

House Bill 2079

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for State Marine Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies and adds laws related to boating offenses.

A BILL FOR AN ACT

Relating to boating offenses; creating new provisions; and amending ORS 830.084, 830.086, 830.088, 830.090, 830.092, 830.094, 830.315, 830.545, 830.990 and 830.994.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 830.315 is amended to read:

830.315. (1) A person commits the crime of reckless [*operation of a boat who*] **boating if the person recklessly** operates a boat [*carelessly and heedlessly in willful or wanton disregard of the rights, safety or property of others*] **in a manner that endangers the safety of persons or property. As used in this subsection, "recklessly" has the meaning given that term in ORS 161.085.**

(2) [*No person shall*] **A person may not** operate any boat at a rate of speed greater than will permit that person in the exercise of reasonable care to bring the boat to a stop within the assured clear distance ahead.

(3) Nothing in ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 is intended to prevent the operator of a boat actually competing in an event [*which*] **that** is authorized as provided in ORS 830.375 from attempting to attain high speeds on a marked racing course.

SECTION 2. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 by a person operating a manually propelled boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a manually propelled boat is \$30.

(b) Violation of ORS 830.565 by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is \$50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, **830.215**, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 [830.215,] 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350,
 2 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or
 3 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

4 (5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes
 5 of those statutes, commits a Class A violation.

6 (6) A person who violates ORS 830.383 commits a Class B misdemeanor.

7 (7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or
 8 830.955 (1) commits a Class A misdemeanor.

9 (8) A person who violates ORS 830.475 (2) commits a Class C felony.

10 (9) A person who violates ORS 830.944 commits a Class A violation.

11 **SECTION 3.** ORS 830.994 is amended to read:

12 830.994. (1) When a person is convicted of a violation of any provision of ORS **830.315 or**
 13 830.325, the court shall comply with the following in addition to any other penalty imposed upon the
 14 person under ORS 830.990:

15 (a) Order the person not to operate a boat for a period of one year;

16 (b) Order the person to complete a boating safety course **conducted in a classroom and** ap-
 17 proved by the State Marine Board; and

18 (c) **Order the board to suspend the person's boating safety education card issued under**
 19 **ORS 830.086 for one year.**

20 [(c)] (2) **When a person is convicted of a violation of any provision of ORS 830.325, the**
 21 **court shall, in addition to any other penalty imposed upon the person under ORS 830.990 or**
 22 **subsection (1) of this section,** include in the record of conviction a finding whether the person
 23 willfully refused the request of a peace officer to submit to chemical testing of the breath or a field
 24 sobriety test [pursuant to] **under** ORS 830.505 and 830.550. For purposes of this subsection, a person
 25 shall be found to have willfully refused the request if the person was informed about rights and
 26 consequences concerning the test under ORS 830.505 and 830.545 and refused to submit to the test.

27 [(2)] (3) The record of conviction of each person convicted of violating ORS **830.315 or** 830.325
 28 shall be sent by the court to the board within 14 days of the entry of the judgment of conviction in
 29 the court register.

30 [(3)] (4) A person who knowingly operates a boat in violation of a court order under subsection
 31 (1)(a) of this section commits a Class A misdemeanor.

32 **SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS chapter 830.**

33 **SECTION 5. In addition to any other penalty, the State Marine Board shall suspend a**
 34 **person's boating safety education card issued under ORS 830.086 for three years from the**
 35 **date of conviction if the record of conviction under ORS 830.325 shows that the person**
 36 **willfully refused the request of a peace officer to submit to chemical testing of the breath**
 37 **or a field sobriety test under ORS 830.505 and 830.550.**

38 **SECTION 6.** ORS 830.545 is amended to read:

39 830.545. This section establishes the requirements for information about rights and consequences
 40 for purposes of ORS 830.505. The following apply to the information about rights and consequences:

41 (1) The information about rights and consequences shall be substantially in the form prepared
 42 by the State Marine Board. The board may establish any form it determines appropriate and con-
 43 venient.

44 (2) The information about rights and consequences shall be substantially as follows:

45 (a) Operating a boat under the influence of intoxicants is a crime in Oregon and the person is

1 subject to criminal penalties if the test shows that the person is under the influence of intoxicants.
 2 If the person refuses the test or fails, evidence of the refusal or failure may also be offered against
 3 the person.

4 (b) The person fails the test if the test shows the person is under the influence of intoxicants
 5 under Oregon law.

6 (c) If the person is convicted of operating a boat while under the influence of intoxicants, the
 7 person may not operate a boat for a period of time following the conviction.

8 (d) If the person is convicted of operating a boat while under the influence of intoxicants, **the**
 9 **following apply for one year:**

10 (A) The person is not eligible to apply for any certificate of title, registration or numbering; and
 11 *[all certificates of title, registration and numbering necessary to lawfully operate a boat on Oregon*
 12 *waters shall be canceled for at least a year. The ineligibility to apply for certificates or the cancellation*
 13 *of the certificates shall be substantially longer if the person refuses the test.]*

14 (B) **The person's boating safety education card is suspended.**

15 (e) **If the person refuses the test, the following apply for three years:**

16 (A) **The person is not eligible to apply for any certificate of title, registration or num-**
 17 **bering; and**

18 (B) **The person's boating safety education card is suspended.**

19 [(e)] (f) After taking the test, the person shall have a reasonable opportunity, upon request, for
 20 an additional chemical test for blood alcohol content to be performed at the person's own expense
 21 by a qualified individual of the person's choosing.

