

CHAPTER 21
Equipment and Operation of Watercraft

ARTICLE 1
General Provisions

SECTION 50-21-5. Short title.

This act may be cited as the "South Carolina Boating and Safety Act of 1999."

HISTORY: 1999 Act No. 124, Section 2.A.

SECTION 50-21-10. Definitions.

As used in this title unless the context clearly requires a different meaning:

(1) "Abandon" or "abandoned" means any watercraft that has been moored, stranded, wrecked, sinking, or sunk, and has been left unattended for longer than forty-five days. A watercraft is not abandoned if it is legally moored or is on private property.

(2) "Boat" means a vessel.

(3) "Associated equipment" does not include radio equipment and means:

(a) a system, part, or component of a boat as originally manufactured or a similar part or component manufactured or sold for replacement, repair, or improvement of the system, part, or component;

(b) an accessory or equipment for, or appurtenance to, a boat;

(c) a marine safety article, accessory, or equipment intended for use by a person on board a boat.

(4) "Boat livery" means a business that holds watercraft for rent, lease, or charter.

(5) "Certificate of number" means the registration.

(6) "Certificate of origin" means a document establishing the initial chain of ownership, such as manufacturer's certificate of origin or statement of origin, importer's certificate of origin, or builder's certification.

(7) "Dealer's permit" means a certificate issued by the department to a marine business to extend the privilege of using marine dealer demonstration numbers on boats or motors for demonstration or testing purposes and assignment on appropriate documents. Abuse of these privileges results in termination of the dealer's permit.

(8) "Demonstration numbers" means a temporary certificate of number issued to permitted marine dealers or manufacturers for the purpose of demonstrating watercraft held for sale, or used on watercraft which are being repaired or tested or used by an established customer whose boat is being repaired.

(9) "Department" means the South Carolina Department of Natural Resources.

(10) "Hull identification number" means the letter and number combination required by the United States Coast Guard or its successor agency on all watercraft manufactured after November 1, 1972.

(11) "Marina" means a facility which provides mooring or dry storage for watercraft.

(12) "Marine dealer" means a business that engages in buying or selling, exchanging, brokering, manufacturing, or servicing watercraft or outboard motors for watercraft.

(13) "Marine manufacturer" means a person engaged in the manufacturing of watercraft or outboard motors for sale or trade.

(14) "No Wake-Idle Speed" means a regulated boating area established for the safety of the public. "No Wake-Idle Speed" means that a vessel cannot proceed at a speed greater than that speed which is necessary to maintain steerageway.

(15) "Operate" means to navigate, steer, drive, or be in control. It also includes the manipulation of moving water skis, a moving aquaplane, a moving surfboard, or similar moving device.

(16) "Operator" means the person who operates or has charge or command of the navigation or use of a vessel or watercraft.

(17) "Outboard motor" means a combustion engine or electric propulsion system, which is used to propel a watercraft and which is detachable from the watercraft as a unit. No outboard motor of less than five horsepower or its equivalent is required to be titled under this chapter.

(18) "Owner" means a person, other than a lienholder, who claims lawful possession of a vessel or outboard motor by virtue of legal title or equitable interest in it which entitled him to possession.

(19) "Person" means an individual, a partnership, a firm, a corporation, an association, or other legal entity.

(20) "Personal watercraft" means a vessel, usually less than sixteen feet in length, that uses an inboard motor powering a water jet pump as its primary source of propulsion and that is intended to be operated by a person sitting, standing, or kneeling on the vessel, rather than within the confines of the hull.

(21) "Reportable boating accident" means an accident, collision, or other casualty involving a vessel subject to this chapter which results in loss of life, injury which results in loss of consciousness, necessity for medical treatment, necessity to carry a person from the scene, disability which prevents the discharge of normal duties beyond the day of casualty, or actual physical damage to property including vessels in excess of the minimum amount set by the United States Coast Guard for reportable accidents.

(22) "Serial number" means the identifying manufacturer's number affixed to a watercraft before November 2, 1972, and to outboard motors before, on, and after that date. The serial number of watercraft manufactured after November 1, 1972, is part of the hull identification number.

(23) "Specialty procraft" means a vessel that is similar in appearance and operation to a personal watercraft but is powered by an outboard or propeller-driven motor.

(24) "Temporary certificate of number" is a temporary registration assigned to a vessel to allow operation for a limited purpose.

(25) "Tender" means a small watercraft attendant to a larger vessel that meets United States Coast Guard requirements and is used solely for ferrying supplies or passengers and crew between its parent vessel and shore.

(26) "Use" means operate, navigate, or employ.

(27) "Vessel" means every description of watercraft, other than a seaplane regulated by the federal government, used or capable of being used as a means of transportation on water.

(28) "Water device" means a motorboat, boat, personal watercraft or vessel, water skis, an aquaplane, surfboard, or other similar device.

(29) "Waters of the State" means waters within the territorial limits of the State but not private lakes or ponds.

(30) "Watercraft" means anything used or capable of being used as a means of transportation on the water but does not include: a seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, rafts, and similar devices or anything that does not meet construction or operational requirements of the state or federal government for watercraft.

(31) "Wake surf" means to operate a vessel that is ballasted in the stern so as to create a wake that is, or is intended to be, surfed by another person.

HISTORY: 1962 Code Section 70-295; 1955 (49) 299; 1959 (51) 409; 1961 (52) 588; 1972 (57) 2791; 1993 Act No. 128, Section 3; 1993 Act No. 181, Section 1269; 1999 Act No. 100, Part II, Section 64.G, H; 1999 Act No. 124, Section 2.A; 2008 Act No. 344, Section 2, eff six months after approval (approved June 11, 2008); 2022 Act No. 124 (H.3308), Section 1, eff March 14, 2022; 2023 Act No. 74 (S.96), Section 1, eff August 18, 2023.

Code Commissioner's Note

This section was amended by 1999 Act No. 100, Part II, Sections 64.G and 64.H and by 1999 Act No. 124, Section 2.B. The two definitions of "dealer's permit" from Act No. 100 and Act No. 124 are being read together and the definition of "demonstration numbers" from Act No. 100 is being added as item (7) and the remaining items renumbered at the direction of the Code Commissioner.

Effect of Amendment

The 2008 amendment rewrote this section.

2022 Act No. 124, Section 1, added (29), which related to the definition of "wake surf".

2023 Act No. 74, Section 1, inserted (20), relating to the definition of "Personal watercraft", and redesignated former (20) to (21) as (21) to (22); and inserted (23), relating to the definition of "Specialty procraft", and redesignated former (22) to (29) as (24) to (31).

SECTION 50-21-20. Legislative declaration of policy.

It is the policy of this State to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto.

HISTORY: 1962 Code Section 70-295.1; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.

SECTION 50-21-30. Watercraft laws and ordinances; special rules and regulations.

(A) For the purposes of this section, "floating structure" means a man-made object other than a watercraft that is capable of flotation and that is not authorized by a permit issued by an agency of this State.

(B) The provisions of Title 50 and other applicable laws of this State shall govern the operation, equipment, titling, numbering, and all other matters relating thereto for watercraft and water devices using or held for use on the waters of this State. A local government may not adopt an ordinance regulating watercraft or water devices used or held for use on the waters of this State unless the ordinance is:

- (1) identical to a provision of this chapter;
- (2) identical to a regulation promulgated under the authority of a provision of this chapter; or
- (3) authorized pursuant to the provisions of this section.

(C)(1) A local government may adopt an ordinance requiring a permit for a watercraft or floating structure to remain moored, anchored, or otherwise located in any one five-mile radius on public waters within its local jurisdiction for more than fourteen consecutive days. The cost of a permit required by a local government may not exceed fifteen dollars. An ordinance adopted pursuant to this subsection must not apply to watercraft:

- (a) moored to a dock or marina berth with permission from the dock or berth owner;
- (b) moored to a mooring buoy that is permitted by the Department of Health and Environmental Control with permission from the buoy owner; or
- (c) moored to a mooring buoy with permission from the buoy owner, provided that the buoy is in the location as it existed on public waters on June 30, 2021.

