

## **CHAPTER 20.1-13 BOATING REGULATION**

### **20.1-13-01. General penalty.**

Any person violating a provision of this chapter for which a penalty is not specifically provided is guilty of a class B misdemeanor.

### **20.1-13-02. Operation of unnumbered and unlicensed motorboats prohibited - Penalty.**

Every motorboat propelled by a motor on the waters of this state must be numbered and licensed as prescribed in this chapter. No person may operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered and licensed in accordance with this chapter, with applicable federal law, or with a federally approved numbering system of another state, and unless:

1. The certificate of number awarded to such motorboat is in full force and effect.
2. The identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

Any person who violates this section is guilty of a class 2 noncriminal offense.

### **20.1-13-03. Identification number and license - Penalty.**

1. The owner of each motorboat shall file an application for number and license with the department on forms approved by it. The application must be signed by the owner of the motorboat and must be accompanied by the appropriate fee. Upon receipt of the application in approved form, the department shall enter the same upon the records of its office and issue the applicant a certificate of number and license stating the number awarded to the motorboat and the name and address of the owner. When an identification number has previously been issued by the department, the same application procedure and fee apply for the issuance of a current license. The department shall pay all funds collected hereunder to the state treasurer who shall credit such funds to the state game and fish fund to pay for the costs of administering this chapter. The owner shall attach to each side of the bow of the motorboat the identification number and current license of such type and in such manner as may be prescribed by rules of the department in order that they may be clearly visible. The number and license must be maintained in legible condition. The certificate of number must be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.
2. The owner of any motorboat 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 may operate the motorboat on the waters of this state for the ninety-day reciprocity period provided for in section 20.1-13-06. After the ninety-day reciprocity period has expired, such motorboats are subject to the numbering and licensing provisions of subsection 1.
3. Should the ownership of a motorboat change, a new application form, with the license fee prorated on a yearly basis, must be filed with the department and a new certificate of number and license must be awarded in the same manner as provided for in an original award of number and license.
4. In the event that an agency of the United States government has in force an overall system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this chapter by the department must be in conformity therewith.
5. The department may award any certificate of number or license directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, that person may be assigned a block of numbers, certificates, and licenses which upon award, in conformity with this chapter and with any rules of the department, are valid as if awarded directly by the department.

6. All records of the department made or kept pursuant to this section are public records.
7. Every certificate of number and license awarded pursuant to this chapter continues in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with this chapter. Certificates of number and licenses may be renewed by the owner in the same manner provided for in the initial securing of the same.
8. The department shall fix a day and month on which certificates of number and licenses due to expire during the calendar year lapse and are no longer of any force and effect unless renewed pursuant to this chapter.
9. The owner shall furnish the department notice of the transfer of all or any part of the owner's interest other than the creation of a security interest in a motorboat numbered and licensed in this state pursuant to subsections 1 and 2, of the theft or recovery of such motorboat, or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment terminates the certificate of number and license for such motorboat except that, in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer does not terminate the certificate of number and license.
10. Any holder of a certificate of number and license shall notify the department within fifteen days if the holder's address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the department with the holder's new address. The department may provide in its rules for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.
11. No number other than the number and license awarded to a motorboat or granted reciprocity pursuant to this chapter may be painted, attached, or otherwise displayed on either side of the bow of such motorboat.
12. The certificate of number for vessels less than twenty-six feet [7.92 meters] in length and leased or rented to another for the latter's noncommercial use of less than twenty-four hours may be retained on shore by the vessel's owner or owner's representative at the place from which the vessel departs or returns to the possession of the owner or owner's representative. A vessel which does not have the certificate of number on board must be identified while in use and comply with such other requirements as the department prescribes.
13. Any person who violates this section is guilty of a class 2 noncriminal offense.

**20.1-13-03.1. Manufacture and sale of outboard motors.**

No outboard motor manufactured after January 1, 1980, may be sold or offered for commercial sale by a dealer in this state unless the motor has permanently engraved thereon by the manufacturer an identifying serial number. The serial mark must be of a permanent nature so as to prevent or discourage the removal, defacing, alteration, or destruction thereof. Any person who violates this section is guilty of a class 2 noncriminal offense.

