

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

SENATE BILL 126

4 By: Senators Canada, Scott, Hoofman, Fitch, Jeffries, Ross, Gwatney, Bookout,
5 Smith, Gordon, Webb, Keet, Russ, Walters, Boozman, Brown
6 *By: Representatives Mullenix, Lynn, Allen and T. Smith*

For An Act To Be Entitled

9 "AN ACT TO REVISE THE ARKANSAS BOATING SAFETY LAWS; AND
10 FOR OTHER PURPOSES."

Subtitle

13 "TO REVISE THE ARKANSAS BOATING SAFETY
14 LAWS."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Arkansas Code §27-101-103 is amended to read as follows:
19 "27-101-103. Definitions.

20 As used in subchapters 1-3 of this chapter, unless the context
21 otherwise requires:

22 (1) Vessel means every description of watercraft, other than a
23 seaplane on the water, used or capable of being used as a means of
24 transportation.

25 (2) Motorboat means any vessel operated upon water and which is
26 propelled by sail or machinery, whether or not the machinery is the principal
27 source of propulsion, but shall not include a vessel which has a valid marine
28 document issued by the Bureau of Customs of the United States Government or
29 any federal agency successor thereto.

30 (3) Owner means a person, other than a lien holder, having the
31 property in or title to a motorboat. The term includes a person entitled to
32 the use or possession of a motorboat subject to an interest in another
33 person, reserved or created by agreement and securing payment or performance
34 of an obligation, but the term excludes a lessee under a lease not intended
35 as security;

1 (4) Waters of this state means any public waters within the
2 territorial limits of the State of Arkansas;

3 (5) Person means an individual, partnership, firm, corporation,
4 association, or other entity;

5 (6) Operate means to navigate or otherwise use a motorboat or a
6 vessel;

7 (7) Length means the extreme deck fore-and-aft measurement of a
8 vessel;

9 (8) Operator means a person who is controlling the speed and
10 direction of a vessel or a person who is in direct physical control of a
11 vessel;

12 (9) Personal Watercraft means a vessel which uses an inboard motor
13 powering a water jet pump as its primary source of motive power and which is
14 designed to be operated by a person sitting, standing, or kneeling on the
15 vessel, rather than the conventional manner of sitting or standing inside the
16 vessel; and

17 (10) Commission means the Arkansas Game & Fish Commission."
18

19 SECTION 2. Arkansas Code §27-101-104 is amended to read as follows:

20 "(a) Any person who violates any provision of §§27-101-202(8),
21 27-101-203, 27-101-301, 27-101-303 - 27-101-306, and 27-101-308 - 27-101-312
22 shall be guilty of a misdemeanor and shall be subject to a fine of not less
23 than one hundred dollars (\$100) and not to exceed two hundred fifty dollars
24 (\$250.00) for each violation.

25 (b) Any person who violates any provision of §§27-101-202(2)-(6), (9),
26 and (13) and 27-101-204 shall be guilty of a misdemeanor and shall be subject
27 to a fine of not less than one hundred dollars (\$100) and not to exceed five
28 hundred dollars (\$500) for each violation.

29 (c) Any person who violates any provision of §27-101-202(1), (7),
30 (10), (11) or (12) shall be guilty of a misdemeanor and shall be subject to a
31 fine of not less than two hundred fifty dollars (\$250) and not to exceed one
32 thousand dollars (\$1,000) or imprisonment not to exceed six (6) months, or
33 both fine and imprisonment, for each violation."
34

35 SECTION 3. Subsection (a)(2) of Arkansas Code §27-101-105 is amended

1 to read as follows:

2 "(a)(2) In the exercise thereof, they shall have the authority to stop
3 and board any vessel subject to subchapters 1-3 of this chapter, and to
4 investigate any accident or violation involving vessels subject to
5 subchapters 1-3 of this chapter."
6

7 SECTION 4. Arkansas Code §§27-101-202(1) and (2) are amended to read
8 as follows:

9 "(1) Shall operate any motorboat or vessel or manipulate any water
10 skis, aquaplane, personal watercraft, or similar device in a reckless or
11 negligent manner that endangers the life, limb, or property of any person;
12 including but not limited to weaving through congested vessel traffic,
13 jumping the wake of another vessel too close to such other vessel, or when
14 visibility around such other vessel is obstructed and swerving at the last
15 possible moment to avoid collision shall constitute reckless operation of a
16 vessel;

17 (2) Shall operate a motorboat on the waters of this state at a rate of
18 speed that creates a hazardous wash or wake upon approaching or passing
19 vessels; including, but not limited to a wake that causes other vessels to
20 take-on water, or a wake sufficient to toss occupants of other vessels about
21 *in a manner to cause injury or the risk of injury;*
22

