

STATE OF NEW YORK

2510

2019-2020 Regular Sessions

IN ASSEMBLY

January 23, 2019

Introduced by M. of A. GANTT -- read once and referred to the Committee on Transportation

AN ACT to amend the navigation law, in relation to personal watercraft; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 30 and 31 of section 2 of the navigation law are REPEALED and two new subdivisions 31 and 35 are added to read as follows:

31. "Personal watercraft" shall mean a vessel less than sixteen feet in length propelled by water jet pump or other mechanical power as its primary source propulsion and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

35. "Livery" shall mean any person or business engaged in the leasing, hiring or renting of residential or pleasure vessels, including rowboats and canoes, for which a fee is charged or where provided as an accommodation or privilege of accommodation, resort or amusement.

§ 2. Paragraphs a and b of subdivision 1-a of section 49 of the navigation law, as amended by chapter 386 of the laws of 2017, are amended to read as follows:

a. No person shall operate a personal watercraft [~~or specialty propulsion~~] upon the navigable waters of the state or any tidewaters bordering on or lying within the boundaries of Nassau and Suffolk counties unless the operator is fourteen years of age or older and the holder of, or is accompanied by a person over eighteen years of age who is the holder of a boating safety certificate issued by the commissioner, the United States power squadrons, the United States coast guard auxiliary, the United States sailing association for a powerboating course or courses which are approved by the commissioner, or other state or

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

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1 government, as a result of completing a course approved by the commis-
2 sioner.

3 b. No person who is the owner of a personal watercraft [~~or specialty~~
4 ~~prop-craft~~] shall knowingly authorize or permit the operation thereof on
5 the navigable waters of the state or any tidewaters bordering on or
6 lying within the boundaries of Nassau or Suffolk counties unless the
7 operator is fourteen years of age or older and the holder of, or is
8 accompanied by a person over eighteen years of age who is the holder of
9 a boating safety certificate issued by the commissioner, the United
10 States power squadrons, United States coast guard auxiliary, the United
11 States sailing association for a powerboating course or courses which
12 are approved by the commissioner, or other state or government, as a
13 result of completing a course approved by the commissioner.

14 § 3. Subdivision 2 of section 71-d of the navigation law, as amended
15 by chapter 805 of the laws of 1992, is amended to read as follows:

16 2. Any person convicted of violating this section shall be guilty of a
17 violation punishable [~~by a fine of not less than twenty five nor more~~
18 ~~than one hundred dollars~~] as set forth in section seventy-three-c of
19 this article.

20 § 4. Section 73-a of the navigation law, as added by chapter 455 of
21 the laws of 1990, paragraph a of subdivision 1 as amended by chapter 305
22 of the laws of 2001, paragraphs c and g of subdivision 1 and subdivi-
23 sions 2 and 3 as amended by chapter 380 of the laws of 1996, paragraph e
24 of subdivision 1 as amended by chapter 320 of the laws of 1995, para-
25 graphs (d) and (e) of subdivision 2 as amended and paragraph (f) of
26 subdivision 2 as added by chapter 138 of the laws of 1998, is amended to
27 read as follows:

28 § 73-a. Regulations of personal watercraft [~~and specialty prop-craft~~].

29 1. Personal watercraft [~~and specialty prop-craft~~]. a. No person shall
30 operate a personal watercraft [~~or a specialty prop-craft~~] unless each
31 person riding on such vessel is wearing a securely fastened United
32 States Coast Guard approved personal flotation device.

33 b. No person shall operate a personal watercraft [~~or a specialty prop-~~
34 ~~craft~~] unless such vessel is equipped and fitted with a United States
35 Coast Guard approved device for arresting carburetor backfire.

