

HB0092S01 compared with HB0092

~~{deleted text}~~ shows text that was in HB0092 but was deleted in HB0092S01.

inserted text shows text that was not in HB0092 but was inserted into HB0092S01.

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Representative Jim Nielson proposes the following substitute bill:

BOATING REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the State Boating Act by amending provisions relating to boating.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that the operator of a vessel who has reason to believe that the operator may have been involved in an accident resulting in property damage or injury to or the death of a person shall:
 - immediately stop the vessel at the scene of the accident or as close to it as safely possible; and
 - remain at the scene of the accident until the operator has fulfilled certain requirements;

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- ▶ provides that if the operator of a vessel has reason to believe the operator may have been involved in an accident only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with certain requirements;
- ▶ provides penalties for a person who violates the requirement to stop a vessel at the scene of an accident and remain at the scene until the operator has fulfilled certain requirements if the accident resulted in property damage or injury to or the death of a person;†

→ provides that the operator of a motorboat may not exceed a wakeless speed while a person is riding upon certain portions of the motorboat;‡ and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-18-13, as last amended by Laws of Utah 2005, Chapter 2

~~† 73-18-15.1, as last amended by Laws of Utah 2010, Chapter 256~~

‡ ENACTS:

73-18-13.1, Utah Code Annotated 1953

73-18-13.2, Utah Code Annotated 1953

73-18-13.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-18-13** is amended to read:

73-18-13. Duties of operator involved in accident -- Notification and reporting procedures -- Use of accident reports -- Giving false information as misdemeanor.

(1) As used in this section, "agent" has the same meaning as provided in Section 41-6a-404.

(2) (a) It is the duty of the operator of a vessel involved in an accident, if [he] the operator can do so without seriously endangering [his] the operator's own vessel, crew, or

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passengers, to render aid to those affected by the accident as may be practicable.

(b) The operator shall also give [~~his~~] the operator's name, address, and identification of [~~his~~] the operator's vessel in writing to:

(i) any person injured; or [~~to~~]

(ii) the owner of any property damaged in the accident.

(3) (a) The board shall adopt rules governing the notification and reporting procedure for vessels involved in accidents.

(b) The rules shall be consistent with federal requirements.

(4) (a) Except as provided in Subsection (4)(b), all accident reports:

(i) are protected and shall be for the confidential use of the division or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(ii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) The division shall disclose a written accident report and its accompanying data to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (4)(b)(i) and (ii);

(iv) a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(c) Information provided to a member of the press or broadcast news media under Subsection (4)(b)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

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(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (4)(c)(i).

(5) (a) Except as provided in Subsection (5)~~(b)~~(c), an accident report may not be used as evidence in any civil or criminal trial, arising out of an accident.

(b) Upon demand of any person who has, or claims to have, made the report, or upon demand of any court, the division shall furnish a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division.

(c) Accident reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (6).

(6) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class A misdemeanor.

Section 2. Section **73-18-13.1** is enacted to read:

73-18-13.1. Accident involving property damage -- Duties of operator, occupant, and owner -- Penalties.

(1) As used in this section, "reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(2) (a) The operator of a vessel who has reason to believe that the operator may have been involved in an accident resulting only in damage to another vessel or other property shall remain at the scene of the accident until the operator has fulfilled the requirements of Section 73-18-13.

(b) If the operator has reason to believe that the operator may have been involved in an accident resulting in damage to another vessel or other property only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of Section 73-18-13.

(3) A person who violates the provisions of this section is guilty of a class B misdemeanor.

Section 3. Section **73-18-13.2** is enacted to read:

73-18-13.2. Accident involving injury -- Stop at accident -- Penalty.

(1) As used in this section:

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(a) "Reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(b) "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(2) (a) The operator of a vessel who has reason to believe that the operator may have been involved in an accident resulting in injury to a person shall:

(i) immediately stop the vessel at the scene of the accident or as close to it as safely possible; and

(ii) remain at the scene of the accident until the operator has fulfilled the requirements of Section 73-18-13.

(b) If the operator of a vessel has reason to believe the operator may have been involved in an accident only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of Section 73-18-13.

(3) (a) Except as provided in Subsection (3)(b), a person who violates the provisions of Subsection (2):

(i) is guilty of a class A misdemeanor if the accident resulted in injury to any person; and

(ii) shall be fined not less than \$750.

(b) A person who violates the provisions of Subsection (2):

(i) is guilty of a third degree felony if the accident resulted in serious bodily injury to a person; and

(ii) shall be fined not less than \$750.

Section 4. Section **73-18-13.3** is enacted to read:

73-18-13.3. Accident involving death -- Stop at accident -- Penalty.

