

## CHAPTER 292

**AN ACT** concerning boating safety, amending and supplementing various parts of the statutory law, and repealing section 3 of P.L.1997, c.152

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1987, c.453 (C.12:7-61) is amended to read as follows:

C.12:7-61 Operation of power vessels, personal watercraft; boat safety course requirements; violations.

2. a. A person who is under 16 years of age shall not operate a power vessel on the waters of this State, except that:

(1) a person who is under 16 years of age but at least 13 years of age and possesses a certificate certifying that person's successful completion of a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety may operate:

(a) a power vessel powered solely by an electric motor; or

(b) a power vessel which is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(2) A person who is under 16 years of age and has successfully completed an approved boat safety course prior to July 1, 1996 may operate a power vessel on the tidal waters of this State, provided that the person complies with all other requirements of law, rule and regulation; and

(3) A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

b. As provided in the schedule set forth in section 7 of P.L.2005, c.292, as of June 1, 2008, a person who is 16 years of age or older shall not operate a power vessel, including a personal watercraft, on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, except that:

(1) (Deleted by amendment, P.L.2005, c.292).

(2) an out-of-State resident, or a resident of a foreign country who is 16 years of age or older and who will be in this State for less than 90 days may operate a power vessel on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety if the person presents:

(i) written proof of successful completion of a boat safety course endorsed or approved by another state, the National Association of State Boating Law Administrators or its successor organization, or the United States Coast Guard;

(ii) written proof of successful completion of a boat safety course substantially similar to the boat safety course required pursuant to this section as determined by the Superintendent of State Police; or

(iii) a boat safety certificate issued by the state or country in which the person resides;

(3) a person who is 18 years of age or older may operate on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, a rented power vessel that is not a personal watercraft, under the following conditions:

(a) the person rents the power vessel from a business engaged in renting power vessels for use on the waters of the State;

(b) the person has successfully completed a State-approved pre-rental instruction course provided by the owner or lessor of the power vessel prior to operating the power vessel on the waters of the State; and

(c) the owner of the power vessel rental business is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

(4) A person required to take the boat safety course pursuant to this section and section 7 of P.L.2005, c.292 who purchases a power vessel that is not a personal watercraft at a boat dealership may operate that power vessel for 30 days without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety provided that the person successfully completes a State-approved pre-purchase instruction course provided by the owner or operator of the boat dealership prior to operating the power vessel, and the owner or operator of the boat dealership is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police. The State-approved pre-purchase instruction course required by this paragraph shall be a uniform, standardized course developed by the Superintendent of State Police. The State-approved pre-purchase instruction course shall not replace the requirement that a person shall successfully complete an approved boat safety course pursuant to the other provisions of P.L.2005, c.292 (C.12:7-61.1 et al.). The provisions of this paragraph shall not apply to a person purchasing a power vessel from another private party.

(5) A person holding a United States Coast Guard operator's license may operate a power vessel on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

The Superintendent of State Police shall establish appropriate guidelines to implement the provisions of this subsection.

c. Except as provided pursuant to section 18 of P.L.1995, c.401 (C.12:7-86), a person shall not operate a personal watercraft on the waters of this State without having successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety or a written test pursuant to section 8 of P.L.2005, c.292.

d. Whenever a person who is required by this section or by section 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57) to have completed a boat safety course operates a power vessel or personal watercraft, as appropriate, on the waters of this State, that person shall have in possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to

exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

e. A person who violates subsection a., b., c. or d. of this section or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than \$100 nor more than \$500.

f. A person who owns or has control or custody of a power vessel and allows the power vessel to be operated on the waters of this State by a person who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course but who does not possess such certificate is subject to a fine of not more than \$100.

g. A person making application to the Chief Administrator of the New Jersey Motor Vehicle Commission for a power vessel operator's license issued pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course shall submit proof of successful completion of the course or the written examination for experienced boaters with the application. The chief administrator shall not issue a power vessel operator's license to such person who fails to submit this proof. A permanent State of New Jersey boating safety certificate or a temporary boating safety certificate issued on a Division of State Police application for boating safety certificate form shall satisfy this requirement.

2. Section 2 of P.L.1987, c.269 (C.12:7-23.2) is amended to read as follows:

C.12:7-23.2 Muffler requirement.

2. Every power vessel used on the waters of this State shall at all times be equipped with a muffler or muffler system in good working order and in constant operation. A person shall not use a muffler or muffler system cutout, bypass or similar method or device designed to prevent or diminish the operational capacity of a muffler or muffler system installed on a power vessel used on the waters of this State. Decibel levels exceeding the limits established pursuant to rules and regulations as measured by a noise meter operated by a trained Marine Police officer or municipal law enforcement officer shall be evidence of a violation of P.L.1987, c.269 (C.12:7-23.2 et seq.). For the purposes of P.L.1987, c.269 (C.12:7-23.2 et seq.), muffler means a sound dissipative device or system which abates the sound of gases which are emitted from an internal combustion engine and which prevents excessive or unusual noise.

