

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

**The Licensing Of Boat
Operators and Ways To
Enhance Boating Safety**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 55

**COMMONWEALTH OF VIRGINIA
RICHMOND
1991**

MEMBERS OF SUBCOMMITTEE

Glenn R. Croshaw, Chairman
Frank W. Nolen, Vice Chairman
Watkins M. Abbitt, Jr.
G. Steven Agee
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STAFF

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**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING THE
LICENSING OF BOAT OPERATORS AND
WAYS TO ENHANCE BOATING SAFETY**

TO: The Honorable L. Douglas Wilder, Governor
and
The General Assembly of Virginia

I. AUTHORITY FOR STUDY

The 1990 Session of the General Assembly passed House Joint Resolution Number 102, patroned by Delegate C. Richard Cranwell, requesting that a joint subcommittee be established to study the licensing of boat operators and ways to enhance boating safety (Attachment A). The subcommittee was charged with reviewing the necessity of increased boating safety and ways to enhance boating safety; determining the benefits and costs of mandating a boating license and examining the resulting impact on boating safety; and studying the feasibility of requiring boating safety courses, including ways to minimize the administrative costs.

The membership of the joint subcommittee was appointment as follows: The Speaker of the House appointed Delegates Glenn R. Croshaw, Watkins M. Abbitt, Jr., and G. Steven Agee, all of the House Committee on Conservation and Natural Resources. The Senate Committee on Privileges and Elections appointed Senators Frank W. Nolen and John H. Chichester, both of the Senate Committee on Agriculture, Conservation and Natural Resources.

II. BACKGROUND

Pleasure boating as a family sport is growing in popularity every year. In 1961, the Coast Guard estimated that there were 5.85 million recreational boats in the United States. Today, there are close to 15 million boats operating on the waters of the United States, and almost one-fourth of the people in this country go boating each year. In 1989, boating enthusiasts spent \$18 billion on boats, motors, safety equipment, insurance and boating accessories. Recreational boats are used for a wide variety of activities including fishing, waterskiing, hunting, paddling and cruising. Throughout Virginia, boating opportunities abound with more than 8 million acres of salt water, 98 major rivers and 5,000 miles of shoreline. Virginia boasts 180 public boat ramps and access areas which allow the public to enjoy the Commonwealth's waterways.

Currently, 198,435 boats are registered in Virginia with an estimated 40,000 nonmotor smaller boats also operated on the waters of the Commonwealth. The number of boats and boat operators has steadily increased each year and within the last year 10,000 new boats were registered with the Department of Game and Inland Fisheries. Along with the number of people enjoying boating, the number of boating accidents has also steadily increased. On Virginia's waterways in 1984, 77 accidents were reported and, in the following year, 108 accidents were recorded. Last year's statistics reveal 121 boating-related accidents, 26 fatalities in recreation boating and one fatality in commercial boating.

Concerned by the increasing number of boats operated on the waters of the Commonwealth and by the number of boating related accidents, the 1986 Session of the General Assembly requested that the Commission of Game and Inland Fisheries study what measures were necessary to reduce boating injuries and fatalities. The study specifically included consideration of licensing of boating operators. During the course of its study, the Commission conducted a detailed analysis of boating accidents, surveys of boat operators, and aerial observations of boating areas on holiday weekends.

The study members reached several conclusions and made several recommendations. The participants determined that poor judgment and inattention are the primary causes of boating accidents, and that consumption of alcohol by boaters is a problem. Of 10,000 boaters surveyed, only 30 percent had attended boating courses. The Game Commission subsequently provided first time boaters with a comprehensive boating booklet and expanded its safety training program. The Commission also launched a media campaign which emphasized the need for attentiveness when boating, the importance of life preservers, and the danger of consuming alcohol when boating. Regarding consumption of alcohol, the Commission recommended the following: enactment of an "implied consent" law authorizing the courts to suspend boating privileges if a boater refuses a test measuring the influence of alcohol; establishment of a blood alcohol standard; authorizing the courts to suspend privileges in cases of reckless operation or intoxication under the influence of alcohol; requiring coroners to determine the blood alcohol level of victims in boating accidents; and increasing enforcement by authorizing the hiring of four additional game wardens.

