

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 78

H.P. 57

House of Representatives, February 2, 1989

Reported by Representative DUFFY for the Special Commission on Boating pursuant to Resolve 1987, chapter 111.

Reference to the Joint Standing Committee on Fisheries and Wildlife suggested and printing ordered under Joint Rule 18.

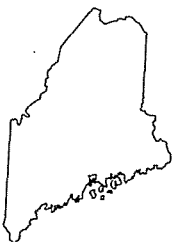
Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Concerning the Operation of Watercraft.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 12 MRSA §7801, sub-§13**, as enacted by PL 1979, c. 420,
5 §1, is repealed and the following enacted in its place:

7 13. Operating a motorboat while under age; without a
9 certificate of training. A person is guilty of operating a
11 motorboat while under age if that person:

13 A. Is under 10 years of age and operates a motorboat;

15 B. Is at least 10 years of age but less than 16 years of
17 age, does not have a certificate showing successful
19 completion of a training course approved by the department
21 under section 7802 and operates a motorboat; or

23 C. Is at least 10 years of age but less than 16 years of
25 age, has a certificate showing successful completion of a
27 training course approved by the department under section
29 7802 and operates a motorboat with a motor of 25 horsepower
31 or more.

33 **Sec. 2. 12 MRSA §7801, sub-§§30 and 31** are enacted to read:

35 30. Operating without certificate of training. A person is
37 guilty of operating without a certificate of training if that
39 person was born on or after January 1, 1973 and operates a
41 motorboat without having a certificate showing successful
43 completion of a boating safety course approved by the department
45 under section 7802.

47 31. Operating after suspension. A person is guilty of
49 operating after suspension if that person operates a watercraft
51 while that person's privilege to operate is revoked or suspended
under section 7803.

Sec. 3. 12 MRSA §§7802 and 7803 are enacted to read:

§7802. Training course

1. Course approval. The commissioner, with the advice of
the Commissioner of Marine Resources, shall approve a boating
safety course only if the course includes instruction on the safe
operation of watercraft, the laws pertaining to watercraft, the
effect of watercraft on the environment and ways to minimize that
effect, courtesy to shorefront landowners and other
recreationists and other materials as determined necessary by the
commissioner.

2. Certificate. After a person successfully completes a
training course approved under this section, the commissioner
shall issue a certificate of successful completion to that person.

1
3 3. Rules. The commissioner shall adopt rules governing the
5 approval of courses under this section, the determination that a
 person has successfully completed a course approved under this
 section and the issuance of certificates of successful completion.

7 4. Course required. The commissioner and the Commissioner
9 of Marine Resources may require a boater who has violated section
11 7801 to successfully complete a training course approved under
13 this section. The commissioners shall adopt rules jointly
 governing when the commissioners can require a boater to complete
 an approved training course in response to the boater's violation
 of the law.

15 §7803. Suspension or revocation of registration or privilege
17 to operate

19 1. Suspension or revocation. The Commissioner of Inland
21 Fisheries and Wildlife or the Commissioner of Marine Resources
23 may suspend or revoke any certificate of registration issued
25 under section 7794 or privilege to operate a watercraft after
27 hearing for any cause which the commissioner determines
 sufficient. The commissioner may suspend or revoke any
 certificate of registration issued to any person without
 preliminary hearing upon showing by the commissioner's records or
 other sufficient evidence that the operator:

29 A. Has been convicted or adjudicated of violating this
31 subchapter with such frequency as to indicate a disrespect
 for watercraft laws and disregard for the safety of other
 persons on the waters of the State;

33 B. Is a reckless or negligent watercraft operator, as
35 established by a record of accidents or by other evidence;

37 C. Is incompetent to operate a watercraft;

39 D. Has committed an offense in another state which, if
41 committed in this State, would be grounds for suspension or
 revocation;

43 E. Has been convicted of failing or refusing to stop upon
45 request or signal of an officer in uniform, as defined in
 section 6953 or 7060; or

47 F. Has been convicted of reckless operation or operating to
49 endanger, as defined in section 7801, subsection 8 or 10,
 respectively.

51 2. Hearing. Upon suspending or revoking a certificate of
 registration or privilege to operate of any person without

1 preliminary hearing, the Commissioner of Inland Fisheries and
2 Wildlife or the Commissioner of Marine Resources shall notify
3 that person, as provided in Title 5, section 9052, subsection 1,
4 that an opportunity for hearing shall be provided without undue
5 delay after receipt of a request.

7 If a hearing is held to determine whether a person's privilege to
8 operate or registration should be restored, the hearing shall be
9 conducted, as provided in the Maine Administrative Procedure Act,
10 Title 5, chapter 375, subchapter IV. Upon the hearing, the
11 Commissioner of Inland Fisheries and Wildlife or the Commissioner
12 of Marine Resources shall either rescind an order of suspension
13 or, for good cause, may continue, modify or extend the suspension
14 of the privilege to operate or registration.

15 Notice of any hearing held by the Commissioner of Inland
16 Fisheries and Wildlife or the Commissioner of Marine Resources
17 under this Title shall be consistent with Title 5, section 9052,
18 and shall notify the operator or registrant when and where to
19 appear, in person or through counsel, to show cause why the
20 privilege to operate or the certificate of registration should
21 not be suspended or revoked. Service of that notice shall be
22 sufficient if sent by regular mail to the address given by the
23 operator or registrant at least 10 days before the date set for
24 the hearing. The date of birth and name on the notification of
25 suspension or revocation document shall be prima facie evidence
26 that the named person is the same person as the defendant of the
27 same name and birthday.

29 Any person who, after notice of suspension or revocation, fails
30 or refuses to obey any order of the Commissioner of Inland
31 Fisheries and Wildlife or Commissioner of Marine Resources under
32 this section or fails or refuses to surrender to the Commissioner
33 of Inland Fisheries and Wildlife or the Commissioner of Marine
34 Resources upon demand, any watercraft registration issued in this
35 State or any other state which has been suspended, canceled or
36 revoked by proper authority in this State or any other state, as
37 provided by law is guilty of a Class E crime.

39 3. Conditions on restoration of registration or privilege
40 to operate. The Commissioner of Inland Fisheries and Wildlife or
41 the Commissioner of Marine Resources may require that a person
42 successfully complete an approved training course under section
43 7802 as a prerequisite to restoration of the certificate of
44 registration or the privilege to operate.

47 **Sec. 4. 12 MRSA §7901, sub-§13 is enacted to read:**

49 13. Operating after suspension. A violation of section
50 7801, subsection 31, is a civil violation for which a forfeiture
51 not to exceed \$500 may be adjudged.

1 to suspend boat registrations and the privilege to operate a
2 watercraft for specified reasons. This authority is based on the
3 Secretary of State's power to suspend and revoke motor vehicle
4 registrations, drivers' licenses and privilege to operate.
5 Section 2 makes it illegal to operate while the privilege to
6 operate is suspended. Section 4 makes the violation a civil
7 violation rather than a Class E crime.

9 Section 5 requires the Department of Inland Fisheries and
10 Wildlife and the Department of Marine Resources to report to the
11 Legislature by January 31, 1991, concerning the success of this
12 Act. The format for the study is based on the study recently
13 completed concerning all-terrain vehicles.