

# **HOUSE . . . . . No. 4574**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, August 8, 2016.

The committee on Environment, Natural Resources and Agriculture to whom was recommitted the petition (accompanied by bill, House, No. 627) of Thomas J. Calter, James M. Cantwell and others for legislation to implement a boating education program within the Division of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement, reports recommending that the accompanying bill (House, No. 4574) ought to pass.

For the committee,

PAUL A. SCHMID, III.

**HOUSE . . . . . No. 4574**

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The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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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. This Act shall be referred to as the “David Hanson Boater Safety Act”.

2           SECTION 2. Section 1 of chapter 90B of the General Laws, as appearing in the  
3 2014 Official Edition, is hereby amended by striking out the definition of “Director” and  
4 inserting in place thereof, the following definition:-

5           “Director,” - the director of law enforcement of the office of law enforcement, or his  
6 authorized designee.

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

9           “Office of law enforcement” or “division of law enforcement of the department of  
10 fisheries, wildlife and environmental law enforcement”, the office of law enforcement in the  
11 executive office of energy and environmental affairs established under section 10A of chapter  
12 21A, also known as the Massachusetts Environmental Police.

13                   SECTION 4. Said Chapter 90B is further amended by adding after section 9B the  
14 following 7 sections:-

15           Section 9C. In sections 9D to 9I, inclusive, the following words shall have the following  
16 meanings:

17           “Motorboat”, a recreational type vessel propelled by machinery whether or not, such  
18 machinery is the principal source of propulsion, and whether or not, the vessel is registered by  
19 the commonwealth, or documented by the United States Coast Guard or other agency of the  
20 federal government. A motorboat for the purposes of this definition shall not include personal  
21 watercraft as defined by regulation, or commercial vessels, excepting motorboats rented or  
22 leased for recreational uses.

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

24           “Other jurisdiction” or “another jurisdiction”, any other state, territory and the District of  
25 Columbia of the United States; any state, Province and Territory of Canada; and, any other  
26 foreign state or country.

27           “Person”, a natural person.

28           Section 9D. (a) The director of the office of law enforcement shall establish and  
29 administer a boater safety education program for motorboat operators, to include without  
30 limitation, course content, education certification standards, knowledge testing, qualifications of  
31 course instructors, approval of course and equivalency examination providers and other  
32 administrative requirements pursuant to the provisions of this section and sections 9E and 9I.

33 (b) As a part of the boater safety education program, the director shall establish a uniform  
34 equivalency examination for persons who are of adult age and certify in writing as having not  
35 less than 3 recent years of substantial experience operating motorboats.

36 (c) A person upon the successful completion of an approved boater safety education  
37 course or equivalency examination for motorboat operators shall be issued a boater safety  
38 certificate pursuant to section 9E.

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

42 (i) For persons who were born on and after January 1, 1988, beginning on January 1,  
43 2018, and

44 (ii) For persons who were born on and after January 1, 1960, beginning on January 1,  
45 2020.

46 (e) No person under the age of 12, shall operate a motorboat on the waters of the  
47 commonwealth, unless the person is accompanied onboard and directly supervised by another,  
48 who is 18 years of age or older, and holds a valid boater safety certificate or other documentation  
49 showing his qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive, of  
50 subsection (f).

51 (f) No person who is 12 years of age or older, shall operate a motorboat on the waters of  
52 the commonwealth, unless the person has onboard a valid boater safety certificate for motorboat

53 operators. Notwithstanding, a person who does not hold a required boater safety certificate may  
54 operate a motorboat if the person:

55 (i) is accompanied onboard and directly supervised by another, who is 18 years of age or  
56 older, and has onboard a valid boater safety certificate or other documentation showing his  
57 qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive;

58 (ii) holds a valid captain's license, launch operator's license or other type license to  
59 captain a commercial vessel, issued by the United States Coast Guard, or an equivalent type  
60 license issued by any state of the United States or foreign government, provided the license is  
61 onboard when operating the vessel;

62 (iii) is a non-resident, who is operating a motorboat on the waters of the commonwealth  
63 in accordance with the provisions of section 9H;

64 (iv) is an active member in the armed forces of the United States, National Guard, or  
65 United States Coast, and who is qualified to operate motorboats based on training or position in  
66 such branch or organization; provided, the person has onboard documentation showing his  
67 qualification;

68 (v) has acquired new ownership of a motorboat that is registered by the commonwealth  
69 or documented by the United States Coast Guard, and has onboard a valid temporary boater  
70 safety certificate to operate the vessel issued to the person by the director under section 9F;

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

73 (vii) is an operator of a motorboat in a qualified boater safety education course.

