

3471--A

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I N A S S E M B L Y

January 25, 2013

Introduced by M. of A. GALEF, PAULIN, JAFFEE, ROBERTS, LAVINE, ENGLE-BRIGHT, ABINANTI, MONTESANO -- Multi-Sponsored by -- M. of A. GOTT-FRIED, HOOPER, SOLAGES, TENNEY -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development -- reported and referred to the Committee on Rules -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, 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 MAY
5 FIRST, NINETEEN HUNDRED NINETY-SIX 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

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

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1 B. THE OPERATOR IS YOUNGER THAN EIGHTEEN YEARS OF AGE, AND IS ACCOMPA-
2 NIED ON THE MECHANICALLY PROPELLED VESSEL BY AT LEAST ONE PERSON WHO IS
3 AT LEAST EIGHTEEN YEARS OF AGE AND IS

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

7 (II) NOT REQUIRED BY THIS SUBDIVISION TO HOLD A BOATING SAFETY CERTIF-
8 ICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL; OR

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

14 D. THE OPERATOR IS THE OWNER OF A RECENTLY PURCHASED VESSEL AND MAY
15 OPERATE SUCH VESSEL WITHOUT THE OTHERWISE REQUIRED BOATING SAFETY
16 CERTIFICATE FOR A PERIOD OF TIME NOT TO EXCEED ONE HUNDRED TWENTY DAYS
17 FROM THE DATE OF PURCHASE.

18 E. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO PERSONS WHO
19 ARE: BORN BEFORE APRIL THIRTIETH, NINETEEN HUNDRED NINETY-SIX; CERTI-
20 FIED BY THE COMMISSIONER AS BOATING SAFETY INSTRUCTORS; MEMBERS OF THE
21 UNITED STATES POWER SQUADRONS; MEMBERS OF THE UNITED STATES COAST GUARD
22 AUXILIARY; HOLDERS OF PUBLIC VESSEL LICENSES PURSUANT TO SECTION SIXTY-
23 FOUR OF THIS ARTICLE; POLICE OFFICERS, PEACE OFFICERS, FIRE PERSONNEL,
24 RESCUE PERSONNEL OR LIFEGUARDS, WHEN ANY SUCH PERSON IS ACTING PURSUANT
25 TO ASSIGNED DUTIES; OR LICENSED TO OPERATE VESSELS BY THE UNITED STATES
26 COAST GUARD OR THE CANADIAN COAST GUARD. THE COMMISSIONER, BY RULE OR
27 REGULATION, MAY PROVIDE FOR THE EXEMPTION OF ADDITIONAL PERSONS NOT
28 LISTED IN THIS PARAGRAPH FROM THE REQUIREMENTS OF THIS SECTION.

29 F. THE PROVISIONS OF THIS SUBDIVISION SHALL SUPERSEDE ALL LOCAL LAWS
30 OR ORDINANCES RELATING TO REQUIREMENTS FOR BOATING SAFETY CERTIFICATES
31 TO OPERATE A MECHANICALLY PROPELLED VESSEL.

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

35 A. THE OPERATOR IS BORN ON OR BEFORE APRIL THIRTIETH, NINETEEN HUNDRED
36 NINETY-SIX; OR,

37 B. THE OPERATOR IS BORN ON OR AFTER MAY FIRST, NINETEEN HUNDRED NINE-
38 TY-SIX, IS AT LEAST TEN YEARS OF AGE AND IS THE HOLDER OF A BOATING
39 SAFETY CERTIFICATE ISSUED TO HIM OR HER BY THE COMMISSIONER, THE UNITED
40 STATES POWER SQUADRONS OR THE UNITED STATES COAST GUARD AUXILIARY, OR

41 C. THE OPERATOR IS YOUNGER THAN EIGHTEEN YEARS OF AGE, AND IS ACCOMPA-
42 NIED ON THE MECHANICALLY PROPELLED VESSEL BY AT LEAST ONE PERSON EIGH-
43 TEEN YEARS OF AGE OR OLDER AND IS:

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

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

50 D. THE OPERATOR IS EIGHTEEN YEARS OF AGE OR OLDER, IS A PERSON
51 REQUIRED BY SUBDIVISION ONE OF THIS SECTION TO HOLD A BOATING SAFETY
52 CERTIFICATE IN ORDER TO OPERATE A MECHANICALLY PROPELLED VESSEL, AND IS
53 ACCOMPANIED BY A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND IS THE
54 HOLDER OF A BOATING SAFETY CERTIFICATE.

