

HOUSE No. 3785

The Commonwealth of Massachusetts

PRESENTED BY:

Kathleen R. LaNatra

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to boater safety to be known as the David Hanson Act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>2/17/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>3/4/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>3/8/2021</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>5/11/2021</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>5/12/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>5/17/2021</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>5/19/2021</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>5/19/2021</i>

HOUSE No. 3785

By Mrs. LaNatra of Kingston, a petition (accompanied by bill, House, No. 3785) of Kathleen R. LaNatra and others relative to boater safety. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to boater safety to be known as the David Hanson Act.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by inserting after
2 section 200000 the following section:-

3 Section 2PPPPP. There shall be a Boater Safety Program Fund. Notwithstanding any
4 general or special law to the contrary, there shall be credited to the fund: (i) the fees collected
5 pursuant to section 9I and section 9J of chapter 90B; (ii) 75 per cent of all fines, costs,
6 forfeitures, expenses and interest imposed pursuant to sections 2 through 14, inclusive, and
7 sections 36 and 38 of said chapter 90B or any regulation made thereunder; (iii) 75 per cent of all
8 fines issued pursuant to the fourth paragraph of section 10H of chapter 21A; (iv) any revenue
9 from appropriations or other monies authorized by the general court and specifically designated
10 to be credited to the fund; (v) any appropriation, grant, gift or other contribution made to the
11 fund; and (vi) any income derived from the investment of amounts credited to the fund. The
12 remaining 25 per cent of the fines, costs, forfeitures, expenses and interest imposed pursuant to
13 said sections 2 through 14, inclusive, of said chapter 90B, or any regulation made thereunder,

14 and pursuant to the fourth paragraph of section 10H of chapter 21A shall be distributed equally
15 among the divisions, departments or offices involved or to the division, department or office if a
16 single law enforcement agency was involved. Monies contributed from said 25 per cent of the
17 fines, costs, forfeitures, expenses and interest imposed pursuant to said sections 2 through 14,
18 inclusive, of said chapter 90B, or any regulation made thereunder, and pursuant to the fourth
19 paragraph of section 10H of chapter 21A payable to the office of law enforcement in the
20 executive office of energy and environmental affairs established under section 10A of chapter
21 21A, shall be deposited in the Massachusetts Environmental Police Trust Fund.

22 (b) The director of the office of law enforcement, as trustee, shall administer the fund. All
23 amounts credited to the fund may be expended, without further appropriation, for use by the
24 office of law enforcement for the following purposes: (i) the development, administration and
25 management of boater safety training, awareness and education programs relative to boater
26 safety and safe operation of vessels; (ii) administering a paddlecraft safety and responsibility
27 program; (iii) training of law enforcement personnel of the office of law enforcement in courses
28 of instruction including, but not limited to: boat safety instructor training; vessel operation;
29 search, rescue and recovery; boat accident investigations; underwater recovery training; boating
30 under the influence and drug recognition expert training; and costs of any related equipment for
31 administering said training; (iv) equipment required for the investigation of vessel accidents and
32 any search and rescue or recovery made thereto; (vi) enforcement of statutes, regulations and
33 policies applicable to the use of vessels; (vii) grants made by the office of law enforcement
34 through competitive grant process to municipalities for the purposes of clause (i) and other vessel
35 safety activities, including all direct and indirect costs of personnel or contractors of the office of
36 law enforcement; provided, however, that the director of the office of law enforcement shall

37 report annually, not later than January 15, to the house and senate committees on ways and
38 means and the joint committees on environment, natural resources and agriculture, relative to the
39 source and amount of funds deposited into the fund, the amount distributed and the purpose and
40 recipient of expenditures from the fund.

41 (c) Monies deposited into the fund that are unexpended at the end of the fiscal year shall
42 not revert to the general fund and shall be available for expenditure in subsequent fiscal years.

43 (d) Not less than 25 per cent of the monies deposited in the fund shall be expended on a
44 fiscal year basis for the activities identified in clause (i), (ii) or (iii) of subsection (b) or for grants
45 made pursuant to clause (v) of subsection (b) to fund the activities identified in clause (i) of
46 subsection (b).

47 SECTION 2. Section 1 of chapter 90B of the General Laws, as appearing in the 2018
48 Official Edition, is hereby amended by striking out the definitions of “Director” and “Division”
49 inserting in place thereof the following definition:-

50 “Director”,—the director of law enforcement of the office of law enforcement, or
51 authorized designee.