74 (g) The boater safety education requirements and operator age requirements to operate  
75 motorboats under this section shall not apply when: (i) the vessel is operated by a law  
76 enforcement officer or a public fire service member in the performance of an official duty, (ii)  
77 the person is operating the motorboat in reasonable response to an onboard emergency, when the  
78 operator or person supervising the operator, while underway, becomes incapacitated or  
79 physically unable to operate or supervise the operation of the vessel, (iii) the person is operating  
80 the motorboat under the direction of a law enforcement officer, (iv) the vessel is a “ship’s  
81 lifeboat” as defined in section 1, (v) the vessel, is the property of a branch of the armed forces of  
82 the United States, National Guard, or United States Coast Guard, or is a military vessel of a  
83 foreign country, (vi) the vessel is a sailboat of not more than 24 feet in length, with an auxiliary  
84 outboard motor not exceeding 10 horsepower, and is operated by a person who is 16 years of age  
85 or older, or (vii) the person operating the vessel is exempted under regulation or by waiver issued  
86 by the director.

87 (h) All current laws and regulations applicable to the boater safety educational  
88 requirements for motorboat operators under this chapter shall be posted on the office of law  
89 enforcement’s public internet website.

90 Section 9E. (a) Providers of authorized boater safety education courses or examinations  
91 for motorboat operators, shall issue a boater safety certificate to any eligible person who has  
92 successfully completed a course or equivalency exam. Boater safety certificates issued shall be in  
93 the form prescribed by the director. No person unless authorized by the director, shall issue  
94 boater safety certificates on behalf of the director under the boater safety education program.

95           The director shall be authorized to issue a boater safety certificate to motorboat operators  
96 without the completion of a boater safety education course or equivalency examination, if the  
97 person holds a valid boating safety certificate to operate motorboats issued or recognized by the  
98 government of another jurisdiction and that meets the boating safety education standards of the  
99 commonwealth.

100           No person who is under 12 years of age, shall be issued a boater safety certificate.

101           Boater safety certificates issued under this subsection shall be valid for the lifetime of the  
102 person named on the certificate, except as otherwise provided by law.

103           (b) A resident of the commonwealth, who prior to the passage of this act, had  
104 successfully completed a boater safety education course for motorboat operators, and as a result  
105 was issued a boater safety certificate or equivalent documentation shall be considered valid, if  
106 issued by: (i) the director, or (ii) a course provider other than the director, provided, the  
107 certificate or documentation evidences the successful passage of a boating safety education  
108 course for motorboat operators and, when issued, met the standards of the National Association  
109 of State Boating Law Administrators or the United States Coast Guard.

110           Section 9F. An eligible person who is a resident of the commonwealth and has acquired  
111 new ownership of a motorboat that is registered by the commonwealth or documented by the  
112 United States Coast Guard, shall upon proper application to the director, be issued a one-time  
113 temporary boater safety certificate limited to the operation of the motorboat. A temporary boater  
114 safety certificate issued by the director shall expire 120 days from the date the new registration  
115 or documentation for the vessel issues. The director shall not issue a temporary boater certificate

116 to a person who is under 18 years of age or has been issued a certificate under this section. No  
117 temporary boater safety certificate shall be extended or renewed.

118           Section 9G. (a) A person may operate a motorboat that is rented from a boat rental  
119 business in the commonwealth for a period not exceeding 14 days, who does not hold a valid  
120 boater safety certificate or other documentation that shows his qualification to operate  
121 motorboats pursuant to clauses (ii) to (iv), inclusive, of subsection (f) of section 9D, provided the  
122 person: (i) is 16 years of age or older, (ii) before operating the motorboat has recently viewed at  
123 the boat rental business or other location, a brief instructional audiovisual on motorboat safety as  
124 prescribed by the director, and, (iii) has certified under oath to viewing completely the motorboat  
125 safety audiovisual on the rental agreement and in the form prescribed by the director.

126           A person under the age of 16 who does not hold a valid boater safety certificate issued in  
127 the commonwealth or other jurisdiction, may operate a rented motorboat, if a supervising adult is  
128 onboard the vessel, provided, the adult is an authorized operator listed in the rental agreement,  
129 and holds documentation that shows his qualification to operate the rental motorboat as  
130 described in the prior paragraph.

131           (b) No person shall operate a motorboat rented in the commonwealth unless the person is  
132 an authorized operator listed in the rental agreement by the boat rental business and, the rental  
133 agreement document or accessible electronic copy is onboard when operating the vessel.

