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I N S E N A T E

March 7, 2012

Introduced by Sen. CARLUCCI -- 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 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-FOUR 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,
11 b. the operator is ten years of age or older and is the holder of a
12 boating safety certificate issued to him by the commissioner, the United
13 States Power Squadrons or the United States coast guard auxiliary.] THE
14 OPERATOR IS AT LEAST TEN YEARS OLD AND IS THE HOLDER OF A BOATING SAFETY
15 CERTIFICATE ISSUED TO HIM OR HER BY THE COMMISSIONER, THE UNITED STATES
16 POWER SQUADRONS OR THE UNITED STATES COAST GUARD AUXILIARY; OR
17 B. THE OPERATOR IS YOUNGER THAN EIGHTEEN YEARS OF AGE, AND IS ACCOMPA-
18 NIED ON THE MECHANICALLY PROPELLED VESSEL BY AT LEAST ONE PERSON WHO IS
19 AT LEAST EIGHTEEN YEARS OF AGE AND IS
20 (I) THE HOLDER OF A BOATING SAFETY CERTIFICATE ISSUED TO HIM OR HER BY
21 THE COMMISSIONER, THE UNITED STATES POWER SQUADRONS OR THE UNITED STATES
22 COAST GUARD AUXILIARY, OR
23 (II) NOT REQUIRED BY THIS SUBDIVISION TO HOLD A BOATING SAFETY CERTIF-
24 ICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL; OR
25 C. THE OPERATOR IS EIGHTEEN YEARS OF AGE OR OLDER, IS A PERSON
26 REQUIRED BY THIS SUBDIVISION TO HOLD A BOATING SAFETY CERTIFICATE IN

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

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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-THREE; OR,

B. THE OPERATOR IS BORN ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED NINETY-FOUR, 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 ACCOMPANIED BY A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND IS THE HOLDER OF A BOATING SAFETY CERTIFICATE.

S 3. 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 4. 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 5. 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 6. Section 71-d of the navigation law is amended by adding a new subdivision 1-a to read as follows:

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

(A) THE PERSON IS EIGHTEEN YEARS OR OLDER;

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

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

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

(E) SUCH PERSON PRESENTS GENUINE PROOF OF IDENTIFICATION AND AGE TO THE LIVERY OPERATOR;

(F) THE LIVERY OPERATOR OR THE LIVERY OPERATOR'S DESIGNATED AGENT, AT THE TIME OF THE LEASING, HIRING, OR RENTING, RECORDS THE NAME, ADDRESS, AND AGE OF THE OPERATOR OF THE LEASED, HIRED OR RENTED VESSEL, AND THE MODEL, YEAR, NAME OF MANUFACTURER, AND THE STATE REGISTRATION OR FEDERAL DOCUMENTATION NUMBERS OF THE LEASED, HIRED, OR RENTED VESSEL. SUCH RECORDS SHALL BE MAINTAINED FOR A PERIOD OF NOT LESS THAN ONE YEAR; AND

(G) THE VESSEL IS NOT LEASED, HIRED OR RENTED TO THE SAME PERSON FOR A PERIOD EXCEEDING SIXTY DAYS.

S 7. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.