(2) Notwithstanding Section 5-7-140(B), the corporate limits of any municipality bordering on the high-water mark of a navigable body of water, other than the Atlantic Ocean, are extended to the center of the channel of the navigable body of water for the sole purpose of enforcing an ordinance adopted pursuant to this subsection.

(D) An officer of the department who reasonably believes that watercraft within a local government's jurisdiction is in violation of an ordinance adopted pursuant to the provisions of this section must provide the location of the watercraft to the local government.

(E) The department is hereby authorized to make special rules and regulations with reference to the operation of watercraft on the waters of this State.

HISTORY: 1962 Code Section 70-295.2; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269; 2008 Act No. 344, Section 3, eff six months after approval (approved June 11, 2008); 2021 Act No. 77 (H.3865), Section 1, eff July 1, 2021.

Effect of Amendment

The 2008 amendment, in subsection (1), substituted "Title 50" for "this chapter", added "titling", substituted "for watercraft and water devices using or held for use on" for "whenever any vessel shall be operated on" and "watercraft;" for "vessels the provisions of which are identical to the provisions of this chapter, amendments thereto, or regulations issued thereunder;" and made nonsubstantive language changes.

2021 Act No. 77, Section 1, rewrote the section.

SECTION 50-21-35. Repealed by 2008 Act No. 344, Section 30, eff 6 months after approval (approved June 11, 2008).

Editor's Note

Former Section 50-21-35 was entitled "Use of demonstration numbers; contents of application form; penalties" and was derived from 1999 Act No. 100, Part II, Section 64.I.

SECTION 50-21-40. Administration of chapter.

The administration of this chapter shall be vested in the department. The department shall enforce this chapter through its Natural Resources Enforcement Division.

HISTORY: 1962 Code Section 70-295.3; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2431; 1993 Act No. 181, Section 1269.

SECTION 50-21-45. Administration of oaths; acknowledgment of signatures.

Officers and employees of the Department engaged in the work of administering and enforcing the provisions of this chapter may administer oaths and acknowledge signatures and must do so without fee.

HISTORY: 1984 Act No. 363, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-50. Director and other personnel to carry out provisions of chapter; salary and terms of employment.

The director shall employ or assign such clerical, administrative, technical and enforcement personnel as may be required to carry out the provisions of this chapter.

HISTORY: 1962 Code Section 70-295.4; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2431; 1993 Act No. 181, Section 1269.

SECTION 50-21-60. Repealed by 2008 Act No. 344, Section 30, eff 6 months after approval (approved June 11, 2008).

Editor's Note

Former Section 50-21-60 was entitled "Personnel, expenses, and salaries approved by Budget and Control Board" and was derived from 1962 Code Section 70-295.5; 1955 (49) 299; 1959 (51) 409; 1993 Act No. 181, Section 1269.

SECTION 50-21-70. Limit on expenses and costs of administration.

The expenses and cost of administration of this chapter shall at no time exceed the revenue derived through the provisions of this chapter and funds received from the federal government for use in administering boating laws.

HISTORY: 1962 Code Section 70-295.6; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.

SECTION 50-21-80. Enforcement of provisions of chapter; authority to issue summons or make arrests.

Any person employed or elected by this State or political subdivision thereof, whose duty it is to preserve the peace or to make arrests or to enforce the law including, but not limited to, members of the sheriff's departments, state police, enforcement officers, deputies, or other qualified persons, upon recommendation of the appropriate agency, may be empowered to enforce the provisions of this chapter. The department shall be the agency primarily responsible for enforcement of all laws pertaining to boating. Any such person is empowered to issue a summons for appearance in court or before a magistrate or make arrest for violations of this chapter or of the regulations prescribed under it.

HISTORY: 1962 Code Section 70-295.17; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269; 2008 Act No. 321, Section 1, eff 6 months after approval (approved June 16, 2008).

Effect of Amendment

The 2008 amendment rewrote this section to delete provisions relating to authority to stop and board vessels.

SECTION 50-21-85. Conditions for operation of vessel displaying blue light; operating procedure in presence of such vessel; violations.

A person shall not operate a vessel displaying or using a rotating, strobing, flashing, or intermittently reflecting blue light unless a duly commissioned law enforcement officer is on board.

The operator of a vessel being approached by a vessel flashing a blue light shall stop or maneuver in a way as to permit boarding, so far as possible without endangering his vessel, and not begin normal movement again until directed by the law enforcement officer or until the vessel flashing a blue light has cleared the immediate area.

The operator of a vessel approaching an area where a vessel flashing a blue light is located or patrolling shall slow his vessel to a no wake speed and shall maintain the speed until clear of the area.

A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned not more than thirty days for each violation.

HISTORY: 1979 Act No. 68, Section 1; 1993 Act No. 181, Section 1269; 2011 Act No. 59, Section 1, eff August 1, 2011.

Effect of Amendment

The 2011 amendment, in the first paragraph, substituted "A person shall not operate a vessel displaying, or using a rotating, strobing, flashing, or intermittently reflecting" for "No person shall operate any vessel displaying, reflecting or flashing a"; in the second paragraph, substituted "a vessel" for "any vessel" following "The operator of", deleted "such" preceding "a way as to permit", and deleted "own" following "without endangering his"; in the third paragraph, substituted "a vessel" for "any vessel" following "The operator of", and substituted "the speed" for "such speed"; and in the fourth paragraph, substituted "A person" for "Any person" and "must be fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned not more than thirty days for each violation" for "shall be punished as provided in Section 50-21-150".

SECTION 50-21-87. Operation of vessel prohibited within fifty feet of vessel displaying diver down flag; diving prohibited within fifty feet of vessel whose occupant is fishing.

(A) A person may not operate a vessel within fifty feet of another vessel when a diver is displaying a diver down flag (red with a diagonal white stripe) to mark the location of the diver. When the flag is being displayed in a water body too narrow to allow passage of another vessel other than within fifty feet, a vessel operator may proceed only past the displayed flag at a no-wake speed and allowing as much clearance between his vessel and the displayed flag as is safe and practical.

(B) A person may not engage in diving activities within fifty feet of a vessel whose occupant is fishing.

(C) A person does not violate this section if he fishes or displays a dive flag in an area before another person subsequently engages in diving activities or operates a vessel within fifty feet of a displayed dive flag.

HISTORY: 1993 Act No. 60, Section 1.

SECTION 50-21-90. Boating safety and educational program.

(A) The department must administer a boating safety education course and may approve of additional boating safety education courses. A list of approved courses must be provided on the department's website.

(B) The following persons must be issued a South Carolina boating safety certificate in both physical and electronic forms by the department:

(1) a person who successfully completes a boating safety education course administered or approved by the department;

(2) a person who provides satisfactory proof to the department that the person was issued a boating safety certificate, or an equivalency, by another state; and (3) a person who provides satisfactory proof to the department that the person was issued a license to operate a vessel by the United States Coast Guard or was issued a merchant mariner credential by the United States Coast Guard.

(C) The department must approve of one or more boat rental safety education courses to be taken by persons renting a vessel, personal watercraft, or specialty procraft from businesses engaged in the renting of vessels, personal watercrafts, or specialty procrafts. A person who completes a boat rental safety education course approved by the department must be issued a boat rental safety certificate in either electronic or physical form in the person's name. A boat rental safety certificate is valid for thirty days from the date of issuance and only while operating a vessel, personal watercraft, or specialty procraft from a business engaged in the renting of vessels, personal watercrafts, or specialty procrafts.

(D) The department must maintain a database of all persons issued a South Carolina boating safety certificate.

HISTORY: 1962 Code Section 70-295.7; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269; 2023 Act No. 74 (S.96), Section 2, eff August 18, 2023.

Effect of Amendment

2023 Act No. 74, Section 2, rewrote the section.

SECTION 50-21-95. Lawful operation of certain vessels; penalties.