The study committee specifically chose not to recommend the licensing of boat operators. The study determined that only 12 percent of the boaters surveyed supported licensing. The study also concluded that a survey of the age and hours of experience of boaters involved in accidents offers no support to the concept that licensing will reduce accidents.

III. CURRENT REGULATION

In Virginia, every boat propelled by machinery, whether or not the machinery is the principal source of propulsion, must be registered and display its identification

number (Va. Code § 29.1-702). Additionally, the Commonwealth requires all watercraft 15 feet or more in length and powered by a motor in excess of 25 horsepower to be titled (Va. Code § 29.1-713). When an owner renews his registration every three years, it has been the policy of the Department of Game and Inland Fisheries to include safety information and safety course descriptions and applications; however, completion of such courses is not required by state law.

Section 29.1-735 of the Code of Virginia authorizes the Board of Game and Inland Fisheries to adopt such regulations as it deems appropriate regarding the safe and reasonable operation of vessels and required safety equipment. The 1989 Session of the General Assembly passed a boating law similar to the current drunken driving law (1989 Acts of Assembly, Chapter 726). If a blood test or breath analysis shows an operator to have 0.10 percent or more by weight by volume of alcohol in his blood, it is presumed that he is under the influence of alcohol. Operators of automobiles and boats are subject to the same concentration standard. Penalties include fines up to \$2,500 and a year in jail. Upon conviction, the person might also be ordered not to operate a motorboat on Virginia waters for a specified period of time. People caught operating a boat while intoxicated must enroll in the Virginia Alcohol Safety Action Program.

IV. SAFETY COURSES

The Department of Game and Inland Fisheries provides the Virginia Boating Basics Course at no cost to boaters. Its six-hour curriculum teaches boat handling and navigation rules and covers six main topics: general information, legal requirements, rules of operation, "getting underway," accidents, and special topics, such as weather. The course is taught by state-certified instructors at various locations around the state. The course and its text are basic; more advanced courses are provided by the United States Coast Guard Auxiliary and the United States Power Squadron. In 1987, 30 percent of the boaters surveyed in the Commonwealth had completed the course.

The boating safety education effort of the Department is not limited to its boating basics course. The Department has several brochures available to the public and maintains approximately 11 video tapes which the public may borrow. Also, Department staff members lecture before school groups and industry, and the Department sponsors radio spots on 65 Virginia News Network stations which reach an audience estimated at 1.3 million listeners.

The U.S. Coast Guard Auxiliary was established by Congress as a civilian volunteer organization to promote safe recreational boating. To accomplish its mission, the Auxiliary carries out three basic programs: courtesy marine examinations, public education and operations. Members of the Auxiliary conduct courtesy marine examinations of recreational boats. Upon consent of the owner or operator, the members check the boat's safety equipment under both federal and state laws. Members of the Auxiliary also assist the U.S. Coast Guard in search and rescue missions. The Auxiliary offers several boating courses, each geared to a specific segment of the boating community, depending on the type of vessel and level of

expertise. Courses are taught with slides, movies and demonstrations. In 1989, the Coast Guard Auxiliary reported 374,155 people nationwide enrolled in the safety courses.

V. SURVEY OF OTHER STATES' PROGRAMS

Of the 50 states, all but one, Florida, sponsors a boating safety education course. Although 49 states sponsor safety courses, the courses themselves vary greatly. The length of the course ranges from 50 minutes in New Mexico to a maximum 40 hours in California. Five states (Minnesota, Arkansas, Texas, Indiana and Wisconsin) have minimum hours of attendance. Some states (Kansas, Minnesota, North Dakota, Delaware, Colorado, Montana and Wyoming) even offer home study or independent study.

Six states were surveyed to determine the specifics of their boating safety programs. Maryland and North Carolina were chosen because they are contiguous to Virginia, and New Jersey was selected because it was the first state to license operators. Two other states (Vermont and Connecticut) have mandatory boating safety courses. Florida recently considered such a measure but the bill did not pass both houses. Attachment B summarizes specific provisions of other states' programs.