23 SECTION 5. Arkansas Code §§27-101-202(5) and (6) are amended to read
24 as follows:

25 "(5) Shall operate a vessel on any waters of this state for towing a
26 person or persons on water skis, or an aquaplane, personal watercraft or
27 similar device, unless there is in the vessel a person, twelve (12) years of
28 age or older, in addition to the operator, in a position to observe the
29 progress of the person or persons being towed. However, if the towing boat is
30 equipped with a wide-angle convex marine rear-view mirror in a position to
31 observe the skiers being towed, the above requirement shall not apply;

32 (6) Shall operate a vessel on any waters of this state towing a person
33 on water skis or an aquaplane or similar device; nor shall any person engage
34 in waterskiing, aquaplaning, or similar activity at any time between the
35 hours from one-half (1/2) hour after sunset to one-half (1/2) hour before

1 sunrise. However, the provisions of this subdivision do not apply to night
2 waterskiing or aquaplaning on controlled areas designated for those purposes
3 where adequate lighting is provided;"

4

5 SECTION 6. Arkansas Code Annotated §27-101-202(8) is amended to read
6 as follows:

7 "(8) Shall load any vessel used on the waters of this state with
8 passengers or cargo beyond its safe carrying capacity, as indicated on the
9 manufacturers capacity plate, or power any vessel with an outboard motor
10 which exceeds the maximum horsepower rating specified by the manufacturer; in
11 addition, no person shall load a boat, without a capacity plate, in a manner
12 that is unsafe or that results in the sinking or capsizing of the boat;"

13

14 SECTION 7. Arkansas Code §27-101-202 is amended by inserting two
15 additional subsections at the end thereof to read as follows:

16 "(12) Shall operate any vessel or manipulate any water skis,
17 aquaplane, personal watercraft or similar device in a grossly negligent
18 manner that results in serious injury or death to any person; and

19 (13) Shall operate a vessel upon the waters of this state in a
20 negligent manner, including but not limited to, inattentive operation,
21 failure to keep a proper lookout, failure to observe the inland navigation
22 rules of the road as implemented by the United States Coast Guard, or
23 operating in a manner which results in a collision with another vessel or
24 object."

25

26 SECTION 8. Subchapter 2 of Chapter 1 of Title 27 of the Arkansas Code
27 is amended by inserting an additional section at the end thereof to read as
28 follows:

29 "27-101-206

30 Law enforcement vessels while being used in the enforcement of this
31 chapter shall be exempt from the provisions of Section 27-101-202; however,
32 this exemption does not relieve the operator of the responsibility to operate
33 his vessel in a reasonable and prudent manner that does not endanger life,
34 limb, or property."

35

1 SECTION 9. Subsection (a) of Arkansas Code §27-101-203 is amended to
2 read as follows:

3 "(a) Every vessel shall have aboard:

4 (1) One (1) Type I, II, III, or V (if used according to its
5 approved conditions) personal flotation device (PFD) which is U.S. Coast
6 Guard approved in good and serviceable condition and of proper size for each
7 person *on board. In addition, every vessel sixteen (16) feet and longer*
8 *shall have* aboard one (1) Type IV throwable PFD. Each person being towed on
9 water skis, an aquaplane, or a similar device behind any motorboat or
10 motor-driven device used for towing persons upon the water must wear or have
11 securely upon his body a life preserver or buoyant vest of the type described
12 above in good and serviceable condition at all times while engaging in this
13 activity. In addition, all occupants of personal watercraft must wear a PFD
14 of the types described above while aboard the vessel. Occupants of a vessel
15 who are twelve (12) years of age or younger must wear a personal flotation
16 device (PFD) of the type described above securely fastened to their person at
17 all times while aboard any vessel unless such occupant is within the enclosed
18 area of a *houseboat or cruiser unless underway or within the area enclosed by*
19 *railings on a party barge, cruiser or houseboat unless underway.* In
20 addition, the requirements of this subdivision (a)(1) shall not be applicable
21 to organized water carnivals, waterskiing exhibitions, or other organized
22 water sports exhibitions, nor to persons participating in those activities or
23 exhibitions;

24 (2) *When in operation during hours of darkness on waters under*
25 *the jurisdiction of the United States, a motorboat's* lighting shall be in
26 accordance with the following specifications:

27 (A) Class A and Class 1 (under twenty-six [26] feet) -
28 combination red and green light on bow, with red on the port side and green
29 on the starboard side and a white horizon light aft (on the stern) that is
30 visible for three hundred sixty (360) degrees of the compass;

31 (B) Class 2 and Class 3 (twenty-six [26] feet to not more
32 than sixty-five [65] feet) - twenty (20) point white light forward, red port
33 and green starboard side lights and white horizon light aft; and

