

## LEGISLATIVE BILL 21

Approved by the Governor March 3, 1978

Introduced by Savage, 10

AN ACT to adopt the State Boat Act; to provide an operative date; and to repeal sections 91-815.01 to 81-815.20, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto.

Sec. 2. For the purposes of this act, unless the context otherwise requires, the definitions found in sections 3 to 10 of this act shall be used.

Sec. 3. Vessel shall mean every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Sec. 4. Motorboat shall mean any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto.

Sec. 5. Owner shall mean a person, other than a lienholder, having the property in or title to a motorboat. The term shall include a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term shall exclude a lessee under a lease not intended as security.

Sec. 6. Waters of this state shall mean any waters within the territorial limits of Nebraska.

Sec. 7. Person shall mean an individual, partnership, firm, corporation, association, or other entity.

Sec. 8. Operate shall mean to navigate or otherwise use a motorboat or vessel.

Sec. 9. Commission shall mean the Game and Parks Commission.

Sec. 10. Length, as it applies to vessels, shall mean extreme overall length.

Sec. 11. Except as provided in sections 49 and 50 of this act, every motorboat on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any vessel on such waters unless the vessel is numbered in accordance with this act, or in accordance with the laws of another state if the commission has by regulation approved the numbering system of such state, and unless (1) the certificate of number awarded to such vessel is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed and legible on each side of the forward half of the vessel.

Sec. 12. A person engaged in the manufacture or sale of vessels of a type otherwise required to be numbered under this act, upon application to the commission on forms prescribed by it, may obtain certificates of number for use in the testing or demonstrating of such vessels upon payment of thirty dollars for each registration. Certificates of number so issued may be used by the applicant in the testing or demonstrating of vessels by temporary placement of the numbers assigned by such certificate on the vessel so tested or demonstrated. Such temporary placement of numbers shall otherwise be as prescribed by this act.

Sec. 13. Vessels subject to this act shall be divided into four classes as follows:

Class 1. Less than sixteen feet in length including all canoes regardless of length;

Class 2. Sixteen feet or over and less than twenty-six feet in length;

Class 3. Twenty-six feet or over and less than forty feet in length; and

Class 4. Forty feet or over.

Sec. 14. The owner of each motorboat shall register such vessel every three years. The owner of such vessel shall file an application for number with the county treasurer of the county in which the applicant resides on forms approved and provided by the commission. The application shall be signed by the owner of the vessel, giving the year manufactured, and shall be

accompanied by a fee for the three-year period of fifteen dollars for Class 1 boats, thirty dollars for Class 2 boats, forty-five dollars for Class 3 boats, and seventy-five dollars for Class 4 boats.

Sec. 15. In the event an application is made after the beginning of any registration period for registration of any vessel not previously registered by the applicant in this state, the license fee on such vessel shall be reduced by one thirty-sixth for each full month of the registration period already expired as of the date such vessel was acquired. The county treasurer shall compute the registration fee on forms and pursuant to rules of the commission.

Sec. 16. Upon receipt of the application under section 14 of this act in approved form, the county treasurer shall enter the application upon the records of his office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner, which number shall be displayed on each side of the bow, such numbers being at least three inches high, of block characteristics, contrasting in color with the boat, and clearly visible from a distance of one hundred feet. The commission shall assign each county treasurer a block of numbers and certificates therefor.

Sec. 17. When the county treasurer registers a vessel, such official shall be entitled to collect and retain a fee, in addition to the registration fee, of two dollars on each registration issued as reimbursement for administrative costs incurred in issuing such certificate of registration. Such fee shall be credited to the general fund of the county and shall be included by the county treasurer in his report of fees as provided by law.

Sec. 18. Each county treasurer providing registration to an owner of a vessel shall transmit on or before the thirtieth day of the following month such registration to the Game and Parks Commission. The county treasurer shall retain a duplicate copy of such registration.

Sec. 19. All registration fees received by the county treasurers shall be remitted on or before the thirtieth day of the following month to the secretary of the commission. All remittances shall be upon a form to be furnished by the commission and a duplicate copy shall be retained by the county treasurer.

Sec. 20. The secretary of the commission shall deposit daily with the State Treasurer all registration fees received by him and shall take the receipt of the treasurer therefor. The State Treasurer shall place all of the fees so deposited in the State Game Fund.

Sec. 21. (1) The number awarded or assigned pursuant to section 16 of this act shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation.