(A) It is unlawful for a person to operate upon the waters of this State a vessel powered by an engine of ten horsepower or greater or equivalent to ten horsepower or greater, a personal watercraft, or a specialty procraft unless the person:

(1) was born on or before July 1, 2007;

(2) is in possession of a South Carolina boating safety certificate issued in the person's name or is documented by the department as having been issued a South Carolina boating safety certificate;

(3) is in possession of a license to operate a vessel issued by the United States Coast Guard in the person's name, regardless of the expiration date on the license;

(4) is in possession of a merchant mariner credential issued by the United States Coast Guard in the person's name, regardless of the expiration date on the credential;

(5) is a nonresident in possession of a boating safety certificate, or an equivalency, issued by another state in the nonresident's name;

(6) is operating a vessel, personal watercraft, or specialty procraft from a business engaged in the renting of vessels, personal watercrafts, or specialty procrafts and is in possession of a valid boat rental safety certificate issued in the person's name; or

(7) is accompanied by a person at least eighteen years old who meets one of the criteria in items (1) through (5) of this subsection.

(B) A person who is adjudicated to be in violation of this section must be fined not less than fifty dollars and not more than three hundred dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense and must not be included in the records maintained by the department or in the records maintained by SLED.

HISTORY: 2023 Act No. 74 (S.96), Section 3, eff August 18, 2023.

SECTION 50-21-100. Records to be kept by owners of boat liveries.

The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel; the identification number thereof, and the departure date and time, and the expected time of return. The record shall be preserved for at least six months.

HISTORY: 1962 Code Section 70-295.10; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.

SECTION 50-21-105. Towing of watercraft by department.

The department may tow away and store at the nearest commercial marina or any other suitable facility any unattended watercraft, a watercraft the operator of which is ill, intoxicated, or under a disability which renders him incapable of functioning safely, or other object which constitutes a hazard to navigation and which is not within an anchorage area approved by the United States Coast Guard.

The owner may regain control of the watercraft or other object by proving ownership to the operator of the facility and paying the fee charged for storage.

HISTORY: 1988 Act No. 452, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-110. Negligent operation of water device; offense; penalties.

(A) No person may operate any water device in a negligent manner.

(B) Negligent operation includes, but is not limited to, operating a water device at more than idle speed in a no wake zone, failing to maintain a proper lookout for other boats or persons, operating too fast for conditions on the water, racing, or pulling a skier through a designated swimming area.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty nor more than two hundred dollars or imprisoned not more than thirty days for each violation.

(D) In addition to other penalties, the department shall require any person who is convicted under this section three times within a five-year period to attend and complete a boating safety education program approved by the department. The person required to attend the class shall reimburse the department for the expense of the class. A person's privilege to operate a water device within this State must be suspended until successful completion of the required class.

HISTORY: 1962 Code Section 70-295.11; 1955 (49) 299; 1957 (50) 125; 1959 (51) 409; 1971 (57) 853; 1972 (57) 2791; 1973 (58) 648; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.C.

SECTION 50-21-111. Reckless operation of water device; offense; penalties.

(A) A person who operates any water device in such a manner as to indicate either a wilful or wanton disregard for the safety of persons or property is guilty of reckless operation.

(B) Reckless operation includes, but is not limited to, weaving through congested vessel traffic at more than idle speed; or jumping the wake of another vessel within two hundred feet of that vessel; or crossing the path or wake of another vessel when the visibility around the other vessel is obstructed; or maintaining a collision course with another vessel or object and swerving away in close proximity to the other vessel or object.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

(D) A person convicted of reckless operation, in addition to any other penalties, shall be required by the department to attend and complete a boating safety education program approved by the department. The person required to attend the program shall reimburse the department for the expense of the program. A person's privilege to operate a water device within this State shall be suspended until successful completion of the required program.

A person's privilege to operate a water device within this State shall be suspended by the department for a period of ninety days upon conviction of a second offense of reckless operation of a water device within a five-year period. Following the ninety-day suspension, the person's privilege shall remain suspended until successful completion of a boating safety education program approved by the department. The person required to attend the program shall reimburse the department for the expense of the program.

HISTORY: 1999 Act No. 124, Section 2.D.

SECTION 50-21-112. Operation of moving motorized water device or water device under sail while under the influence of drugs and/or alcohol; offense; penalties.

(A) It is unlawful for a person to operate a moving motorized water device or water device undersail upon the waters of this State while under the:

(1) influence of alcohol to the extent that the person's faculties to operate are materially and appreciably impaired;

(2) influence of any other drug or a combination of other drugs or substances which cause impairment to the extent that the person's faculties to operate are materially and appreciably impaired; or

(3) combined influence of alcohol and any other drug or drugs, or substances which cause impairment to the extent that the person's faculties to operate are materially and appreciably impaired.

For purposes of this section "drug" means illicit or licit drug, a combination of licit or illicit drugs, a combination of alcohol and an illicit drug, or a combination of alcohol and a licit drug.

(B) A person violating this section is guilty of a misdemeanor and, upon conviction, must be punished:

(1) for a first offense, by a fine of two hundred dollars or imprisonment for not less than forty-eight hours nor more than thirty days. However, in lieu of the forty-eight hour minimum imprisonment, the court may provide for forty-eight hours of public service employment. The minimum forty-eight hour imprisonment or public service employment must be served at a time when it does not interfere with the offender's regular employment under terms and conditions, as the court considers proper. However, the court may not compel an offender to perform public service employment instead of the minimum sentence;

(2) for a second offense, by a fine of not less than two thousand dollars nor more than five thousand dollars and imprisonment for not less than forty-eight hours nor more than one year. However, the fine imposed by this item may not be suspended in an amount less than one thousand dollars. Instead of service of imprisonment, the court may require that the individual complete an appropriate term of public service employment of not less than ten days upon terms and conditions the court considers proper. Upon imposition of a sentence of public service, the defendant may apply to the court to be allowed to perform his public service in his county of residence if he has been sentenced to public service in a county where he does not reside;

(3) for a third offense, by a fine of not less than three thousand five hundred dollars nor more than six thousand dollars and imprisonment for not less than sixty days nor more than three years.

(C) Any person convicted of operating a water device in violation of subsection (A), in addition to any other penalties, must be prohibited by the department from operating any water device within this State for six months for the first conviction, one year for the second conviction, and two years for the third conviction. Only those violations, which occurred within ten years including and immediately preceding the date of the last violation, shall constitute prior violations within the meaning of this section.

A person whose privilege is suspended under the provisions of this section must be notified by the department of the suspension and of the requirement to enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services prior to reinstatement of the privilege. An assessment of the extent and nature of the alcohol and drug abuse problem, if any, of the applicant must be prepared and a plan of education or treatment, or both, must be developed based upon the assessment. Entry into and successful completion of the services, if such services are necessary, recommended in the plan of education or treatment, or both, developed for the applicant is a mandatory requirement of the restoration of privileges to the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant has successfully completed the services. The Department of

Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant's plan of education or treatment. The cost of services must be within the limits set forth in Section 56-5-2990(C). No applicant may be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant has successfully completed services. If the applicant has not successfully completed the services as directed by the Alcohol and Drug Safety Action Program within one year of enrollment, a hearing must be provided by the Alcohol and Drug Safety Action Program and if further needed by the Department of Alcohol and Other Drug Abuse Services.

The department and the Department of Alcohol and Other Drug Abuse Services shall develop procedures necessary for the communication of information pertaining to reinstating the privilege, or otherwise. The procedures must be consistent with the confidentiality laws of this State and the United States.

A person convicted under this section, in addition to any other penalties, shall be required by the department to attend and complete a boating safety education program approved by the department. The person required to attend the program shall reimburse the department for the expense of the program. The person's privilege to operate a water device within this State shall be suspended until successful completion of the required program.

(D) The suspension penalties assessed under this section are in addition to and not in lieu of any other civil remedies or criminal penalties which may be assessed. No part of the minimum sentences provided in this section may be suspended.

