

1639--A

Cal. No. 681

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in 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  
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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 1-A. NOTWITHSTANDING SUBDIVISION ONE OF SECTION FORTY-NINE OF THIS  
53 ARTICLE, A LIVERY MAY LEASE, HIRE OR RENT A MECHANICALLY PROPELLED  
54 VESSEL, EXCEPT A PERSONAL WATER CRAFT OR SPECIALTY PROP CRAFT, TO A  
55 PERSON WHO IS NOT THE HOLDER OF A BOATING SAFETY CERTIFICATE IF:

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

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

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

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

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

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

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