

BILL ANALYSIS

Senate Research Center

H.B. 966
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Natural Resources
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Engrossed

DIGEST

With over 600,000 registered boats, Texas ranks as the fifth largest boating state in the nation. The number of vessels registered in Texas represents an estimated 5.3 million boaters. With a full 12-month boating season, a large number of reservoirs and public waters, Texas historically leads the national average in boating fatalities. In 1994, Texas recorded 55 boating fatalities, which translates to 9.1 fatalities per 100,000 registered boats. The national average for boating fatalities in 1994 was approximately six per 100,000 registered boats. H.B. 966 would require boat operators born after September 1, 1984, to take and successfully complete an approved boater education course before operating a vessel on public waters. In addition, H.B. 966 would require violators of certain water safety laws to attend boater education classes. This bill is designed to create a safer boating environment for users of Texas public waters.

PURPOSE

As proposed, H.B. 966 requires boat operators born after September 1, 1984, to take and successfully complete an approved boater education course before operating a vessel on public waters. In addition, this bill requires violators of certain water safety laws to attend boater education classes.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Parks and Wildlife Commission in SECTION 7 (Section 31.108, Parks and Wildlife Code) and SECTION 8 (Section 31.121, Parks and Wildlife Code) of his bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 31.003(1) and (7), Parks and Wildlife Code, to redefine "boat" and "dealer."

SECTION 2. Amends Section 31.004, Parks and Wildlife Code, to provide that the provisions of this chapter apply to all public water of this state and to all vessels, rather than to all watercraft navigated or moving, on the public water.

SECTION 3. Amends Section 31.021(b), Parks and Wildlife Code, to prohibit any person from operating or giving permission for the operation of any vessel or from docking, mooring, or storing a vessel owned by the person on the water of this state except under certain conditions.

SECTION 4. Amends Section 31.043, Parks and Wildlife Code, to require all vessels manufactured for sale in Texas to carry a manufacturer's hull identification, rather than serial, number clearly imprinted on the structure of the vessel or displayed on a plate permanently attached to the vessel. Prohibits any person from intentionally or knowingly, rather than wilfully, destroying, removing, altering, covering, or defacing the manufacturer's hull identification or plate bearing the hull identification number issued by the Parks and Wildlife Department (department). Prohibits a person from possessing a vessel with a hull identification number or an outboard motor with a serial number that has been altered, defaced, mutilated, or removed. Requires a person who has a vessel with an altered, defaced, mutilated, or removed hull identification, rather than altered or missing serial, number, to file a sworn statement with the department describing the vessel or outboard motor, proving legal ownership, and if known, stating the reason for the destruction, removal, or defacement

of the number. Makes conforming changes.

SECTION 5. Amends Section 31.092, Parks and Wildlife Code, by adding Subsection (f), to set forth provisions relating to the regulation of private and commercial traffic in water in a home-rule municipality in a county with a population of more than one million that has enacted a zoning overlay district prior to September 1, 1997, encompassing certain property.

SECTION 6. Amends Section 31.106, Parks and Wildlife Code, to set forth the manner in which or circumstances under which a person is prohibited from operating a personal watercraft. Authorizes an owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a manner prohibited by this section to be notified of the violation. Provides that for the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.

SECTION 7. Amends Chapter 31D, Parks and Wildlife Code, by adding Sections 31.108, 31.109, 31.110, and 31.111, as follows:

Sec. 31.108. **BOATER EDUCATION PROGRAM.** Requires the Parks and Wildlife Commission (commission) to adopt rules for certain purposes relating to boater education and public safety in the operation of vessels. Authorizes the commission, by rule, to create exemptions from boater education requirements by statute to the extent the exemptions are consistent with promoting public safety in the operation of vessels. Requires the commission, by rule, to create a standard form for a boater identification card to be issued to a person who successfully completes a boater education course or course equivalency examination. Authorizes the department to appoint agents for certain purposes. Requires the department to collect a \$10 examination or course fee from certain persons. Sets forth the responsibilities of an agency acting under authority of Subsection (d).

