

# MAINE STATE LEGISLATURE

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L.D. 80

(Filing No. H-579)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 59, L.D. 80, Bill, "An Act Concerning Boating and Other Water-based Activities"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 12 MRSA §7791, sub-§11-A is enacted to read:

11-A. Personal watercraft. "Personal watercraft" means any motorized watercraft that is less than 13 feet in hull length as manufactured, is capable of exceeding a speed of 20 miles per hour and has the capacity to carry not more than the operator and one other person while in operation. The term includes, but is not limited to, a jet ski, wet bike, surf jet, miniature speedboat and hovercraft. Personal watercraft also includes motorized watercraft whose operation is controlled by a water skier.

Sec. 2. 12 MRSA §7800 sub-§2, as enacted by PL 1979, c. 420, §1, is amended to read:

2. Fines and costs collected. Each county shall pay all fines, forfeitures and penalties collected for violations of this subchapter and all officers' costs collected for either coastal wardens or game wardens to the Treasurer of State, monthly, and all of them shall accrue to the department, except that all fines, forfeitures and penalties collected as a result of the efforts of municipal law enforcement officers or harbor masters enforcing the provisions of this subchapter in their respective jurisdictions shall be paid to that municipality for the local enforcement efforts of this subchapter.

1           Sec. 3. 12 MRSA §7801, sub-§16, ¶C is enacted to read:

3           C. Fails to wear a Coast-Guard approved Type I, Type II, or  
5           Type III personal flotation device while canoeing or  
              kayaking on the Saco River between January 1st and June 1st.

7           Sec. 4. 12 MRSA §7801, sub-§§ 30 and 31 are enacted to read:

9           30. Failure to comply with additional safety requirements  
11           while operating a personal watercraft. A person is guilty of  
              failure to comply with additional safety requirements while  
13           operating a personal watercraft if that person:

15           A. Or any passenger is not wearing Coast-Guard approved  
              Type I or Type II personal flotation devices while operating  
17           or riding on the personal watercraft;

19           B. Operates the personal watercraft during the hours  
              between sunset and sunrise; or

21           C. Operates a personal watercraft before attaining the age  
23           of 12 years.

25           31. Unlawfully permitting operation. A person is guilty of  
              unlawfully permitting operation of a watercraft:

27           A. If that person owns a watercraft and negligently permits  
29           another person to operate the watercraft in violation of any  
              section of this subchapter; or

31           B. If that person is the parent or guardian responsible for  
33           the care of a minor under 18 years of age and the minor  
              operates a personal watercraft in violation of any section  
35           of this subchapter.

37           Sec. 5. 12 MRSA §7802 is enacted to read:

39           §7802. Operating within the water safety zone

41           1. Headway speed only. No person may operate a watercraft  
43           at a speed greater than headway speed while within the water  
45           safety zone or within a marina or an approved anchorage in  
              coastal or inland waters except while actively fishing. For the  
47           purposes of this section, "headway speed" means the minimum speed  
              necessary to maintain steerage and control of the watercraft  
              while the watercraft is moving.

49           2. Water-skiing. The prohibition in subsection 1 does not  
51           apply to watercraft picking up or dropping off one or more  
              persons on waterskis in the water safety zone if a reasonably  
              direct course is taken through the water safety zone between the

1 point that the skiers are picked up or dropped off and the outer  
2 boundary of the water safety zone.

3  
4 Sec. 6. 12 MRSA §7803 is enacted to read:

5 §7803. Harbor masters on inland waters

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7  
8 1. Appointment; compensation. The municipal officers of a  
9 town bordering an inland waterway may appoint a harbor master for  
10 a term of not less than one year and may establish the harbor  
11 master's compensation. The harbor master is subject to all the  
12 duties and liabilities of that office as prescribed by state law,  
13 municipal ordinances and rules promulgated by the municipality.  
14 The municipal officers may remove the harbor master from office  
15 for cause, declared in writing, after due notice to the harbor  
16 master and a hearing, if requested.

17  
18 The municipal officers may prohibit a harbor master from making  
19 an arrest or carrying a weapon. Harbor masters who are not  
20 prohibited from making arrests may arrest and deliver to the law  
21 enforcement authorities on shore any person committing an assault  
22 upon them or another person acting under their authority.

23  
24 2. Authority and responsibility. A harbor master appointed  
25 under this section shall enforce the watercraft laws of the State  
26 and the municipality on any water within the jurisdiction of the  
27 municipality.

28  
29 3. Violation. Whoever neglects or refuses to obey any  
30 lawful order of a harbor master authorized pursuant to this  
31 section commits a Class E crime.

32  
33 4. Jointly appointed harbor masters. The municipal  
34 officers of 2 or more municipalities that border on the same  
35 inland waters may jointly appoint a single harbor master who  
36 shall have authority over the jurisdictions of all the  
37 participating municipalities.

38 Sec. 7. 12 MRSA §7804 is enacted to read:

39 §7804. Enforcement of watercraft laws

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41  
42 Any municipal, county or state law enforcement officer or  
43 any harbor master appointed pursuant to section 7803 or Title 38,  
44 section 1 has the authority to enforce, in their respective  
45 jurisdictions, the watercraft laws in this subchapter and the  
46 rules related to those laws.