52 “Division”,—the office of law enforcement.

53 SECTION 3. Said section 1 of said chapter 90B, as so appearing, is hereby further
54 amended by inserting after the definition of “Motorboat” the following 2 definitions:-

55 “NASBLA”,—the national association of state boating law administrators.

56 “Office of law enforcement”,—the office of law enforcement in the executive office of
57 energy and environmental affairs established under section 10A of chapter 21A, also known as
58 the Massachusetts environmental police.

59 SECTION 4. Said section 1 of said chapter 90B, as so appearing, is hereby further
60 amended by striking out the definition of “Operator” and inserting in place thereof the following
61 definition:-

62 “Operator”,—any person who operates, has charge of the navigation or use of a
63 motorboat or vessel or is responsible for the vessel and its passengers.

64 SECTION 5. Said Chapter 90B is hereby amended by inserting after section 9B the
65 following 7 sections:-

66 Section 9C. In sections 9D to 9I, inclusive, the following words shall, unless the context
67 clearly requires otherwise, have the following meanings:

68 “Commercial fishing vessel”, any vessel, boat, ship or other water craft designed,
69 manufactured and used exclusively for the harvesting of fish, shellfish or crustaceans for
70 purposes of sale, barter or exchange and shall include any vessel documented under the laws of
71 the United States to carry passengers for hire exclusively to harvest fish, shellfish or crustaceans.
72 Commercial fishing vessels shall include fishing trawlers, with or without shellfish dredges,
73 seine vessels, longline vessels, gillnet vessels, hydraulic shellfish dredges and lobster and
74 shellfish vessels manufactured with pot hauler systems; provided, however, vessels designed and
75 manufactured for recreational purposes in accordance with United States Coast Guard
76 regulations, which are utilized for fishing purposes on a seasonal, part-time or occasional basis or

77 which are utilized in a recreational manner at any time, shall be considered recreational vessels
78 for the purposes of section 9D and shall not be considered a commercial fishing vessel.

79 “Motorboat”, a vessel propelled by machinery, whether or not such machinery is the
80 principal source of propulsion.

81 “Non-resident”, a person whose legal residence is not within the commonwealth.

82 “Other jurisdiction” or “another jurisdiction”, any other state, territory and the District of
83 Columbia; any state, province or territory of Canada; or, any other foreign state or country.

84 “Person”, a natural person.

85 “Personal watercraft”, a motorboat less than 16 feet in length, propelled by an inboard
86 water jet pump or other machinery as its primary source of motor propulsion which is designed
87 to be operated by a person sitting, standing or kneeling on the vessel rather than being operated
88 in the conventional manner by a person sitting or standing inside the vessel.

89 Section 9D. (a) The director shall establish a boater safety education examination for
90 motorboat operators. The examination shall be in general alignment with the standards set by the
91 NASBLA.

92 (b) The director may establish rules and regulations pertaining to such boater safety
93 education examinations.

94 (c) A person may take the boater safety education examination online under supervised
95 conditions at an authorized, self-certified supervisory location. Upon the successful completion
96 of the boater safety education examination, the person shall be issued a boater safety certificate.
97 Said certificate may be printed and used by the person taking the examination online. If a person

98 does not pass the boater safety education examination on the first attempt, the person shall take a
99 boater safety education course before retaking the examination. The examination may be taken
100 an unlimited number of times until successfully completed.

101 (d) No person who was born on or after the specified date shall operate a motorboat on
102 the waters of the commonwealth unless the person complies with the boater safety educational
103 requirements of this section, beginning on the respective dates as follows:

104 (i) For persons who were born on or after January 1, 1993, beginning on January 1, 2023;

105 (ii) For persons who were born on or after January 1, 1964, beginning on January 1,
106 2024;

107 (iii) For persons born before January 1, 1964, beginning on January 1, 2025.

108 (e) No person under the age of 12 shall operate a motorboat on the waters of the
109 commonwealth, unless the person is accompanied onboard and directly supervised by a person
110 18 years of age or older who holds a valid boater safety certificate, showing their qualification to
111 operate motorboats pursuant to clauses (ii) to (iv), inclusive, of subsection (f).

