S T A T E O F N E W Y O R K

2606

2009-2010 Regular Sessions

I N S E N A T E

February 25, 2009

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the navigation law, in relation to requiring all persons who operate a mechanically propelled vessel to hold a boating safety certificate

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

Section 1. Subdivisions 1, 1-a and 3 of section 49 of the navigation law, subdivisions 1 and 3 as amended by chapter 805 of the laws of 1992, subdivision 1-a as added by chapter 138 of the laws of 1998 and paragraphs a, b, c and d of subdivision 1-a as amended by chapter 248 of the laws of 2005, are amended to read as follows:

1. No person [under the age of eighteen years] shall operate a mechanically propelled vessel on the navigable waters of the state or any tidewaters bordering on or lying within the boundaries of Nassau and Suffolk counties, unless:

a. [the operator is accompanied therein by a person who is eighteen years of age or older, or,

b.] the operator is ten years of age or older 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 OTHER STATE OR GOVERNMENT; AND

B. IF SUCH OPERATOR IS UNDER SIXTEEN YEARS OF AGE:

(I) HE OR SHE IS ACCOMPANIED ABOARD SUCH VESSEL BY A PERSON WHO IS SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIFICATE; OR

(II) HE OR SHE IS AT LEAST THIRTEEN YEARS OF AGE AND IS OPERATING A VESSEL:

(A) PROPELLED SOLELY BY A MOTOR OF LESS THAN ONE HORSEPOWER OR A TWELVE VOLT ELECTRIC TROLLING MOTOR, OR

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

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(B) WHICH IS TWELVE FEET IN LENGTH OR LONGER PROPELLED BY A MOTOR OF TEN HORSEPOWER OR LESS.

1-a. a. No person shall operate a personal watercraft or specialty prop-craft 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] TEN 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, or other state or government, as a result of completing a course approved by the commissioner; PROVIDED THAT EVERY OPERATOR OF A PERSONAL WATERCRAFT OR SPECIALTY PROP-CRAFT WHO IS UNDER SIXTEEN YEARS OF AGE SHALL BE ACCOMPANIED ABOARD SUCH CRAFT BY A PERSON SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIFICATE.

b. No person who is the owner of a personal watercraft or specialty prop-craft shall knowingly authorize or permit the operation thereof on the navigable waters of the state or any tidewaters bordering on or lying within the boundaries of Nassau or Suffolk counties unless the operator is [fourteen] TEN 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, United States coast guard auxiliary, or other state or government, as a result of completing a course approved by the commissioner; PROVIDED THAT IF THE OPERATOR IS UNDER THE AGE OF SIXTEEN YEARS, NO SUCH OWNER SHALL AUTHORIZE OR PERMIT THE OPERATION OF SUCH CRAFT UNLESS THE OPERATOR IS ACCOMPANIED ABOARD SUCH CRAFT BY A PERSON SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIFICATE.

c. For the purposes of this subdivision "accompanied" shall mean upon the vessel. [Provided, however, that until January first, two thousand nine, in relation to a person less than fourteen years of age who is the holder of a boating safety certificate issued by the commissioner, the United States power squadrons, United States coast guard auxiliary or other state or government, accompanied shall also mean within view and not more than five hundred feet from a person aboard a vessel or personal watercraft, who is over eighteen years of age and the holder of a boating safety certificate issued by the commissioner, the United States power squadrons, United States coast guard auxiliary or other state or government, as a result of completing a course approved by the commissioner.]

d. The provisions of this subdivision shall not apply to persons: 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 acting pursuant to assigned duties; peace officers acting pursuant to assigned duties; lifeguards acting pursuant to assigned duties; fire and rescue personnel acting pursuant to assigned duties; and persons licensed to operate vessels by the United States coast guard or the Canadian coast guard. The commissioner by rule and regulation may provide for the exemption of additional persons not listed in this paragraph from the requirements of this section.

3. No person who is the owner of a mechanically propelled vessel shall knowingly authorize or permit the operation thereof on the navigable waters of the state or any tidewaters bordering on or lying within the boundaries of Nassau and Suffolk counties, unless:

a. [the operator is eighteen years of age or older or,
b. the operator is accompanied therein by a person eighteen years of age or older or,
c.] the operator is ten years of age or older 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 OTHER STATE OR GOVERNMENT; AND
B. IF SUCH OPERATOR IS UNDER SIXTEEN YEARS OF AGE:
(I) HE OR SHE IS ACCOMPANIED ABOARD SUCH VESSEL BY A PERSON WHO IS SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIFICATE; OR
(II) HE OR SHE IS AT LEAST THIRTEEN YEARS OF AGE AND WILL BE OPERATING A VESSEL:
(A) PROPELLED SOLELY BY A MOTOR OF LESS THAN ONE HORSEPOWER OR A TWELVE VOLT ELECTRIC TROLLING MOTOR; OR
(B) WHICH IS TWELVE FEET IN LENGTH OR LONGER PROPELLED BY A MOTOR OF TEN HORSEPOWER OR LESS.

S 2. Section 75 of the navigation law, as amended by chapter 138 of the laws of 1998, is amended to read as follows:

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

S 3. Subdivision 1 of section 78 of the navigation law, as amended by chapter 138 of the laws of 1998, is amended to read as follows:

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

S 4. Section 79 of the navigation law, as amended by chapter 169 of the laws of 2004, is amended to read as follows:

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

S 5. This act shall take effect immediately; provided that section one of this act shall take effect on the first of April next succeeding the date on which it shall have become a law.