3. Section 11 of P.L.1962, c.73 (C.12:7-34.46) is amended to read as follows:

C.12:7-34.46 Accidents involving vessels.

11. (a) Whenever any vessel upon the waters of this State is involved in an accident, it shall be the duty of the operator, so far as he can do so without serious danger to his own passengers, guests, crew, himself or his vessel, to render to all other persons affected by the accident such assistance as may be necessary in order to save them from or to minimize any danger caused by the accident. He shall also give his name, address, and identifying information regarding his vessel to any person injured and to the owner of any property damaged in the accident.

(b) Whenever an accident involves any vessel subject to this act and results in the death, disappearance, or injury of any person, or in property damage in excess of the federal standard for filing an accident report as established pursuant to 33 C.F.R. s.173.55, the operator or operators thereof shall file, with the Division of State Police, a full description of the accident, including such information as that division may, by regulation, require within the times specified in subsection (c) of this section. The Superintendent of State Police shall notify operators, in a manner deemed appropriate, of a change in the federal standard for filing an accident report.

(c) A boating accident that occurs on the waters of this State shall be reported to the Division of State Police by the quickest means of communication possible, if the accident has caused the death or the disappearance of any person; any other reportable boating accident that may result in personal injury or property damage shall be reported within 10 days to the Division of State Police.

(d) The report of a boating accident herein required to be made by the operator of the vessel involved in the boating accident shall not, during any judicial proceeding, be referred to in any way; it shall not be subject to subpoena nor admissible as evidence in any proceeding. Subject to these restrictions, information contained in a boating accident report and any statistical information based thereon will be made available upon request for official purposes to the United States Coast Guard or any federal agency successor thereto.

4. Section 14 of P.L.1962, c.73 (C.12:7-34.49) is amended to read as follows:

C.12:7-34.49 Boat Regulation Commission established.

14. (a) There is established within the department a seven-member Boat Regulation Commission which shall consist of the Attorney General as ex officio member and six public members. The public members shall be appointed by the Governor with the advice and consent of the Senate for four-year terms commencing on April 1 of the year of the appointment, except that of those first appointed, two shall be appointed for a term of one year, two for a term of two years, one for a term of three years and one for a term of four years. As far as possible the public members shall be experienced boaters and shall represent the various geographical sections and boating interests of the State. At least one of the public members shall be actively employed in the marine industry.

The chairman shall be designated by the Governor. Each member of the commission shall serve at the pleasure of the Governor during his term and until the successor of the commission member has been appointed and has qualified. Vacancies shall be filled only for the unexpired term.

(b) The members of the commission shall serve without compensation except for the actual expenses incurred while engaged in their duties as members of the commission.

(c) The commission will promulgate rules and regulations, subject to the approval of the Attorney General, not inconsistent with the provisions of this act and including, but not limited to the inspection, operation, equipping, anchorage, racing and safety of vessels upon the waters of this State.

These rules and regulations shall be such as are reasonably necessary for the protection of the health, safety and welfare of the public and for the free and proper use of said waters by any persons or vessels in, on or about such waters. These regulations shall not

be inconsistent with regulations issued by the agency or agencies of the United States having jurisdiction with respect to power vessels upon the waters of this State.

The commission shall meet monthly or at the call of the Attorney General or the chairman of the commission or when requested by any three members of the commission. The Attorney General shall designate a staff from the department to handle administrative matters for the commission. The commission shall maintain minutes of its meetings and, within five working days following the commission's approval of the minutes, submit them to the: Governor; President of the Senate; Minority Leader of the Senate; Speaker of the General Assembly and Minority Leader of the General Assembly.

5. Section 1 of P.L.1987, c.453 (C.12:7-60) is amended to read as follows:

C.12:7-60 Approved boat safety courses.

1. a. The Superintendent of State Police in the Department of Law and Public Safety shall establish a list of approved boat safety courses, offered by public or private persons or agencies for profit or otherwise and taught by approved boat safety instructors. Approved courses shall provide formal instruction in power vessel handling and safety. The superintendent may approve a boat safety course upon the initiative of the superintendent or by application on a form to be created by the superintendent.

For the purposes of this section, "approved boat safety course" means a boat safety course that meets qualifications set forth in regulations promulgated by the Superintendent of State Police, in consultation with the Attorney General; the regulations shall require at least eight hours of instruction, with a minimum of six hours of classroom instruction, or, if the boat safety course is offered via the Internet, require at least the equivalent of eight hours of instruction; whether offered in a classroom or via the Internet, the boat safety course shall conclude with a closed-book written examination administered by an instructor in person and present with the person taking the written examination.

For the purposes of this section, an "approved boat safety instructor" means an individual who is trained and experienced in the art and science of navigation and seamanship and who holds a United States Coast Guard operator's license, or a certification as an instructor as provided by the United States Coast Guard Auxiliary, the United States Power Squadron, the National Safe Boating Council or other certification program that is determined to be acceptable by the Superintendent of State Police. A public or private entity which offers a course that was approved by the superintendent prior to the effective date of this act may continue to offer that course until that approval has expired.