**20.1-13-03.2. Outboard motor - Serial number removed - Penalty.**

No person may possess, repair, or sell an outboard motor, acquired after January 1, 1980, from which the serial number has been removed. Any person who violates this section is guilty of a class 2 noncriminal offense.

**20.1-13-04. Rules - Licensing watercraft for hire - Annual inspection - Penalty.**

The director, to promote the public safety, shall adopt rules to license watercraft used for hire, or furnished with cottages let for hire, and to prescribe the safety equipment, construction, and manner of operation of the craft. The director shall provide for annual inspection of all watercraft used for hire to determine if rules governing the watercraft have been complied with and may issue licenses to operate the watercraft. The director shall issue, along with each license, some evidence that the craft has been inspected and conforms to the standards

governing the craft. No person may operate watercraft used for hire or furnished with cottages let for hire without a current year's license. Any person who violates this section is guilty of a class 2 noncriminal offense.

**20.1-13-05. Equipment - Penalty.**

1. Every vessel must have aboard:
  - a. If equipped with a marine toilet or other similar device for the disposition of sewage or other wastes, only that type of marine toilet equipped with a treatment device meeting standards established by the state water pollution control board. The department of health shall furnish a list of the types of treatment devices currently available and considered acceptable for use with marine toilets under this subdivision. No person owning or operating a vessel upon the waters of this state may use, operate, or permit the use or operation of any marine toilet or similar device unless it is approved under this subdivision. No person may discharge into the waters of this state, directly or indirectly from a vessel, any untreated sewage or other wastes. No container of untreated sewage or other wastes may be placed, left, discharged, or caused to be placed, left, or discharged in or near any waters of this state from a vessel in such a manner or quantity as to create a nuisance or health hazard, or pollute such waters.
  - b. Such additional equipment designed to promote the safety of navigation and of persons as the game and fish department may find appropriate and for which it has provided in its rules.
2. No person may operate or give permission for the operation of a vessel that is not equipped as required by this section.
3. Any person who violates this section is guilty of a class 2 noncriminal offense.

**20.1-13-06. Exemption from numbering provisions of this chapter.**

A motorboat may not be required to be numbered under this chapter if it is:

1. Already covered by a number, in full force and effect, awarded it pursuant to federal law or a federally approved numbering system of another state, provided such motorboat has not been within this state for more than ninety consecutive days.
2. A motorboat from a foreign country temporarily using the waters of this state.
3. A motorboat owned by the United States, a state, or a subdivision thereof.
4. A ship's lifeboat.
5. A motorboat belonging to a class of boats exempted from numbering by the department after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the department has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

**20.1-13-07. Prohibited operation - Penalty.**

1. No person may 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. Reckless or negligent operation of a motorboat or vessel includes weaving through congested motorboat or vessel traffic, jumping the wake of another motorboat or vessel within one hundred feet [30.48 meters] of the motorboat or vessel, or in any other manner that is not reasonable or prudent.
2. A person may not operate a motorboat or vessel, or manipulate water skis, a surfboard, or similar device if any of the following apply:
  - a. That person has an alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of the test within two hours after the operating of a motorboat or vessel.
  - b. That person is under the influence of intoxicating liquor.

- c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely operating a motorboat or vessel.
- d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely operating a motorboat or vessel.

The fact that a person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominantly caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