112 (f) No person 12 years of age or older shall operate a motorboat on the waters of the
113 commonwealth, unless the person has onboard a valid boater safety certificate; provided,
114 however, a person who does not hold a valid boater safety certificate may operate a motorboat if
115 the person:

116 (i) is accompanied onboard and directly supervised by a person 18 years of age or older
117 who has onboard a valid boater safety certificate showing their qualification to operate
118 motorboats pursuant to clauses (ii) through (iv);

119 (ii) holds a valid merchant mariner credential, pursuant to 46 USC § 7510, as a vessel
120 master or mate of any tonnage, operator of uninspected passenger vessel, launch operator's
121 license or other similar license to captain a commercial vessel issued by the United States Coast
122 Guard, or an equivalent type license issued by any state of the United States or foreign
123 government; provided, the license is onboard when operating the vessel and available for
124 inspection by a division law enforcement officer or has on board a printed self-certification
125 evidencing such credentials;

126 (iii) is a non-resident, who is operating a motorboat on the waters of the commonwealth
127 pursuant to section 9H;

128 (iv) is an active member in the armed forces of the United States, National Guard or
129 United States Coast Guard, and who is qualified to operate motorboats based on training or
130 position in such branch or organization; provided, the person has onboard documentation
131 showing his qualification or has on board a printed self-certification evidencing such credentials;

132 (v) has acquired new ownership of a motorboat that is numbered by the commonwealth
133 or documented by the United States Coast Guard and has onboard a valid temporary boater
134 safety certificate to operate the vessel printed pursuant to section 9F;

135 (vi) is an operator of a motorboat rented in the commonwealth accordance with the
136 provisions of section 9G;

137 (vii) is an operator of a motorboat in a boater safety education course;

138 (viii) is the operator of a commercial fishing vessel; or

139 (ix) is a student attending an accredited secondary school, maritime school, college or
140 university and is operating a motorboat in conjunction with a prescribed course of instruction.

141 (g) The boater safety education requirements and operator age requirements to operate
142 motorboats under this section shall not apply when: (i) the vessel is operated by a division law
143 enforcement officer or employee of a municipal fire department or the department of fire
144 services in the performance of their official duties; (ii) the person is operating the motorboat in
145 reasonable response to an onboard emergency including, but not limited to, when the operator or
146 person supervising the operator pursuant to this section becomes incapacitated or physically
147 unable to operate or supervise the operation of the vessel or in response to another vessel that has
148 declared an emergency situation; (iii) the person is operating the motorboat under the direction of
149 a division law enforcement officer; (iv) the vessel is a ship's lifeboat; (v) the vessel is the
150 property of a branch of the armed forces of the United States, National Guard or United States
151 Coast Guard, or is a military vessel of a foreign country; or (vi) the person operating the vessel is
152 exempted pursuant to regulation or by waiver issued by the director.

153 (h) The division shall publish on its website: (i) all current laws and regulations
154 applicable to the boater safety education requirements for motorboat operators; and (ii) the
155 content expected to be understood and tested for in the boater safety examination. The Director
156 may have multiple examinations such that not all examinations will ask the same questions.

157 (i) No person under the age of 16 shall operate a personal watercraft.

158 (j) An owner of a motorboat or other person 18 years of age or older, having custody or
159 control of a motorboat, who knowingly permits a person under the age of 18, to operate the
160 vessel in violation of this chapter, shall be held liable, jointly and severally with the operator, for

161 any violations, damages or injuries caused by such operator's operation of the vessel and for any
162 fines, penalties or restitution resulting therefrom. Lack of ownership of the vessel or mistake as
163 to the age of the operator shall not be defenses in an action filed pursuant to this section.

164 Section 9E. (a) (i) Providers of boater safety education courses or examinations for
165 motorboat operators, shall supervise examinations to assure no assistance is provided to the
166 person taking the examination. The director may require self-certification of all such boater
167 safety education course providers that the examination conditions are enforced. If a provider fails
168 to provide a required self-certification, the director may bar the provider from providing boater
169 safety education courses or examinations. Upon the successful completion of the examination by
170 a person, the director shall arrange for the electronic examination to send an electronic copy of
171 the successful certificate to the division, as well as enable printing of the certificate at the
172 location where the examination is taken. Boater safety certificates issued pursuant to this section
173 shall be in the form prescribed by the director. The director shall be authorized to issue a boater
174 safety certificate to motorboat operators without the completion of a boater safety education
175 course if the person holds a valid boating safety certificate to operate motorboats issued or
176 recognized by the government of another jurisdiction.

