

**Introduced by Senator Berryhill**

February 20, 2014

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An act to amend Sections 307, 655.2, and 668 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, as amended, Berryhill. Vessels: violations.

(1) Existing law makes a person who moors a vessel to, or hangs on with a vessel to, a buoy or beacon, except as provided, ~~or who willfully removes, damages, or destroys a buoy or beacon, placed by a competent authority in any navigable waters of this state,~~ is guilty of a misdemeanor.

This bill would instead make a person who violates that provision guilty of an infraction, punishable by a fine of not more than \$100.

Existing law provides that an owner, operator, or person in command of any vessel propelled by machinery who uses it, or permits it to be used, at a speed in excess of 5 miles per hour in any portion of specified beach, swimming, or boat landing areas, not otherwise regulated by local rules and regulations, is guilty of a misdemeanor, punishable as specified.

This bill would instead make those persons guilty of an infraction, punishable as specified.

Existing law makes any person who violates specified regulations governing the piloting of vessels on state waters, guilty of a misdemeanor, punishable by a fine of not more than \$100 or imprisonment in a county jail for not more than 5 days, or by both that fine and imprisonment, for each violation.

This bill would instead make any person who violates specified regulations relating to proper operation of blinding lights or navigation lights guilty of an infraction, punishable by a fine of not more than \$100.

Existing law makes any person who violates specified standards for vessels and associated equipment guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail for not more than 6 months, or by both that fine and imprisonment.

This bill would make any person who violates certain standards for those vessels and associated equipment by riding on the bow, gunwale, or transom of a vessel propelled by machinery, or who violates certain other regulations prescribing safety requirements for vessels guilty of an infraction, and would impose specified fines for those violations.

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

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

1 SECTION 1. Section 307 of the Harbors and Navigation Code  
2 is amended to read:

3 307. (a) A person who moors a vessel to, or hangs on with a  
4 vessel to, a buoy or beacon, except a designated mooring buoy, ~~or~~  
5 *is guilty of an infraction, punishable by a fine of not more than*  
6 *one hundred dollars (\$100).*

7 (b) A person who willfully removes, damages, or destroys a  
8 buoy or beacon, placed by competent authority in any navigable  
9 waters of this state, is guilty of ~~an infraction, punishable by a fine~~  
10 ~~of not more than one hundred dollars (\$100) a misdemeanor.~~

11 SEC. 2. Section 655.2 of the Harbors and Navigation Code is  
12 amended to read:

13 655.2. (a) Every owner, operator, or person in command of  
14 any vessel propelled by machinery is guilty of an infraction who  
15 uses it, or permits it to be used, at a speed in excess of five miles  
16 per hour in any portion of the following areas not otherwise  
17 regulated by local rules and regulations:

18 (1) Within 100 feet of any person who is engaged in the act of  
19 bathing. A person engaged in the sport of water skiing shall not  
20 be considered as engaged in the act of bathing for the purposes of  
21 this section.

22 (2) Within 200 feet of any of the following:

- 1 (A) A beach frequented by bathers.
- 2 (B) A swimming float, diving platform, or lifeline.
- 3 (C) A way or landing float to which boats are made fast or which
- 4 is being used for the embarkation or discharge of passengers.

5 (b) This section does not apply to vessels engaged in direct law  
6 enforcement activities that are displaying the lights prescribed by  
7 Section 652.5. Those vessels are also exempt from any locally  
8 imposed speed regulation adopted pursuant to Section 660.

9 SEC. 3. Section 668 of the Harbors and Navigation Code is  
10 amended to read:

11 668. (a) Any person who violates subdivision (c) of Section  
12 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or  
13 754, or any regulations adopted pursuant thereto, or any regulation  
14 adopted pursuant to Section 655.3 relating to vessel equipment  
15 requirements, is guilty of an infraction, punishable by a fine of not  
16 more than two hundred fifty dollars (\$250).

17 (b) (1) (A) Except as provided in subdivision (a), any person  
18 who violates any regulation adopted pursuant to Section 655.3 is  
19 guilty of a misdemeanor and shall be punished by a fine of not  
20 more than one hundred dollars (\$100) or imprisonment in a county  
21 jail for not more than five days, or by both that fine and  
22 imprisonment, for each violation.

