

5889--E

R. R. 280

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. GALEF, PAULIN, SPANO, JAFFEE -- Multi-Sponsored by -- M. of A. HOOPER, MAYERSOHN, MCENENY -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reference changed to the Committee on Tourism, Arts and Sports Development -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Tourism, Arts and Sports Development in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the navigation law, in relation to requiring all persons operating a mechanically propelled vessel to be a holder of a boating safety certificate; 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:

1 Section 1. Subdivision 1 of section 49 of the navigation law, as
2 amended by chapter 805 of the laws of 1992, is amended to read as
3 follows:
4 1. No person [under the age of eighteen years] BORN ON OR AFTER JANU-
5 ARY FIRST, NINETEEN HUNDRED NINETY-TWO shall operate a mechanically
6 propelled vessel on the navigable waters of the state or any tidewaters
7 bordering on or lying within the boundaries of Nassau and Suffolk coun-
8 ties, unless:
9 a. [the operator is accompanied therein by a person who is eighteen
10 years of age or older, or,

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

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b. the operator is ten years of age or older and is the holder of a boating safety certificate issued to him by the commissioner, the United States Power Squadrons or the United States coast guard auxiliary.] THE OPERATOR IS AT LEAST TEN YEARS OLD AND IS THE HOLDER OF A BOATING SAFETY CERTIFICATE ISSUED TO HIM OR HER BY THE COMMISSIONER, THE UNITED STATES POWER SQUADRONS OR THE UNITED STATES COAST GUARD AUXILIARY; OR

B. THE OPERATOR IS YOUNGER THAN EIGHTEEN YEARS OF AGE, AND IS ACCOMPANIED ON THE MECHANICALLY PROPELLED VESSEL BY AT LEAST ONE PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND IS

(I) THE HOLDER OF A BOATING SAFETY CERTIFICATE ISSUED TO HIM OR HER BY THE COMMISSIONER, THE UNITED STATES POWER SQUADRONS OR THE UNITED STATES COAST GUARD AUXILIARY, OR

(II) NOT REQUIRED BY THIS SUBDIVISION TO HOLD A BOATING SAFETY CERTIFICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL; OR

C. THE OPERATOR IS EIGHTEEN YEARS OF AGE OR OLDER, IS A PERSON REQUIRED BY THIS SUBDIVISION TO HOLD A BOATING SAFETY CERTIFICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL, AND IS ACCOMPANIED ON THE MECHANICALLY PROPELLED VESSEL BY AT LEAST ONE PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND THE HOLDER OF A BOATING SAFETY CERTIFICATE; OR

D. THE OPERATOR IS THE OWNER OF A RECENTLY PURCHASED VESSEL AND MAY OPERATE SUCH VESSEL WITHOUT THE OTHERWISE REQUIRED BOATER SAFETY CERTIFICATE FOR A PERIOD OF TIME NOT TO EXCEED NINETY DAYS FROM THE DATE OF PURCHASE.

THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO PERSONS WHO ARE: CERTIFIED BY THE COMMISSIONER AS BOATING SAFETY INSTRUCTORS; MEMBERS OF THE UNITED STATES POWER SQUADRONS; MEMBERS OF THE UNITED STATES COAST GUARD AUXILIARY; HOLDERS OF PUBLIC VESSEL LICENSES PURSUANT TO SECTION SIXTY-FOUR OF THIS ARTICLE; POLICE OFFICERS, PEACE OFFICERS, FIRE PERSONNEL, RESCUE PERSONNEL OR LIFEGUARDS, WHEN ANY SUCH PERSON IS ACTING PURSUANT TO ASSIGNED DUTIES; OR LICENSED TO OPERATE VESSELS BY THE UNITED STATES COAST GUARD OR THE CANADIAN COAST GUARD. THE COMMISSIONER, BY RULE OR REGULATION, MAY PROVIDE FOR THE EXEMPTION OF ADDITIONAL PERSONS NOT LISTED IN THIS PARAGRAPH FROM THE REQUIREMENTS OF THIS SECTION.

S 2. Paragraphs a, b, and c of subdivision 3 of section 49 of the navigation law are REPEALED and four new paragraphs a, b, c and d are added to read as follows:

A. THE OPERATOR IS BORN ON OR BEFORE DECEMBER THIRTY-FIRST, NINETEEN HUNDRED NINETY-ONE; OR,

B. THE OPERATOR IS BORN ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED NINETY-TWO, IS AT LEAST TEN YEARS OF AGE AND IS THE HOLDER OF A BOATING SAFETY CERTIFICATE ISSUED TO HIM OR HER BY THE COMMISSIONER, THE UNITED STATES POWER SQUADRONS OR THE UNITED STATES COAST GUARD AUXILIARY, OR

C. THE OPERATOR IS YOUNGER THAN EIGHTEEN YEARS OF AGE, AND IS ACCOMPANIED ON THE MECHANICALLY PROPELLED VESSEL BY AT LEAST ONE PERSON EIGHTEEN YEARS OF AGE OR OLDER AND IS:

(I) THE HOLDER OF A BOATING SAFETY CERTIFICATE ISSUED TO HIM OR HER BY THE COMMISSIONER, THE UNITED STATES POWER SQUADRONS OR THE UNITED STATES COAST GUARD AUXILIARY, OR

(II) NOT REQUIRED BY SUBDIVISION ONE OF THIS SECTION TO HOLD A BOATING SAFETY CERTIFICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL; OR

D. THE OPERATOR IS EIGHTEEN YEARS OF AGE OR OLDER, IS A PERSON REQUIRED BY SUBDIVISION ONE OF THIS SECTION TO HOLD A BOATING SAFETY CERTIFICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL, AND IS

1 ACCOMPANIED BY A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND IS THE
2 HOLDER OF A BOATING SAFETY CERTIFICATE.

