

Introduced by Senator Monning

February 21, 2013

An act to amend Sections 651 and 658.3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as amended, Monning. Vessels: equipment requirements: personal flotation devices.

(1) Existing law governs vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this state, except as provided. For these purposes, existing law defines vessel to mean every description of watercraft used or capable of being used as a means of transportation on water, except as specified.

This bill would define vessel to mean every description of a watercraft or other artificial contrivance ~~that is~~ used or capable of being used as a means of transportation on water ~~or is designed to be or is propelled on water by sail, mechanical means, power, oars or paddles~~, except as specified.

(2) Existing law requires a person under 13 years of age to wear a United States Coast Guard-approved personal flotation device when aboard a motorboat, sailboat, or vessel that is underway, except as provided. Existing law requires a person on board a personal watercraft or a person being towed behind a vessel on water skis, an aquaplane, or similar device to wear a *specific type of* United States Coast Guard-approved personal flotation device, except as provided. Existing law makes a violation of these requirements an infraction.

This bill would ~~revise and recast these requirements by changing the type of~~ *delete the requirements that the* United States Coast Guard-approved personal flotation device ~~that a person is required to wear and the circumstances under which a person is required to wear a personal flotation device~~ *be of a specific type and would require that it be used in accordance with approved labels and manufacturer’s instructions.* Because existing law makes a violation of these requirements an infraction, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 651 of the Harbors and Navigation Code
- 2 is amended to read:
- 3 651. As used in this chapter, unless the context clearly requires
- 4 a different meaning:
- 5 (a) “Alcohol” means any form or derivative of ethyl alcohol
- 6 (ethanol).
- 7 (b) “Alcohol concentration” means either grams of alcohol per
- 8 100 milliliters of blood or grams of alcohol per 210 liters of breath.
- 9 (c) “Associated equipment” means any of the following,
- 10 excluding radio equipment:
- 11 (1) Any system, part, or component of a boat as originally
- 12 manufactured or any similar part or component manufactured or
- 13 sold for replacement, repair, or improvement of the system, part,
- 14 or component.
- 15 (2) Any accessory or equipment for, or appurtenance to, a boat.
- 16 (3) Any marine safety article, accessory, or equipment intended
- 17 for use by a person on board a boat.
- 18 (d) “Boat” means any vessel that is any of the following:
- 19 (1) Manufactured or used primarily for noncommercial use.
- 20 (2) Leased, rented, or chartered to another for the latter’s
- 21 noncommercial use.

1 (3) Engaged in the carrying of six or fewer passengers, including
2 those for-hire vessels carrying more than three passengers while
3 using inland waters of the state that are not declared navigable by
4 the United States Coast Guard.

5 (4) Commercial vessels required to be numbered pursuant to
6 Section 9850 of the Vehicle Code.

7 (e) “Chemical test” means a test that analyzes an individual’s
8 breath, blood, or urine; for evidence of drug or alcohol use.

9 (f) “Controlled substance” means controlled substance as defined
10 in Section 11007 of the Health and Safety Code.

11 (g) “Department” means the Department of Boating and
12 Waterways.

13 (h) “Director” means the Director of Boating and Waterways.

14 (i) “Drug” means any substance or combination of substances
15 other than alcohol that could so affect the nervous system, brain,
16 or muscles of a person as to impair to an appreciable degree his
17 or her ability to operate a vessel in the manner that an ordinarily
18 prudent person, in full possession of his or her faculties, using
19 reasonable care, would operate a similar vessel under like
20 conditions.

21 (j) “Intoxicant” means any form of alcohol, drug, or combination
22 thereof.

23 (k) “Legal owner” is a person holding the legal title to a vessel
24 under a conditional sale contract, the mortgagee of a vessel, or the
25 renter or lessor of a vessel to the state, or to any county, city,
26 district, or political subdivision of the state, under a lease,
27 lease-sale, or rental-purchase agreement that grants possession of
28 the vessel to the lessee for a period of 30 consecutive days or more.

29 (l) “Manufacturer” means any person engaged in any of the
30 following:

31 (1) The manufacture, construction, or assembly of boats or
32 associated equipment.

33 (2) The manufacture or construction of components for boats
34 and associated equipment to be sold for subsequent assembly.

35 (3) The importation into this state for sale of boats, associated
36 equipment, or components thereof.

37 (m) “Marine employer” means the owner, managing operator,
38 charterer, agent, master, or person in charge of a vessel other than
39 a recreational vessel.

1 (n) “Motorboat” means any vessel propelled by machinery,
2 whether or not the machinery is the principal source of propulsion,
3 but shall not include a vessel that has a valid marine document
4 issued by the United States Coast Guard or any federal agency
5 successor thereto.

6 (o) “Operator” means the person on board who is steering the
7 vessel while underway.

8 (p) “Owner” is a person having all the incidents of ownership,
9 including the legal title, of a vessel whether or not that person
10 lends, rents, or pledges the vessel; the person entitled to the
11 possession of a vessel as the purchaser under a conditional sale
12 contract; or the mortgagor of a vessel. “Owner” does not include
13 a person holding legal title to a vessel under a conditional sale
14 contract, the mortgagee of a vessel, or the renter or lessor of a
15 vessel to the state or to any county, city, district, or political
16 subdivision of the state under a lease, lease-sale, or rental-purchase
17 agreement that grants possession of the vessel to the lessee for a
18 period of 30 consecutive days or more.

19 (q) “Passenger” means every person carried on board a vessel
20 other than any of the following:

21 (1) The owner or his or her representative.

22 (2) The operator.

23 (3) Bona fide members of the crew engaged in the business of
24 the vessel who have contributed no consideration for their carriage
25 and who are paid for their services.