36 c. No person shall operate a personal watercraft [~~or a specialty prop-~~
37 ~~craft~~] unless such vessel is equipped with:

38 (i) [~~at least two ventilators fitted with cowls or their equivalent~~
39 ~~for the purpose of properly and efficiently ventilating the bilges of~~
40 ~~every engine and fuel tank compartment in order to remove any inflamma-~~
41 ~~ble or explosive gases provided, however, if the vessel is so~~
42 ~~constructed as to have the greater portion of the bilges under the~~
43 ~~engine and fuel tanks open and exposed to the natural atmosphere at all~~
44 ~~times such vessel need not be required to be fitted with such ventila-~~
45 ~~tors~~] one B-1 sized United States Coast Guard approved fire
46 extinguisher; and

47 (ii) an efficient sound producing mechanical appliance, except sirens,
48 capable of producing a blast of two seconds or more in duration and of
49 such strength as to be heard plainly for a distance of at least one-half
50 mile in still weather; and

51 (iii) a [~~fluorescent orange~~] United States Coast Guard approved orange
52 distress flag [~~which shall be a minimum of one foot square~~] or other
53 appropriate United States Coast Guard approved visual distress signal.

54 d. Any person operating a personal watercraft [~~or a specialty prop-~~
55 ~~craft~~] equipped by the manufacturer with a lanyard type engine cut-off

1 switch shall attach such lanyard to his or her person, clothing, or
2 personal flotation device as is appropriate for the specific vessel.

3 e. No person shall operate a personal watercraft [~~or a specialty prop-~~
4 ~~craft~~] at any time from sunset to sunrise.

5 f. No person shall operate a personal watercraft [~~or a specialty prop-~~
6 ~~craft~~] within five hundred feet of any designated bathing area, except
7 in bodies of water where the opposing shoreline is less than five
8 hundred feet from such designated area and in accordance with speed
9 regulations and restrictions as provided by local law or ordinance but
10 in no event at a speed in excess of ten miles per hour, provided, howev-
11 er, that nothing contained in this subdivision shall be construed to
12 prohibit the launching of such vessel from designated launching areas or
13 sites.

14 g. Every personal watercraft [~~and specialty prop-craft~~] shall at all
15 times be operated in a reasonable and prudent manner. Maneuvers which
16 unreasonably or unnecessarily endanger life, limb, or property, includ-
17 ing, but not limited to, (i) weaving through congested vessel traffic,
18 or (ii) jumping the wake of another vessel unreasonably or unnecessarily
19 close to such other vessel or when visibility around such other vessel
20 is obstructed, or (iii) swerving at the last possible moment to avoid
21 collision shall constitute reckless operation of a vessel, as provided
22 in section forty-five of this article.

23 h. The provisions of this section shall not apply to any performer
24 engaged in a professional exhibition or any person preparing to partic-
25 ipate or participating in a regatta, race, marine parade, tournament, or
26 exhibition authorized under section thirty-four of this chapter.

27 i. The provisions of this section shall apply to the operation of a
28 personal watercraft [~~and a specialty prop-craft~~] on any waterway or body
29 of water located within New York state and not privately owned and any
30 part of any body of water adjacent to New York state over which the
31 state has territorial jurisdiction, including all tidewaters bordering
32 on and lying within the boundaries of Nassau and Suffolk counties.

33 j. The provisions of section forty of this [~~chapter~~] article shall not
34 apply to personal watercraft [~~or specialty prop-craft~~].

35 k. No person shall operate a personal watercraft with a passenger
36 riding in front of the operator and each passenger must be able to place
37 his or her feet firmly on the deck while holding onto the operator or
38 onto the handholds.

39 2. Liveries. Notwithstanding the provisions of section forty-nine or
40 seventy-one-d of this [~~chapter~~] article, no livery shall lease, hire, or
41 rent a personal watercraft [~~or a specialty prop-craft~~] to any person
42 unless:

43 (a) such person is [~~sixteen~~] eighteen years of age or older.