(E) For the purposes of this chapter any conviction, entry of a plea of guilty or of nolo contendere or forfeiture of bail, for the violation of any law or ordinance of this or any other state or any municipality of this or any other state that prohibits any person from operating a vessel or water device while under the influence of alcohol or drugs or a combination of both constitutes a prior offense for the purpose of any prosecution for any subsequent violation of this section. Only those offenses which occurred within a period of ten years including and immediately preceding the date of the last offense constitutes prior offenses within the meaning of this section.

HISTORY: 1991 Act No. 138, Section 1; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.E.

SECTION 50-21-113. Operation of moving water device while under the influence of alcohol or drugs resulting in property damage, great bodily injury or death; penalties.

(A) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs operates a moving water device, or is in actual control of a moving water device within this State and causes great bodily injury or death of a person other than himself, is guilty of a felony and, upon conviction, must be punished by a mandatory fine of not less than:

(1) five thousand dollars nor more than ten thousand dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(2) ten thousand dollars nor more than twenty-five thousand dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results.

No part of the mandatory sentences required to be imposed by this section may be suspended, and probation may not be granted for any portion.

(B) As used in subsection (A) "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(C) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs operates or is in actual control of a moving water device within this State and causes damage to property other than his own, or injury other than great bodily injury to a person other than himself, is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars or imprisonment for not more than thirty days, or both.

(D) The department shall suspend the privilege of a person who is convicted or who pleads guilty or nolo contendere under this section to operate a water device or be in actual control of a moving water device within this State for a period to include any term of imprisonment plus:

- (1) three years in the case of death or great bodily injury; or
- (2) one year in the case of property damage or injury other than great bodily injury.

(E) The suspensions under this section are in addition to and not in lieu of any other civil remedies or criminal penalties.

HISTORY: 1999 Act No. 124, Section 2.F.

SECTION 50-21-114. Chemical test or analysis of breath, blood, or urine; implied consent; presumptions arising from blood alcohol content levels.

(A)(1) A person who operates a water device is considered to have given consent to chemical tests or analysis of his breath, blood, or urine to determine the presence of alcohol, drugs, or a combination of both, if arrested for an offense arising out of acts alleged to have been committed while the person was operating or directing the operation of a water device while under the influence of alcohol, drugs, or a combination of both. A test given must be administered at the direction of the arresting law enforcement officer. At the direction of the arresting officer, the person first must be offered a breath test to determine the alcohol concentration of his blood. If the person is physically unable to provide an acceptable breath sample because he has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by licensed medical personnel, a blood sample may be taken. If the officer has reasonable grounds to believe the person is under the influence of drugs other than alcohol, the officer may order that a urine sample be taken for testing. If the breath analysis reading is eight one-hundredths of one percent or above by weight of alcohol in the person's blood, the officer may not require additional tests of the person as provided in this chapter.

(2) The breath test must be administered by a person trained and certified by the South Carolina Law Enforcement Division (SLED), using methods approved by SLED. The arresting officer may administer the tests if testing is done in conformity with the standards set out by SLED. Blood and urine samples must be taken by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, or other medical personnel trained to take the samples in a licensed medical facility. Blood samples or urine samples must be obtained and handled in accordance with procedures approved by SLED. No tests may be administered or samples taken unless the person has been informed that he does not have to take the test or give the samples, but that his privilege to operate a water device must be suspended or denied for one hundred eighty days if he refuses to submit to the tests.

(3) A hospital, physician, qualified technician, chemist, or registered nurse who takes samples or conducts the test or participates in the process of taking the samples or conducting the test in accordance with this section is not subject to a cause of action for assault, battery, or any other cause alleging that the drawing of blood or taking of samples at the request of the arrested person or a law enforcement officer was wrongful. This release from liability does not reduce the standard of medical care required of the person taking the samples or conducting the test. This qualified release also applies to the employer of the person who conducts the test or takes the samples. No person may be required by the arresting officer, or by any other law enforcement officer, to obtain or take any sample of blood or urine.

(4) The person tested or giving samples for testing may have a qualified person of his own choosing conduct additional tests at his expense and must be notified of that right. A person's failure to request additional blood or urine tests is not admissible against the person in a criminal trial. The failure or inability of the person tested to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the direction of the law enforcement officer.

(5) The arresting officer must provide reasonable assistance to the person to contact a qualified person to conduct additional tests.

(6) SLED must administer the provisions of this subsection and may promulgate regulations necessary to carry out its provisions. The cost of the tests administered at the direction of the law enforcement officer must be paid from the general fund of the State. A fee of fifty dollars must be assessed at the time of the

sentencing against persons convicted of, pleading guilty or nolo contendere to, or forfeiting bond for violating Section 50-21-112 or Section 50-21-113. This fee must be forwarded by the county treasurer to the State Treasurer and credited to the general fund of the State to defray any costs incurred by SLED and individuals and institutions obtaining the samples forwarded to SLED.

(B) In any criminal prosecution where a test or tests were administered pursuant to this chapter, the amount of alcohol in the person's blood at the time of the alleged violation, as shown by chemical analysis of the person's breath or other body fluids, gives rise to the following inferences:

(1) If there was at that time five one-hundredths of one percent or less by weight of alcohol in the person's blood, it is presumed conclusively that the person was not under the influence of alcohol.

(2) If there was at that time in excess of five one-hundredths of one percent but less than eight one-hundredths of one percent by weight of alcohol in the person's blood, this fact does not give rise to any inference that the person was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(3) If there was at that time eight one-hundredths of one percent or more by weight of alcohol in the person's blood, it may be inferred that the person was under the influence of alcohol.

(C) The provisions of this section may not be construed as limiting the introduction of other competent evidence bearing upon the question of whether or not the person was under the influence of alcohol, drugs, or a combination of them. Refusal, resistance, obstruction, or opposition to testing pursuant to this section is admissible as evidence at the trial of a person charged with the offense that precipitated the request for testing.

(D) A person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered to be informed and not to have withdrawn the consent provided by subsection (A).

(E) If a person under arrest refuses, upon the request of a law enforcement officer, to submit to chemical tests provided in subsection (A), none may be given, but the department, on the basis of a report from the law enforcement officer that the arrested person was operating a water device within this State while under the influence of alcohol, drugs, or a combination of them, and that the person had refused to submit to the tests, must suspend his privilege to perform the above-mentioned activities for one hundred eighty days. The one hundred eighty-day period of suspension begins with the day after the date of the notice required to be given, unless a hearing is requested as provided, in which case the one hundred eighty-day period begins with the day after the date of the order sustaining the suspension. The report of the arresting officer must include what grounds he had for believing the arrested person was conducting the above-mentioned activity while under the influence of alcohol, drugs, or a combination of them.

(F) Upon suspending the operating privilege of a person, the department immediately shall notify the person in writing and upon his request give him an opportunity for a hearing as provided in Article 3, Chapter 23, Title 1 of the 1976 Code. The review must be scheduled by the Administrative Law Court in accordance with the division's procedural rules. The scope of the hearing is limited to the issues set out by the Administrative Procedures Act and the division's procedural rules. Upon order of the administrative law judge, the department either shall rescind its order of suspension or continue the suspension of the privilege.

(G) If a boating accident or marine casualty involves a fatality, the coroner having jurisdiction shall direct that a chemical blood test be performed on the deceased, within forty-eight hours of receiving notification of the death, to determine blood alcohol concentration or the presence of drugs, and that the results of the test be recorded properly in the coroner's report.

(H) The suspensions under this section are in addition to and not in lieu of any other civil remedies or civil penalties which may be assessed.

HISTORY: 1991 Act No. 138, Section 1; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.G; 2003 Act No. 61, Section 3.

SECTION 50-21-115. Reckless homicide by operation of boat; penalty; persons convicted of certain offenses prohibited from operating boat.

