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

7867

I N S E N A T E

November 14, 2012

Introduced by Sens. ADAMS, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the navigation law, in relation to enacting "Victoria's law", promoting boater safety, requiring all persons operating a mechanically propelled vessel to be a holder of a boating safety certificate; and to amend the state finance law, in relation to establishing the boating safety fund to promote summer activities for children; and to repeal certain provisions of the navigation law relating thereto

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

Section 1. This act shall be known and may be cited as "Victoria's law".

S 2. The navigation law is amended by adding a new section 49-d to read as follows:

S 49-D. OCCUPANCY LIMITATION. 1. NO PERSON SHALL OPERATE A VESSEL ON THE NAVIGABLE WATERS OF THE STATE WITH A NUMBER OF OCCUPANTS, INCLUDING SUCH OPERATOR, THAT EXCEEDS THE MAXIMUM OCCUPANCY RECOMMENDATION ESTABLISHED FOR SUCH VESSEL BY THE MANUFACTURER OF SUCH VESSEL.

2. NO PERSON SHALL OPERATE A VESSEL ON THE NAVIGABLE WATERS OF THE STATE UNLESS THERE IS CONSPICUOUSLY DISPLAYED ON SUCH VESSEL, A SIGN INDICATING SUCH MAXIMUM OCCUPANCY LIMITATION AND CONTACT INFORMATION REGARDING CERTIFIED FIRST RESPONDERS RESPONSIBLE FOR SUCH WATERS. SUCH SIGN SHALL BE LOCATED WHERE IT IS VISIBLE TO ALL PASSENGERS WHILE SUCH PASSENGERS ARE BOARDING THE VESSEL.

3. ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION ONE OR TWO OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE AS SET FORTH IN SECTION SEVENTY-THREE-B OF THIS ARTICLE.

4. FOR PURPOSES OF THIS SECTION THE TERM "CERTIFIED FIRST RESPONDER" MEANS AN INDIVIDUAL WHO MEETS THE MINIMUM REQUIREMENTS ESTABLISHED BY REGULATIONS PURSUANT TO SECTION THREE THOUSAND TWO OF THE PUBLIC HEALTH LAW AND WHO IS RESPONSIBLE FOR ADMINISTRATION OF INITIAL LIFESAVING CARE OF SICK AND INJURED PERSONS.

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

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S 3. Subdivision 1 of section 49 of the navigation law, as amended by chapter 805 of the laws of 1992, is 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 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 4. Paragraphs a, b, and c of subdivision 3 of section 49 of the navigation law are REPEALED and three new paragraphs a, b and c are added to read as follows:

A. 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

B. 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

C. 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 5. 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 6. 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 7. 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.] THE COMMISSIONER SHALL CHARGE A FEE OF FIFTY DOLLARS FOR SUCH COURSE OF INSTRUCTION AND TWENTY-FIVE DOLLARS FOR THE ISSUANCE OF A BOATING SAFETY CERTIFICATE. ALL FEES COLLECTED BY THE COMMISSIONER SHALL BE DEPOSITED INTO THE BOATING SAFETY FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-ONE OF THE STATE FINANCE LAW.

S 8. The navigation law is amended by adding a new section 49-e to read as follows:

S 49-E. EVENT ORGANIZERS. ANY PERSON WHO ORGANIZES AN EVENT TO TAKE PLACE ON THE NAVIGABLE WATERS OF THE STATE WHICH INCLUDES THE PARTICIPATION OF FIVE OR MORE VESSELS SHALL, PRIOR TO SUCH EVENT, OBTAIN A PERMIT TO HOLD SUCH EVENT FROM THE LOCAL MUNICIPALITY HAVING JURISDICTION OVER SUCH WATERS. UPON ISSUING OF SUCH PERMIT, SUCH MUNICIPALITY

SHALL CONTACT CERTIFIED FIRST RESPONDERS RESPONSIBLE FOR SUCH WATERS TO INFORM REGARDING THE NATURE AND TIME OF SUCH EVENT.

S 9. The state finance law is amended by adding a new section 81 to read as follows:

S 81. BOATING SAFETY FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A FUND TO BE KNOWN AS THE BOATING SAFETY FUND.

2. SUCH FUND SHALL CONSIST OF ALL FEES COLLECTED PURSUANT TO SECTION SEVENTY-NINE OF THE NAVIGATION LAW, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND SHALL BE MADE AVAILABLE ONLY FOR USE BY THE NATURAL HERITAGE TRUST FOR SUMMER YOUTH TO PROMOTE THE DEVELOPMENT, IMPLEMENTATION AND IMPROVEMENT OF SUMMER RECREATIONAL ACTIVITIES FOR CHILDREN. SUCH ACTIVITIES SHALL BE ADMINISTERED BY THE DEPARTMENT OF PARKS, RECREATION AND HISTORIC PRESERVATION.

4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION.

S 10. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made and completed on or before such date.