22 (3) Nothing in this section prohibits the board from providing additional information concerning
 23 rights and consequences that the board considers appropriate or convenient.

24 **SECTION 7.** ORS 830.084 is amended to read:

25 830.084. In establishing the mandatory boating safety education program pursuant to ORS
 26 830.082, the State Marine Board shall:

27 (1) Set a minimum standard of boating safety education competency. The standard shall be con-
 28 sistent with the applicable standard established by the National Association of State Boating Law
 29 Administrators. The board may update the minimum standard of competency as necessary.

30 (2) Create a boating safety course of instruction and examination designed to educate and test
 31 for the minimum standard of safety established pursuant to subsection (1) of this section.

32 (3) Create an equivalency exam that may substitute for taking the boating safety course.

33 (4) Incorporate volunteer boating safety education programs to the maximum extent possible.

34 (5) Allow use of commercially provided boating safety courses, provided they meet the standard
 35 adopted by the board.

36 (6) Accept proof of prior completion of any approved boating safety course as meeting the re-
 37 quirement for a boating safety course.

38 (7) Establish a fee for the boating safety *[certificate]* **education card** issued under ORS 830.086
 39 that may not exceed \$10.

40 (8) Establish a temporary boating safety *[certificate]* **education card** that is valid for 60 days and
 41 issued in conjunction with a temporary certificate of number for newly acquired boats.

42 (9) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available
 43 for taking a boating safety course that meets the minimum standard established pursuant to sub-
 44 section (1) of this section.

45 **SECTION 8.** ORS 830.092 is amended to read:

1 830.092. A boating safety *[certificate]* **education card** is not required if a person:

2 (1) Is at least 16 years of age and rents a motorboat with an engine greater than 10 horsepower
3 and completes a required dockside safety checklist before operating the boat;

4 (2) Possesses a current commercial fishing license as required by ORS 508.235;

5 (3) Possesses a valid United States Coast Guard commercial motorboat operator's license;

6 (4) Is not a resident of this state and does not operate a boat with an engine greater than 10
7 horsepower in Oregon waters for more than 60 consecutive days;

8 (5) Is not a resident of this state, holds a current out-of-state boating safety *[certificate]* **educa-**
9 **tion card** and has the *[out-of-state certificate]* **card** in the person's possession; **or**

10 (6) Holds a temporary *[certificate]* **card** as described under ORS 830.084; *or*

11 *[(7) Is not yet required to have a certificate under the phase-in program developed by the State*
12 *Marine Board pursuant to section 9, chapter 716, Oregon Laws 1999].*

13 **SECTION 9.** ORS 830.086 is amended to read:

14 830.086. A person may obtain a boating safety *[certificate]* **education card** if the person:

15 (1) Is at least 12 years of age;

16 (2) Passes the boating safety course and examination, or the equivalency exam, as described in
17 ORS 830.084, or submits proof to the satisfaction of the State Marine Board that the person has
18 taken a course that is substantively equivalent to the course described in ORS 830.084; and

19 (3) Pays the fee required by the board.

20 **SECTION 10.** ORS 830.088 is amended to read:

21 830.088. A person 12 to 15 years of age with a boating safety *[certificate]* **education card** may
22 operate a motorboat with an engine of 10 horsepower or less. In addition, a person 12 to 15 years
23 of age with a boating safety *[certificate]* **education card** may operate a motorboat with an engine
24 greater than 10 horsepower if accompanied by and under the direct supervision of a parent, guardian
25 or responsible person 16 years of age or older who possesses a boating safety *[certificate]* **education**
26 **card.**

27 **SECTION 11.** ORS 830.090 is amended to read:

28 830.090. A person may operate a motorboat with an engine greater than 10 horsepower if the
29 person:

30 (1)(a) Is at least 16 years of age; and

31 (b) Obtains a boating safety *[certificate]* **education card** pursuant to ORS 830.086; or

32 (2) Is accompanied by and under the direct supervision of a person 16 years of age or older who
33 has obtained a boating safety *[certificate]* **education card** pursuant to ORS 830.086.

34 **SECTION 12.** ORS 830.094 is amended to read:

35 830.094. A person shall carry a boating safety *[certificate]* **education card** on the boat while
36 operating a motorboat, as required, and shall present the *[certificate]* **card** to a peace officer upon
37 request by the peace officer.

38 **SECTION 13.** Section 5 of this 2019 Act and the amendments to ORS 830.315, 830.545,
39 830.990 and 830.994 by sections 1, 2, 3 and 6 of this 2019 Act apply to conduct occurring on
40 or after the effective date of this 2019 Act.