1 E. THE PROVISIONS OF THIS SUBDIVISION SHALL SUPERSEDE ALL LOCAL LAWS
2 OR ORDINANCES RELATING TO REQUIREMENTS FOR BOATING SAFETY CERTIFICATES
3 TO OPERATE A MECHANICALLY PROPELLED VESSEL.

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

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

14 S 4. Subdivision 1 of section 78 of the navigation law, as amended by
15 chapter 138 of the laws of 1998, is amended and a new subdivision 3 is
16 added to read as follows:

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

25 3. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO ESTABLISH A SYSTEM
26 FOR TRACKING AND REPLACING BOATING SAFETY CERTIFICATES ISSUED BY THE
27 COMMISSIONER. THE COMMISSIONER IS FURTHER AUTHORIZED TO REQUIRE THAT ANY
28 OTHER ENTITY APPROVED BY THE COMMISSIONER TO PROVIDE COURSES OF INSTRU-
29 TION AND AWARD BOATING SAFETY CERTIFICATES ESTABLISH A SYSTEM FOR TRACK-
30 ING AND REPLACING BOATING SAFETY CERTIFICATES SO AS TO ENABLE THE
31 REPLACEMENT OF LOST OR STOLEN CERTIFICATES TO THOSE WHO HAVE PREVIOUSLY
32 BEEN AWARDED SUCH CERTIFICATES.

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

35 S 79. Courses of instruction. 1. For the purpose of giving such cours-
36 es of instruction and awarding boating safety certificates, [including
37 those issued to adults for the safe operation of vessels including
38 personal watercraft or specialty prop-craft] the commissioner may desig-
39 nate as his or her agent any person the commissioner deems qualified to
40 act in such capacity, including, but not limited to, certified instruc-
41 tors of the United States coast guard auxiliary, United States power
42 squadrons, American power boat association, boy scouts of America, Red
43 Cross and other organizations. No charge whatsoever shall be made to any
44 person less than eighteen years of age for the issuance of a boating
45 safety certificate. Persons less than eighteen years of age may be
46 charged a fee for instruction in boating safety, except that the office
47 may not charge a fee when providing such instruction to persons less
48 than eighteen years of age.

49 2. THE COMMISSIONER IS AUTHORIZED, AT HIS OR HER DISCRETION, TO DEVEL-
50 OP A METHOD FOR APPROVING INTERNET-BASED BOATING SAFETY COURSES AS AN
51 APPROPRIATE AND EFFECTIVE METHOD FOR THE ADMINISTRATION AND COMPLETION
52 OF TRAINING IN THE SAFE OPERATION OF VESSELS, INCLUDING PERSONAL WATER-
53 CRAFT AND SPECIALTY PROP-CRAFT, FOR THE PURPOSES OF AWARDING A BOATING
54 SAFETY CERTIFICATE PURSUANT TO THIS SECTION.

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

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

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

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

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

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

17 (E) THE LIVERY OPERATOR OR THE LIVERY OPERATOR'S DESIGNATED AGENT, AT
18 THE TIME OF THE LEASING, HIRING, OR RENTING, RECORDS THE NAME, ADDRESS,
19 AND AGE OF THE OPERATOR OF THE LEASED, HIRED OR RENTED VESSEL. SUCH
20 RECORDS SHALL BE MAINTAINED FOR A PERIOD OF NOT LESS THAN ONE YEAR; AND

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

23 S 7. This act shall take effect on the first of May next succeeding
24 the date on which it shall have become a law; provided, however, that
25 the addition, amendment and/or repeal of any rule or regulation neces-
26 sary for the implementation of this act on its effective date is author-
27 ized to be made on or before such date.