(1) As used in this section, "reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(2) (a) The operator of a vessel who has reason to believe that the operator may have been involved in an accident resulting in the death of a person shall:

(i) immediately stop the vessel at the scene of the accident or as close to it as safely possible; and

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(ii) remain at the scene of the accident until the operator has fulfilled the requirements of Section 73-18-13.

(b) If the operator of a vessel has reason to believe the operator may have been involved in an accident only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of Section 73-18-13.

(3) A person who violates the provisions of Subsection (2) is guilty of a third degree felony and shall be fined not less than \$750.

~~{ Section 5. Section 73-18-15.1 is amended to read:~~

~~—— 73-18-15.1. Vessel navigation and steering laws.~~

~~—— (1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all times to avoid the risk of collision:~~

~~—— (2) When the operators of two motorboats approach each other where there is risk of collision, each operator shall alter course to the right and pass on the left side of the other.~~

~~—— (3) When the operators of two motorboats are crossing paths and are at risk of a collision, the operator of the vessel that has the other vessel on its right side shall keep out of the way and yield right-of-way if necessary.~~

~~—— (4) The operator of any vessel overtaking any other vessel shall keep out of the way of the vessel being overtaken.~~

~~—— (5) The operator of a vessel underway shall keep out of the way of a:~~

~~—— (a) vessel not under command;~~

~~—— (b) vessel restricted in its ability to maneuver;~~

~~—— (c) vessel engaged in fishing; and~~

~~—— (d) sailing vessel.~~

~~—— (6) If the operator of one of two vessels is to keep out of the way, the other vessel operator shall maintain his course and speed unless it becomes apparent the other vessel is not taking the appropriate action.~~

~~—— (7) In narrow channels an operator of a vessel underway shall keep to the right of the middle of the channel.~~

~~—— (8) The operator of a vessel shall proceed at a safe speed at all times so that the operator can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances or conditions.~~

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~~———— (9) (a) When the operators of two sailboats are approaching one another so as to involve risk of collision, one of the operators shall keep out of the way of the other as follows:~~

~~———— (i) when each has the wind on a different side, the operator of the vessel that has the wind on the left side shall keep out of the way of the other;~~

~~———— (ii) when both have the wind on the same side, the operator of the vessel that is to the windward shall keep out of the way of the vessel that is to leeward; and~~

~~———— (iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, the operator shall keep out of way of the other vessel.~~

~~———— (b) For purposes of this Subsection (9), the windward side shall be the side opposite that on which the mainsail is carried.~~

~~———— (10) The operator of any vessel may not exceed a wakeless speed when within 150 feet of:~~

~~———— (a) another vessel;~~

~~———— (b) a person in or floating on the water;~~

~~———— (c) a water skier being towed by another boat;~~

~~———— (d) a water skier that had been towed behind the operator's vessel unless the skier is still surfing or riding in an upright stance on the wake created by the vessel;~~

~~———— (e) a water skier that had been towed behind another vessel and the skier is still surfing or riding in an upright stance on the wake created by the other vessel;~~

~~———— (f) a shore fisherman;~~

~~———— (g) a launching ramp;~~

~~———— (h) a dock; or~~

~~———— (i) a designated swimming area.~~

~~———— (11) The operator of a motorboat is responsible for any damage or injury caused by the wake produced by the operator's motorboat.~~

~~———— (12) (a) [Except as provided in Subsection (12)(b), the] The operator of a motorboat [that is less than 65 feet in length] may not exceed a wakeless speed while any person is riding upon [the bow decking, gunwales, transom, seatbacks, or motor cover.] any portion of the motorboat not:~~

~~———— (i) designed by the manufacturer as a riding location; and~~

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~~—— (ii) contained within seatbacks, gunwales, or rails designed and installed by the manufacturer to prevent the passenger from falling overboard.~~

~~—— (b) A person operating a personal watercraft is exempt from the requirement under Subsection (12)(a):~~

~~—— [(b) Subsection (12)(a) does not apply if the motorboat is:]~~

~~—— [(i) between 16 feet and 65 feet in length; and]~~

~~—— [(ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person from falling overboard.]~~

~~—— [(13) If a person is riding upon the bow decking of a motorboat that does not have designed seating for passengers, the person shall straddle one of the upright supports of the bow rail and may not block the vision of the operator.]~~

~~—— [(14)] (13) The operator of a vessel may not tow a water skier or a person on another device:~~

~~—— (a) unless an onboard observer, who is at least eight years of age, is designated by the operator to watch the person being towed; or~~

~~—— (b) between sunset and sunrise.~~

~~—— [(15)] (14) A person who violates this section is guilty of a class C misdemeanor.~~

Legislative Review Note

~~—— as of 1-24-12 11:11 AM~~

~~————— Office of Legislative Research and General Counsel}~~