(2) The person whose name appears on a certificate of number as an owner of a vessel shall remove the number and identification symbol when (a) the vessel is documented by the United States Coast Guard, (b) the certificate of number was obtained by false statement, (c) the fees for issuance of a number are not paid, or (d) the vessel is no longer principally used in the state where the certificate was issued.

Sec. 22. The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally-approved numbering system of another state shall register the number prior to operating the vessel on the waters of this state in excess of the sixty-day reciprocity period provided for in subdivision (1) of section 49 of this act. Such registration shall be in the manner and pursuant to the procedure required for the award of a number under sections 14 to 17 of this act.

Sec. 23. Should the ownership of a vessel change, a new application form with fee shall be filed with the county treasurer and a new certificate of number stating the number awarded shall be issued in the same manner as provided for in an original award of number. The county treasurer may allow the new owner to retain the previously assigned boat number if the existing number is serviceable. The commission shall provide procedures for the county treasurers to follow in determining whether the existing number is serviceable.

Sec. 24. When the owner of any vessel registered under this act moves out of the state or upon the transfer of ownership of any vessel, such owner or transferor shall be credited with the number of unexpired months remaining in the registration period. If such vessel is removed from the state or transferred within the same calendar month in which it was registered, no refund shall be allowed for such month. Any individual moving out of the state or transferring ownership to any

vessel may file a claim for refund with the commission upon forms provided by the commission. The commission shall make payment to the claimant from money available from the State Game Fund appropriated for such purpose, but no refund shall be paid if less than twelve months remains in the registration period.

Sec. 25. In the event that an agency of the United States government shall have in force an over-all system of identification numbering for vessels within the United States, the commission may by rules and regulations adopt such numbering system as the numbering system pursuant to this act.

Sec. 26. Every certificate of number and number awarded pursuant to this act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with this act. The initial three-year period shall commence on January 1, 1979, and expire on December 31, 1981, and subsequent numbering periods shall commence January 1 of each year and expire on December 31 of every three-year numbering period thereafter. Certificates of number and the number awarded may be renewed by the owner in the same manner provided for in the initial securing of such certificates and number.

Sec. 27. In the event of loss or destruction of the certificate of number, the owner of the vessel shall apply to the county treasurer on appropriate forms, provided by the commission, for replacement of such lost certificate of number. Upon satisfactory proof of loss and the payment of a fee of one dollar, the county treasurer shall issue a duplicate certificate of number.

Sec. 28. Certificates of number and the number awarded shall expire December 31 of each three-year numbering period and shall no longer be of any force or effect unless renewed pursuant to this act. The fee for renewal registration shall be the same as for original registration. Owners whose registration has expired shall have until March 1 following the year of expiration to renew such registration. Every certificate of number shall contain the following information: Name and address of the owner, classification number or letter as classified by the commission, length, type of construction, material used in the boat, whether inboard or outboard motor power, type of fuel, make, the horsepower rating of motor or motors, and the hull identification number.

Sec. 29. (1) The owner of any vessel shall furnish the commission notice of the transfer of all or

any part of his interest, other than the creation of a security interest, in a vessel numbered in this state pursuant to sections 14 to 17 of this act or of the theft, recovery, destruction, or abandonment of such vessel, within fifteen days thereof. Such transfer, theft, destruction, or abandonment shall terminate the certificate of number and number awarded for such vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of number and number awarded.

(2) The certificate of number shall be declared invalid when (a) the vessel is required to be documented, (b) the certificate of number was obtained falsely, (c) the necessary fees were not paid, or (d) the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal processes.

Sec. 30. Any holder of a certificate of number shall notify the commission within fifteen days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the commission with his new address. The commission shall provide in its rules and regulations for the alteration of an outstanding certificate to show the new address of the holder.

Sec. 31. No number other than the number awarded to a vessel or granted reciprocity pursuant to this act shall be attached on either side of the bow of such vessel.

Sec. 32. Every vessel in all weather from sunset to sunrise shall carry and exhibit the lights prescribed by sections 33 to 38 of this act when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited.

Sec. 33. Under the conditions described in section 32 of this act, every vessel of classes 1 and 2 propelled by machinery shall carry the following lights:

(1) A lantern or flashlight;

(2) A combined lantern in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides; and

(3) A bright white light aft which shall show all around the horizon.