134           (c) No boat rental business, its owners, agents or employees, shall rent a motorboat to a  
135 person unless the person meets the boater safety educational requirements to operate the vessel  
136 under this chapter or regulation.



137 Section 9H. A person who is a non-resident may operate a motorboat on the waters of  
138 the commonwealth, if the person (i) is in compliance with the boater safety education  
139 requirements of another jurisdiction where he legally resides, and (ii) has onboard a valid boater  
140 safety certificate or other equivalent documentation showing the person is in compliance with the  
141 boating safety education requirements to operate motorboats, issued or recognized by the  
142 government of such other jurisdiction. If the jurisdiction of the non-resident person does not have  
143 mandated boater safety education requirements for motorboat operators, then the person shall be  
144 required to have onboard valid government issued documentation that identifies the person and  
145 his legal residential address, provided however, such identification documentation shall not meet  
146 the boater safety educational qualifications to operate motorboats rented in the commonwealth.

147 Non-resident persons who, operate motorboats pursuant to this section and are 18 years  
148 of age or older, may supervise the operation of motorboats by others, under the applicable  
149 provisions of subsections (e) and (f) of section 9D and section 9G.

150 Section 9I. (a) The director shall establish a minimum standard of boater safety education  
151 competency and skills necessary to operate motorboats under section 9D, which to the extent  
152 practicable shall incorporate, the applicable standards, practices and policies of the National  
153 Association of State Boating Law Administrators, United States Coast Guard and the boating  
154 laws, rules and regulations of the commonwealth.

155 The director shall establish the required minimum hours of course instruction or  
156 equivalent training, for boater safety education courses for motorboat operators.

157 As necessary, the director may modify the program to comply with any change of  
158 standards, policies, laws and regulations related to motorboat safety.

159 (b) The director shall regulate providers of boater safety education courses and  
160 equivalency examinations for motorboat operators, to ensure boating safety educational program  
161 requirements and guidelines are observed.

162 The director shall establish by regulation a uniform standard for the approval and  
163 participation of providers of boater safety education courses and equivalency examinations for  
164 motorboat operators. The regulations shall include, without limitation, the applicable standards  
165 and procedures related to, approval of providers; course instructor qualifications; manner and  
166 content of courses and equivalency examinations; issuance of boater safety certificates; and other  
167 administrative requirements. To increase public access to boater safety education, the director  
168 shall have the authority to approve boater safety courses and equivalency examinations that are  
169 accessible in an internet format.

170 A request to the director for approval as a provider of boater safety education courses or  
171 equivalency examinations for motorboat operators shall be made by written application pursuant  
172 to regulations then in effect. The director shall approve an application, if the provider and the  
173 planned course or equivalency examinations meet the applicable regulatory standards.

174 Approval of boater safety courses or examinations providers shall be subject to continued  
175 compliance by the provider of program standards and requirements.

176 (c) A current list of director approved providers of boater safety education courses and  
177 equivalency examinations shall be posted on the office of law enforcement's public internet  
178 website.

179 SECTION 5. Paragraph (b) of section 11 of said chapter 90B, as so appearing, is  
180 hereby amended by inserting after the word “Issue”, in line 39, the words:- or authorize his  
181 designees to issue, .

182 SECTION 6. Chapter 90B is hereby amended by inserting after section 38, the  
183 following section:-

184 Section 38A. Any person who, is operating a motorboat or is supervising a motorboat  
185 operator, when requested by an officer empowered to enforce this chapter, fails without  
186 reasonable excuse, to produce and allow examination of a required boater safety certificate or  
187 other documentation, to show compliance with the boater safety education requirements under  
188 sections 9C to 9I, inclusive, shall for any violation of this provision or regulation adopted hereof,  
189 be subject to a \$100 civil penalty. A person shall have an affirmative defense against a charge for  
190 the failure to produce the a required certificate or other document, if before or at trial on such  
191 charge, the prior issued certificate or other document, or actual copy thereof, that was valid when  
192 the violation occurred, is given to the court or trial justice.

193 Any person who, in response to a request by an enforcing officer under the prior  
194 paragraph, produces a forged or altered boater safety certificate or other documentation to show  
195 compliance with the boater safety education requirements under said sections 9C to 9I, inclusive,  
196 excepting copies or corrections allowed by the director or issuing government authority; or  
197 falsely represents to the officer that the produced certificate or other document belongs to such  
198 person or was issued or authorized by a governmental authority, shall be punished by a fine of  
199 not more than a \$500 fine, or by imprisonment in the house of correction for not more than 1  
200 year, or by both fine and imprisonment.