CONNECTICUT

Currently in Connecticut, only those boat operators under 18 years of age are required to have any type of license. Young operators, while operating a vessel, must carry a safety certificate which verifies their completion of a safety course. The young operators certification requirement is the only type of licensing program currently in effect, but significant changes in the law will occur on January 1, 1992.

The 1989 Session of the Connecticut legislature approved comprehensive boating safety legislation which requires operators of registered boats, those boats of twenty-five or more horsepower, to obtain an "operator's requirement" certificate. The law sets up three ways to obtain a certificate. First, the law contains a grandfather clause which allows those who had a vessel registered in their name within five years prior to implementation to apply for the certificate, and upon payment of a fee, to receive it. Second, all other operators must show proof of successful completion of at least eight hours of a boating safety course. Third, the law allows operators to take an equivalence exam on boating safety instead of taking a course; however, the 1990 legislature added a sunset provision to the exam operation, which now expires October 1993. The legislation also includes a special extra two-hour safety course requirement (in addition to the eight hours' minimum) in order to receive a certificate for operation of personal watercraft.

Another important, and officials claim controversial, component of the legislation is the creation of a point system for violations of the boating laws. Under the

system, a person would obtain a certain number of points for certain violations, and when a person accumulated a certain number of points, his certificate would be suspended. The system now includes points for not only operator but also equipment violations. Marine enforcement officials in the state say the points for equipment violations particularly have attracted a lot of negative public comment.

There currently are 98,254 registered boats in Connecticut. Of the 34 accidents that occurred during 1989, five fatalities resulted.

FLORIDA

Florida does not require licensing of boat operators, although a bill which would have created such a requirement passed Florida's House during the 1990 legislative session. Boating safety education is required of violators of the boating laws, but no education course is required in order to be able to operate a boat. The state's boating laws do not set a specific age limit for boat operation; however, the law requires that operators of personal watercraft be at least 14 years old, with an additional requirement that liveries cannot rent personal watercraft to anyone under 16 years of age.

Florida, which requires only mechanically propelled vessels to be registered, had 710,831 vessels registered in fiscal year 1988-89. According to the Florida Marine Patrol, there are approximately 1,200 boating accidents in the state each year, with 65 recreational fatalities in 1989 and 45 recreational fatalities as of July 1990.

MARYLAND

The 1989 Session of the Maryland legislature approved mandatory boating safety education. Operators born after July 1, 1972, must complete a safety course and possess their safety course certificate when operating a boat. Upon request by an enforcement officer, the operator must show his Certificate of Boating Safety Education. Several entities are allowed to offer boating safety courses, which must meet criteria set forth in the regulations. Among those allowed to offer approved courses are the U.S. Coast Guard Auxiliary, the U.S. Power Squadron, a political subdivision or municipal corporation, or an agency, school, group, firm, association or person. Upon the operator's passing an approved course, the Certificate of Boating Safety Education is valid for the lifetime of the person to whom it was issued. The Certificate is not revocable by the Department or the court. Operators without a valid certificate are subject to an initial fine of \$25 and subsequent fines of up to \$500.

NEW JERSEY

Although New Jersey does not require boat operators in tidal waters to have an operating license, boaters on the state's nontidal waters have been required to purchase such a license since 1954. The license is purchased from

the state's Division of Motor Vehicles for five dollars as an addendum to a resident's driver's license. There is no testing of an operator's ability, and officials in the state admit that the requirement is one designed primarily for revenue purposes.

In addition to the licensing requirement on nontidal waters, operators 16 years old or younger must successfully complete a mandatory boating safety course supervised by the Marine Law Enforcement Bureau of the New Jersey State Police. These youngsters also must carry with them at all times, whether operating a boat on nontidal or tidal waters, a certificate of boater safety education. New Jersey distinguishes between what types of boats young operators can operate. Those operators between 13 and 16 years old can operate only outboard powered boats. Those over 16 may operate both inboard and outboard powered boats.

For 1989, 175,000 boats were registered in the state. During that year 417 accidents occurred, with 30 fatalities resulting from 25 accidents.