23 (B) Notwithstanding subparagraph (A), any person who violates  
24 subdivision (b) of Section 6695 of Article 5 of Chapter 1 of  
25 Division 4 of Title 14 of the California Code of Regulations  
26 relating to blinding lights, is guilty of an infraction, punishable by  
27 a fine of not more than one hundred dollars (\$100).

28 (C) Notwithstanding subparagraph (A), any person who violates  
29 Section 6600.1 of Article 5 of Chapter 1 of Division 4 of Title 14  
30 of the California Code of Regulations, by violating United States  
31 Coast Guard Navigation Rule 20, relating to navigation lights, is  
32 guilty of an infraction, punishable by a fine of not more than one  
33 hundred dollars (\$100).

34 (2) Any person who violates subdivision (a) or (b) of Section  
35 658 is guilty of an infraction and shall be punished by a fine of  
36 not more than two hundred dollars (\$200) for each violation.

37 (3) (A) Any person who violates subdivision (d) of Section  
38 652, subdivision (a) of Section 655, Section 655.05, 656, or 656.1,  
39 subdivision (d) or (e) of Section 658, Section 663.6 or 665, or  
40 any rules and regulations adopted pursuant to subdivision (b) or

1 (c) of Section 660, is guilty of a misdemeanor and shall be  
2 punished by a fine of not more than one thousand dollars (\$1,000)  
3 or imprisonment in a county jail for not more than six months, or  
4 by both that fine and imprisonment, for each violation.

5 (B) Notwithstanding subparagraph (A), any person who violates  
6 subdivision (a) of Section 655 by violating subdivision (a) of  
7 Section 6697 of Article 5 of Chapter 1 of Division 4 of Title 14  
8 of the California Code of Regulations, relating to riding on the  
9 bow, gunwale, or transom of a vessel propelled by machinery is  
10 guilty of an infraction, punishable ~~be~~ by a fine of not more than  
11 two hundred fifty dollars (\$250).

12 (4) Any person who violates Section 652.5 is guilty of an  
13 infraction, punishable by a fine of not more than one hundred  
14 dollars (\$100).

15 (5) Any person who violates Section 655.2, or any regulation  
16 adopted pursuant thereto, is guilty of an infraction, punishable by  
17 a fine of not more than one hundred dollars (\$100).

18 (c) (1) Any person convicted of a violation of Section 656.2 or  
19 656.3 shall be punished by a fine of not less than one thousand  
20 dollars (\$1,000) or more than ten thousand dollars (\$10,000), or  
21 by imprisonment pursuant to subdivision (h) of Section 1170 of  
22 the Penal Code, or in a county jail for not more than one year, or  
23 by both that fine and imprisonment.

24 (2) In imposing the minimum fine required by this subdivision,  
25 the court shall take into consideration the defendant's ability to  
26 pay the fine and, in the interest of justice for reasons stated in the  
27 record, may reduce the amount of that minimum fine to less than  
28 the amount otherwise required by this subdivision.

29 (d) Any person convicted of a violation of Section 658.5 shall  
30 be punished by a fine of not more than one hundred dollars (\$100).

31 (e) Any person convicted of a first violation of subdivision (b),  
32 (c), (d), or (e) of Section 655, or of a violation of Section 655.4,  
33 shall be punished by a fine of not more than one thousand dollars  
34 (\$1,000) or imprisonment in a county jail for not more than six  
35 months, or by both that fine and imprisonment. If probation is  
36 granted, the court, as a condition of probation, may require the  
37 person to participate in, and successfully complete, an alcohol or  
38 drug education, training, or treatment program, in addition to  
39 imposing any penalties required by this code. In order to enable  
40 all persons to participate in licensed programs, every person

1 referred to a program licensed pursuant to Section 11836 of the  
2 Health and Safety Code shall pay that program's costs  
3 commensurate with that person's ability to pay as determined by  
4 Section 11837.4 of the Health and Safety Code.