The superintendent shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations to implement this section. While developing these rules and regulations, the Superintendent of State Police shall consult with the National Association of State Boating Law Administrators, or its successor organization, concerning the provisions of the rules and regulations being adopted pursuant to this subsection.

b. A public or private entity authorized to offer a boat safety course pursuant to subsection a. of this section shall not employ an instructor who:

(1) does not possess a valid boat safety certificate required by section 2 of P.L.1987, c.453 (C.12:7-61); or

(2) has been convicted of any of the following crimes and offenses as evidenced by a criminal history record background check:

(a) In New Jersey, any crime or disorderly persons offense:

(i) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.;

(ii) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.;

(iii) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes;

(iv) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10;

(v) involving weapons or firearms, meaning those crimes and disorderly persons offenses set forth in chapters 39 and 58 of Title 2C of the New Jersey Statutes;

(vi) involving falsification of records under N.J.S.2C:21-4 or tampering with public records or information under N.J.S.2C:28-7.

(b) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subparagraph a. of this paragraph.

The Marine Services Bureau in the Division of State Police shall obtain the instructor's name, address, fingerprints and written consent for a criminal history record background check to be performed pursuant to this paragraph. The Marine Services Bureau is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The Marine Services Bureau shall determine whether the person is disqualified from employment as an instructor based on the person's criminal history record background check and render the decision to the public or private entity.

The instructor shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, but a volunteer instructor shall be afforded a fee reduction as authorized by applicable State and federal law, rule and regulation.

6. Section 18 of P.L.1995, c.401 (C.12:7-86) is amended to read as follows:

C.12:7-86 Conditions for operation of personal watercraft without completion of boat safety course; violations, penalties; rules, regulations.

18. A person who is 16 years of age or older may operate a personal watercraft without having completed a boat safety course required pursuant to subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) under the following conditions:

a. (1) the person operates the personal watercraft within the boundaries of an area designated solely for the operation of personal watercraft by a business engaged in renting personal watercraft for use on the waters of the State;

(2) the area designated for such operation is supervised by a person who is experienced in the operation of personal watercraft and who has successfully completed a boat safety course approved pursuant to section 1 of P.L.1987, c.453 (C.12:7-60); and

(3) the person has successfully completed an instruction course provided by the owner or lessee of the personal watercraft prior to operating the personal watercraft within the designated area.

b. (Deleted by amendment, P.L.2005, c.292).

c. The person has written proof, while operating the personal watercraft, of successful completion of a boat safety course substantially similar to an approved boat safety course as established pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

d. (Deleted by amendment, P.L.2005, c.292).

e. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Superintendent of State Police shall adopt any rules or regulations necessary to implement the provisions of this section.

#### C.12:7-61.1 Schedule for completion of mandatory boat safety course.

7. Before operating a power vessel, including a personal watercraft, on the waterways of this State, the mandatory boat safety course required by section 2 of P.L.1987, c.453 (C.12:7-61) shall be successfully completed as follows:

a. by persons born after December 31, 1978;

b. before June 1, 2006, by persons born after December 31, 1968 and on or before December 31, 1978;

c. before June 1, 2007, by persons born after December 31, 1958 and on or before December 31, 1968;

d. before June 1, 2008, by persons born after December 31, 1948 and on or before December 31, 1958; and

e. before June 1, 2009 by all other persons.

#### C.12:7-61.2 Written test in lieu of boat safety course for experienced boaters.

8. a. The Superintendent of State Police shall develop, and the superintendent, or a designee, shall administer, a written test for experienced boaters which shall be issued in lieu of completing the boat safety course required pursuant to section 2 of P.L.1987, c.453 (C.12:7-61). The superintendent shall determine the criteria that shall be met for a person to qualify as an "experienced boater" pursuant to subsection d. of this section. When developing the written test, the superintendent shall consult with groups concerned with the nationwide standardization of such tests. Upon successful completion of the test, the person shall be given a certificate which shall fulfill the certificate requirement under subsection d. of section 2 of P.L.1987, c.453 (C.12:7-61) and shall be required to be in the person's possession as provided in that section. A person may only take one test pursuant to this subsection.

b. A person who takes a test pursuant to subsection a. of this section shall pay a fee as determined by the superintendent to defray the costs of developing and administering the test and issuing certificates to persons who successfully complete the test.

c. In addition to all other penalties provided by law, a person who provides false information on an application for a written test issued pursuant to subsection a. of this section shall be subject to a fine of \$100.

d. The superintendent shall determine the qualifications for application and all other requirements under this section.

e. The superintendent shall be exempt from the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in performing the requirements of this section.

Repealer.

9. Section 3 of P.L.1997, c.152 as it amended section 2 of P.L.1987, c.453 (C.12:7-61) is hereby repealed.

10. This act shall take effect on the first day of the sixth month following enactment except sections 7 and 8 shall take effect immediately and expire on June 1, 2008.

Approved January 9, 2006.