- 3. No person under twelve years of age may operate a motorboat propelled by over a ten horsepower motor unless the operator is accompanied by a person eighteen years of age or older. Any person who violates this subsection is guilty of a class 2 noncriminal offense.
- 4. No person of twelve through fifteen years of age may operate a motorboat propelled by over a ten horsepower motor unless the operator is accompanied by a person eighteen years of age or older or the operator has taken and passed a boating course approved by the department. Any person who violates this subsection is guilty of a class 2 noncriminal offense.
- 5. No person may cause or knowingly permit a minor under sixteen years of age to operate a motorboat propelled by over a ten horsepower motor unless the minor is otherwise authorized to do so by this section.
- 6. No person may operate a motorboat or vessel within one hundred feet [30.48 meters] of a person fishing from a shoreline, swimmer, swimming diving raft, or an occupied, anchored or nonmotorized vessel, or within two hundred fifty feet [76.20 meters] of a reduced speed or slow or no wake sign at greater than slow or no wake speed.
- 7. No person may operate or permit the operation of a personal watercraft:
  - a. Without each person on board the personal watercraft wearing a United States coast guard approved type I, II, III, or V personal flotation device;
  - b. Within one hundred feet [30.48 meters] of a person fishing from a shoreline, swimmer, swimming diving raft, or an occupied, anchored or nonmotorized vessel at greater than slow or no wake speed;
  - c. While towing a person on water skis, a kneeboard, an inflatable craft, or any other device unless an observer is on board;
  - d. Without a lanyard-type engine cutoff switch being attached to the person, clothing, or personal flotation device of the operator, if the personal watercraft is equipped by the manufacturer with such a device;
  - e. If any part of the spring-loaded throttle mechanism has been removed, altered, or tampered with so as to interfere with the return-to-idle system;
  - f. To chase or harass wildlife;
  - g. Through emergent or floating vegetation at other than slow or no wake speed;
  - h. In a manner that unreasonably or unnecessarily endangers life, limb, or property, including weaving through congested watercraft traffic, jumping the wake of another watercraft within one hundred feet [30.48 meters] of the other watercraft; or
  - i. In any other manner that is not reasonable and prudent.

**20.1-13-08. Collisions, accidents, casualties, and liability.**

The operator of a vessel involved in a collision, accident, or other casualty, so far as that person can do so without serious danger to that person's own vessel, crew, and passengers, shall render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and necessary to save them from or minimize any danger caused by the collision, accident, or other casualty. That person shall also give that person's name, address, and vessel identification in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty. If a collision, accident, or other

casualty involving a vessel results in death or injury to a person or damage to property in excess of an amount specified by the director by rule, or a person disappears from the vessel under circumstances that indicate death or injury, the operator of the vessel shall file with the department a full description of the collision, accident, or other casualty, including such information as the director may require by rule.

Any operator of a vessel, or other person who complies with this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted may not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

#### **20.1-13-09. Transmittal of information.**

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 department pursuant to section 20.1-13-08 must be transmitted to said official or agency.

#### **20.1-13-10. Water skis and surfboard - Penalty.**

1. No person may manipulate any water skis, surfboard, or similar device without wearing a life preserver approved by the department.
2. No person may operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device, nor may any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise.
3. The provisions of subsections 1 and 2 do not apply to a performer engaged in a professional exhibition or a person engaged in an activity authorized under section 20.1-13-11, and the provisions of subsection 1 do not apply to a person sixteen years of age or older engaged in windsurfing or boardsailing.
4. No person may operate or manipulate any vessel, towrope, or other device by which the direction or location of water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any person thereon, to collide with or strike against any object or person.
5. No person may operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device unless there is another person in the towing vessel observing the person or persons being towed. However, this subsection does not apply to members of any organization regularly staging water ski shows, tournaments, or exhibitions while engaged in the performance of such shows, tournaments, or exhibitions. The department shall adopt rules to allow such organizations to practice in preparation for such events, as prescribed in section 20.1-13-11.
6. Any person who violates this section is guilty of a class 2 noncriminal offense.

#### **20.1-13-11. Regattas, races, marine parades, tournaments, or exhibitions.**

1. The department 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 rules concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. 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 ten days prior thereto, file an application with the department for permission to hold the same. The application must set forth the date, time, and location where it is proposed to be held, and it may not be conducted without authorization of the department in writing.
2. The provisions of this section do not exempt any person from compliance with applicable federal law or regulation, and do not require the securing of a state permit

pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

**20.1-13-12. Local regulation prohibited.**

1. The provisions of this chapter, and of other applicable state laws, govern the operation, equipment, numbering, and all other matters relating thereto whenever any vessel is operated on the waters of this state, or when any activity regulated by this chapter takes place thereon. Nothing in this chapter prevents 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 chapter, amendments thereto, or rules issued thereunder. Such ordinances or local laws are operative only so long as and to the extent that they continue to be identical to provisions of this chapter, amendments thereto, or rules issued thereunder.
2. Any subdivision of this state may, at any time, but only after public notice, make formal application to the department for special rules 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 necessary or appropriate.
3. The department is hereby authorized to make special rules with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this state.

