

Enrolled
House Bill 2352

Sponsored by Representatives POWER, HELM, REARDON; Representatives MCLAIN, NERON
(Presession filed.)

CHAPTER

AN ACT

Relating to boats; creating new provisions; and amending ORS 830.110 and 830.990.

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

SECTION 1. Sections 2 to 5 of this 2019 Act are added to and made a part of ORS chapter 830.

SECTION 2. (1) There is created within the State Marine Board a towed watersports program.

(2) The program shall:

- (a) Provide towed watersports safety education;
- (b) Issue and renew towed watersports endorsements;
- (c) Issue and renew towed watersports motorboat certificates in the form of decals;
- (d) Develop and promote towed watersports safety promotions, best practices and public education;
- (e) Address wave energy management techniques and operator responsibilities for accident and property damage prevention; and
- (f) Compile information regarding the make, model, length, dry gross weight and maximum factory ballast capacity specifications of motor boats for which the towed watersports motorboat decal was issued.

(3) In establishing towed watersports safety education as part of the towed watersports endorsement, the board shall:

- (a) Set a minimum standard of competency. The board may review and update the minimum standard of competency as necessary.
- (b) Create a towed watersports endorsement course and towed watersports endorsement examination designed to educate and test for the minimum standard of competency under paragraph (a) of this subsection.
- (c) Create an equivalency examination that may substitute for taking the towed watersports endorsement course.
- (d) Allow use of commercially provided towed watersports endorsement courses provided the courses meet the standard adopted by the board.
- (e) Establish a fee under section 4 of this 2019 Act for the issuance and renewal of towed watersports endorsements.

SECTION 3. (1) A person may obtain a towed watersports endorsement if:

- (a)(A) The person is a resident of this state and the person holds a boating safety certificate issued under ORS 830.084; or

(B) The person is not a resident of this state and the person holds a current out-of-state boating certificate;

(b) The person passes the towed watersports endorsement examination, or the equivalency examination, as described in section 2 of this 2019 Act;

(c) The person pays the fee established by the State Marine Board under section 4 of this 2019 Act; and

(d) The person provides any other information required by the board by rule.

(2) A person may obtain a towed watersports motorboat certificate if the person is the owner of a registered motorboat and:

(a) The person holds a towed watersports endorsement issued under this section;

(b) The motorboat loading weight meets the requirements for maximum loading weight established by the board by rule;

(c) The person provides the board with information regarding the motorboat's make, model, length, dry gross weight and maximum factory ballast capacity specifications as listed by the manufacturer; and

(d) The person provides any other information required by the board by rule.

(3) A towed watersports endorsement and towed watersports motorboat certificate issued under this section starts on the day the endorsement or certificate is issued and expires on December 31 of the last year in the two-year period.

(4) A person issued a towed watersports endorsement or towed watersports motorboat certificate under this section may renew the endorsement or certificate by:

(a) Paying the towed watersports endorsement renewal fee established under section 4 of this 2019 Act; and

(b) Completing an application in the form and manner required by the board by rule.

(5) The board shall issue a towed watersports motorboat certificate in the form of a decal. The decal must be affixed to the motorboat in accordance with rules adopted by the board.

(6) The board may appoint agents to issue towed watersports endorsements and towed watersports motorboat certificates.

(7) Agents shall issue towed watersports endorsements and towed watersports motorboat certificates in accordance with procedures prescribed by the board by rule and shall charge and collect the endorsement fees prescribed by law.

(8) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the towed watersports endorsement fee, for the issuance service performed by the agent.

(9) The board shall supply the agents with towed watersports endorsements and towed watersports motorboat certificates, if applicable.

SECTION 4. (1) The State Marine Board, by rule, shall establish and collect issuance and renewal fees for towed watersports endorsements.

(2) The amount of the fees may not exceed the amount to register a motorboat that is 20 feet in length.

(3) The fees collected shall be used:

(a) To cover the costs of administering and implementing the towed watersports program; and

(b) To assist with paying the costs of law enforcement activities related to towed watersports on waters of this state described in section 5 of this 2019 Act. The board shall determine the amount required for law enforcement activities and the intervals at which the moneys shall be deposited into the Boating Safety, Law Enforcement and Facility Account established under ORS 830.140.

SECTION 5. (1) As used in this section, "Newberg Pool Congested Zone" means the portion of the Willamette River beginning at river mile 30 and ending at river mile 50.

(2) A person shall carry a towed watersports endorsement if the person is:

- (a) Engaged in wake surfing or wakeboarding as defined by the State Marine Board; and
 - (b) On waters within the Newberg Pool Congested Zone.
- (3) The owner of a motorboat shall display a towed watersports motorboat certificate decal if the motorboat is engaged in towed watersports within the Newberg Pool Congested Zone.

(4) The person shall present proof of a towed watersports endorsement and towed watersports motorboat certificate upon request by a peace officer.

SECTION 6. ORS 830.110 is amended to read:

830.110. In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to:

(1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made in accordance with ORS chapter 183.

