

BILL ANALYSIS

Senate Research Center

C.S.S.B. 587
By: Barrientos
Natural Resources
4-18-97
Committee Report (Substituted)

DIGEST

Currently, there are over 600,000 registered vessels in Texas. This state historically leads the national average in boating fatalities. This bill will require the Texas Parks and Wildlife Department to develop and administer a boater education program and provides penalties for violating regulations relating to water safety.

PURPOSE

As proposed, C.S.S.B. 587 requires the Texas Parks and Wildlife Department to develop and administer a boater education program and provides penalties for violating regulations relating to water safety.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Parks and Wildlife Commission in SECTIONS 6 and 8 (Sections 31.108(a)-(c), and 31.121(b)-(c), Parks and Wildlife Code) of this 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 vessels, rather than watercraft.

SECTION 3. Amends Section 31.021(b), Parks and Wildlife Code, to prohibit a person from docking, mooring, or storing a vessel owned by the person on the water of this state, unless certain conditions exist.

SECTION 4. Amends Section 31.043, Parks and Wildlife Code, as follows:

Sec. 31.043. New heading: MANUFACTURER'S IDENTIFICATION NUMBER. Requires 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 a person from intentionally or knowingly destroying, removing, altering, covering, or defacing the manufacturer's hull identification number or plate bearing the hull identification number or the hull identification number issued by the Parks and Wildlife Department (department). Requires a person who has a vessel with an altered, defaced, mutilated, or removed hull identification number or an outboard motor with an altered, defaced, mutilated, or removed serial number to file a sworn statement with the department containing certain information.

SECTION 5. Amends Section 31.106, Parks and Wildlife Code, to delete the provision that prohibits any person from operating a personal watercraft within 50 feet of certain objects, except another personal watercraft. Prohibits any person from operating a personal watercraft if the operator is under 16 years of age, unless the operator is at least 13 years of age and has successfully completed a boating safety course prescribed and approved by the department. Prohibits an owner of a personal watercraft from permitting a person to operate the personal watercraft in a manner

prohibited by this section. 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 6. Amends Chapter 31D, Parks and Wildlife Code, by adding Sections 31.108-31.111, as follows:

Sec. 31.108. **BOATER EDUCATION PROGRAM.** Requires the Parks and Wildlife Commission (commission) to adopt rules regarding boater education courses. Authorizes the commission, by rule, to create exemptions from boater education requirements imposed 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 to perform certain duties. Requires the department to collect a \$10 examination or course fee from each person taking an examination or course to recover administrative costs of the boater education program. Requires an agent to collect the \$10 examination or course fee and forward the fee to the department within a certain period of time and authorizes the agent to keep a \$3 service fee.

Sec. 31.109. **BOATER EDUCATION COURSE REQUIRED FOR CERTAIN PERSONS.** Provides that this section applies to certain persons. Requires a person subject to this section to have certain items in his or her possession. Requires the department to issue a boater identification card to certain persons. Provides that a boater identification card issued to a person who has successfully completed a boater education course or course equivalency examination does not expire.

Sec. 31.110. **EXEMPTION FROM BOATER EDUCATION COURSE REQUIREMENT.** Provides that certain persons are not required to comply with Section 31.109.

Sec. 31.111. **OPERATING VESSEL LIVERY.** Sets forth requirements for operating a vessel livery.

SECTION 7. Amends Section 31.121, Parks and Wildlife Code, to require all peace officers of this state, rather than of this state and its political subdivisions, and game wardens, rather than game management officers, commissioned by the commission to be certified as marine safety enforcement officers by the department to enforce the provisions of this chapter. Deletes the provision that all peace officers and game management officers are enforcement officers for the purposes of this chapter. Requires the commission, by rule, to establish standards for training and certifying marine safety enforcement officers under this section. 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. Makes a conforming change.

SECTION 8. Amends Section 31.127, Parks and Wildlife Code, to provide that a person who violates or fails to comply with certain regulations, rather than for which no other penalty is applicable, commits an offense that is a Class C Parks and Wildlife Code. Sets forth offenses against the department.

SECTION 9. Amends Section 31.128, Parks and Wildlife Code, to require the amount to be remitted to the game, fish, and water safety account to be 85 percent of the fine, in justice court cases filed as a result of an arrest by a game warden. Requires the amount to be remitted to the game, fish, and water safety account to be 60 percent of the fine in court cases filed as the result of an arrest by a marine safety enforcement officer other than a game warden. Requires all costs of the court to be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.

SECTION 10. Amends Chapter 31E, Parks and Wildlife Code, by adding Sections 31.130-31.132, 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. Sets forth guidelines for taking a boater education course in lieu of paying a fine.

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 31.094-31.102 to pay any fine imposed for the violation, and successfully complete a boater education course approved by the department not later than the 180th day after the date the person is adjudged guilty. Provides that a person commits a Class A Parks and Wildlife Code misdemeanor if the person fails to successfully complete the boater education course.

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 any incident the officer investigates that involves a boating accident, water fatality, or person who allegedly operates a boat while intoxicated. Requires the officer to provide the report not later than the 15th day after the date the incident occurred.

SECTION 11. Repealer: Section 31.003(9), Parks and Wildlife Code (Undocumented vessel).

SECTION 12. (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, 1998.

(b) Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 1997.

SECTION 14. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 31.003, Parks and Wildlife Code, to delete proposed Subdivision (6).

SECTION 2.

Amends Section 31.004, Parks and Wildlife Code, to provide that the provisions of this chapter apply to all vessels, rather than watercraft.

SECTION 5.

Deletes proposed SECTION 5. Redesignates SECTIONS 6-15 as SECTIONS 5-14. Prohibits a person from docking, mooring, or storing a vessel owned by the person on the water.

SECTION 6.

Amends Section 31.08, Parks and Wildlife Code, to require an agent to collect a \$10 examination or course fee and forward the fee to the department at a certain period of time.

Amends Section 31.110, Parks and Wildlife Code, to provide that a person is not required to comply with Section 31.109, who holds a master's, mate's, or operator's license issued by the United States Coast Guard.

SECTION 8.

Amends Section 31.127, Parks and Wildlife Code, to set forth offenses.

SECTION 9.

Amends Section 31.128, Parks and Wildlife Code, to increase the amount remitted to the game, fish, and water safety account to 60 percent, rather than the proposed 20 percent, of the fine from an arrest by a marine safety enforcement officer.