

**SENATE . . . . . No. 536**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Susan L. Moran***

*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:	
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/8/2023</i>

**SENATE . . . . . No. 536**

By Ms. Moran, a petition (accompanied by bill, Senate, No. 536) of Susan L. Moran and Michael D. Brady for legislation relative to boater safety to be known as the David Hanson Act. Environment and Natural Resources.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

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 2020  
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 motorboat  
63 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, via controlled  
95 testing software approved by the Commonwealth, for which there will be a \$10 “test registration  
96 fee” paid to the Commonwealth. Upon the successful completion of the online boater safety  
97 education examination, the person shall be issued a boater safety certificate, for which there will

98 be a \$10 “certification fee” also paid to the Commonwealth, allowing the person who  
99 successfully completed the online examination to print their Certificate immediately or at a later  
100 time. If a person does not pass the boater safety education examination on the first attempt, the  
101 person shall take a boater safety education course before retaking the examination. The  
102 examination may be taken an unlimited number of times until successfully completed.

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

106 (i) For persons who were born on or after January 1, 1993, beginning on January 1, 2024;

107 (ii) For persons who were born on or after January 1, 1985, beginning on January 1,  
108 2025;

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

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

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

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

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

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

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

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



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

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

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

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

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

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

159 (j) An owner of a motorboat or other person 18 years of age or older, having custody or  
160 control of a motorboat, who knowingly permits a person under the age of 18, to operate the  
161 vessel in violation of this chapter, shall be held liable, jointly and severally with the operator, for  
162 any violations, damages or injuries caused by such operator's operation of the vessel and for any  
163 fines, penalties or restitution resulting therefrom. Lack of ownership of the vessel or mistake as  
164 to the age of the operator shall not be defenses in an action filed pursuant to this section.

165 Section 9E. (a) (i) The director may require self-certification of all such boater safety  
166 education course providers that the examination conditions are enforced. If a provider fails to  
167 provide a required self-certification, the director may bar the provider from providing boater  
168 safety education courses or examinations. Upon the successful completion of the examination by  
169 a person, the director shall arrange for the electronic examination to send an electronic copy of  
170 the successful certificate to the division, as well as enable printing of the certificate at the  
171 location where the examination is taken. Boater safety certificates issued pursuant to this section  
172 shall be in the form prescribed by the director. The director shall be authorized to issue a boater  
173 safety certificate to motorboat operators without the completion of a boater safety examination or  
174 education course if the person holds a valid boating safety certificate to operate motorboats  
175 issued or recognized by the government of another jurisdiction.

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

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

180 (iv) Boater safety certificates issued pursuant to this section shall be valid for the lifetime  
181 of the person named on the certificate, except as otherwise provided by law, court judgement or  
182 administrative hearing conducted by the director or his designee. Any person authorized to  
183 enforce the provisions of chapter 90B pursuant to section 12 or the registrar of motor vehicles,  
184 may petition the director to immediately suspend a boater safety certificate for emergency or  
185 immediate threat purposes. The director may immediately suspend or revoke a boaters safety  
186 certificate for such emergency or immediate threat for public safety purposes. Such request for  
187 emergency action shall be on forms prescribed by the director.

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

195 (c) In the event the Massachusetts Environmental Police or other law enforcement find a  
196 person to be in operation of a vessel and not possessing the aforementioned documentary testing  
197 or certification requirements, the person shall be issued a warning ticket to cure the violation  
198 (“Ticket to Cure”). Said “Ticket to Cure” shall give the person 30 days turn in certification  
199 paperwork, which shall either indicate a certification existed but was not onboard their vessel at  
200 the time of inspection, or that a certification was subsequently obtained within the 30-day period.