NORTH CAROLINA

North Carolina currently does not have a boat operating license requirement or a minimum age requirement for boat operators. The state does offer voluntary boating safety courses and, at different times during the year, offers courtesy boat inspections at various boating access areas. The state estimates that 54,460 people participated in some form of boating education during 1989. The number of boats registered in North Carolina as of June 1, 1990, was 265,357. In 1989, 267,446 boats were registered; 188 boating accidents and twenty-six fatalities occurred.

VERMONT

Beginning July 1, 1991, Vermont boat operators born after 1974 must take a boating course or pass an equivalence exam. Vermont offers free courses, implemented by the state, but will also recognize courses offered by the U.S. Coast Guard Auxiliary and the U.S. Power Squadron as equivalent courses. The state-run courses are funded by boat registration fees.

VI. SUBCOMMITTEE DELIBERATIONS AND FINDINGS

In its study of the licensing of boat operators and ways to enhance boating safety, the subcommittee sought to assess (i) the causes of boating accidents and fatalities, (ii) the success of current boating safety education efforts by the Department, (iii) the cost of implementing licensing of boat operators or mandatory safety education, and (iv) the benefits of mandatory education or licensing. The subcommittee held three business meetings in Richmond and received testimony from enforcement, safety and education officials, the Governor's Boating Advisory Board, the Virginia Association of Marine Industries, the Chesapeake Bay Yacht Clubs Association and the Bureau of Insurance of the State Corporation Commission.

The Department of Game and Inland Fisheries supplied data on boating fatalities for 1989, and 1990 through the Labor Day weekend. For the entire year of 1989 there were a total of 25 fatalities: in 56 percent, the victim fell or was thrown overboard, without collision with another boat; in 32 percent, the boat sank or capsized; in 8 percent, there was collision with another boat; and 4 percent were categorized as "other". For the year 1990 through the first week of September, there were a total of 10 fatalities: in 50 percent, the victim fell or was thrown overboard, without collision with another boat; in 40 percent, the boat sank or capsized and in 1 percent, there was collision with another boat. The Department drew conclusions from surveying data on fatalities for several years. In general, 50-60 percent of boating fatalities result from falling or being thrown overboard; 30-40 percent of fatalities result when boats sink or capsize; and about 10 percent die from collisions with other boats. Of the 35 fatalities for 1989 and 1990, two victims were under the age of 16. The Department also gave testimony about the "typical" boating accident victim. The average person involved in an accident is a male, between the ages of 20 and 40, operating a boat under 20 feet in length, with over 100 hours of operating experience. Because of the statistics the Department presented and the profile of the typical boating accident victim, the subcommittee found that most fatalities result from carelessness. In light of this testimony, the subcommittee discussed the use of personal flotation devices. PFD's are required to be onboard for each passenger on a boat on the waters of the Commonwealth. The Department has produced several public service announcements regarding the use of PFD's and includes information on the necessity of PFD's in its boating education courses. The subcommittee commended the Department on its efforts to heighten public awareness of the necessity of PFD's.

The subcommittee reviewed the success of current education efforts. In fiscal year 1990, 43,000 boaters attended safety education programs in Virginia. Through the combined efforts of the Coast Guard Auxiliary, the U.S. Power Squadron and the Department, 14,000 people graduated from formal boating courses and 29,000 attended lectures. A total of 52 state courses were held across the Commonwealth. Testimony pointed out that Virginia trains more boaters per year through voluntary efforts than does Maryland, which has enacted mandatory education. Officials from the Department also stated that at least 10 additional full-time employees would be necessary to implement a mandatory safety education program. They questioned whether such an investment was wise, considering that statistics from other states do not show a direct correlation between mandatory safety education and increased boating safety.

The Department also reported the link between accidents and the use of alcohol. Officials believe that alcohol consumption is involved in about one-half of all fatalities and 25 percent of all boating accidents. The impairment level set in statute for blood alcohol concentration is 0.10 percent for operating both motor vehicles and watercraft. Department officials believe that the law, coupled with present safety education efforts, is responsible for a decrease in the number of fatalities from the previous year.

