

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:

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

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

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

12 b.] the operator is ten years of age or older and is the holder of a
13 boating safety certificate issued to him OR HER by the commissioner, the
14 United States Power Squadrons [or], the United States coast guard auxil-
15 iary[.], OR OTHER STATE OR GOVERNMENT; AND

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

17 (I) HE OR SHE IS ACCOMPANIED ABOARD SUCH VESSEL BY A PERSON WHO IS
18 SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIF-
19 ICATE; OR

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

22 (A) PROPELLED SOLELY BY A MOTOR OF LESS THAN ONE HORSEPOWER OR A
23 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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1 (B) WHICH IS TWELVE FEET IN LENGTH OR LONGER PROPELLED BY A MOTOR OF
2 TEN HORSEPOWER OR LESS.

3 1-a. a. No person shall operate a personal watercraft or specialty
4 prop-craft upon the navigable waters of the state or any tidewaters
5 bordering on or lying within the boundaries of Nassau and Suffolk coun-
6 ties unless the operator is [fourteen] TEN years of age or older and the
7 holder of[, or is accompanied by a person over eighteen years of age who
8 is the holder of] a boating safety certificate issued by the commission-
9 er, the United States power squadrons, the United States coast guard
10 auxiliary, or other state or government, as a result of completing a
11 course approved by the commissioner; PROVIDED THAT EVERY OPERATOR OF A
12 PERSONAL WATERCRAFT OR SPECIALTY PROP-CRAFT WHO IS UNDER SIXTEEN YEARS
13 OF AGE SHALL BE ACCOMPANIED ABOARD SUCH CRAFT BY A PERSON SIXTEEN YEARS
14 OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIFICATE.

15 b. No person who is the owner of a personal watercraft or specialty
16 prop-craft shall knowingly authorize or permit the operation thereof on
17 the navigable waters of the state or any tidewaters bordering on or
18 lying within the boundaries of Nassau or Suffolk counties unless the
19 operator is [fourteen] TEN years of age or older and the holder of[, or
20 is accompanied by a person over eighteen years of age who is the holder
21 of] a boating safety certificate issued by the commissioner, the United
22 States power squadrons, United States coast guard auxiliary, or other
23 state or government, as a result of completing a course approved by the
24 commissioner; PROVIDED THAT IF THE OPERATOR IS UNDER THE AGE OF SIXTEEN
25 YEARS, NO SUCH OWNER SHALL AUTHORIZE OR PERMIT THE OPERATION OF SUCH
26 CRAFT UNLESS THE OPERATOR IS ACCOMPANIED ABOARD SUCH CRAFT BY A PERSON
27 SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIF-
28 ICATE.

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

41 d. The provisions of this subdivision shall not apply to persons:
42 certified by the commissioner as boating safety instructors; members of
43 the United States power squadrons; members of the United States coast
44 guard auxiliary; holders of public vessel licenses pursuant to section
45 sixty-four of this article; police officers acting pursuant to assigned
46 duties; peace officers acting pursuant to assigned duties; lifeguards
47 acting pursuant to assigned duties; fire and rescue personnel acting
48 pursuant to assigned duties; and persons licensed to operate vessels by
49 the United States coast guard or the Canadian coast guard. The commis-
50 sioner by rule and regulation may provide for the exemption of addi-
51 tional persons not listed in this paragraph from the requirements of
52 this section.

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

1 a. [the operator is eighteen years of age or older or,
2 b. the operator is accompanied therein by a person eighteen years of
3 age or older or,
4 c.] the operator is ten years of age or older and is the holder of a
5 boating safety certificate issued to him OR HER by the commissioner, the
6 United States Power Squadrons [or], the United States Coast Guard Auxil-
7 iary[.], OR OTHER STATE OR GOVERNMENT; AND
8 B. IF SUCH OPERATOR IS UNDER SIXTEEN YEARS OF AGE:
9 (I) HE OR SHE IS ACCOMPANIED ABOARD SUCH VESSEL BY A PERSON WHO IS
10 SIXTEEN YEARS OF AGE OR OLDER WHO HOLDS SUCH A BOATING SAFETY CERTIF-
11 ICATE; OR
12 (II) HE OR SHE IS AT LEAST THIRTEEN YEARS OF AGE AND WILL BE OPERATING
13 A VESSEL:
14 (A) PROPELLED SOLELY BY A MOTOR OF LESS THAN ONE HORSEPOWER OR A
15 TWELVE VOLT ELECTRIC TROLLING MOTOR; OR
16 (B) WHICH IS TWELVE FEET IN LENGTH OR LONGER PROPELLED BY A MOTOR OF
17 TEN HORSEPOWER OR LESS.
18 S 2. Section 75 of the navigation law, as amended by chapter 138 of
19 the laws of 1998, is amended to read as follows:
20 S 75. Educational program. In order to protect the public interest in
21 the prudent and equitable use of the waters of the state and enhance the
22 enjoyment of pleasure boating and other sports thereon, the commissioner
23 shall initiate and put into effect a comprehensive educational program
24 designed to advance boating safety [including], WHICH PROVIDES FOR the
25 training of [youthful] ALL boat operators [and an adult education
26 program for] IN the safe operation of vessels including personal water-
27 craft and specialty prop-craft.
28 S 3. Subdivision 1 of section 78 of the navigation law, as amended by
29 chapter 138 of the laws of 1998, is amended to read as follows:
30 1. "Boating safety certificate" shall mean a certificate issued by the
31 commissioner evidencing that the holder thereof has successfully
32 completed a course of instruction in boating safety as [herein after]
33 provided IN THIS SECTION. The commissioner shall put into effect a plan
34 for the training of [youthful] ALL boat operators and the issuance of
35 such boating safety certificates. For the purposes of this section, the
36 term "boating safety" shall include instruction in the safe operation of
37 personal watercraft and specialty prop-craft.
38 S 4. Section 79 of the navigation law, as amended by chapter 169 of
39 the laws of 2004, is amended to read as follows:
40 S 79. Courses of instruction. For the purpose of giving such courses
41 of instruction and awarding boating safety certificates, [including
42 those issued to adults for the safe operation of vessels including
43 personal watercraft or specialty prop-craft] the commissioner may desig-
44 nate as his or her agent any person the commissioner deems qualified to
45 act in such capacity, including, but not limited to, certified instruc-
46 tors of the United States coast guard auxiliary, United States power
47 squadrons, American power boat association, boy scouts of America, Red
48 Cross and other organizations. No charge whatsoever shall be made to any
49 person less than eighteen years of age for the issuance of a boating
50 safety certificate. Persons less than eighteen years of age may be
51 charged a fee for instruction in boating safety, except that the office
52 may not charge a fee when providing such instruction to persons less
53 than eighteen years of age.
54 S 5. This act shall take effect immediately; provided that section one
55 of this act shall take effect on the first of April next succeeding the
56 date on which it shall have become a law.