

ACT 200

A Bill for an Act Relating to the Regulation of Boating and Amending Part II of Chapter 112, Revised Laws of Hawaii 1955, as Amended.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Part II of Chapter 112, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"PART II. HAWAII STATE BOATING LAW

Section 112-40. Declaration of policy. The legislature hereby finds, determines and declares that this part is necessary to promote and attain (a) the full use and enjoyment of the waters of the state; (b) the safety of persons and the protection of property as related to the use of such waters; (c) a reasonable uniformity of laws and regu-

lations regarding the use of such waters; and (d) conformity with, and implementation of, federal laws and requirements.

Section 112-41. Purpose. The purpose of this part is to authorize the department to adopt and promulgate reasonable rules and regulations for the regulation of vessels and their use in the waters of the state, which, together with the provisions of this part, shall conform with and supplement federal laws and requirements to fully implement the declared policy of Section 112-40.

Section 112-42. Definitions. In this part, if not inconsistent with the context:

(a) 'Boat dealer' means a person engaged wholly or partly in the business of selling or offering for sale, buying or taking in vessels for the purpose of resale, or exchanging vessels, for gain or compensation.

(b) 'Boat livery' means the business of holding out vessels for rent, lease or charter.

(c) 'Boat manufacturer' means a person engaged wholly or partly in the business of building or assembling vessels.

(d) 'Boating accident' means a collision, accident, or other casualty involving (1) the death or disappearance of any person; (2) injury causing any person to remain incapacitated for a period in excess of 72 hours; (3) physical damage to property in excess of \$100; or (4) the loss or disappearance of a vessel.

(e) 'Certificate' means certificate of number.

(f) 'Coast Guard' means the Coast Guard of the United States, or its successor agency.

(g) 'Department' means the department of transportation.

(h) 'Director' means the director of transportation.

(i) 'Federal laws and requirements' means all statutes, rules and regulations and other laws of the United States, which may be applicable to any and all subject matters of the provisions of this part and of the rules and regulations adopted and promulgated pursuant to this part.

(j) 'Length' means the measurement of a vessel from end to end over the deck.

(k) 'Operate' means to navigate or otherwise use a vessel on or in the waters of the state.

(l) 'Operator' means a person who operates or who has charge of the navigation or use of vessel.

(m) 'Person' means an individual, partnership, firm, corporation, association, or other legal entity.

(n) 'State' means the State of Hawaii.

(o) 'Undocumented vessel' means any vessel which does not have a valid marine document issued by the Bureau of Customs pursuant to appropriate federal laws and requirements.

(p) 'Vessel' means all description of watercraft, used or capable of being used as a means of transportation on or in the water, except a seaplane.

(q) 'Waters of the state' means any waters within the jurisdiction of the state, the marginal seas adjacent to the state, and the high

seas when navigated as a part of a journey or ride to or from the shores of the state.

Section 112-43. Rules and regulations. The department shall from time to time make, alter, amend and repeal rules and regulations not inconsistent with the law as may be reasonably necessary to implement the policy and purpose of this part, and in such adoption and promulgation the department may classify vessels into appropriate categories and classes.

Without limiting the generality of the department's power to adopt and promulgate other rules and regulations pursuant to this section, it shall adopt and promulgate rules and regulations with respect to the following:

- (a) the registration and numbering of vessels;
- (b) the operation, use and equipment of vessels on or in the waters of the state; and
- (c) the conduct of persons involved in boating accidents and in the reporting of such accidents and other casualties and losses to the department.

Rules and regulations made pursuant to the powers granted under this section shall be adopted and promulgated pursuant to the provisions of chapter 6C and shall, upon being duly adopted and promulgated, have the force and effect of law.

Section 112-44. Fines and penalties. Any person violating any of the provisions of this part, or of the rules and regulations adopted and promulgated pursuant to this part, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; provided that, in addition to, or as a condition to the suspension of, such fines and penalties, the court may deprive such offender of the privilege of operating any vessel, in the waters of the State for a period of not more than two years.