The Department provided cost estimates for mandatory education. In obtaining the figures, Department personnel assumed adoption of a program modeled on Maryland's. Maryland relies upon volunteer instructors from the U.S. Coast Guard Auxiliary and the U.S. Power Squadron. Additionally, students are taught and certified in the public school system, funded, in part, by a special grant. Officials pointed out that Virginia has many more boaters than Maryland. To implement a similar program the Department officials stated that the following would be required:

| | |
|--|------------|
| 2 Additional DGIF Employees at Central Offices | \$ 100,000 |
| 8 Education Coordinators | 400,000 |
| Mobile Transportation And Maintenance | 400,000 |
| Advertising | 20,000 |
| Additional Training Equipment | 50,000 |
| Books | 1,500,000 |
| Volunteer Mileage | 50,000 |
| Miscellaneous Costs | 90,000 |

The Department estimated that the total would be \$2,610,000.

The Department did offer several suggestions for increasing boating safety and decreasing the number of fatalities at minimal cost. The first suggestion focused on enforcement. Prior to the recodification of Title 29 in 1987, a citation could be issued for reckless or negligent operation of a watercraft. The word negligent was deleted during the recodification, leaving the standard as reckless. The Department representatives testified that they believed the standard of reckless, as interpreted by some circuit court judges, had resulted in valid charges against defendants being dismissed. They cited examples which were improper operation of a vessel but did not rise to the level of reckless, so as to endanger life, limb or property. For example, "unprotected bow riding" has been dismissed as a charge of reckless boating, but is not a safe practice and would be considered improper operation.

The Department also stated that additional requirements for small, speedy, and highly maneuverable watercraft needed consideration. The subcommittee received an update on the deliberations of the joint subcommittee established by SJR 29 (1990) to study the use of personal watercraft. Two legislative initiatives were proposed by the subcommittee. The first regulates personal watercraft by imposing certain restrictions on their operation such as (i) establishing a minimum age of 14 for lawful operation, (ii) mandating use of personal flotation devices, and emergency cutoff systems if the vessel is so equipped, (iii) prohibiting operation between sunset and sunrise, and (iv) prohibiting operation with a number of riders greater than that for which the craft was designed. The second initiative provided enabling legislation authorizing localities to adopt ordinances regulating the distance motorboats in operation shall maintain from the shore, docks and swimmers, provided that the distance is no greater than 50 feet.

Because of the boating accident statistics and analyses of the causes of boating fatalities, the subcommittee was not persuaded that mandatory licensing would decrease the number of fatalities. Most fatalities result from falls overboard, and

licensing would not address the problem. The committee finds that a better way to reduce the number of fatalities would be to enhance enforcement by allowing citations to be issued for offenses which do not rise to the level of recklessness but may be prosecuted as a lesser offense.

The link between a reduction in the number of accidents and fatalities and mandatory safety education was not proven; hence, the subcommittee finds that most accidents occurred because of carelessness. For that reason it was uncertain whether mandatory education would decrease accidents, particularly given the fact that the average accident victim has over 100 hours of boating experience. Because of the current budgetary constraints the subcommittee finds that funding mandatory education without further evidence of accident reduction is not the most cost-effective expenditure for increasing safety.

VII. RECOMMENDATIONS

As the popularity of boating increases, boating safety continues to be a priority of the boating industry, enforcement personnel and boaters themselves. Any initiatives to decrease accidents and fatalities must address the actual causes of accidents and fatalities while at the same time be cost-effective. The subcommittee finds that licensing boat operators would not reduce the rate of boating fatalities and is not appropriate for that reason. The subcommittee also finds that the cause of most accidents is carelessness and that mandatory education is not a proven means of increasing awareness, thereby preventing accidents. At this time, funding for such a project is not available and the Commonwealth's resources may be spent better in another area.