3 S 3. Section 75 of the navigation law, as amended by chapter 138 of
4 the laws of 1998, is amended to read as follows:

5 S 75. Educational program. In order to protect the public interest in
6 the prudent and equitable use of the waters of the state and enhance the
7 enjoyment of pleasure boating and other sports thereon, the commissioner
8 shall initiate and put into effect a comprehensive educational program
9 designed to advance boating safety [including], WHICH PROVIDES FOR the
10 training of [youthful] ALL boat operators [and an adult education
11 program for] IN the safe operation of vessels including personal water-
12 craft and specialty prop-craft.

13 S 4. Subdivision 1 of section 78 of the navigation law, as amended by
14 chapter 138 of the laws of 1998, is amended to read as follows:

15 1. "Boating safety certificate" shall mean a certificate issued by the
16 commissioner evidencing that the holder thereof has successfully
17 completed a course of instruction in boating safety as [herein after]
18 provided IN THIS SECTION. The commissioner shall put into effect a plan
19 for the training of [youthful] ALL boat operators and the issuance of
20 such boating safety certificates. For the purposes of this section, the
21 term "boating safety" shall include instruction in the safe operation of
22 personal watercraft and specialty prop-craft.

23 S 5. Section 79 of the navigation law, as amended by chapter 169 of
24 the laws of 2004, is amended to read as follows:

25 S 79. Courses of instruction. For the purpose of giving such courses
26 of instruction and awarding boating safety certificates, [including
27 those issued to adults for the safe operation of vessels including
28 personal watercraft or specialty prop-craft] the commissioner may desig-
29 nate as his or her agent any person the commissioner deems qualified to
30 act in such capacity, including, but not limited to, certified instruc-
31 tors of the United States coast guard auxiliary, United States power
32 squadrons, American power boat association, boy scouts of America, Red
33 Cross and other organizations. No charge whatsoever shall be made to any
34 person less than eighteen years of age for the issuance of a boating
35 safety certificate. Persons less than eighteen years of age may be
36 charged a fee for instruction in boating safety, except that the office
37 may not charge a fee when providing such instruction to persons less
38 than eighteen years of age.

39 S 6. Section 71-d of the navigation law is amended by adding a new
40 subdivision 1-a to read as follows:

41 1-A. NOTWITHSTANDING SUBDIVISION ONE OF SECTION FORTY-NINE OF THIS
42 ARTICLE, A LIVERY MAY LEASE, HIRE OR RENT A MECHANICALLY PROPELLED
43 VESSEL, EXCEPT A PERSONAL WATER CRAFT OR SPECIALTY PROP CRAFT, TO A
44 PERSON WHO IS NOT THE HOLDER OF A BOATING SAFETY CERTIFICATE IF:

45 (A) THE PERSON IS EIGHTEEN YEARS OR OLDER;

46 (B) THE OPERATOR OF SUCH LIVERY OR HIS OR HER DESIGNATED AGENT, IS THE
47 HOLDER OF A BOATING SAFETY CERTIFICATE, AND PRIOR TO PERMITTING THE USE
48 BY SUCH PERSON OF THE VESSEL EXPLAINS AND DEMONSTRATES TO SUCH PERSON BY
49 VIDEO OR ACTUAL IN WATER DEMONSTRATION THE OPERATION OF SUCH VESSEL, AND
50 THE USE AND LOCATION OF SUCH VESSEL'S SAFETY EQUIPMENT;

51 (C) SUCH PERSON, AFTER RECEIVING THE EXPLANATION AND DEMONSTRATION
52 REQUIRED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, DEMONSTRATES TO
53 THE LIVERY OPERATOR OR THE LIVERY OPERATOR'S DESIGNATED AGENT THE ABILI-
54 TY TO OPERATE SUCH VESSEL AND USE THE APPLICABLE SAFETY EQUIPMENT;

55 (D) THE LIVERY OPERATOR PROVIDES A MAP AND/OR NAVIGATIONAL CHARTS FOR
56 THE LOCAL AREA;

1 (E) SUCH PERSON PRESENTS GENUINE PROOF OF IDENTIFICATION AND AGE TO
2 THE LIVERY OPERATOR;
3 (F) THE LIVERY OPERATOR OR THE LIVERY OPERATOR'S DESIGNATED AGENT, AT
4 THE TIME OF THE LEASING, HIRING, OR RENTING, RECORDS THE NAME, ADDRESS,
5 AND AGE OF THE OPERATOR OF THE LEASED, HIRED OR RENTED VESSEL, AND THE
6 MODEL, YEAR, NAME OF MANUFACTURER, AND THE STATE REGISTRATION OR FEDERAL
7 DOCUMENTATION NUMBERS OF THE LEASED, HIRED, OR RENTED VESSEL. SUCH
8 RECORDS SHALL BE MAINTAINED FOR A PERIOD OF NOT LESS THAN ONE YEAR; AND
9 (G) THE VESSEL IS NOT LEASED, HIRED OR RENTED TO THE SAME PERSON FOR A
10 PERIOD EXCEEDING SIXTY DAYS.
11 S 7. This act shall take effect January 1, 2011.