When the death of a person ensues within three years as a proximate result of injury received by the operation of a boat in reckless disregard of the safety of others, the person operating the boat is guilty of reckless homicide. A person convicted of reckless homicide or a person who enters a plea of guilty of reckless homicide and receives sentence thereon must be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned for not more than ten years, or both. A person convicted of reckless homicide, involuntary manslaughter, manslaughter, or murder in the operation of a boat must be prohibited by the court having jurisdiction of these violations from operating any boat within this State for a period of not more than five years.

HISTORY: 1980 Act No. 312, Section 1; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2; 2001 Act No. 97, Section 2.

SECTION 50-21-116. Chemical tests to determine presence of alcohol and/or drugs; requesting additional tests; release of results.

Notwithstanding any other provision of law, a person must submit to either one or a combination of chemical tests of his breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol and drugs, if there is probable cause to believe that the person violated or is under arrest for a violation of Section 50-21-113.

The tests must be administered at the direction of a law enforcement officer who has probable cause to believe that the person violated or is under arrest for violation of Section 50-21-113. The administration of one test does not preclude the administration of other tests. The resistance, obstruction, or opposition to testing pursuant to this section is evidence admissible at the trial of the offense which precipitated the requirement for testing. A person who is tested or gives samples for testing may have a qualified person of his choice conduct additional tests at his expense and must be notified of that right. A person's request or failure to request additional blood or urine tests is not admissible against the person in the criminal trial.

The provisions of Section 50-21-114, relating to the administration of tests to determine a person's alcohol concentration, additional tests at the person's expense, the availability of other evidence on the question of whether or not the person was under the influence of alcohol, drugs, or a combination of them, availability of test information to the person or his attorney, and the liability of medical institutions and person administering the tests are applicable to this section and also extend to the officer requesting the test, the State or its political subdivisions, or governmental agency, or entity which employs the officer making the request, and the agency, institution, or employer, either governmental or private, of persons administering the tests. Notwithstanding any other provision of law pertaining to confidentiality of hospital records or other medical records, information regarding tests performed pursuant to this section must be released, upon subpoena, to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of Section 50-21-113.

HISTORY: 1999 Act No. 124, Section 2.I.

SECTION 50-21-117. Operation of water device while privileges suspended; offense; penalties.

(A) A person who operates any water device while his privileges are suspended is guilty of a misdemeanor and, upon conviction, must be fined two hundred dollars or imprisoned for thirty days for the first violation; for a second violation must be fined five hundred dollars and imprisoned for sixty consecutive days; and for a third or subsequent violation must be imprisoned for not less than ninety days nor more than six months, no portion of which may be suspended by the trial judge.

(B) If the privileges of the person convicted were suspended pursuant to the provisions of Section 50-21-112 or 50-21-113, he must be punished as follows and no part of the minimum sentence may be suspended:

- (1) for a first offense, imprisoned for not less than ten nor more than thirty days;
- (2) for a second offense, imprisoned for not less than sixty days nor more than six months;
- (3) for a third and subsequent offense, not less than six months nor more than three years.

(C) A person who is convicted under the provisions of subsection (A) must have his privileges suspended for an additional three years by the department.

(D) The suspension penalties assessed under this section are in addition to and not in lieu of any other civil remedies or criminal penalties which may be assessed.

HISTORY: 1999 Act No. 124, Section 2.J.

SECTION 50-21-120. Duty of boat livery as to equipment, registration and the like; liability of owner for negligent operation of vessel.

Neither the owner, his agent, or employees of a boat livery operating in this State shall permit any vessel to depart from his premises unless it is in sound and safe operating condition, have a valid registration, is properly numbered and is provided, either by the owner or the renter, with the equipment required pursuant to Section 50-21-610 and any regulations made pursuant thereto; and the owner of a boat livery shall be liable for damage or injury which may result directly from his failure to meet the requirements of this paragraph; provided, however, that readily identifiable livery boats of less than twenty-six feet in length leased or rented to another for the latter's noncommercial use for less than seven days may have the registration certificate retained ashore by the owner or his representative.

The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel whether the negligence consists of a violation of the provisions of the statutes of this State or neglecting to observe the ordinary care in the operation as the regulations of common law require. The owner shall not be liable, however, unless the vessel is being used with his express or implied consent or is in the possession of a person or organization legally responsible therefor. It shall be presumed that the vessel is being operated with the knowledge and consent of the owner if, at the time of the injury or damage, it is under control of a member of the owner's household. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have. Provided, the owner of a boat livery shall not be liable as an owner as provided in this paragraph, and in case of any negligent injury or damage occasioned by the operation of a vessel rented or hired from a boat livery, the operator of the vessel shall be liable as owner thereof.

HISTORY: 1962 Code Section 70-295.12; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1973 (58) 648; 1979 Act No. 95, Section 1; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.K.

SECTION 50-21-125. Restrictions on swimming near public landing on hydroelectric generation lake or reservoir; no wake zone.

It is unlawful for a person to swim within fifty feet of a public boat landing or ramp located on a lake or reservoir constructed or developed by an investor-owned utility for hydroelectric generation. For purposes of this section, a public boat landing or ramp is one owned or maintained by an investor-owned utility for hydroelectric generation and is available to the public at large. The area where swimming is prohibited must be clearly marked and signs must be posted to give public notice that no swimming is allowed in the area. Watercraft must slow to no wake speed when operated within two hundred feet of the landing or ramp.

HISTORY: 1988 Act No. 296, Section 1; 1993 Act No. 181, Section 1269; 2008 Act No. 286, Section 7, eff June 11, 2008.

Effect of Amendment

The 2008 amendment deleted the fifth and sixth sentences relating to no wake signage and the seventh sentence exempting that portion of Game Zone No. 4 in Lancaster County.

SECTION 50-21-130. Duties of vessel operator involved in collision; offense and penalties; immunity of person rendering assistance; accident reports; suspension of privileges.

(A) It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, if he can do so without serious danger to his own vessel, crew, or passengers, to render assistance as may be practical

or necessary to persons affected by the collision, accident, or other casualty including personal injury or property damage and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty. A person who fails to stop or to comply with the requirements of this section, is guilty of:

(1) a misdemeanor, when personal injury or property damage results but great bodily injury or death does not result, and, upon conviction, must be imprisoned not less than thirty days nor more than one year or fined not less than one hundred dollars nor more than five thousand dollars, or both;

(2) a felony when great bodily injury results and, upon conviction, must be imprisoned not less than thirty days nor more than ten years and fined not less than five thousand dollars nor more than ten thousand dollars; or

(3) a felony when death results and, upon conviction, must be imprisoned not less than one year nor more than twenty-five years and fined not less than ten thousand dollars nor more than twenty-five thousand dollars.

(B) Any person who complies with subsection (1) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty shall not be 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.

(C) In the case of a reportable accident, the operator or owner of any vessel involved shall file a full description of the accident with the department and provide any information the department may require when requested as part of the investigation within forty-eight hours of the accident. The owner or operator of a watercraft involved must furnish his name, address, and identification of his watercraft in writing to any person injured or the owner of any property damaged in the accident as soon as possible after the collision. In the event an accident results in death, loss of consciousness, or serious bodily injury, the owner or operator immediately shall notify the department.

(D) The accident report must be without prejudice, and must be for the information of the department. However, a person alleged to have sustained injury or property damage or alleged to have caused injury or property damage, their attorney, personal representative, or an insurer may obtain a copy of the report. The fact the report has been made is admissible solely to show compliance with this section, but no report or any part or statement contained in the report is admissible as evidence in a civil trial. An insured alleged to be responsible for the accident cannot be reimbursed for property damages until the report is filed.

(E) The department shall administer a State Casualty Reporting System which shall be in conformity with that established by the United States Coast Guard.

(F) The department must suspend the privileges of a person convicted under this section for:

(1) two years if the operator of a vessel is convicted of not rendering assistance to persons affected in a collision, accident, or other casualty;

(2) one year if the operator of a vessel is convicted of not reporting a boating accident;

(3) a person's privilege to operate a watercraft shall not be reinstated until the person attends and completes a boating safety education program approved by the department. The person required to attend the class shall reimburse the department for the expense of the program.

