

1 HB490
2 214813-4
3 By Representatives Shaver, Wood (D), Pettus, Rich, Oliver,
4 Lipscomb, Hurst, Bedsole, Faulkner, Treadaway, Farley, Clouse,
5 Isbell and Lovvorn
6 RFD: Public Safety and Homeland Security
7 First Read: 10-MAR-22

SYNOPSIS: Under existing law, a nonresident whose home state or country does not require boater safety certification or the licensing of vessel operators may operate a vessel on the waters of this state without a boater safety certification for a period of not more than 45 days in any calendar year.

This bill would require all nonresidents to procure a boater safety certification in their home state or country or procure a Nonresident Alabama Boater Safety Certification prior to operating a vessel on the waters of this state, except under certain conditions.

Also under certain existing law, vessels less than 24 feet are required to have an emergency engine or motor cut-off switch.

This bill would require vessels to meet the federal requirements for engine cut-off switches.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, as amended by Amendment 890, now appearing
3 as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended,
5 prohibits a general law whose purpose or effect
6 would be to require a new or increased expenditure
7 of local funds from becoming effective with regard
8 to a local governmental entity without enactment by
9 a 2/3 vote unless: it comes within one of a number
10 of specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to the operation of watercraft; to amend
27 Sections 33-5-51, 33-5-52, and 33-5-72, Code of Alabama 1975,

1 to provide for the operation of a vessel on the waters of this
2 state; to provide boater safety certification requirements; to
3 further provide requirements for engine cut-off switches; to
4 make nonsubstantive, technical revisions to update the
5 existing code language to current style; and in connection
6 therewith would have as its purpose or effect the requirement
7 of a new or increased expenditure of local funds within the
8 meaning of Amendment 621 of the Constitution of Alabama of
9 1901, as amended by Amendment 890, now appearing as Section
10 111.05 of the Official Recompilation of the Constitution of
11 Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 33-5-51, 33-5-52, and 33-5-72,
14 Code of Alabama 1975, are amended to read as follows:

15 "§33-5-51.

16 "(a) As used in this section, "personal watercraft"
17 means a vessel ~~which~~ that uses an inboard motor powering a
18 water jet pump as its primary source of motive power and ~~which~~
19 is designed to be operated by a person sitting, standing, or
20 kneeling on the vessel, rather than the conventional manner of
21 sitting or standing inside the vessel.

22 "(b) A person may not operate a personal watercraft
23 on the waters of this state, as ~~waters are~~ defined in Section
24 33-5-3, unless each person operating, riding on, or being
25 towed by the vessel is wearing a personal flotation device
26 approved by the United States Coast Guard, in accordance with
27 rules ~~and regulations~~ adopted by the ~~Commissioner of the~~

1 ~~Department of Conservation and Natural Resources~~ Secretary of
2 the Alabama State Law Enforcement Agency.

3 "(c) ~~A person operating a personal watercraft on the~~
4 ~~waters of this state that does not have self circling~~
5 ~~capability, shall have a lanyard type engine cutoff switch and~~
6 ~~must attach the lanyard to the person, clothing, or personal~~
7 ~~flotation device as is appropriate.~~ A person operating a
8 personal watercraft on the waters of this state shall meet all
9 of the requirements of Section 2 of the act amending this
10 section, providing requirements for the use of engine cut-off
11 switches.

12 "(d) A vessel or personal watercraft ~~shall at all~~
13 ~~times be operated~~ on the waters of this state shall be
14 operated in a reasonable and prudent manner. Maneuvers which
15 endanger life, limb, or property, or create a public nuisance,
16 including, but not limited to ~~the following~~, weaving through
17 congested vessel traffic at high speed, following closely
18 behind within the wake of a vessel towing a person or persons
19 on water skis, surfboard, or other water sport device, jumping
20 the wake of another vessel travelling in the same direction in
21 close proximity to the vessel, cutting between a boat and the
22 person or persons being towed by that boat, or crossing at
23 right angles in close proximity to the stern of another vessel
24 or when visibility around the other vessel is obstructed, or
25 steering a vessel toward any object or person in the water and
26 turning sharply at close range so as to spray the object or
27 person, shall all constitute the reckless operation of a

1 vessel, as provided in subsection (a) of Section 33-5-70. Any
2 person violating this subsection shall be punished upon
3 conviction as provided in Section 33-5-70.

4 "(e) No person under ~~the age of 12~~ 14 years of age
5 may shall operate a personal watercraft on the waters of this
6 state, ~~and persons who are at least 12 and over may only~~
7 ~~operate personal watercraft on the waters of this state to the~~
8 ~~extent otherwise permitted by law~~ except as provided under
9 Section 33-5-57 or as otherwise provided by law.

10 "(f) It is unlawful for the owner of any vessel or
11 personal watercraft or any person having charge over or
12 control of a vessel or personal watercraft to authorize or
13 knowingly permit ~~these~~ the vessel or personal watercraft to be
14 operated on the waters of this state by a person in violation
15 of this section.

