

SUBJECT: Boating safety programs and enforcement

COMMITTEE: State Recreational Resources — committee substitute recommended

VOTE: 5 ayes — Kuempel, McCall, Hilderbran, Merritt, Palmer
1 nay — Horn
3 absent — Hightower, King, Longoria

WITNESSES: For — David Geary and Jim Oliver, Tarrant Regional Water District; Pat Helton and Mark Woods, Boating Trades Association of Texas; Gilbert Turrieta, National Marine Manufacturing Association
Against — Stephen Erickson
On — Andrew Sansom and Carlos Vaca, Texas Parks and Wildlife Department

DIGEST: CSHB 966 would require the Texas Parks and Wildlife Department to adopt rules to create for young boaters a boater education course and an equivalency exam on the safe operation of water vessels. The bill also would require peace officers and game wardens to be certified as marine safety enforcement officers, establish new penalties for violations of water safety laws, and require boat rental operations to purchase liability insurance.

CSHB 966 would take effect September 1, 1997.

Boater education program. The course would be required of Texans born after September 1, 1984, in order to operate a motorized vessel of 10 horsepower or greater or windblown vessel greater than 14 feet in length. As an alternative to the course, persons could take the equivalency exam.

Persons successfully completing either requirement would receive a permanent boater identification card. They would have to carry the card and photo identification while operating a vessel.

Individuals who held a U.S. Coast Guard license, were 18 years or older, or were nonresidents and could prove they had completed a boater education course in another state would be exempt from the boater education course requirement. The department could adopt other exemptions to the boater education requirement if necessary.

The department would have to ensure that courses and exams were available in each county and could appoint agents to administer the course or exam and issue boater identification cards. The department would collect a \$10 fee for the course or exam to recover the costs of the program. Agents could charge a \$3 fee for their services.

Marine safety enforcement officers. Peace officers and game wardens would have to be certified by the department as marine safety enforcement officers in order to enforce water safety violations under the Parks and Wildlife Code after January 1, 1999. TPWD would be required to establish by rule marine training and certification standards and fees for recovering from applicants or their employers the costs of certifying marine safety enforcement officer.

Marine safety enforcement officers would be required to report any incidents investigated involving water safety to the department within 15 days of the occurrence.

Water safety violations. First time violators of water safety regulations could be placed on a maximum 60-day probation period and required to complete a boater education course in lieu of a fine. The violators would have to plead guilty or no contest to the violation or be found guilty of it and request to attend a boater education course.

Persons violating certain boating regulations prohibiting reckless or negligent behavior would be subject to current fines *and* required to complete a boater education course within 90 days of being found guilty. Failure to complete the course would constitute a Class A Parks and Wildlife misdemeanor, punishable by up to one year in jail and a fine or \$500 to \$2,00 or both.

CSHB 966 also would increase the punishment for other boating offenses. An operator of a vessel involved in a collision or accident resulting in serious bodily injury or death who failed to render assistance would commit a Parks and Wildlife felony, punishable by two to 10 years in jail or a fine of \$2,000 to \$5,000 or both. This offense currently is classified as a Class B Parks and Wildlife misdemeanor, with jail time of up to 180 days and/or a fine of \$200 to \$1,000. Failure to render assistance in other accidents or provide identifying information would be a Class A Parks and Wildlife misdemeanor. Operation of unnumbered and undocumented vessels and the use of excessive speed would be punishable by a fine of between \$100 and \$500.

Counties could retain 40 percent of fines collected as a result of arrests made and court cases filed by marine safety officers other than game wardens.

Boat operations. CSHB 966 would require businesses that rented boats to purchase liability insurance. Vessel liveries would have to provide renters with information about the operation of the rented vessel and applicable boating regulations. Renters would be required to sign a form indicating they had received operating instructions. The form would have to be retained by the business for six months.

The bill would increase from 13 to 16 the age at which individuals could operate personal watercraft by themselves. Persons under age 16 could operate personal watercraft if accompanied by someone at least 18 years old. Persons 13 years old who had successfully completed an approved boating safety course also could operate a personal watercraft with an adult. An owner of a personal watercraft used in violation of these provisions could be notified of the violation.

CSHB 966 would broaden the definition of boat in the Water Safety Act by removing a statutory provision stipulating that boats be manufactured and used primarily for noncommercial use. All boats, whether in docks, moored, or stored in water in Texas, would have to have a current registration number.