(G) The suspension penalties assessed under this section are in addition to and not in lieu of any other civil remedies or criminal penalties which may be assessed.

HISTORY: 1962 Code Section 70-295.13; 1955 (49) 299; 1959 (51) 409; 1961 (52) 588; 1972 (57) 2791; 1974 (58) 2678; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.L; 2008 Act No. 321, Section 2, eff 6 months after approval (approved June 16, 2008).

Effect of Amendment

The 2008 amendment, in subsection (A), in the first sentence deleted ", and guests," following "passengers"; and rewrote subsections (C) and (D).

SECTIONS 50-21-132 to 50-21-139. Repealed by 2008 Act No. 321, Section 6, eff 6 months after approval (approved June 16, 2008).

Editor's Note

Former Section 50-21-132 was entitled "Lake Moultrie no wake zone established; boundaries" and was derived from 2000 Act No. 276, Section 1.

Former Section 50-21-133 was entitled "Sullivan's Island and Combahee River no wake zones established; penalty" and was derived from 1999 Act No. 124, Section 1; 2000 Act No. 385, Section 1.

Former Section 50-21-135 was entitled "Ashley River no wake zone established" and was derived from 1991 Act No. 160, Section 1; 1993 Act No. 181, Section 1269.

Former Section 50-21-136 was entitled "Hilton Head Island no wake zones established; offense; punishment" and was derived from 1998 Act No. 361, Section 1; 1999 Act No. 100, Part II, Section 101; 1999 Act No. 124, Section 49.

Former Section 50-21-137 was entitled "No wake zone on Ashley River near certain historic sites" and was derived from 1992 Act No. 344, Section 1; 1993 Act No. 181, Section 1269.

Former Section 50-21-138 was entitled "No wake zone on Lucy Point Creek" and was derived from 1999 Act No. 124, Section 3.

Former Section 50-21-139 was entitled "No wake zone established in Tail Race Canal" and was derived from 1990 Act No. 402, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-140. Division to furnish information on collisions and numbering of vessels to officials or agencies of United States.

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 Sections 50-21-310 and 50-21-130 shall be transmitted to the official or agency of the United States for analytical and statistical purposes.

HISTORY: 1962 Code Section 70-295.14; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.

SECTIONS 50-21-142 to 50-21-145. Repealed by 2008 Act No. 321, Section 6, eff 6 months after approval (approved June 16, 2008).

Editor's Note

Former Section 50-21-142 was entitled "Cooper River no wake zone established" and was derived from 2001 Act No. 21, Section 1.

Former Section 50-21-143 was entitled "Little Chechessee Creek no wake zone established" and was derived from 1998 Act No. 364, Section 1.

Former Section 50-21-144 was entitled "Cat Creek no wake zone established" and was derived from 1998 Act No. 364, Section 2.

Former Section 50-21-145 was entitled "No wake and no swimming zones on Lakes Keowee and Jocassee" and was derived from 1984 Act No. 512, Part II, Section 60; 1993 Act No. 181, Section 1269.

SECTION 50-21-146. Discharging firearm at boat landing or ramp prohibited.

A person who discharges a firearm at a public boat landing or ramp is guilty of a misdemeanor and, upon conviction, must be punished as provided in Section 50-1-130.

HISTORY: 1988 Act No. 458, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-147. Repealed by 2008 Act No. 321, Section 6, eff 6 months after approval (approved June 16, 2008).

Editor's Note

Former Section 50-21-147 was entitled "No wake zone in vicinity of Kiawah Docking Facility" and was derived from 1984 Act No. 502, Section 3; 1993 Act No. 181, Section 1269.

SECTION 50-21-148. Prohibition against obstruction of pier, dock, wharf, boat ramp, or access areas; erection of signs; penalties for violation.

It is unlawful to obstruct any pier, dock, wharf, boat ramp, or the access area to the facilities. Any vessel, vehicle, or other object left unattended which obstructs any of the facilities or the access to them may be removed entirely at the risk and expense of the owner. The department, with the advice of the Department of Transportation, shall erect signs at appropriate locations advertising the provisions of this section. Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1986 Act No. 378, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-149. Repealed by 2008 Act No. 321, Section 6, eff 6 months after approval (approved June 16, 2008).

Editor's Note

Former Section 50-21-149 was entitled "No wake zone on certain part of Congaree River" and was derived from 1988 Act No. 551, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-150. Penalties.

A person who violates this chapter or regulations promulgated by the department pursuant to it where the penalty is not specified is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five nor more than two hundred dollars or imprisoned not more than thirty days for each violation.

HISTORY: 1962 Code Section 70-295.15; 1955 (49) 299; 1957 (50) 125; 1959 (51) 409; 1961 (52) 588; 1972 (57) 2791; 1973 (58) 648; 1986 Act No. 376, Section 1; 1993 Act No. 128, Section 4; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.M.

SECTION 50-21-160. Disposition of fees and fines.

(A) Except as provided in subsection (B), all fees or fines collected pursuant to this chapter must be held and utilized for the purpose of paying the expenses of the Natural Resources Enforcement Division of the department and other department operations. Twenty-five percent of all fines must be retained by the county in which the fine is levied.

(B) To the extent fees collected pursuant to Sections 50-21-340, 50-21-370, and 50-21-380, in connection with registration of boats, are attributable to fee increases beginning July 1, 1999, revenues from those fee increases must be used by the department for its law enforcement responsibilities. Any surplus may be carried forward for that use.

HISTORY: 1962 Code Section 70-295.16; 1955 (49) 299; 1959 (51) 409; 1992 Act No. 501, Part II, Section 44A; 1993 Act No. 181, Section 1269; 1999 Act No. 100, Part II, Section 64.A.

SECTION 50-21-170. Relationship between state and federal regulations; effect of changes in federal law or regulations.

The statutes and regulations, including the United States Coast Guard Navigational Rules that pertain to watercraft and watercraft safety, associated marine equipment, performance and operation of watercraft, standard numbering and registration of watercraft, and boating accident reporting as enacted by the Congress of the United States or as promulgated by the appropriate department of the United States government, are the law of the State of South Carolina. Any person violating the provisions of the statutes or regulations, upon conviction, must be punished as provided in Section 50-21-150.

HISTORY: 1986 Act No. 377, Section 1; 1988 Act No. 566, Section 1; 1993 Act No. 181, Section 1269.

SECTION 50-21-175. Watercraft to heave to on Coast Guard signal; cooperation by operator, crew and passengers; penalties; magistrates court jurisdiction.

(A) The operator and crew of any watercraft operating in state waters are required to heave to when signaled or hailed and allow boarding by law enforcement officers or U.S. Coast Guard personnel.

(B) The operator, crew, and passengers of any watercraft operating in state waters are required to cooperate with law enforcement officers or U. S. Coast Guard personnel.

(C) Any operator, crew member, or passenger of any watercraft violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned for not more than thirty days.

(D) Notwithstanding any other provision of law, the magistrates court retains jurisdiction for violations of this section.

HISTORY: 2000 Act No. 245, Section 19; 2002 Act No. 342, Section 48; 2008 Act No. 321, Section 3, eff 6 months after approval (approved June 16, 2008).

Effect of Amendment

The 2008 added subsection (D) relating to magistrates court jurisdiction.

SECTION 50-21-180. Riding surfboard near fishing piers.

It shall be unlawful to ride a surfboard within one hundred yards of any fishing pier in Game Zone No. 7 and Georgetown County.

Anyone violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1993 Act No. 181, Section 1263; 2000 Act No. 245, Section 20.

Editor's Note

2000 Act No. 245, Section 20 redesignated Section 50-13-990 as Section 50-21-180.

SECTION 50-21-190. Abandoning watercraft or outboard motor; penalty; removal.