177 (ii) Boater safety education certificates or similar documentation issued or authorized by
178 another governmental jurisdiction shall be valid for the operation of a motorboat or personal
179 watercraft in the commonwealth.

180 (iii) No person under 12 years of age shall be issued a boater safety certificate.

181 (iv) Boater safety certificates issued pursuant to this section shall be valid for the lifetime
182 of the person named on the certificate, except as otherwise provided by law, court judgement or

183 administrative hearing conducted by the director or his designee. Any person authorized to
184 enforce the provisions of chapter 90B pursuant to section 12 or the registrar of motor vehicles,
185 may petition the director to immediately suspend a boater safety certificate for emergency or
186 immediate threat purposes. The director may immediately suspend or revoke a boaters safety
187 certificate for such emergency or immediate threat for public safety purposes. Such request for
188 emergency action shall be on forms prescribed by the director.

189 (b) A boater safety certificate or equivalent documentation possessed by a resident of the
190 commonwealth who, prior to the passage of this act, had successfully completed a boater safety
191 education course for motorboat operators shall be considered valid, if issued by: (i) the director;
192 (ii) a course provider other than the director; or (iii) another governmental jurisdiction; provided,
193 the certificate or documentation evidences the successful passage of a boating safety education
194 course for motorboat operators and, when issued, met the standards of NASBLA or the United
195 States Coast Guard.

196 Section 9F. An eligible person who is a resident of the commonwealth and has acquired
197 new ownership of a motorboat that is registered by the commonwealth or documented by the
198 United States Coast Guard, shall upon electronic self-certification to the director, be authorized
199 to print a one-time temporary boater safety certificate limited to the operation of the registered
200 motorboat. A temporary boater safety certificate shall expire 120 days from the date the new
201 registration or marine documentation issued by the Bureau of Customs of the United States
202 government or any federal agency successor for the vessel . The director shall not provide for
203 electronic issuance of a temporary boater certificate to a person who is under 18 years of age or
204 has already been issued a temporary certificate under this section. No temporary boater safety
205 certificate shall be extended or renewed.

206 Section 9G. (a) A person who does not hold a valid boater safety certificate or other
207 documentation that shows his qualification to operate motorboats pursuant to clauses (ii) to (iv),
208 inclusive, of subsection (f) of section 9D may operate a motorboat that is rented from a boat
209 rental business in the commonwealth for a period not exceeding 14 days, provided the person: (i)
210 is 16 years of age or older; (ii) before operating the motorboat has recently viewed at the boat
211 rental business or other location, a brief instructional audiovisual on motorboat safety as
212 prescribed by the director; and (iii) has certified under oath to viewing completely the motorboat
213 safety audiovisual on the rental agreement and in the form prescribed by the director.
214 Certification documentation issued to an operator by a boat livery shall be restricted to the
215 operation of the rented vessel.

216 A person under the age of 16 who does not hold a valid boater safety certificate issued in
217 the commonwealth or other jurisdiction may only operate a rented motorboat if a supervising
218 adult 18 years of age or older is onboard the vessel; provided, the adult is an authorized operator
219 listed in the rental agreement and holds documentation that shows their qualification to operate
220 the rental motorboat as described in this subsection.

221 (b) No person shall operate a motorboat rented in the commonwealth unless the person is
222 an authorized operator listed in the rental agreement by the boat rental business and the rental
223 agreement or an accessible electronic copy of the rental agreement is onboard when operating the
224 vessel.

225 (c) No boat rental business, its owners, agents or employees, shall rent a motorboat to a
226 person unless the person meets the boater safety educational requirements to operate the vessel
227 under this chapter or regulations promulgated by the director. Division law enforcement officers

228 may inspect such business, its audiovisual education instructions and documents provided to or
229 signed by the renter or listed operator. Neither a boat livery or its agent or employee, shall rent or
230 lease a motorboat or personal watercraft in violation of this section. Any boat livery that rents or
231 leases any motorboat or personal watercraft in violation of this section shall be punished by a
232 fine of \$500 for a first offense and no more than \$1,500 for subsequent offenses.

