

Chapter 35

(Senate Bill 92)

AN ACT concerning

Department of Natural Resources – Boating Safety Requirements

FOR the purpose of altering a certain definition to make the prohibition on a person from operating a vessel unless certain individuals are wearing a personal flotation device apply based solely on the age of the individuals; altering the required age for a child to wear a personal flotation device; requiring individuals under a certain age to ~~obtain~~ possess a certain certificate of boating safety education ~~under certain circumstances and~~ or comply with certain other requirements under certain circumstances; clarifying language; making this Act an emergency measure; providing for the effective date of certain provisions of this Act; and generally relating to boating safety requirements.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–712.2(a) and 8–743

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

8–712.2.

(a) (1) Except as otherwise provided in paragraphs (3) ~~and (4)~~, **(4)**, **AND (5)** of this subsection, [on or after July 1, 1988] a person born on or after July 1, 1972 may not operate on the waters of the State a vessel for pleasure that is required to be numbered in accordance with this subtitle or a vessel for pleasure that is required to be numbered in accordance with the Federal Boat Safety Act of 1971 without first obtaining a certificate of boating safety education.

(2) A person who is subject to the provisions of paragraph (1) of this subsection shall:

(i) Possess the certificate of boating safety education when operating a vessel on waters of the State; and

(ii) Show the certificate on the demand of a Natural Resources police officer or other law enforcement officer.

(3) The following persons are exempt from the requirements of this section:

(i) A person who is operating a vessel in connection with commercial purposes;

(ii) A person who is a resident of another state and who is visiting the State for 60 days or less in a vessel that is numbered in another state if:

1. The person is 16 years old or older; or

2. The person has been issued a boating safety certificate in accordance with the provisions of subsection (c)(6) of this section;

(iii) A person who is visiting the State for 90 days or less in a vessel from a country other than the United States;

(iv) A person operating a vessel on a body of water located on private property; and

(v) Any other person exempted by regulation of the Department.

(4) When a vessel numbered in accordance with this subtitle or in accordance with the Federal Boat Safety Act of 1971 is operated for pleasure on waters of the State, at least 1 person on the vessel must:

(i) Possess the certificate of boating safety education; or

(ii) Be exempt from the certification requirements of paragraph (1) of this subsection.

(5) A PERSON WHO IS UNDER THE AGE OF 16 AND WHO OPERATES A VESSEL NUMBERED IN ACCORDANCE WITH THIS SUBTITLE OR IN ACCORDANCE WITH THE FEDERAL BOAT SAFETY ACT OF 1971 MUST:

(I) POSSESS A CERTIFICATE OF BOATING SAFETY EDUCATION;

(II) 1. ~~BE~~ IF OPERATING A VESSEL UNDER 11 FEET IN LENGTH, BE UNDER THE SUPERVISION OF A PERSON WHO HAS OBTAINED A CERTIFICATE OF BOATING SAFETY EDUCATION AND IS ABOARD THE VESSEL; OR

2. IF OPERATING A VESSEL 11 FEET IN LENGTH OR GREATER, BE UNDER THE SUPERVISION OF A PERSON WHO IS 18 YEARS OR OLDER AND HAS OBTAINED A CERTIFICATE OF BOATING SAFETY EDUCATION AND IS ABOARD THE VESSEL; OR

(III) BE UNDER THE SUPERVISION OF A PERSON WHO WAS BORN BEFORE JULY 1, 1972 AND IS ABOARD THE VESSEL.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

8–743.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Child” means an individual who[:
- (i) Is] **IS** under the age of [7] **13** years[, regardless of the individual’s weight; or
- (ii) Weighs 50 pounds or less, regardless of the individual’s age].
- (3) “Personal flotation device” means a Type I, II, III, or V U.S. Coast Guard approved personal flotation device that is:
- (i) The proper size for the child; and
- (ii) In good and serviceable condition.
- (4) (i) “Vessel” means:
1. A vessel used for recreational purposes; or
 2. A vessel leased, rented, or chartered for noncommercial use.
- (ii) “Vessel” does not include a vessel carrying passengers for hire under the command of an individual licensed by the U.S. Coast Guard to carry passengers for hire, or a vessel displaying a valid seafood harvester’s license number while engaged in the harvesting of seafood for sale.

(b) (1) A person may not operate or permit the operation of a vessel under 21 feet in length while there is present in the vessel a child not wearing a personal flotation device which is securely and properly attached to the child.

(2) If the child is under the age of 4 years, the personal flotation device shall feature additional safety precautions, as appropriate for an infant, toddler, or young child, so as to:

(i) Hold the child securely within the personal flotation device, including a strap that is secured between the child's legs to fasten together the front and back of the personal flotation device;

(ii) Maintain the buoyancy of the child, including an inflatable headrest or high collar; and

(iii) Ensure the ready accessibility of the child from the vessel, including a web handle.

(c) Subsection (b) does not apply to:

(1) A vessel that is moored or anchored; or

(2) A child who is below deck or in an enclosed cabin.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Section 3 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.