16 "(g) No person shall tow any person by personal
17 watercraft unless the personal watercraft is equipped with a
18 rearview mirror meeting the specifications established by
19 ~~regulation~~ rule of the ~~Commissioner of the Department of~~
20 ~~Conservation and Natural Resources~~ Secretary of the Alabama
21 State Law Enforcement Agency.

22 "(h) Any person who violates this section, except as
23 otherwise provided in subsection (d), shall be guilty of a
24 Class B misdemeanor, punishable upon conviction as provided in
25 Sections 13A-5-7 and 13A-5-12. All persons so convicted shall
26 be fined not less than twenty-five dollars (\$25). All fines
27 collected for a violation of this section shall be paid into

1 the ~~State Water Safety Fund~~ State Treasury to the credit of
2 the Public Safety Fund.

3 "(i) This section does not apply to a person
4 operating a vessel to conduct commercial aquatic herbicide
5 applications or a performer engaged in a professional
6 exhibition or a person participating in a regatta, race,
7 marine parade, tournament, or exhibition held in compliance
8 with Section 33-5-27, and any rules ~~and regulations issued~~
9 adopted by the ~~Commissioner of Conservation and Natural~~
10 ~~Resources~~ Secretary of the Alabama State Law Enforcement
11 Agency.

12 "§33-5-52.

13 "(a) (1) ~~Every~~ A person, ~~except those specifically~~
14 ~~exempted by statutory enactment, within five years from April~~
15 ~~28, 1994,~~ shall procure a boater safety certification before
16 operating a motorized vessel upon the waters of this state, as
17 defined in Section 33-5-3. This section ~~shall~~ does not apply
18 to the operation of any sailboat, rowboat, or canoe.

19 "(2)a. Notwithstanding ~~anything~~ any law to the
20 contrary ~~herein~~, an Alabama resident 16 years of age ~~and~~ or
21 ~~older,~~ who purchases a vessel and who has not been previously
22 issued a boater safety certification, ~~may~~ for a period of
23 ~~thirty (30)~~ 30 days following the date of sale of the vessel
24 to the person, may operate the vessel upon the waters,
25 provided the following conditions are met:

26 "~~(1)~~1. The vessel has been registered in the name of
27 the person.; ~~and~~

1 "~~(2)~~ a 2. A bill of sale for the vessel, indicating
2 that the person is the purchaser and owner of the vessel, is
3 in the possession of the person at all times of operation.

4 "b. In addition, any person ~~while taking~~ who test
5 drives ~~of vessels~~ a vessel for sale ~~when~~ while accompanied by
6 a licensed vessel dealer, shall be exempt during the drive
7 from the certification requirements under subdivision (1).
8 ~~Every new resident of the State of Alabama, before operating a~~
9 ~~motorized vessel, shall procure the certification within 30~~
10 ~~days after establishing residence in this state.~~

11 "(b) Each boater safety certification issued to a
12 person, if issued at the same time the person is issued a
13 valid Alabama motor vehicle driver or learner license, or
14 valid Alabama nondriver identification card, or if issued
15 prior to the expiration date of the driver or learner license
16 or card, shall expire on the expiration date of the person's
17 valid Alabama motor vehicle driver or learner license or card.
18 In all other cases, the expiration date of each boater safety
19 certification shall be four years from the date of issuance.

20 "(c) ~~Every~~ Upon application, a boater safety
21 certification issued under this article may be renewed at the
22 end of the certification period without examination ~~upon~~
23 ~~application.~~ For the purpose of renewal of a boater safety
24 certification, the ~~Department of Public Safety~~ Alabama State
25 Law Enforcement Agency shall mail renewal notices to each
26 certification holder 30 days after the expiration date if the
27 certification has not been renewed. A grace period of 60 days

1 after the expiration date of certification shall exist for the
2 purpose of certification renewal and the certification shall
3 be valid for this time period. The applicant shall apply for
4 renewal of certification any time during a period beginning 30
5 days before the expiration date of the then current
6 certification until three years after the expiration date of
7 certification. Failure to make application for renewal within
8 the specified time shall result in the applicant being
9 required to take, and successfully pass, a written or oral
10 examination as administered by the ~~Department of Public Safety~~
11 Alabama State Law Enforcement Agency. ~~If any person's birthday~~
12 ~~is February 29, the first day of March following shall be~~
13 ~~regarded as the birthday for the purposes of this section.~~

14 "(d) Nonresidents at least 12 years of age who have
15 in their immediate possession a valid boater safety
16 certification or vessel operator's certification issued in
17 their home state or country shall be exempt from the
18 requirements of this section, but under no circumstances shall
19 a ~~person~~ nonresident be granted any privileges of operation
20 beyond those granted to an Alabama resident certification
21 holder of the same age.