Sec. 31.109. **BOATER EDUCATION COURSE REQUIRED FOR CERTAIN PERSONS.** Provides that this section applies only to certain persons. Requires a person subject to this section to have in the person's possession a photographic identification card and a boater identification card issued by the department. Requires the department to issue a boater identification card to a person who has successfully completed a certain course or examination. Provides that a boater identification card issued to a person who has successfully completed a boater education course or course equivalency does not expire. Requires a court, upon proof of completion of a boater safety education course, to dismiss a violation of Sections 31.109(b)(1) and (2).

Sec. 31.110. **EXEMPTION FROM BOATER EDUCATION COURSE REQUIREMENT.** Provides that a person is not required to comply with Section 31.109 under certain conditions.

Sec. 31.111. **OPERATING VESSEL LIVERY.** Requires a vessel livery to purchase liability insurance from an insurer licensed to do business in this state. Sets forth requirements for a vessel livery before releasing possession of a rented vessel. Sets forth requirements for a vessel livery applicable after providing the instruction required by Subsection (b) and before releasing possession of the rented vessel.

SECTION 8. Amends Section 31.121, Parks and Wildlife Code, to require all peace officers of this state and game wardens commissioned by the commission to be certified as marine safety enforcement officers by the department for enforce certain provisions. Deletes text regarding management officers. Requires the commission, by rule, to establish standards for training and certifying marine safety enforcement officers under this section. Authorizes the commission, by rule, to create exemptions for peace officers from marine safety enforcement officer training and certification requirements imposed by statute. Requires the commission, by rule, to establish and collect a fee to recover the administrative costs associated with the certification of marine safety enforcement officers. Requires the commission to require the applicant for certification or the applicant's employer to pay the fee required under this section. Authorizes the game warden, rather than management officers, to assist in the search for and rescue victims of water-oriented accidents.

SECTION 9. Amends Section 31.127, Parks and Wildlife Code, to set forth provisions regarding penalties relating to operation of a vessel in violation of Section 31.021(b) or 31.095; and the operator of a vessel who is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person and fails to comply with Section 31.104. Provides that except as provided by Subsection (d), the operator of a vessel who is involved in a collision, accident, or other casualty and fails to comply with Section 31.104 commits a Class A Parks and Wildlife Code misdemeanor.

SECTION 10. Amends Section 31.128, Parks and Wildlife Code, by amending Subsection (b), and adding Subsections (c) and (d), to require, in justice court cases filed as a result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account to be 85 percent of the fine. Sets forth provisions regarding court cases filed as the result of an arrest by a marine safety enforcement officer other than a game warden. Makes conforming changes.

SECTION 11. Amends Chapter 31E, Parks and Wildlife Code, by adding Sections 31.130, 31.131, 31.132, as follows:

Sec. 31.130. BOATER EDUCATION COURSE PERMITTED IN LIEU OF FINE. Provides that except as provided by Section 31.131, this section applies to a person who violates for the first time a provision of this chapter relating to the operation of a vessel. Authorizes a justice to defer the imposition of a fine and place a defendant on probation for a period not to exceed 60 days under certain conditions. Requires the justice to require the defendant to successfully complete a boater education course approved by the department during the probation period. Requires the justice to waive imposition of a fine under certain conditions. Requires the justice to impose a fine for the violation if the defendant fails to successfully complete the boater education course.

Sec. 31.131. BOATER EDUCATION COURSE REQUIRED FOR CERTAIN VIOLATIONS. Requires a justice to require a person who is adjudged guilty of an offense resulting from the violation of a provision of Sections 31.094-31.103 or 31.106 to pay a certain fine and successfully complete a boater education course approved by the department not later than the 90th day after the date the person is adjudged guilty. Provides that if the person fails to successfully complete the boater education course, the person commits a Class A Parks and Wildlife misdemeanor.

Sec. 31.132. REPORTING PROCEDURES FOR ENFORCEMENT OFFICERS. Requires a marine safety enforcement officer to provide to the department on a form prescribed by the department a report of certain incidents within a certain deadline.

SECTION 12. Repealer: Section 31.003(9), Parks and Wildlife Code (Undocumented Motorboat--Definitions).

SECTION 13. (a) Provides that a peace officer of this state and its political subdivisions and game wardens who enforce Chapter 31, Parks and Wildlife Code, are not required to be certified under Section 31.121(a), Parks and Wildlife Code, as amended by this Act, until January 1, 1999.

(b) Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 1997.

SECTION 15. Emergency clause.