

BILL ANALYSIS

Senate Research Center

H.B. 1395
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Transportation & Homeland Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An advisory panel on recreational boating safety was recently created to study the current state of recreation safety on public waters in Texas and to make recommendations for improving safety. The panel has recommended to the legislature the adoption of a phase-in approach to the requirement that all operators of recreational boats complete a boater education course.

H.B. 1395 follows this recommendation by making the requirement applicable to all boat operators born on or after September 1, 1993. In addition, the bill provides for exemption from and deferral of the requirement in certain circumstances.

H.B. 1395 provides conditions for an exception to the minimum age required for a person to operate a personal watercraft or to operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of Texas. One condition is that the operator must be supervised by another person who can lawfully operate the watercraft or motorboat and who is on board the watercraft or motorboat when under way.

H.B. 1395 amends current law relating to the requirements to operate personal watercraft and certain boats.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 4 (Section 31.110, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.106(a), Parks and Wildlife Code, as follows:

(a) Prohibits a person from operating a personal watercraft in the following manner or under the following circumstances:

(1)-(4) Makes no changes to these subdivisions;

(5) if the operator is under 13 years of age, unless the operator is supervised by another person who is at least 18 years of age, can lawfully operate the watercraft, and is on board the watercraft when under way; or

(6)-(9) Makes no changes to these subdivisions.

Deletes existing text prohibiting a person from operating a personal watercraft if the operator is under 16 years of age unless the operator is accompanied by a person at least 18 years of age, or is at least 13 years of age and has successfully completed a boating safety course prescribed and approved by the Texas Parks and Wildlife Department (TPWD).

SECTION 2. Amends Section 31.107, Parks and Wildlife Code, as follows:

Sec. 31.107. OPERATION OF MOTORBOAT. Prohibits a person from operating a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of this state unless the person is at least 13 years of age or is supervised by another person who:

- (1) is at least 18 years of age;
- (2) can lawfully operate the motorboat; and
- (3) is on board the motorboat when under way.

Deletes existing text prohibiting a person from operating a motorboat of over 15 horsepower on the public waters of this state unless the person is 16 years of age or older or is accompanied by a person (18) years of age or older; or is at least 13 years of age and has successfully passed a boating safety course prescribed and approved by TPWD.

SECTION 3. Amends Section 31.109, Parks and Wildlife Code, by amending Subsections (a), (b), and (e), and adding Subsection (f), as follows:

(a) Provides that this section applies only to a person who is born on or after September 1, 1993, and operating on the public waters of this state a vessel powered by a motor with a manufacturer's rating of more than 15 horsepower, or a windblown vessel over 14 feet in length. Deletes existing text providing that this section applies only to a person who is born on or after September 1, 1984, and operating on the public water of this state, a vessel powered by a motor of 10 horsepower or a windblown vessel over 14 feet in length.

(b) Requires a person subject to this section have in the person's possession certain items, including proof of completion of the requirements to obtain a vessel operator's license issued by the United States Coast Guard. Makes nonsubstantive changes.

(e) Requires the court, if, on or before the trial of a person charged with an offense for failing to possess a document required under Subsection (b), the person produces for the court or the prosecuting attorney a document required by Subsection (b) that was issued to the person and was valid at the time of the offense, to dismiss the charge. Deletes existing text requiring a court, upon proof of completion of a boater safety education course to dismiss a violation of Subsections (b)(1) and (2).

(f) Authorizes a person charged with a Class C Parks and Wildlife Code misdemeanor for failing to possess a document required under Subsection (b) to make to the court not later than the 10th day after the date of the alleged offense an oral or written motion requesting permission to take a boater education course approved by TPWD or a vessel operator's licensing course provided by the United States Coast Guard. Requires the court to defer the proceedings brought against a person who makes a motion described by this subsection and allow the person 90 days to present written evidence that the person has successfully completed the course approved by TPWD or provided by the United States Coast Guard. Requires the court, if the person successfully completes the course and the court accepts the presented evidence, to dismiss the charge.

SECTION 4. Amends Section 31.110, Parks and Wildlife Code, as follows:

Sec. 31.110. New heading: EXEMPTION FROM BOATER EDUCATION COURSE REQUIREMENT; DEFERRAL PROGRAM. (a) Creates this subsection from existing text. Provides that a person is not required to comply with Section 31.109 if the person:

- (1) holds a master's, mate's, or operator's license issued by the United States Coast Guard;

(2) is supervised by a person who is at least 18 years of age and who is otherwise exempt from the requirements of Section 31.109 or possesses a boater identification card as required by Section 31.109;

(3) is not a resident of this state and has proof that the person has successfully completed a boater education course or equivalency examination in another state that is approved by TPWD;

(4) is exempt by rule of the Texas Parks and Wildlife Commission (commission) as a customer of a business engaged in renting, showing, demonstrating, or testing boats; or

(5) is exempt by rule of the commission, rather than is exempt by rule of TPWD.

Makes nonsubstantive changes.

(b) Requires that for purposes of this section, the person must be on board the watercraft when under way to be considered to be supervising the operator of a watercraft.

(c) Requires the commission by rule to establish a boater education deferral program. Requires that the deferral program be available at no cost to boat dealers, manufacturers, and distributors.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2011.