(A) It is unlawful to abandon a watercraft or outboard motor on the public lands or waters of this State or on private property without permission of the property owner. This section does not apply to persons who abandon a watercraft in an emergency for the safety of the persons onboard; however, after the emergency is over, the owner and operator of the abandoned watercraft shall make a bona fide attempt to recover the watercraft.

(B) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned up to thirty days, or both. In addition, the owner must remove the abandoned watercraft within fourteen days of conviction. The magistrates and municipal courts are vested with jurisdiction for cases arising under this section.

(C) An abandoned watercraft as identified by the department may be removed at the risk and expense of the owner and disposed of by any governmental agency that has jurisdiction over the area where the abandoned watercraft is located.

(D) The department must conduct investigations of any watercraft subject to the provisions of this section to determine the status of the watercraft as abandoned. The department must send written notice and make additional reasonable efforts to notify the last known owner, if any, of the status of the watercraft. If efforts to notify fail, then the department must post a notice on the watercraft advising that the watercraft is abandoned. If the owner claims the watercraft within forty-five days of the date the notice is posted, the watercraft is not considered abandoned.

(E) A watercraft identified by the department as abandoned for at least ninety days may be claimed by any person or entity as abandoned property.

HISTORY: 2008 Act No. 321, Section 4, eff 6 months after approval (approved June 16, 2008); 2011 Act No. 21, Section 1, eff May 9, 2011.

Effect of Amendment

The 2011 amendment rewrote subsection (C); and added subsections (D) and (E).

ARTICLE 5

Construction, Equipment, and Safety Standards

SECTION 50-21-610. Regulations of Division as to construction, equipment, and other safety standards.

(1) The department may promulgate regulations which establish boat construction or associated equipment performance or other safety standards.

(2) In order that boatmen may pass from jurisdiction to jurisdiction in an unhindered manner:

(a) Regulations promulgated by the department which establish any boat construction or associated equipment, performance or other safety standard shall be identical to Federal Regulations for enforcement purposes except that regulations requiring the carrying or using of marine safety articles to meet uniquely hazardous conditions or circumstances within this State may be adopted; and if regulations for such safety articles are not disapproved by the United States Coast Guard, regulations shall not be in conflict with Federal requirements;

(b) Operational regulations and other equipment regulations such as for mufflers shall not be in conflict with Federal requirements.

HISTORY: 1962 Code Section 70-295.41; 1955 (49) 299; 1959 (51) 409; 1961 (52) 588; 1962 (52) 2186; 1970 (56) 2331; 1971 (57) 2012; 1972 (57) 2791; 1974 (58) 2678; 1993 Act No. 181, Section 1269.

ARTICLE 7

Aids to Navigation and Regulatory Markers

SECTION 50-21-710. Placing of aids to navigation and regulatory markers; certain conduct prima facie evidence of negligence; prohibited acts.

(A) As used in this section:

(1) "Aids to navigation" means any device designed or intended to assist a navigator to determine his position or safe course or to warn him of danger or obstructions to navigation.

(2) "Regulatory markers" means any device which indicates to a vessel operator the existence of dangerous areas as well as those which are intended to restrict or control, such as speed zones and areas dedicated to a particular use or to provide general information and directions. This includes bathing markers, speed zone markers, information markers, danger zone markers, boat keep out areas, mooring buoys, wharves, docks, obstructions or hazards to navigation, and any activity, object, or construction in the waters of the State.

(B) The department may promulgate regulations for the uniform marking of the waters of the State and may regulate the operation of all vessels, watercraft, and water devices through the placement of aids to navigation and regulatory markers. The regulations shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard or its successor agency. No city, county, or person shall mark or obstruct the waters of this State in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the department.

(C) The operation of any vessel, watercraft, or water device within a prohibited area is negligent operation unless the seriousness of the operation within a prohibited area constitutes reckless operation.

(D) It shall be unlawful for a person to operate a vessel, watercraft, or water device on the waters of this State in a manner other than that prescribed or permitted by regulatory markers.

(E) No person may moor or fasten a vessel, watercraft, or water device to or wilfully damage, tamper, remove, obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to this chapter.

(F) All no wake zones heretofore established are considered established pursuant to the authority of this section.

(G) A person who violates a provision of this section or regulation promulgated pursuant to this section is guilty of a misdemeanor and, upon conviction, must be punished as provided in this chapter.

HISTORY: 1962 Code Section 70-295.43; 1972 (57) 2791; 1974 (58) 2678; 1993 Act No. 184, Section 249; 1993 Act No. 181, Section 1269; 1999 Act No. 124, Section 2.O; 2006 Act No. 289, Section 9.A; 2008 Act No. 321, Section 5, eff 6 months after approval (approved June 16, 2008).

Effect of Amendment

The 2008 amendment added subsection (F) relating to no wake zones and redesignated subsection (F) as subsection (G).

ARTICLE 9

Water skis, Aquaplanes, Surfboards and Like Devices

SECTION 50-21-810. Motorboat towing person on water skis or similar device to have observer or rear-view mirror.

No person shall operate a motorboat on any waters of this State for towing a person or persons on water skis, or an aquaplane, or similar device, unless there is in such motorboat a person, in addition to the operator, in a position to observe the progress of the person or persons being towed or such motorboat is equipped with a wide-angle rear-view mirror mounted in such a manner as to permit the operator of the motorboat to observe the progress of the person or persons being towed.

HISTORY: 1962 Code Section 70-295.51; 1955 (49) 299; 1959 (51) 409; 1993 Act No. 181, Section 1269.

SECTION 50-21-820. Water skiing, surfboarding, and similar activity prohibited during certain hours.

No person shall operate a vessel on any waters of this State towing a person or persons on water skis, aquaplane, a surfboard, or similar devices, nor shall any person be engaged in water skiing, aquaplaning, surfboarding, or similar activity at any time between the hours from sunset to sunrise.

HISTORY: 1962 Code Section 70-295.52; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.

Code Commissioner's Note

At the direction of the Code Commissioner, "be" was inserted before "engaged."

SECTION 50-21-830. Exemptions.

The provisions of Sections 50-21-810 and 50-21-820 do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under Section 50-21-1010.

HISTORY: 1962 Code Section 70-295.53; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.

SECTION 50-21-840. Certain conduct which endangers person on water skis, surfboard, or similar device prohibited.

No person shall operate or manipulate any vessel, tow rope 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.

HISTORY: 1962 Code Section 70-295.54; 1955 (49) 299; 1959 (51) 409; 1993 Act No. 181, Section 1269.

SECTION 50-21-850. Ski belt, life preserver, or similar equipment required; exceptions.

(A) No person may water ski or ride on any object being towed by a motorized watercraft unless he is wearing a United States Coast Guard approved personal flotation device, Type I, Type II, Type III, or Type V. Each personal flotation device must be fastened properly, in good and serviceable condition, and the proper size for the person wearing it.

(B) The following persons are exempt from the requirements of this section:

- (1) participants in scheduled water ski tournaments or shows sponsored by a recognized water ski club;
- (2) persons holding ratings of first class or higher in the American Water Ski Association;
- (3) windsurfers, surfboarders, and sailboarders.

HISTORY: 1962 Code Section 70-295.55; 1955 (49) 299; 1961 (52) 588; 1984 Act No. 502, Section 1; 1993 Act No. 181, Section 1269; 1996 Act No. 420, Section 1.

SECTION 50-21-855. Enforcement of regulations affecting windsurfers and sailboarders.

Notwithstanding any other provision of law or Regulation 123.1 of the department, the department may not enforce any regulation requiring windsurfers and sailboarders to wear or carry personal flotation devices.

HISTORY: 1984 Act No. 502, Section 2; 1993 Act No. 181, Section 1269.

SECTION 50-21-860. Restrictions on use of airboats.

As used in this section, "airboat" means a watercraft propelled by air pressure caused by a motor mounted on the watercraft aboveboard.

(A) It is unlawful for a person to operate an airboat on the public waters of this State from the freshwater-saltwater dividing line, established by Section 50-17-30, seaward.