26 (4) Any guest on board a vessel that is being used exclusively
27 for pleasure purposes who has not contributed any consideration,
28 directly or indirectly, for his or her carriage.

29 (r) “Person” means an individual, partnership, firm, corporation,
30 limited liability company, association, or other entity, but does not
31 include the United States, the state, or a municipality or subdivision
32 thereof.

33 (s) “Personal watercraft” means a vessel 13 feet in length or
34 less, propelled by machinery, that is designed to be operated by a
35 person sitting, standing, or kneeling on the vessel, rather than in
36 the conventional manner of sitting or standing inside the vessel.

37 (t) “Recreational vessel” means a vessel that is being used only
38 for pleasure.

39 (u) “Registered owner” is the person registered by the
40 Department of Motor Vehicles as the owner of the vessel.

1 (v) “Special-use area” means all or a portion of a waterway that
2 is set aside for specified uses or activities to the exclusion of other
3 incompatible uses or activities.

4 (w) “State” means a state of the United States, the
5 Commonwealth of Puerto Rico, the Virgin Islands, Guam,
6 American Samoa, and the District of Columbia.

7 (x) “State of principal use” means the state on which waters a
8 vessel is used or intended to be used most during a calendar year.

9 (y) “Undocumented vessel” means any vessel that is not required
10 to have, and does not have, a valid marine document issued by the
11 United States Coast Guard or any federal agency successor thereto.

12 (z) “Use” means operate, navigate, or employ.

13 (aa) “Vessel” includes every description of a watercraft or other
14 artificial contrivance ~~that is used or capable of being used as a~~
15 ~~means of transportation on water or is designed to be propelled on~~
16 ~~water by sail, mechanical means, power, oars, or paddles.~~ “Vessel”
17 ~~does not include, except either of the following:~~

18 (1) A seaplane on the water.

19 (2) A watercraft specifically designed to operate on a
20 permanently fixed course, the movement of which is restricted to
21 a fixed track or arm to which the watercraft is attached or by which
22 the watercraft is controlled.

23 ~~(bb)~~

24 (ab) “Water skis, an aquaplane, or a similar device” includes
25 all forms of water skiing, barefoot skiing, skiing on skim boards,
26 knee boards, or other contrivances, parasailing, ski kiting, or any
27 activity where a person is towed behind or alongside a boat.

28 ~~(ee)~~

29 (ac) “Waters of this state” means any waters within the territorial
30 limits of this state.

31 SEC. 2. Section 658.3 of the Harbors and Navigation Code is
32 amended to read:

33 658.3. (a) A person shall not operate a motorboat, sailboat, or
34 vessel that is 26 feet or less in length, ~~or a vessel that is more than~~
35 ~~26 feet in length and has an open cockpit,~~ unless every person on
36 board who is under 13 years of age is wearing a *United States*
37 Coast Guard-approved *wearable* personal flotation device ~~in~~
38 ~~serviceable condition and of a type and size appropriate for the~~
39 ~~conditions and the activity being engaged in used in accordance~~

1 *with approved labels and manufacturer's instructions* while that
2 motorboat, sailboat, or vessel is underway, ~~moored, or at anchor.~~

3 (b) Subdivision (a) does not apply to a person operating a
4 sailboat on which a person who is under 13 years of age is
5 restrained by a harness tethered to the vessel, or to a person
6 operating a vessel on which a person who is under 13 years of age
7 is in an enclosed cabin.

8 (c) A person on board a personal watercraft or a person being
9 towed behind a vessel on water skis, an aquaplane, or similar
10 device, except for an underwater maneuvering device intended for
11 use by a submerged swimmer, shall wear a *United States Coast*
12 ~~Guard-approved~~ *wearable* personal flotation device ~~in serviceable~~
13 ~~condition and of a type and size appropriate for the conditions and~~
14 ~~the activity being engaged in~~ *used in accordance with approved*
15 *labels and manufacturer's instructions.* An underwater
16 maneuvering device is a towed or self-powered apparatus that a
17 person can pilot through diving, turning, and surfacing maneuvers
18 that is designed for underwater use.

19 (1) This subdivision does not apply to a person aboard a personal
20 watercraft or a person being towed behind a vessel on water skis,
21 if that person is a performer engaged in a professional exhibition,
22 or preparing to participate or participating with authorization
23 pursuant to a United States Coast Guard permit or other permit
24 granted pursuant to subdivision (a) of Section 268 in an official
25 regatta, marine parade, tournament, or exhibition.

26 (2) In lieu of wearing a *United States Coast Guard*-approved
27 *wearable* personal flotation device as described in this subdivision,
28 a person engaged in slalom skiing on a marked course or a person
29 engaged in barefoot, jump, or trick waterskiing may elect to wear
30 a wetsuit designed for the activity and labeled by the manufacturer
31 as a water ski wetsuit. A *United States Coast Guard*-approved
32 personal flotation device as described in this subdivision shall be
33 carried in the tow vessel for each skier electing to wear a water
34 ski wetsuit pursuant to this paragraph.

35 (d) The requirements set forth in subdivisions (a) and (c) do not
36 apply to a person 13 years of age or older operating a motorboat,
37 sailboat, or vessel if the vessel is engaged in an emergency rescue
38 situation.

39 (e) The following definitions govern the construction of this
40 section:

1 (1) “Enclosed cabin” means a space on board a vessel that is
2 surrounded by bulkheads and covered by a roof.

3 (2) “Operate a motorboat, sailboat, or vessel” means to be in
4 control or in charge of a motorboat, sailboat, or vessel while it is
5 underway.

6 (3) “Underway” means all times except when the motorboat,
7 sailboat, or vessel is anchored, moored, or aground.

8 (f) A violation of this section is an infraction punishable as
9 provided in subdivision (a) of Section 668.

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.