34 (C) Lights must conform to the specifications contained in
35 the U.S. Coast Guard Inland Rules of Navigation;

1 (3) *When in operation during hours of darkness on state*
2 *controlled waters, a motorboat's lighting shall be sufficient to make the*
3 *motorboat's presence and location known to any and all other vessels within a*
4 *reasonable distance.*

5 (4) *If carrying or using any inflammable or toxic fluid in any*
6 *enclosure for any purpose, and if not an entirely open motorboat, an*
7 *efficient natural or mechanical ventilation system which shall be capable of*
8 *removing resulting gases prior to and during the time the motorboat is*
9 *occupied by any person;*

10 (5) *Additional equipment designed to promote the safety of*
11 *navigation and of persons that the Arkansas State Game and Fish Commission*
12 *may find to be appropriate and for which it has provided in its rules and*
13 *regulations. However, before making those rules and regulations, or changes*
14 *or additions thereto, the Arkansas State Game and Fish Commission shall hold*
15 *public hearings, after reasonable notice thereof, of any proposed rule or*
16 *regulation to be adopted."*

17

18 SECTION 10. Subsection (c) of Arkansas Code §27-101-203 is amended to
19 read as follows:

20 "*(c) The use of dry stack headers or pipes extending directly from the*
21 *engine of a motorboat which does not have any type of muffler is prohibited*
22 *except for motorboats competing in a sanctioned regatta or boat race and for*
23 *those motorboats while on trial runs during a period not to exceed*
24 *forty-eight (48) hours immediately preceding such regatta or race and for*
25 *those motorboats while competing in official trials for speed records during*
26 *a period not to exceed forty-eight (48) hours immediately following the*
27 *regatta or race and only on the body of water where the regatta or boat race*
28 *is being held."*

29

30 SECTION 11. Subsection (a) of Arkansas Code §27-101-204 is amended to
31 read as follows:

32 "(a) The owner of a boat livery shall cause to be kept a record of:

33 (1) The name and address of the person or persons hiring any
34 vessel which is designed or permitted by him to be operated as a motorboat;

35 (2) The registration number thereof;

- 1 (3) The departure date and time;
- 2 (4) The expected time of return;
- 3 (5) The number of persons to be on board the vessel."

4
5 SECTION 12. Arkansas Code §27-101-205 is amended to read as follows:
6 "27-101-205. Collision or accident.

7 (a) It shall be the duty of the operator of a vessel involved in a
8 collision, accident, or other casualty, so far as he can do so without
9 serious danger to his own vessel, crew, and passengers, if any, to render to
10 other persons affected by the collision, accident, or other casualty
11 assistance that may be practicable and that may be necessary in order to save
12 them from or minimize any danger caused by the collision, accident, or other
13 casualty and also to give his name, address, and identification of his vessel
14 in writing to any person injured and to the owner of any property damaged in
15 the collision, accident, or other casualty.

16 (b) In the case of collision, accident, or other casualty involving a
17 vessel if the collision, accident, or other casualty results in death or
18 injury to a person or damage to property in excess of five hundred dollars
19 (\$500), or the disappearance of a person from a vessel under circumstances
20 that indicate death or injury, the Arkansas Game & Fish Commission or local
21 Sheriff_s Department, having an established water patrol, shall be
22 immediately notified in order for an investigation to be conducted. In
23 addition, the operator of the vessel shall submit Department of
24 Transportation, U.S. Coast Guard Form CG-3865 to the Arkansas State Game and
25 Fish Commission Boating Safety Office within ten (10) working days.

26 (c) In accordance with any request duly made by an authorized official
27 or agency of the United States, any information compiled or otherwise
28 available to the Arkansas State Game and Fish Commission pursuant to this
29 section shall be transmitted to that official or agency of the United States.

30 (d) Any law enforcement agency in the state of Arkansas investigating
31 a boating accident will forward a copy of the completed accident report to
32 the boating safety office of the Arkansas Game & Fish Commission within
33 thirty (30) days of the accident.

34 (e) It shall be unlawful for any person involved in a boating accident
35 to purposely leave the scene of the accident without complying with the

1 requirements in paragraphs (a) and (b) of this section. Violation of this
2 section shall be punishable with a fine or not less than two hundred fifty
3 dollars (\$250) no more than five hundred dollars (\$500). In the event the
4 accident resulted in grave personal injury or death, violations of this
5 section shall be a Class "D" felony, and, upon conviction, punished
6 accordingly."

7

8 SECTION 13. Arkansas Code §27-101-302 is amended to read as follows:

9 "27-101-302. Exceptions - Dealer's permit.