(B) It is unlawful to operate an airboat on the waters of the Waccamaw, the Great Pee Dee, the Little Pee Dee, the Black, and the Sampit Rivers in Georgetown and Horry Counties from one hour before legal sunset to one hour after legal sunrise and anytime during the season for hunting duck.

(C) It is unlawful to operate an airboat on the waters of that portion of Lake Marion and Santee Swamp west of the I-95 bridge upstream to the confluence of the Congaree and Wateree Rivers during the season for hunting waterfowl.

(D) It is unlawful to operate an airboat on the waters of the Broad River in Richland County from one hour before legal sunset to one hour after legal sunrise.

(E) It is unlawful to operate an airboat on the waters of Stevens Creek in Edgefield County from one hour before legal sunset to one hour after legal sunrise.

A person violating the provisions of this section, upon conviction, must be punished as provided by Section 50-1-130.

The provisions of this section do not apply to the operation of airboats by law enforcement, emergency medical, civil defense, noxious weed control, military personnel, state and federally approved wildlife banding, surveying, biological research programs, and private waters.

HISTORY: 1988 Act No. 430, Section 1; 1993 Act No. 181, Section 1269; 1996 Act No. 420, Section 2; 2022 Act No. 133 (H.3889), Section 1, eff April 11, 2022; 2023 Act No. 39 (H.3689), Section 1, eff May 16, 2023.

Effect of Amendment

2022 Act No. 133, Section 1, in (B), substituted "hunting duck" for "hunting waterfowl".

2023 Act No. 39, Section 1, inserted (D) and (E).

SECTION 50-21-870. Personal watercraft and boating safety.

(A) As used in this section:

- (1) "Class 'A' boat" means a motorboat which is less than sixteen feet in length.

(2) "Floating device" includes kneeboards, aqua planes, surfboards, saucers, inner tubes, and other similar equipment.

(B) No person may:

(1)(a) operate, be in possession of, or give permission to operate a personal watercraft or specialty propcraft while upon the waters of this State unless each person aboard the personal watercraft or specialty propcraft is wearing a United States Coast Guard approved personal flotation device, Type I, Type II, Type III, or Type V;

(b) operate, be in possession of, or give permission to operate a Class "A" motor boat while upon the waters of this State unless each person under the age of twelve aboard the Class "A" motor boat is wearing a United States Coast Guard approved personal flotation device, Type I, Type II, Type III, or Type V;

Each personal flotation device must be fastened properly, in good and serviceable condition, and the proper size for the person wearing it;

(2) operate or be in possession of a personal watercraft or specialty propcraft while upon the waters of this State after sunset or before sunrise;

(3) operate or be in possession of a personal watercraft or specialty propcraft while upon the waters of this State unless it is equipped with a self-circling device or a lanyard-type engine cutoff switch;

(4) operate or be in possession of while upon the waters of this State a personal watercraft or specialty propcraft which has been equipped by the manufacturer with a lanyard-type engine cutoff switch unless the lanyard and the switch are operational and unless the lanyard is attached to the operator, the operator's clothing, or a personal flotation device worn by the operator;

(5) operate or be in possession of while upon the waters of this State a personal watercraft or specialty propcraft which has been equipped by the manufacturer with a self-circling device if the self-circling device or the engine throttle has been altered in a way that would prohibit the self-circling device from operating in its intended manner;

(6)(a) operate a personal watercraft, specialty propcraft, or vessel while upon the waters of Lake Greenwood, Lake Hartwell, Lake Jocassee, Lake Keowee, Lake Marion, Lake Monticello, Lake Murray, Lake Robinson, Lake Russell, Lake Secession, Lake Thurmond, Lake Wateree, Fishing Creek Reservoir, Parr Reservoir, or the portion of the Savannah River from the Interstate 20 Savannah River Bridge to the New Savannah River Bluff Lock and Dam in excess of idle speed within one hundred feet of a wharf, dock, bulkhead, or pier or fifty feet of a moored or anchored vessel or person in the water;

(b) operate a personal watercraft, specialty propcraft, or vessel while upon all other waters of this State in excess of idle speed within 50 feet of a moored or anchored vessel, wharf, dock, bulkhead, pier, or person in the water, or within 100 yards of the Atlantic Ocean coast line. The prohibitions contained in this item do not apply to an unoccupied, moored vessel or watercraft or to a person behind a vessel or watercraft who is on water skis or a floating device with the permission of the operator of the vessel or watercraft;

(c) the provisions of this item do not apply to Lake Moultrie;

(7) chase, harass, molest, worry, or disturb wildlife with a personal watercraft, specialty propcraft, or vessel except while lawfully angling for, hunting, or trapping wildlife;

(8) tow a water skier or a person on a floating device with a personal watercraft or specialty propcraft unless the watercraft is equipped with a wide-angled mirror which permits the operator to observe the person being towed or carrying a person other than the operator who is in position to observe the person being towed. No person may tow a water skier or a floating device unless the person being towed is wearing a personal flotation device as provided in item (1). A personal watercraft or specialty propcraft may be used to tow another vessel when rendering assistance;

(9) wake surf in excess of idle speed within two hundred feet of a moored vessel, wharf, dock, bulkhead, pier, or person in the water.

(C) It is unlawful for a person who owns a personal watercraft, specialty propcraft, or vessel, or who has charge over or control of a personal watercraft, specialty propcraft, or vessel to authorize or knowingly to permit the personal watercraft, specialty propcraft, or vessel to be operated in violation of this section.

(D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars but no more than three hundred dollars.

(E) This section does not apply to:

(1) the operation of personal watercraft, specialty propcraft, or vessels by the following personnel while in the performance of their official duties:

- (a) law enforcement;
- (b) emergency medical;
- (c) civil defense;
- (d) military;
- (e) state and federally approved wildlife;
- (f) those involved in biological research programs;

(2) activity on private waters;

(3) performers engaged in a professional exhibition or a person preparing to participate or participating in an officially sanctioned regatta, race, marine parade, tournament, or exhibition in an area and at a time designated for that purpose.

HISTORY: 1996 Act No. 291, Section 1; 1999 Act No. 124, Section 2.P, Q; 2022 Act No. 124 (H.3308), Sections 2, 3, eff March 14, 2022; 2023 Act No. 74 (S.96), Sections 4, 5, eff August 18, 2023.

Effect of Amendment

2022 Act No. 124, Section 2, in (B), rewrote (6), increasing distance limits between a watercraft operating in excess of idle speed upon certain waters and a wharf, dock, bulkhead, or pier.

2022 Act No. 124, Section 3, in (B), inserted (10), relating to wake surf.

2023 Act No. 74, Section 4, in (A), deleted former (1) and (2), which related to "Personal watercraft" and "Specialty propcraft" and redesignated (3) and (4) as (1) and (2).

2023 Act No. 74, Section 5, deleted (9), which related to persons younger than sixteen years of age operating a personal watercraft, specialty propcraft, or vessel, and redesignated former (10) as (9).

ARTICLE 11

Regattas and Like Exhibitions

SECTION 50-21-1010. Regulation of regattas, races, and similar exhibitions.

(1) The department may regulate the holding of regattas, races, marine parades, tournaments or exhibitions which, by their nature, circumstance or location will introduce extra or unusual hazards to the safety of life on any waters of this State. It shall adopt and may amend regulations concerning the safety of boats, motorboats and vessels and persons thereon, either observers or participants. Whenever a regatta, race, marine parade, tournament or exhibition is proposed to be held the person in charge thereof shall, at least thirty days prior thereto, file an application with the department for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, race, marine parade, tournament or exhibition and such other information as the department may by regulation require and it shall not be conducted without written authorization of the department.

(2) The provisions of this section shall not exempt any person from compliance with applicable Federal law or regulation but nothing contained herein shall be construed to 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.

HISTORY: 1962 Code Section 70-295.56; 1955 (49) 299; 1959 (51) 409; 1972 (57) 2791; 1993 Act No. 181, Section 1269.