Sec. 34. Under the conditions described in section 32 of this act, every vessel of classes 3 and 4 propelled by machinery shall carry the following lights:

(1) A lantern or flashlight;

(2) A bright white light in the forepart of the vessel as near the stem as practicable so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, so fixed as to throw the light from right ahead to two points abaft the beam on either side;

(3) A bright white light aft to show all around the horizon and higher than the white light forward; and

(4) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. Such side lights shall be fitted with inboard screen of sufficient height so set as to prevent these lights from being seen across the bow.

Sec. 35. (1) Under the conditions described in section 32 of this act, all vessels when propelled by sail alone shall carry (a) a lantern or flashlight, and (b) the red and green side lights suitably screened, but not the white lights, prescribed by sections 33 and 34 of this act. Vessels of all classes, when so propelled, shall carry a twelve-point white light which shall show aft, six points on either side of the centerline, at the stern.

(2) Rowboats and canoes or other vessels under hand power shall display a thirty-two point white light to show all around the horizon in time to avoid collision.

Sec. 36. Every white light prescribed by sections 33 to 35 of this act shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by sections 33 to 35 of this act shall be of such character as to be visible at a distance of at least one mile. The word visible in this section, when applied to lights, shall mean visible on a dark night with clear atmosphere.

Sec. 37. Under the conditions prescribed in section 32 of this act and when propelled by sail and machinery, any vessel shall carry the lights required for a vessel propelled by machinery only.

Sec. 38. The commission may adopt rules and regulations providing that any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, 1948, Federal Act of October 11, 1951, (33 USC 143-174D) as amended, in lieu of the lights required by sections 32 to 37 of this act.

Sec. 39. Every vessel of class 2, 3, or 4 shall be provided with an efficient whistle or other sound-producing mechanical appliance.

Sec. 40. Every vessel of class 3 or 4 shall be provided with an efficient bell.

Sec. 41. (1) Every vessel shall carry at least one life preserver, ring buoy, or other device of the sort prescribed by the regulations of the commission for each person on board, so placed as to be readily accessible, except that every vessel carrying passengers for hire shall carry so placed as to be readily accessible at least one life preserver of the sort prescribed by the regulations of the commission for each person on board. Every vessel shall carry at least one throwable floatation device, which shall be in addition to the devices required for each person on board.

(2) The provisions of subsection (1) of this section shall not apply to any racing shell or rowing scull during an authorized race or regatta or an officially supervised training session if at least one approved floatation device is carried aboard an accompanying vessel for each person in such racing shell or rowing scull. Such floatation devices shall be in addition to those required for each person aboard the accompanying vessel.

Sec. 42. Every motorboat shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the commission, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

Sec. 43. The provisions of sections 39, 40, and 42 of this act shall not apply to vessels while competing in any race conducted pursuant to sections 62 and 63 of this act or, if such boats be designed and intended



solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

Sec. 44. Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors, using gasoline as fuel, equipped with such efficient flame arrester, backfire trap, or other similar device as may be prescribed by the regulations of the commission.

Sec. 45. Every motorboat and every vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the commission for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

Sec. 46. The commission may adopt rules and regulations modifying the equipment requirements contained in sections 32 to 45 of this act to the extent necessary to keep these requirements in conformity with the provisions of the federal boating laws or with the boating regulations promulgated by the United States Coast Guard.

Sec. 47. The commission is hereby authorized to establish and maintain, for the operation of vessels on the waters of this state, pilot rules in conformity with the pilot rules contained in the federal boating laws or the boating regulations promulgated by the United States Coast Guard.

Sec. 48. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this act.

Sec. 49. A vessel shall not be required to be numbered pursuant to this act if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally-approved numbering system of another state; Provided, that such boat shall not have been within this state for a period in excess of sixty consecutive days;

(2) A vessel from a country other than the United States temporarily using the waters of this state;

(3) A vessel whose owner is the United States, a state, or a subdivision thereof; or

(4) A ship's lifeboat.

Sec. 50. The commission may by rule and regulation exempt a vessel from numbering under this act after the commission has found that the numbering of certain vessels will not materially aid in their safety and identification.

Sec. 51. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat, the certificate of number thereof, the departure date and time, and the expected time of return. The record shall be preserved for at least six months.

Sec. 52. Neither the owner of a boat livery, nor his agent or employee shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to sections 32 to 48 of this act and any rules and regulations made pursuant thereto.

Sec. 53. The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cut-outs is prohibited, except for motorboats competing in a regatta or boat race approved as provided in sections 62 and 63 of this act, and for such motorboats while on trial runs, during a period not to exceed forty-eight hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight hours immediately following such regatta or race.

