

MEMORANDUM

VESSEL OPERATOR CERTIFICATION LEGISLATION

January 23, 2007

Points Confirmed - as Items for Inclusion in the Legislation at January 23 Meeting

- Department of Boating and Waterways as the one and only agency
- Certificate, not a license
- "Certificate" is the mantra and buzzword [as opposed to "safety" or "education"]
- Scope – all vessels
- Lifetime validity
- Exception for superior licenses
- Exception for 12-15 year olds with adult supervision
- Exception for adults under direct supervision of a person who has a certificate or is exempt from the requirement
- 2010 deadline for DBW to finalize certificate
- 8-year phase-in by age
- DBW to continue approving NASBLA-approved course providers and others
- No grandfathering
- Sunset in 2020
- Ability of operator to show certificate to the court
- DBW report annually, beginning 2015
- Infraction as penalty for operation without certificate
- Revenue from fines to be deposited in the HWRF
- Requirement that courts order violators to take and pass a course
- Provision returning \$27 million from DPR to DBW, with dedication to this program
- Statement of clear objective
- Generic provision for DBW to provide tests on the internet, provide links to online courses and tests and, if there are any contracts with online test vendors there must be multiple vendors
- Generic provision to address boat rental situation
- No exception for first-time purchasers

Continuing Items - for Further Discussion

- DBW efforts to reach out to the boating community
- Manner in which the statute will apply to rentals [the provision in this draft is a generic placeholder]
- Financial aspects - including department costs, fees, fees as additional revenue source
- DBW provision of testing, with an emphasis on the internet [the provision in this draft is a generic placeholder]
- Quality control of internet exams
- Scope of requirement [non-motorized inflatables and row-boats, kayaks]

Clear Objective

It is the intent of this legislation to ensure that vessel operators have the necessary knowledge on the laws and regulations that apply to the operation of vessels, through certification, in order to reduce accidents, injuries and fatalities.

Draft Text of Legislation

SECTION ONE.

Section 670 is added to the Harbors and Navigation Code, to read as follows:

670. [a] No person shall operate a vessel unless the person has in his or her possession a vessel operator certificate issued by the department.

[b] The provisions of subdivision [a] shall take effect as follows:

- January 1, 2011 - All vessel operators twenty years old and younger.
- January 1, 2012 - All vessel operators twenty-five years old and younger.
- January 1, 2013 - All vessel operators thirty years old and younger.
- January 1, 2014 - All vessel operators forty years old and younger.
- January 1, 2015 - All vessel operators forty-five years old and younger.
- January 1, 2016 - All vessel operators fifty years old and younger.
- January 1, 2017 - All vessel operators sixty years old and younger.
- January 1, 2018 - All vessel operators.

[c] The department shall issue a vessel operator certificate to a person who provides the department with proof that the person has passed a vessel operator test approved by the department. The department shall provide a vessel operator test on the internet and shall provide links to additional courses available on the internet. If the department contracts for the provision of services with any online course or test vendors, the department shall contract with more than one entity for that same service.

[d] A vessel operator certificate shall be valid for the life of the person to whom it is issued.

[e] This section shall not apply to: [i] a person operating a vessel in accordance with the provisions of Section 658.5; or [2] a person operating a vessel while under the direct supervision of a person eighteen years of age or older who is in possession of a vessel operator certificate, or who is not required to possess a vessel operator certificate pursuant to subdivision [f] or [g].

[f] This section shall not apply to a person operating a vessel who has a valid marine operator license issued by the United States Coast Guard when operating a vessel authorized by that license.

[g] This section shall not apply to a person operating a vessel that the person has rented or leased, provided that: [i] the person has in his or her possession a valid and lawful rental or lease agreement that lists that person as an authorized operator of that vessel; and [ii] the person has in his or her possession a certificate approved the department and issued by the entity that provided the rented or leased vessel, confirming that the person has completed and passed a course approved by the department as providing the necessary instruction with regard to the proper operation of that specific vessel, the rules of the road, and the applicable laws and regulations.

[h] A person who violates this section shall be guilty of an infraction subject to a fine of not less than one hundred dollars [\$100] and not more than five hundred dollars [\$500]. The fine shall be waived, less a transaction fee, if the vessel operator presents information in court that the court determines proves the person had a valid vessel operator certificate at the time of the citation. The monies derived from the fines paid pursuant to this subdivision shall be deposited in the Harbors and Watercraft Revolving Fund and expended by the department to carry out the provisions of this section. Any person convicted of violating this section shall be ordered by the court to complete and pass a boating safety course approved by the department as provided in Section 668.1. Any person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction.

The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to enroll in the course.

[i] The department shall, no later than December 31, 2010, develop the vessel operator certificate to be issued pursuant to this section,

[j] Commencing December 31, 2015 and on or before December 31 of each subsequent year, the department shall prepare a report regarding the total number of certificates issued and the correlation between certificates and the number of accidents, injuries and fatalities.

[k] This section shall terminate on December 31, 2020, unless a later-enacted statute extends or eliminates that date.

SECTION TWO.

Section 85.2 of the Harbors and Navigation Code is revised, as follows:

85.2. (a) All money in the Harbors and Watercraft Revolving Fund shall be available, upon appropriation by the Legislature, for expenditure by the department for boating facilities development, boating safety, and boating regulation programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed, and constructed by the department, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state.

~~(b) (1) The money in the fund shall also be available, upon appropriation by the Legislature, to the Department of Parks and Recreation for the operation and maintenance of units of the state park system that have boating related activities. Funds appropriated to the Department of Parks and Recreation may also be used for boating safety and enforcement programs for waters under its jurisdiction.~~

~~(2) Notwithstanding Section 7550.5 of the Government Code, the Department of Parks and Recreation shall submit to the Legislature, on or before January 1 of each year, a report describing the allocation and expenditure of funds made available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund and from the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year. The report shall list the special project or use, project location, amount of money allocated or expended, the source of funds allocated or expended, and the relation of the project or use to boating activities.~~

~~-(c) The money in the fund shall also be available, upon appropriation by the Legislature, to the State Water Resources Control Board for boating-related water quality regulatory activities.~~

[c] Notwithstanding any other provision of law or the Budget Act, all monies in the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year shall be deposited in the Harbors and Watercraft Revolving Fund and expended by the department to carry out the provisions of Section 670.

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