The subcommittee recommends the following:

1. That the General Assembly enact legislation establishing improper operation of a motorboat as a lesser included offense of reckless operation of a motorboat. (Attachment C)
2. That the General Assembly enact the legislation proposed by the subcommittee studying the operation of personal watercraft. (Attachment D)

Respectfully submitted,

Glenn R Croshaw, Chairman
Frank W. Nolen, Vice Chairman
Watkins M. Abbitt, Jr.
G. Steven Agee*
John H. Chichester

*See Partial Dissent and Comments



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

April 2, 1991

G. STEVEN AGEE
1919 ELECTRIC ROAD, S. W.
ROANOKE, VIRGINIA 24018
FIFTEENTH DISTRICT

COMMITTEE ASSIGNMENTS:
COURTS OF JUSTICE
CONSERVATION AND NATURAL RESOURCES
NOMINATIONS AND CONFIRMATIONS

Partial Dissent and Comments to the Report of the Joint Subcommittee studying the licensing of boat operators and ways to enhance boating safety.

While I agree with some conclusions in the Joint Committee's final report, there are several factors which should be more fully addressed. The most salient statistical factor from the evidence presented to the Subcommittee was the overwhelming majority (as much as 90 per cent) of all boating fatalities and injuries resulted from the boater not wearing a personal flotation device. It is most important that the Department of Game and Inland Fisheries continue to strongly emphasize the need to wear such a device and not merely have it on board.

In my view, the Subcommittee's decision not to recommend licensing boat operators is not appropriate in all cases.

On tidal and inland waters, common sense indicates that the increased presence of boats with horsepower in excess of reasonable needs, particularly as compared to the length of the vessel, presents a safety hazard. There is a valid State interest in further review of licensing of operators of such vessels including mandatory education as a part of the licensing process. The Subcommittee did not have sufficient data upon which to make a prudent judgement in this area. Accordingly, I dissent from the Subcommittee report insofar as its conclusions could be read as negating the need for further study of licensing high powered boats and those who operate them.

Respectfully submitted,

A handwritten signature in cursive script that reads "G. Steven Agee".

G. Steven Agee

GENERAL ASSEMBLY OF VIRGINIA--1990 SESSION
HOUSE JOINT RESOLUTION NO. 102

Establishing a joint subcommittee to study the licensing of boat operators and ways to enhance boating safety.

Agreed to by the House of Delegates, February 13, 1990
Agreed to by the Senate, March 7, 1990

WHEREAS, the waters of the Commonwealth represent a natural resource used for a variety of recreational purposes including boating; and

WHEREAS, the number of individuals using the water for boating purposes continues to increase; and

WHEREAS, there are currently 196,000 boats registered in the Commonwealth and an additional 40,000 unpowered smaller boats operating on the waters of the Commonwealth; and

WHEREAS, the number of boating accidents and boating-related fatalities has steadily increased, with the boating statistics for 1989 showing 27 fatalities and 120 boating-related accidents; and

WHEREAS, a 1987 study conducted by the Department of Game and Inland Fisheries concluded that poor judgment and lack of attention are the primary causes of boating accidents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee is established to study the licensing of boat operators and ways to enhance boating safety. The joint subcommittee shall determine the costs of instituting a licensing procedure for boat operators and the benefits of such licensing to the boating public. In assessing the utility of such license the joint subcommittee should consider ways to increase boating safety, the feasibility of requiring boating safety courses and ways to minimize the administrative costs of such procedure.

The joint subcommittee shall be composed of five members to be appointed as follows: three members of the House Committee on Conservation and Natural Resources to be appointed by the Speaker of the House of Delegates and two members of the Senate Committee on Agriculture, Conservation and Natural Resources to be appointed by the Senate Committee on Privileges and Elections.

The joint subcommittee shall complete its work in time to make its recommendations to the Governor and the 1991 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The indirect costs of this study are estimated to be \$10,860; the direct cost of this study shall not exceed \$3,600.