(2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an agency of the federal government has an overall system of identification numbering for boats within the United States, the system devised by the board shall conform with the federal system.

(3) Cooperate with state and federal agencies to promote uniformity of the laws relating to boating and their enforcement.

(4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 **and sections 2 to 5 of this 2019 Act.**

(5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating to boating.

(6) Study, plan and recommend the development of boating facilities throughout the state which will promote the safety and pleasure of the public through boating.

(7) Publicize the advantage of safe boating.

(8) Accept gifts and grants of property and money to be used to further the purposes of this chapter.

(9) Exempt from any provisions of this chapter any class of boats if it determines that the safety of persons and property will not be materially promoted by the applicability of those provisions to the class of boats. The board may not exempt from numbering any class of boats unless:

(a) The board determines that the numbering will not materially aid in their identification; and

(b) The secretary of the department of the federal government under which the United States Coast Guard is operating has exempted from numbering the same boats or classes of boats.

(10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat. In addition to the prescribed fees, the agents may charge the following for their services in issuing the temporary permit:

(a) \$2.50 per transaction for calendar years 2008, 2009 and 2010;

(b) \$3.75 per transaction for calendar years 2011, 2012 and 2013; and

(c) Beginning in 2014, and every three years thereafter, the board shall issue an order revising the fee specified in paragraph (b) of this subsection on January 1, based on changes in the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. The board shall round the amount of the fee to the nearest half-dollar. The revised fee takes effect on January 1 and applies for the following three years.

(11) Publish and distribute to the interested public the boating laws of this state and resumes or explanations of those laws.

(12) Publish and distribute forms for any application required under this chapter and require the use of such forms.

(13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall not conflict with markings prescribed by the United States Coast Guard. No political subdivision or person shall mark the waters of this state in any manner in conflict with the markings prescribed by the board.

(14) Make rules regarding marine toilets and their use consistent with the prevention and control of pollution of the waters of this state and not in conflict with the rules of the Oregon Health Authority or the Environmental Quality Commission.

(15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters of this state.

(16) Make rules regulating water ski course markers, ski jumps and other special use devices placed in the waters of this state. Such rules may regulate the installation and use of the devices and may require a permit.

(17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955. The rules shall include but need not be limited to:

(a) The kinds of protective covering or physical barriers that are acceptable to be used between a submersible polystyrene device and the water.

(b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of existing docks or floats.

(18) Adopt rules providing for establishment of a Safe Boating Education Course to be made available to courts and law enforcement agencies within this state for use as a sentencing option for those individuals convicted of boating offenses. The board shall specify the content of the Safe Boating Education Course and shall prescribe procedures for making the course available to local courts and law enforcement agencies, including procedures for promptly notifying such courts whether individuals required to enroll in the course have taken and successfully passed the course. Such rules may provide for administration of the course through nonprofit organizations, such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

(19) For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, in cooperation with the State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

SECTION 7. 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, 830.230, 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, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830 **or section 5 of this 2019 Act**, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305, [or] 830.390 **or 830.944**, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6)(a) Notwithstanding subsection (4) of this section, a person who violates section 5 of this 2019 Act and has one or more prior convictions for violation of section 5 of this 2019 Act within a three-year period preceding the date of the person's current conviction, commits a Class A violation.

(b) In addition to the penalty imposed under this subsection, the court shall:

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

(B) Order the person to complete a boating safety course approved by the State Marine Board.

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

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

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

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

SECTION 8. (1) As used in this section, “Newberg Pool Congested Zone” means the portion of the Willamette River beginning at river mile 30 and ending at river mile 50.

(2) Subject to subsection (3) of this section, the court shall, in addition to the penalties imposed under ORS 830.990 for the offenses listed in subsection (3) of this section:

(a) Order the person not to operate a boat for a period of one year after the date of conviction; and

(b) Order the person to complete a boating safety course approved by the State Marine Board.

(3) Subsection (2) of this section applies when:

(a) The peace officer who issued the citation notes on the citation that the offense occurred within the Newberg Pool Congested Zone; and

(b) The person has at least one prior conviction for violating any of the following statutes within a three-year period preceding the date of the person’s current conviction and the prior offense also occurred within the Newberg Pool Congested Zone:

(A) ORS 830.305.

(B) ORS 830.315.

(C) ORS 830.335.

(D) ORS 830.340.

(E) ORS 830.345.

(F) ORS 830.355.

(G) ORS 830.360.

(H) ORS 830.362.

(I) ORS 830.365.

SECTION 9. (1) Upon conviction for an offense listed in section 8 of this 2019 Act, a court shall issue a notice of suspension to the State Marine Board.

(2) After receiving the notice of suspension, the board shall suspend for a period of one year from the date of conviction the person’s:

(a) Towed watersports endorsement; and

(b) Towed watersports motorboat certificate.

SECTION 10. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter 301, Oregon Laws 2019 (Enrolled Senate Bill 5521), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the State Marine Board, for administration and education, is increased by \$124,001.

Passed by House June 25, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 29, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State