47  
48 Sec. 8. 12 MRSA §7901, sub-§13 is enacted to read:

49  
50 13. Unlawfully permitting operation of watercraft. A  
51 violation of section 7801, subsection 31, is a civil violation

1 for which a forfeiture of not less than \$100 nor more than \$500  
2 may be adjudged.

3  
4 **Sec. 9. Report.** The Department of Inland Fisheries and  
5 Wildlife, in consultation with the Department of Marine  
6 Resources, shall submit a report to the Joint Standing Committee  
7 on Fisheries and Wildlife regarding the establishment of a  
8 mandatory boating safety course including, but not limited to:

9  
10 1. The benefits to be obtained by requiring a mandatory  
11 boating safety course;

12  
13 2. The age limit, if any, at which a mandatory boating  
14 safety course should be required;

15  
16 3. A proposed phase-in period, if necessary, for a  
17 mandatory boating safety course;

18  
19 4. How to deal with out-of-state boaters, including  
20 reciprocity agreements;

21  
22 5. Effective date of implementing a mandatory boating  
23 safety course requirement;

24  
25 6. A summary of the training currently available and who  
26 provides that training, an estimate of how many people will need  
27 to be trained if a mandatory boating safety course is implemented  
28 and a proposal regarding who should provide that training; and

29  
30 7. An estimate of the cost of providing training if a  
31 mandatory boating safety course is implemented and who should pay  
32 for that training.

33  
34 This report shall be submitted, together with any  
35 recommended implementing legislation, no later than February 1,  
36 1990.

37  
38 **Sec. 10. Advisory report.** The Department of Marine Resources  
39 and the Department of Inland Fisheries and Wildlife shall jointly  
40 monitor the effects of this Act. The Department of Inland  
41 Fisheries and Wildlife shall serve as the lead agency. These  
42 departments shall make a joint report to the Legislature no later  
43 than January 31, 1991, in which they document the results of  
44 their monitoring, present recommendations concerning all  
45 important issues and submit any required legislation approved by  
46 the Attorney General covering all important issues. The  
47 departments shall obtain input from the Attorney General and  
48 district attorneys, representatives of the judicial system,  
49 representatives of lake associations and representatives of  
50 state, county and municipal law enforcement agencies.

1 By January 31, 1990, the departments shall submit to the  
2 joint standing committee of the Legislature having jurisdiction  
3 over boating laws a plan for this report including cost deadlines  
4 for each phase and objectives against which the success of this  
5 legislation will be measured. To the extent possible, these  
6 objectives shall be statistically measurable.  
7

9 **FISCAL NOTE**

11 Enactment of this bill would result in:

13  
14 1. A potential loss of dedicated revenue to the Department  
15 of Inland Fisheries and Wildlife in an amount which is expected  
16 to be minimal and absorbed by the department. This potential  
17 loss of revenue would be derived from the requirement that fines  
18 collected for violations of the watercraft laws as a result of  
19 local law enforcement would be returned to that municipality; and

21 2. The Department of Inland Fisheries and Wildlife  
22 absorbing all costs associated with the proposed reports and  
23 monitoring the effects of this bill utilizing existing resources.

25 Finally, it is anticipated that any additional costs to the  
26 Judicial Department resulting from the proposed violations would  
27 be absorbed by the judicial branch utilizing existing resources.'

29 **STATEMENT OF FACT**

31 This amendment consolidates all the issues raised by the  
32 legislation resulting from the recommendations of the Special  
33 Commission on Boating contained in legislative documents 76, 77,  
34 78, 79 and 80. The amendment replaces the bill and proposes the  
35 following.  
36

37  
38 1. The amendment defines personal watercraft and requires  
39 that personal flotation devices be worn while operating or riding  
40 on a personal watercraft. It prohibits operation at night and  
41 prohibits anyone under 12 from operating a personal watercraft.  
42 It also makes it a civil violation for the owner of a personal  
43 watercraft to allow anyone to operate that watercraft in  
44 violation of the law and makes parents liable for children who  
45 are minors and operate a personal watercraft in violation of the  
46 law.  
47

48 2. The amendment prohibits speeds greater than headway  
49 speed in the water safety zone, marinas or approved anchorages,  
except to pick up or drop off waterskiers.

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3. The amendment authorizes the appointment of municipal harbor masters on inland waterways, and clearly articulates the authority of harbor masters and all law enforcement personnel to enforce watercraft laws. Any fines, forfeitures and penalties collected for violations of the watercraft laws as a result of local law enforcement efforts shall be returned to that municipality.

9

4. The amendment requires life jackets to be worn between January 1st and June 1st while canoeing or kayaking on the Saco River.

13

5. The amendment requires the Department of Inland Fisheries and Wildlife to study the method, cost and procedures for a mandatory boating safety course.

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6. The amendment requires the Department of Inland Fisheries and Wildlife and the Department of Marine Resources to monitor the affects of enacting this bill and to jointly report to the Legislature.

21

Reported by the Committee on Fisheries and Wildlife  
Reproduced and distributed under the direction of the Clerk of the  
House  
6/16/89 (Filing No. H-579)