10 A motorboat shall not be required to be numbered under this subchapter
11 if it is:

12 (1) Already covered by a number in full force and effect which has
13 been awarded to it pursuant to federal law or a federally approved numbering
14 system of another state, provided that the boat shall not have been within
15 this state for a period in excess of ninety (90) consecutive days;

16 (2) A motorboat from a country other than the United States
17 temporarily using the waters of this state;

18 (3) A motorboat whose owner is the United States, a state, or a
19 subdivision thereof;

20 (4) A ship's lifeboat;

21 (5) A motorboat used, for demonstration purposes or testing
22 purposes only, by a recognized motorboat dealer or manufacturer or agent
23 thereof to promote the sale or development of the motorboat. All motorboat
24 dealers or manufacturers wishing to obtain the benefits of this subdivision
25 shall obtain a permit from the Revenue Division of the Department of Finance
26 and Administration to operate as a motorboat dealer or manufacturer and for
27 each annual license period shall pay a fee of two dollars (\$2.00) for the
28 permit. The Revenue Division of the Department of Finance and Administration
29 may issue, subject to the rules and regulations of the Arkansas State Game
30 and Fish Commission, to a motorboat dealer or manufacturer an identifying
31 certificate of number and require the attachment or display of the number on
32 both sides of the bow of any motorboat used for demonstration or testing
33 purposes while the motorboat is being operated for demonstration or testing
34 purposes on the waters of this state. This section does not apply to vessels
35 being used as rental boats;

1 (6) A newly purchased motorboat may be operated for a period not to
2 exceed *twenty (20)* working days from the date of purchase, provided that the
3 owner or operator of the motorboat has aboard the vessel the bill of sale or
4 acceptable proof of purchase indicating the date of purchase, the name and
5 address of the owner, and description and Hull Identification Number of the
6 vessel."

7

8 SECTION 14. Subsection (a) of Arkansas Code §27-101-304 is amended to
9 read as follows:

10 "(a) The owner of each motorboat for which numbering is required by
11 this state shall file an application for number, within *twenty (20)* working
12 days after the date of purchase, with the Director of the Department of
13 Finance and Administration on forms approved by the Arkansas State Game and
14 Fish Commission."

15

16 SECTION 15. Subsection (a) of Arkansas Code §27-101-306 is amended to
17 read as follows:

18 "(a) The certificates of numbers issued pursuant to subchapters 1-3 of
19 this chapter may be for a period of three (3) years."

20

21 SECTION 16. Effective January 1, 1996, Subsection (d)(2) of Arkansas
22 Code 27-101-306 is amended to read as follows:

23 "(d)(2) The fee to be collected for certificates shall be as follows:

24 Fee Category	3 Years
25 -----	-----
26 Vessels less than 16 feet in length	\$6.00
27 Vessels 16 feet to less than 26 feet	12.00
28 Vessels 26 feet or more	18.00"

29

30 SECTION 17. Subsection (a) of Arkansas Code §27-101-309 is amended to
31 read as follows:

32 "(a) Should the ownership of a motorboat change, the new owner shall
33 file an application with the Director of the Department of Finance and
34 Administration for the transfer of the certificate of operation of the
35 motorboat to the new owner within ten (10) working days after the date of

1 ownership change."

2

3 SECTION 18. Subsection (d) of Arkansas Code §27-14-1205 is hereby
4 amended to read as follows:

5 "(d) Registration shall be valid for three (3) years from the date
6 thereof and shall continue for three-year periods thereafter, as long as
7 renewed every three (3) years within the time required by law."

8

9 SECTION 19. All provisions of this act of a general and permanent
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
11 Code Revision Commission shall incorporate the same in the Code.

12

13 SECTION 20. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

18

19 SECTION 21. All laws and parts of laws in conflict with this act are
20 hereby repealed.

21

22 SECTION 22. EMERGENCY. It is hereby found and determined by the
23 General Assembly that the boating safety laws of the State of Arkansas are in
24 immediate need of revision, including, increased penalties for violation of
25 the state_s boating laws; providing capacity restrictions for loading
26 passengers and cargo on vessels; providing penalties for negligent operation
27 of vessels; providing restrictions for personal flotation devices; providing
28 restrictions for vessel lighting after dark; and providing procedures for
29 investigating boating accidents. Further, it is found that operation of
30 vessels on the waters of the state under the current laws are creating
31 unnecessary dangers to the life and property of the citizens of this state,
32 and that increasing the penalties for this dangerous conduct and providing
33 the stated restrictions for vessel operators will reduce the number of
34 accidents and injuries to persons and property on the waters of the state.
35 Therefore, an emergency is hereby declared to exist, and this act being

1 necessary for the immediate preservation of the public peace, health, and
2 safety shall be in full force and effect from and after May 1, 1995.

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/s/Canada et al