Section 112-45. Enforcement. The director, officers, and employees of the department, and every state and county officer charged with the enforcement of state laws shall enforce and assist in the enforcement of the provisions of this part and of all rules and regulations adopted and promulgated pursuant to this part.

For the purpose of enforcement, the powers of police officers are hereby conferred upon the director and other officers and employees of the department designated by the director; and the powers herein conferred shall, without limiting their generality, include the power to be exercised reasonably with respect to the service and execution of warrants; arresting of offenders; service of notices and orders; and the stopping, boarding, investigation and inspection of vessels.

Nothing herein shall preclude enforcement of state or federal laws and requirements pursuant to agreements or other arrangements entered into between the director and appropriate officers and agencies of the United States and other states to ensure the fullest possible cooperation in promoting and attaining the declared policy of section 112-40.

Section 112-46. Police reports. For the purpose of enforcement, it shall be incumbent upon the police chief of each political sub-

division of the State to transmit to the department a copy of every investigation report hereafter submitted by his subordinate officers which relate to boating accidents or the theft, loss or recovery of vessels required to be registered and numbered pursuant to section 112-50.

Section 112-47. Duty of operator involved in, and at the scene of, a boating accident. It shall be the duty of an operator involved in a boating accident, if and so far as he can do so without serious danger to his own vessel, or person aboard, to render such assistance as may be practicable and necessary to other persons in order to save them from danger caused by such accident. He shall also make every reasonable effort to identify himself by giving his name and address and the identification of the vessel he was operating to (a) all persons injured; (b) all owners of properties damaged; and (c) all operators of other vessels involved in such accident. It shall further be his duty to reasonably cooperate with all duly authorized personnel of governmental agencies investigating such accident.

Section 112-48. Accident reports by operators; confidential nature. The operator of (a) any vessel involved in a boating accident in the waters of the state, and (b) any vessel required to be registered, or registered, with the department and involved in a boating accident in any waters, shall file a written report with the department truthfully setting forth all relevant information required by the department; provided that such report need not be filed with the department where the operator is required by federal laws and requirements to report such accident to the Coast Guard.

The department shall transmit information of all boating accidents to the Coast Guard as may be requested by such agency for compilation, analysis, and publication of statistics.

The accident reports required by this section shall be used only to enable the department and the Coast Guard to make findings of causes of accidents and recommendations for their prevention, and to compile information for use in making statistical reports; except that they may also be used in the prosecution of the filing of false accident reports.

Section 112-49. Reciprocal agreements and courtesy. The department may enter into, amend, revise, suspend or revoke reciprocal agreements or arrangements with appropriate and duly authorized agencies of other jurisdictions whereby vessels properly numbered and equipped under their laws and regulations may be granted the privileges, exemptions and benefits granted to owners of vessels properly numbered and equipped under the laws and regulations of this state, in exchange for similar privileges, exemptions and benefits being extended to owners of vessels registered and numbered in this state.

The department may by appropriate rules and regulations define the extent and nature of privileges, exemptions and benefits which may be extended, as a matter of courtesy, to vessels properly num-

bered and equipped in other jurisdictions not covered by reciprocal agreements or arrangements.

Notwithstanding the preceding language of this section, the department shall recognize the validity of a number awarded to any vessel by (a) another state under a numbering system approved by the Coast Guard under appropriate federal laws and requirements, or (b) by the Coast Guard, for a period of at least ninety (90) days.

Section 112-50. Vessels required to be registered and numbered. Every undocumented vessel shall be registered and numbered prior to its use or operation on or in the waters of the state on an annual basis in accordance with the rules and regulations of the department except:

- (a) Foreign vessels temporarily using the waters of this state;
- (b) Public vessels of the United States;
- (c) Ships' life boats; and
- (d) Other vessels exempted by the department, if federal laws and requirements permit the department to exempt such vessels.

