36 canoes, upon the navigable waters of the state, or on any other waters
37 within the boundaries of the state, which is in any manner involved in
38 an accident, in which any person is killed, injured or disappears under
39 the water, or in which damage to the property of any one person, includ-
40 ing himself or herself, in excess of one thousand dollars is sustained
41 shall, within five days after such accident, report the matter in writ-
42 ing to the commissioner. If the owner is not involved in such accident
43 or is incapacitated, the owner shall, within five days after learning of
44 the facts of such accident, report the matter to the commissioner
45 together with such information as may have come to the owner's knowledge
46 relating to such accident. Every such operator of a vessel, or surviving
47 participant in any such accident, or the owner of the vessel involved in
48 any such accident, shall make such other and additional reports as the
49 commissioner may require. A violation of this section shall constitute a
50 [violation] CLASS A MISDEMEANOR punishable by a fine of not less than
51 twenty-five nor more than one hundred dollars. Nothing contained in this
52 section shall be deemed to supersede the provisions of section forty-
53 seven of this article.

54 S 4. This act shall take effect on the first of November next succeed-
55 ing the date on which it shall have become a law.