ATTACHMENT B

Specific Provisions of Other States' Programs

| STATE | MANDATORY LICENSING | BOATING EDUCATION | YOUTHFUL OPERATOR | OPERATING UNDER THE INFLUENCE | ACCIDENTS | | |
|-------------------|---|---|---|-------------------------------|-----------|------|------|
| | | | | | 1985 | 1987 | 1989 |
| 1. North Carolina | No requirement | Voluntary 6 hours | No requirement | Unlawful/.10 | 107 | 102 | 152 |
| 2. Maryland | No requirement | Mandatory 8 hours | Anyone born after July 1, 1972 | Unlawful/.08 | 187 | 194 | 173 |
| 3. New Jersey | Licensing | Voluntary 8 hours | Required safety education; 16 years and younger | Unlawful/.10 | 318 | 244 | 305 |
| 4. Florida | No requirement (considered last session) | Required for violators of boating laws | Age limit for personal watercraft | Unlawful/.10 | 595 | 842 | 899 |
| 5. Connecticut | "operator's requirement" for safety education | Certificate required 8 hours | License required for minors | Unlawful/.10 | 67 | 69 | 34 |
| 6. Vermont | No requirement | Required for those born after 1974 8 hours | Take course or pass exam | Unlawful/.10 | 9 | 1 | 3 |

1991 SESSION

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HOUSE BILL NO. 1281

Offered January 10, 1991

A BILL to amend the Code of Virginia by adding a section numbered 29.1-738.01, relating to improper operation of vessels; penalty.

Patrons—Croshaw, Agee, Abbitt, Purkey, Copeland, Munford, DeBoer, Finney, Moore, Bennett, Phillips, Johnson, Cranwell and Jackson; Senators: Nolen, Goode and Chichester

Referred to the Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 29.1-738.01 as follows:

§ 29.1-738.01. Operating boat in an improper manner; penalty.—Notwithstanding the provisions of § 29.1-738, upon the trial of any person charged with reckless boating where the degree of culpability is slight, the court in its discretion may find the accused not guilty of reckless boating but guilty of improper boating. Improper boating shall be punishable as a Class 2 misdemeanor.

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| Date: _____ | | Date: _____ | |
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| Clerk of the House of Delegates | | Clerk of the Senate | |

ATTACHMENT D
1991 SESSION

LD6715442

HOUSE BILL NO. 981
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Conservation and Natural Resources
on January 16, 1991)

(Patron Prior to Substitute—Delegate Copeland)

A BILL to amend the Code of Virginia by adding in Chapter 7 of Title 29.1 an article numbered 4, consisting of sections numbered 29.1-747 through 29.1-750, relating to personal watercraft safety; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 7 of Title 29.1 an article numbered 4, consisting of sections numbered 29.1-747 through 29.1-750, as follows:

Article 4.

Personal Watercraft.

§ 29.1-747. Definitions.—As used in this article:

“Personal watercraft” is a type of motorboat and means a small Class A-1 or A-2 vessel which uses an outboard motor, or an inboard motor powering a jet pump, as its primary motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside the vessel.

§ 29.1-748. Restrictions on operation; penalty.—A. It shall be unlawful for any person to:

1. Operate a personal watercraft unless he is at least twelve years of age;

2. Operate a personal watercraft unless each person riding on the personal watercraft is wearing a type I, type II, type III, or type V personal flotation device approved by the United States Coast Guard;

3. Fail to attach the lanyard to his person, clothing, or personal flotation device, if the personal watercraft is equipped with a lanyard-type engine cut-off switch;

4. Operate a personal watercraft on the waters of the Commonwealth between the hours from one hour after sunset to one hour before sunrise, except that on inland lakes (i) more than 500 feet above sea level and (ii) of 20,000 acres or more and wholly located within the Commonwealth, such operation shall not be conducted between sunset and sunrise.

5. Operate a personal watercraft while carrying a number of passengers in excess of the number for which the craft was designed by the manufacturer.

B. A violation of any provision of this section shall constitute a Class 4 misdemeanor.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a personal watercraft, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action, nor shall this section bar any claim which otherwise exists.

§ 29.1-749. Owner of personal watercraft permitting violation; penalty.—A. It shall be unlawful for the owner of or any person having control of a personal watercraft to authorize or knowingly permit a person under the age of twelve to operate the personal watercraft.

B. A violation of any provision of this section shall constitute a Class 4 misdemeanor.

§ 29.1-750. Exemptions.—The provisions of this article shall not apply to participants in regattas, races, marine parades, tournaments, or exhibitions approved by the Board or United States Coast Guard.