44 (b) the operator of such livery, or his designated agent, prior to
45 permitting the use by such person of such personal watercraft [~~or~~
46 ~~specialty prop-craft~~], explains and demonstrates to such person by video
47 or actual in water demonstration the operating procedure of such
48 personal watercraft [~~or specialty prop-craft~~] and the use of such
49 vessel's safety equipment;

50 (c) such person, after receiving the explanation and demonstration
51 required pursuant to paragraph (b) of this subdivision, demonstrates to
52 such livery operator or to such designated agent the ability to operate
53 such vessel and use the applicable safety equipment;

54 (d) such person has presented genuine proof of identification and age;
55 and except as provided in paragraph (f) of this subdivision, has demon-
56 strated compliance with section forty-nine of this article, to such

1 livery operator or the livery operator's designated agent prior to the
2 time of leasing, hiring or renting such vessel;

3 (e) such livery operator or his designated agent, at the time of such
4 leasing, hiring or renting, records the name, address and age of the
5 user of the leased, hired or rented vessel, and the model, year, name of
6 manufacturer, and state registration or federal documentation numbers of
7 the leased, hired or rented vessel. Such records shall be maintained for
8 a period of not less than one year; and

9 (f) notwithstanding the provisions of paragraph (d) of this subdivi-
10 sion and subdivision one-a of section forty-nine of this article, a
11 person over eighteen years of age may operate such personal watercraft
12 ~~[or specialty prop-craft]~~ without the certificate required pursuant to
13 section forty-nine of this article when such operation is restricted by
14 the operator of such livery, or the livery operator's designated agent,
15 to a specified area, no part of which shall be more than twenty-five
16 hundred feet from the livery location, or, if removed from the livery
17 location, not more than five hundred feet from the livery operator or
18 agent assigned by the livery operator to supervise such operation and
19 such personal watercraft ~~[or specialty propcraft]~~ and/or the personal
20 flotation device of the operator is clearly marked in such a manner as
21 to be distinguishable by the operator of such livery or the livery oper-
22 ator's designated agent within the permitted areas of operation.

23 (g) The operator of such livery or any designated agent responsible
24 for providing explanations and demonstrations required by this section
25 shall have successfully completed a boating safety course approved by
26 the commissioner.

27 (h) The operator of such livery shall provide the operators of such
28 personal watercraft with all the equipment required by this chapter.
29 Such equipment must be fully explained to the person renting the
30 personal watercraft and all equipment must be in serviceable condition.

31 3. Penalties for violation. (a) Every person convicted of a violation
32 of this section, other than a conviction for a violation of subdivision
33 two of this section, shall for a first conviction thereof be punished by
34 a fine of not less than fifty dollars nor more than two hundred dollars;
35 for a conviction of a second violation, both of which were committed
36 within a period of twenty-four months, such person shall be punished by
37 a fine of not less than one hundred dollars nor more than four hundred
38 dollars; upon a conviction of a third or subsequent violation, all of
39 which were committed within a period of twenty-four months, such person
40 shall be punished by a fine of not less than two hundred dollars nor
41 more than five hundred dollars and the revocation of the registration of
42 the personal watercraft.

43 (b) Every person convicted of a violation of subdivision two of this
44 section shall for a first conviction thereof be punished by a fine of
45 not less than one hundred dollars nor more than two hundred dollars; for
46 a conviction of a second violation, both of which were committed within
47 a period of twenty-four months, such person shall be punished by a fine
48 of not less than two hundred dollars nor more than four hundred dollars;
49 upon a conviction of a third or subsequent violation, all of which were
50 committed within a period of twenty-four months, such person shall be
51 punished by a fine of not less than four hundred dollars nor more than
52 eight hundred dollars.

53 § 5. This act shall take effect on the thirtieth day after it shall
54 have become a law; provided, however, that paragraphs (g) and (h) of
55 subdivision 2 of section 73-a of the navigation law as added by section
56 four of this act shall take effect January 1, 2019; provided further,

1 however, that the amendments to paragraph (f) of subdivision 2 of
2 section 73-a of the navigation law made by section four of this act
3 shall not affect the repeal of such paragraph and shall be deemed
4 repealed therewith.