The definition of a boat dealer would be limited to a person selling or buying five or more vessels or outboard motors per calendar year. In

addition, the bill would require that all vessels and outboard motor carry a hull identification number.

**SUPPORTERS
SAY:**

CSHB 966 would implement measures to protect the safety of all individuals who use and enjoy Texas waterways. Texas is the fifth largest boating state in the nation, with a year round boating season and over 5 million boaters. Recent accidents have heightened concern about safety on state waterways. CSHB 966 would respond to these concerns with a common sense approach that targets young Texans, to instill a life-long knowledge of boating safety, and violators of boating regulations, increasing penalties in some cases and requiring the boating safety courses in others.

The bill would direct the Texas Parks and Wildlife Department to adopt an education program that ensures all youngsters and water safety violators are educated about the rules governing Texas waterways. There will be fewer accidents on Texas waterways when all boaters are aware of and operate by the same boating rules. This program would be limited to those segments of the population that have a demonstrated need: while other states have full blown licensing requirements for all boaters, CSHB 966 would simply ensure a program for imparting to young Texans the necessary knowledge to operate water vessels safely and for reviewing safety procedures with adult violators.

All Texans would have access to the boater education program and would have to pay only a nominal fee for the course and boater identification card. The \$10 fee is extremely reasonable when compared to the hundreds and thousands of dollars boaters pay for their vessels. The fee would be set to cover the administrative costs of the education program.

The bill would require young boaters to carry their certification cards with them for two reasons: to ensure compliance with the program and instill in them a sense of responsibility. The card would have similar status as a driver's license, conveying that the individual had demonstrated proficiency and was indeed able to take on the important responsibilities associated with boating. While individuals technically would have to carry their boater identification card on their person, the offense would not be punished if boaters could later prove they had one.

CSHB 966 also would restrict use of personal watercraft. These powerful vessels are like cars, but currently may be operated by youngsters who do not even have a drivers license.

CSHB 966 would complement the boating education program with new training for peace officers and game wardens on marine enforcement. Officials who enforce state boating regulations need to be knowledgeable about the subject. It would be irresponsible to insist that they monitor boating safety without some minimal amount of training on what to look for. The bill would allow counties to keep a portion of fines collected water safety violators to defray the costs of sending peace officers to marine safety officer training. Because all peace officers would receive the same marine officer training, the bill would also ensure the consistent enforcement and application of water safety laws for all Texans and on all Texas waterways.

As long as they are on state waters, docked, moored, or stored, boats in Texas should be registered. It is difficult to enforce boat registration requirements under current law; boat owners claim their boats never move in order to avoid registration costs. Boats, like cars, should be registered at all times unless they are dry-docked or on dry land.

**OPPONENTS
SAY:**

CSHB 966 is an irrational response to a few highly publicized boating accidents. Adults operating vessels while intoxicated caused these accidents, yet they are not required to receive boater education in order to operate a boat. The bill would unfairly target young people who were not the causes or even involved in these rare boating accidents.

Requiring youngsters to receive a boater identification card and requiring them to carry the card plus photo identification while operating a vessel would impose a unnecessary burden on youngsters.

Furthermore, there is no need to waste more taxpayer money to create another boater education program. The Texas Parks and Wildlife Department currently offers a voluntary boater education course. The cost of taking the course and exam would prohibit some individuals from receiving a boater identification card.

Marine officer enforcement certification and training is unnecessary and would be another waste of time and money. Peace officers have successfully enforced the laws set forth in the Water Safety Act and could adequately enforce any new water safety laws. In addition, peace officers who did not receive this special training would be prohibited from enforcing any water safety laws, even if they observed unlawful behavior. Some smaller counties and municipalities may not be able to afford to send all peace officers to receive marine officer enforcement training.

The system for rebating a portion of collected fines to local governments would give municipalities and counties an incentive to set traps on waterways to catch violators to increase revenue.

OTHER
OPPONENTS
SAY:

Boats that are docked, moored or stored should not have to be registered. Car owners, with a car up on blocks in their garage, for example, are not required to have to keep their vehicle registered as long as they do not drive it. The same should apply to boat owners. A wet boat slip is the same as a garage.

NOTES:

The committee substitute increased the fee for the boating safety course, upped the penalty for failure to render assistance in a boating accident, imposed registration requirements on all boats, and decreased the percentage of fines going to counties from 80 percent to 60 percent.