Sec. 54. (1) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

(2) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

(3) Intoxication under subsection (2) of this section may be proved by the means and standards set forth in sections 39-669.08 to 39-669.11, 39-669.13, 39-669.15, and 39-669.16, Reissue Revised Statutes of

Nebraska, 1943, and sections 39-669.12 and 39-669.14, Revised Statutes Supplement, 1976.

Sec. 55. It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers, if any, to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

Sec. 56. In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death, a missing person, or injury to a person or damage to property in excess of one hundred dollars, shall file with the commission a full description of the collision, accident, or other casualty, including such information and within such time limit as the commission may by regulation require.

Sec. 57. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the commission pursuant to sections 55 and 56 of this act shall be transmitted to such official or agency of the United States.

Sec. 58. No person shall operate a vessel on any waters of this state for towing a person or persons on water skis, surfboard, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person or persons being towed, except that this section shall not apply to any motorboat equipped with a wide angle, rear view mirror.

Sec. 59. No motorboat shall have in tow or shall otherwise be assisting a person on water skis, aquaplane, or similar contrivance from the period of one hour after sunset to one hour prior to sunrise, except that this section shall not apply to motorboats used in duly authorized water ski tournaments, competitions, exhibitions or trials therefor where adequate lighting is provided.

Sec. 60. All motorboats having in tow or otherwise assisting a person on water skis, aquaplane, or

similar contrivance, shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

Sec. 61. No person shall operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, aquaplane, or similar device may be affected or controlled in such a way as to cause the water skis, aquaplane, or similar device, or any persons thereon to collide with or strike against any person or object, except ski jumps, buoys, and like objects normally used in competitive or recreational skiing.

Sec. 62. The commission may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants.

Sec. 63. Whenever a regatta, motorboat or other boat race, marine parade, tournament, or exhibition is proposed to be held, the person in charge thereof shall, at least fifteen days prior thereto, file an application with the commission for permission to hold such regatta, motorboat or other boat race, marine parade, tournament, or exhibition. The application shall set forth the date, time, and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the commission in writing. The provisions of this section shall not exempt any person from compliance with applicable federal law or regulations.

Sec. 64. The provisions of this act and of other applicable laws of this state shall govern the operation, equipment, numbering, and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this act shall take place thereon; but nothing in this act shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of this act, amendments thereto, or regulations issued thereunder, but such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this act, amendments thereto, or regulations issued thereunder.

Sec. 65. Any subdivision of this state may at any time, but only after public notice, make formal application to the commission for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

Sec. 66. The commission is hereby authorized to make special rules and regulations with reference to the operation of vessels, including water skiing and other related activities, on any specific water or waters within the territorial limits of this state.

Sec. 67. The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this state or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained in this section shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained in this section shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

Sec. 68. The commission shall promulgate such rules and regulations as are necessary to carry out this act. In adopting such rules and regulations, the commission shall be governed by the provisions of Chapter 84, article 9, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 69. Every conservation officer, deputy conservation officer, and peace officer of this state and its subdivisions shall have the duty and authority to enforce the provisions of this act and in the exercise thereof shall have the authority to stop and board any vessel subject to this act.

Sec. 70. Any person who violates any provisions of sections 1 to 69 of this act, or any provisions of the rules and regulations established by the Game and Parks Commission pursuant thereto, for which a penalty is not otherwise provided, shall be guilty of a Class V

misdemeanor for each such violation.

Sec. 71. Any person who violates any provision of section 51 or 52 or sections 58 to 61 of this act shall be guilty of a Class 1V misdemeanor for each violation.

Sec. 72. Any person who violates any provision of section 54 of this act shall be guilty of a Class II misdemeanor for each such violation.

Sec. 73. All fees as provided by the provisions of this act shall be remitted to the state treasury and by the State Treasurer placed in the State Game Fund. Such fund, when appropriated by the Legislature, shall be used for the propagation, importation, protection, preservation, and distribution of game and fish and necessary equipment therefor, and all things pertaining thereto, and for administration and enforcement of this act, and for the construction and maintenance of boating and docking facilities, navigation aids, and access to boating areas, and such other uses as will promote the safety and convenience of the boating public in Nebraska.

Sec. 74. This act shall be known and may be cited as the State Boat Act.

Sec. 75. This act shall become operative on January 1, 1979.

Sec. 76. That sections 81-815.01 to 81-815.20, Reissue Revised Statutes of Nebraska, 1943, are repealed.