Section 112-51. Fees and charges. The department shall assess and collect the following fees and charges to be paid by the owners of vessels required to be registered and numbered:

(a) Registration fee. For the initial registration for the issuance of a certificate:

- (1) For each vessel less than 12 feet in length.....\$3
- (2) For each vessel 12 or more feet but less than 16 feet in length\$6
- (3) For each vessel 16 or more feet but less than 20 feet in length\$8
- (4) For each vessel 20 feet or more in length \$8 for the first 20 feet and \$1 for each additional foot or fraction thereof.
- (5) For each amphibious vehicle licensed as a motor vehicle \$3
- (6) For a boat manufacturer or dealer \$10 for the first vessel and \$2 for each additional vessel sought to be registered per application.
- (7) Boat livery operator shall be assessed according to items (1) to (5) of this subsection.

(b) Annual renewal fee. For the annual renewal of a certificate:

- (1) For each vessel less than 12 feet in length.....\$ 2
- (2) For each vessel 12 or more feet but less than 16 feet in length\$ 4
- (3) For each vessel 16 or more feet but less than 20 feet in length\$ 6
- (4) For each vessel 20 or more feet in length \$6 for the first 20 feet and \$1 for each additional foot or fraction thereof.
- (5) For each amphibious vehicle that is licensed as a motor vehicle.....\$ 2
- (6) For boat manufacturer or dealer \$7 for the first vessel and \$2 for each additional vessel sought to be registered per application.

- (7) For a boat livery operator applying for the renewal of five (5) or more boats, per application, \$20 for the first five (5) boats and \$2 for each additional boat, or the amount computed in accordance with the applicable portions of subparagraph (b) of this section, whichever is lesser.
- (c) Re-registration fee. The fee for the re-registration of a vessel, as to which a certificate has been cancelled or voided, shall be in the same amount as set out in subparagraph (a).
- (d) Transfer fee. A charge of \$2 shall be assessed upon and paid by the new owner for the transfer of a certificate.
- (e) Duplicate certificate fee. The fee of \$1 shall be charged for each duplicate certificate.
- (f) Penalty charges for late registration, etc. One tenth of the respective fee shall be added to such fee and be charged for each month the owner is late in his registration, renewal, re-registration or transfer.
- (g) Exemptions. The department may reasonably establish, by rules and regulations, exemptions from the fees required by this section.

Section 112-52. Disposition of revenues. All fees and penalties collected pursuant to Section 112-51 shall be deposited in the general fund and become general realizations of the state.

Section 112-53. Uniformity. The provisions of this part shall be interpreted and construed in the manner best able to effectuate the general purposes of attaining uniformity in the laws of the state, and with the laws of other states and the United States.

Section 112-54. Pre-emption of local law and special rules. In the event, any ordinance or regulation of any political subdivision of the state shall conflict or be inconsistent with the provisions of this part or with the rules and regulations adopted and promulgated pursuant thereto, such ordinance or regulation shall be void.

Any political subdivision of the state may, at any time, make formal request to the director for the department's adoption and promulgation of special rules and regulations with reference to the operation and use of vessels on any waters within its jurisdiction. Such request shall set forth the reasons which make such special rules or regulations necessary or appropriate.

The department is hereby authorized to make special rules and regulations with reference to the operation and use of vessels on any waters within the jurisdiction of any political subdivision of the state as may be reasonably necessary to implement the declared policy of Section 112-40."

SECTION 2. If any section, provision or clause of this Act shall be declared invalid or inapplicable to any person or circumstance, such invalidity or inapplicability shall not be construed to affect the portions not so declared, or apply to persons or circumstances not so affected. All laws or portions of laws inconsistent with the policy and

provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 3. With the exception of that portion of Section 1 numbered Section 112-51 and dealing with fees and charges, as to which the effective date shall be January 1, 1966, all other portions of this Act shall take effect upon approval of this Act.

(Approved June 28, 1965.) **H.B. 1332.**