**20.1-13-13. Owner's civil liability.**

The owner of a vessel is liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of state statutes, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner is not liable, however, unless such vessel is being used with the owner's express or implied consent. It must 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 the owner's spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing herein relieves any other person from any liability that person would otherwise have, and nothing contained herein authorizes or permits any recovery in excess of injury or damage actually incurred.

**20.1-13-14. Rules - Enforcement.**

Rules may be adopted pursuant to this chapter under chapter 28-32. Every game warden, sheriff's officer, or highway patrolman of this state has the authority to enforce the provisions of this chapter and in the exercise thereof has the authority to stop and board any vessel subject to this chapter.

**20.1-13-15. Declaration of policy and purpose.**

It is the policy of this state to improve boating safety and to foster greater development, use, and enjoyment of all the waters of the state by encouraging and assisting participation by the several political subdivisions of the state, the boating industry, and the boating public in development of more comprehensive boating safety programs, and by creating more flexible regulatory authority concerning the use of boats and equipment. It is further declared to be the policy of the state to encourage greater and continuing uniformity of boating laws and rules as among the subdivisions of the state, the state, several states, and the federal government; a higher degree of reciprocity and comity among the several jurisdictions; and closer cooperation and assistance between the state and the federal government in developing, administering, and enforcing federal and state laws and rules pertaining to boating safety.

**20.1-13-16. Boating safety program.**

The department shall develop and administer a comprehensive statewide boating safety program and administer state and federal funds provided to the state for the purpose of implementing and supplementing improved boating safety in this state.

**20.1-13-17. Conformity with applicable federal boat and associated equipment safety standards - Penalty.**

No boat or associated equipment manufactured after July 1, 1973, not excluding any boat or associated equipment manufactured after July 1, 1973, whose owner is this state or a political subdivision thereof, may be used on the waters of this state unless the boat and associated equipment conform with applicable federal boat and associated equipment safety standards as provided in the Federal Boat Safety Act of 1971 [Pub. L. 92-75; 85 Stat. 213; 46 U.S.C. 1451 et seq.], and acts amendatory thereto. Any person who violates this section is guilty of a class 2 noncriminal offense.

**20.1-13-18. Termination of unsafe use.**

Any person authorized to enforce the provisions of this chapter who observes a vessel being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition as defined in department rules, and in the person's judgment such use creates an especially hazardous condition, may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended.

**20.1-13-19. Display of labels evidencing compliance.**

The state game and fish department may require the display of seals, labels, plates, insignia, or other devices for the purpose of certifying or evidencing compliance with state or federal safety rules and standards for boats and associated equipment.

**20.1-13-20. Personal flotation devices.**

It is unlawful for any person to operate or to be a passenger on any vessel less than twenty-seven feet [8.2296 meters] in length unless all persons, ten years of age or younger present on the vessel, wear an appropriately sized and properly fastened coast guard-approved type I, II, or III wearable personal flotation device while the vessel is in operation. A personal flotation device is appropriately sized if it is designed to be worn by a person of similar age, size, or weight as the wearer.

**20.1-13-21. Evidence of tax payment or exemption.**

With an application for a motorboat number and license under section 20.1-13-03 by an applicant in whose name the motorboat has not previously been licensed, the applicant shall present proof of payment of sales or use tax that was due upon acquisition or bringing the motorboat into this state for storage or use in this state or shall present proof of exemption from sales or use taxes. Credit for taxes paid by the applicant upon acquisition of the motorboat in another state must be allowed as provided in section 57-40.2-11 if proof of that payment is presented. To establish that the motorboat was acquired through a casual sale and qualifies for exempt status, the applicant shall present a receipt for the sale signed by the seller and showing the seller's name and address. The department may waive the furnishing of a signed receipt for a casual sale if the applicant shows good cause why a receipt is unavailable and signs a statement showing the name and address of the seller and stating that to the best of the applicant's knowledge the seller is not in the business of selling boats.