22 "~~(e) Nonresidents at least 12 years of age whose~~
23 ~~home state or country does not require boater safety~~
24 ~~certification or the licensing of vessel operators shall also~~
25 ~~be exempt from the requirements of this section for a~~
26 ~~cumulative operation period of not more than 45 days in any~~
27 ~~calendar year. Otherwise, any nonresidents shall be examined~~

1 ~~and certified~~ Except as provided in subsections (f) and (g), a
2 nonresident may operate a vessel upon the waters of this state
3 only after obtaining a valid boater safety certification or
4 vessel operator's certification issued in his or her home
5 state or country or, upon examination and certification under
6 the same terms and conditions as Alabama residents, after
7 obtaining a Nonresident Alabama Boater Safety Certification.
8 ~~Nonresidents may be examined and obtain certification in any~~
9 ~~county and the certification shall be entitled "Nonresident~~
10 ~~Alabama Boater Safety Certification," but under no~~
11 ~~circumstances shall a person be granted any privileges of~~
12 ~~operation beyond those granted to an Alabama resident~~
13 ~~certification holder of the same age.~~

14 "(f) A person operating a vessel pursuant to a valid
15 and legal commercial activity, ~~shall,~~ during the period of
16 time of that activity only, ~~be~~ is exempt from the requirement
17 of boater safety certification. ~~Otherwise, the person shall be~~
18 ~~subject to the requirement.~~

19 "(g) A person, while using a rental vessel, shall be
20 exempt from the certification requirements of this section if
21 all of the following conditions are met:

22 "(1) The person rents a vessel from a boat rental
23 business duly licensed by the municipality or the county ~~if~~
24 ~~the following three conditions are met:.~~

25 "~~a.~~ (2) The rental contract specifies that the
26 lessee has been instructed in the proper and safe operation of

1 the vessel by the lessor or the authorized agent of the
2 lessor,~~and.~~

3 ~~"b. (3) The lessor in fact has complied with the~~
4 ~~terms of the rental contract and all parties sign the~~
5 ~~contract,~~and.~~~~

6 ~~"c. (4) The lessee signs a statement that the lessee~~
7 ~~is not currently under suspension or revocation of any boater~~
8 ~~safety certification or vessel operation privilege in this~~
9 ~~state.~~

10 "§33-5-72.

11 ~~"(a) It shall be unlawful on the waters of this~~
12 ~~state for any person to operate, or give permission to another~~
13 ~~person to operate, any vessel less than 24 feet in length~~
14 ~~having an open construction and having more than 50~~
15 ~~horsepower, unless the vessel is equipped with an emergency~~
16 ~~engine or motor shut-off switch.~~

17 ~~"(b) The shut-off switch referred to in subsection~~
18 ~~(a), shall be a lanyard-type engine cutoff switch and shall be~~
19 ~~attached to the person, clothing, or personal flotation device~~
20 ~~of the operator, as is appropriate, and shall be constructed~~
21 ~~and installed in a manner so that when in use, any removal of~~
22 ~~the operator from the normal operating station will result in~~
23 ~~the immediate shut-off of the engine or motor.~~

24 ~~"(c) For the purpose of this section, "open~~
25 ~~construction" means any vessel described herein not having a~~
26 ~~permanently affixed top or cabin.~~

1 "(a) As used in this section, the following terms
2 shall have the following meanings:

3 "(1) COVERED RECREATIONAL VESSEL. A recreational
4 vessel that meets all of the following requirements:

5 "a. Less than 26 feet in overall length.

6 "b. Capable of developing 115 pounds or more of
7 static thrust.

8 "(2) PROPULSION MACHINERY. A self-contained
9 propulsion system, and includes, but is not limited to,
10 inboard engines, outboard motors, and sterndrive engines.

11 "(3) STATIC THRUST. The forward or backwards thrust
12 developed by propulsion machinery while stationary.

13 "(b) A manufacturer, distributor, or dealer that
14 installs propulsion machinery and associated starting controls
15 on a covered recreational vessel shall equip the vessel with
16 an engine cut-off switch and engine cut-off switch link that
17 meet American Boat and Yacht Council Standard A-33, as in
18 effect on the date of the enactment of the Frank LoBiondo
19 Coast Guard Authorization Act of 2018.

20 "(c) (1) An individual operating a covered
21 recreational vessel shall use an engine cut-off switch link
22 while operating on plane or above displacement speed.

23 "(2) The requirements of subdivision (1) do not
24 apply under any of the following conditions:

25 "a. The main helm of the covered vessel is installed
26 within an enclosed cabin.

1 "b. The vessel does not have an engine cut-off
2 switch and is not required to have one under subsection (b).

3 "(d) Any person violating this section shall be
4 guilty of a Class B misdemeanor, and upon conviction shall be
5 punishable as provided by Sections 13A-5-7 and 13A-5-12. Any
6 person so convicted shall be fined not less than one hundred
7 dollars (\$100)."

8 Section 3. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, as amended
12 by Amendment 890, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended, because the bill defines a new crime or amends the
15 definition of an existing crime.

16 Section 4. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.