233 Section 9H. A non-resident person may operate a motorboat on the waters of the
234 commonwealth if the person: (i) is in compliance with the boater safety education requirements
235 of the jurisdiction where they legally reside; and (ii) has onboard a valid boater safety certificate
236 or other equivalent documentation showing the person is in compliance with the boating safety
237 education requirements to operate motorboats, issued or recognized by the government of such
238 other jurisdiction. If the jurisdiction of the non-resident person does not have a valid boater
239 safety certificate, then the person shall be required to have onboard valid government issued
240 documentation that identifies the person and their legal residential address.

241 Non-resident persons who operate motorboats pursuant to this section and are 18 years of
242 age or older may supervise the operation of motorboats by other persons, pursuant to subsections
243 (e) and (f) of section 9D or section 9G.

244 Section 9I. (a) The director shall establish a written examination to be issued by all
245 providers of boater safety education courses at the completion of the course to all students. The
246 director shall establish a minimum grade on the written examination that students must attain to
247 be issued a boater safety certificate by the provider of the boater education course. The written
248 examination may incorporate, in the discretion of the director, the applicable standards, practices

249 and policies of NASBLA, United States Coast Guard and relevant laws, rules and regulations of
250 the commonwealth.

251 (b) (i) No person or entity may utilize or display the Massachusetts Environmental Police
252 emblem or logo, the seal of safe boating, the NASBLA logo or seal of the commonwealth of
253 Massachusetts, or any part thereof, without first obtaining written authorization of the director.
254 Any violation of this subsection shall be punishable by a fine of not less than \$1,500 nor more
255 than \$2,500.

256 (ii) No person or entity may promote, display or offer any boater course that: (i) falsely or
257 fraudulently represents the training or course curriculum as being approved or authorized by the
258 director; or (ii) falsely or fraudulently associates the training or curriculum with the
259 Massachusetts Environmental Police or NASBLA. Any violation of this provision shall be
260 punished by a fine of not less than \$2,500 nor more than \$5,000.

261 (c) A current list of self-certified supervisory locations at which one can take the
262 examination shall be posted on the division's public internet website. This list shall include all
263 providers that have sent in their self-certification checklist to the director and not had their self-
264 certification revoked for failure to supervise the examination sufficiently.

265 Section 9J. The director may establish reasonable fees for taking the boating safety
266 examination or printing a boater safety certificate or temporary boater safety permit; provided,
267 the fee shall not exceed the reasonable costs of implementing the program over time. The initial
268 fee shall be: (i) \$50 to take the examination and \$10 to print a state boater safety certificate with
269 a copy sent electronically to the director; (ii) \$20 to issue, replace or amend a temporary boater
270 safety permit; and (ii) \$15 to replace a lost or illegible boater safety certificate or to amended an

271 issued certificate for reason of a change of address or legal name. The director may require
272 supporting documentation for purposes amending such certificate relative to a change in name or
273 address.

274 SECTION 6. Paragraph (b) of section 11 of said chapter 90B, as appearing in the 2018
275 Official Edition, is hereby amended by inserting after the word “Issue”, in line 39, the words:- or
276 authorize a designee to issue.

277 SECTION 7. Said chapter 90B is hereby amended by inserting after section 38 the
278 following section:-

279 Section 38A. Any person who is operating a motorboat or is supervising a motorboat
280 operator when requested by an officer empowered to enforce this chapter pursuant to section 12
281 fails, without reasonable excuse, to produce and allow examination of a required boater safety
282 certificate or other documentation to show compliance with the boater safety education
283 requirements under sections 9C to 9I, inclusive, shall, for any violation of this section or
284 regulation adopted hereof, be subject to a civil penalty not to exceed \$100 for a first offense, not
285 to exceed \$300 for a second offense and not to exceed \$1,000 for a third or subsequent offense.
286 A person shall not be subject to a civil penalty if they can produce and deliver to the director a
287 boater safety certificate or other required document that was valid at the time of the violation.

288 Any person who produces a fraudulent, forged or intentionally falsely altered boater
289 safety certificate or other false documentation in response to a request by an enforcing officer for
290 boater safety education requirements under said sections 9C to 9I, inclusive, or falsely represents
291 to the officer that the produced certificate or other document belongs to such person or was

292 issued or authorized by a governmental authority, may be punished by a fine of not more than a
293 \$5,000.

294 SECTION 8. This act shall be known as the David Hanson Boater Safety Act.