5 (f) Any person convicted of a second or subsequent violation  
6 of subdivision (b), (c), (d), or (e) of Section 655 within seven  
7 years of the first conviction of any of those subdivisions or  
8 subdivision (f) of Section 655, or any person convicted of a  
9 violation of subdivision (b), (c), (d), or (e) of Section 655 within  
10 seven years of a separate conviction of subdivision (a) or (b) of  
11 Section 192.5 of the Penal Code, or a separate conviction of Section  
12 23152 or 23153 of the Vehicle Code or Section 191.5 or  
13 subdivision (a) of Section 192.5 of the Penal Code, when the  
14 separate conviction resulted from the operation of a motor vehicle,  
15 shall be punished by a fine of not more than one thousand dollars  
16 (\$1,000) or imprisonment in a county jail for not more than one  
17 year, or by both that fine and imprisonment. If probation is granted,  
18 the court, as a condition of probation, may require the person to  
19 do either of the following, if available in the county of the person's  
20 residence or employment:

21 (1) Participate, for at least 18 months subsequent to the  
22 underlying conviction and in a manner satisfactory to the court,  
23 in a program licensed pursuant to Chapter 9 (commencing with  
24 Section 11836) of Part 2 of Division 10.5 of the Health and Safety  
25 Code, as designated by the court. In order to enable all required  
26 persons to participate, each person shall pay the program costs  
27 commensurate with the person's ability to pay as determined  
28 pursuant to Section 11837.4 of the Health and Safety Code.

29 (2) Participate, for at least 30 months subsequent to the  
30 underlying conviction and in a manner satisfactory to the court,  
31 in a program licensed pursuant to Chapter 9 (commencing with  
32 Section 11836) of Part 2 of Division 10.5 of the Health and Safety  
33 Code. A person ordered to treatment pursuant to this paragraph  
34 shall apply to the court or to a board of review, as designated by  
35 the court, at the conclusion of the program to obtain the court's  
36 order of satisfaction. Only upon the granting of that order of  
37 satisfaction by the court may the program issue its certificate of  
38 successful completion. A failure to obtain an order of satisfaction  
39 at the conclusion of the program is a violation of probation. In  
40 order to enable all required persons to participate, each person

1 shall pay the program costs commensurate with the person’s ability  
2 to pay as determined pursuant to Section 11837.4 of the Health  
3 and Safety Code. No condition of probation required pursuant to  
4 this paragraph is a basis for reducing any other probation  
5 requirement.

6 (g) Any person convicted of a violation of subdivision (f) of  
7 Section 655 shall be punished by imprisonment pursuant to  
8 subdivision (h) of Section 1170 of the Penal Code, or in a county  
9 jail for not less than 90 days or more than one year, and by a fine  
10 of not less than two hundred fifty dollars (\$250) or more than five  
11 thousand dollars (\$5,000). If probation is granted, the court, as a  
12 condition of probation, may require the person to participate in,  
13 and successfully complete, a program licensed pursuant to Chapter  
14 9 (commencing with Section 11836) of Part 2 of Division 10.5 of  
15 the Health and Safety Code, if available in the person’s county of  
16 residence or employment, as designated by the court. In order to  
17 enable all required persons to participate, each person shall pay  
18 the program costs commensurate with the person’s ability to pay  
19 as determined pursuant to Section 11837.4 of the Health and Safety  
20 Code.

21 (h) (1) If any person is convicted of a violation of subdivision  
22 (f) of Section 655 within seven years of a separate conviction of  
23 a violation of subdivision (b), (c), (d), or (e) of Section 655 and  
24 is granted probation, the court shall impose as a condition of  
25 probation that the person be confined in a county jail for not less  
26 than five days or more than one year and pay a fine of not less than  
27 two hundred fifty dollars (\$250) or more than five thousand dollars  
28 (\$5,000).

29 (2) If any person is convicted of a violation of subdivision (f) of  
30 Section 655 within seven years of a separate conviction of a  
31 violation of subdivision (f) of Section 655, of subdivision (a) or  
32 (b) of Section 192.5 of the Penal Code, or Section 23152 or 23153  
33 of the Vehicle Code, or Section 191.5 or subdivision (a) of Section  
34 192.5 of the Penal Code, when the separate conviction resulted  
35 from the operation of a motor vehicle, and is granted probation,  
36 the court shall impose as a condition of probation that the person  
37 be confined in a county jail for not less than 90 days or more than  
38 one year, and pay a fine of not less than two hundred fifty dollars  
39 (\$250) or more than five thousand dollars (\$5,000), and the court,  
40 as a condition of probation, may order that the person participate

1 in a manner satisfactory to the court, in a program licensed pursuant  
2 to Chapter 9 (commencing with Section 11836) of Part 2 of  
3 Division 10.5 of the Health and Safety Code, if available in the  
4 county of the person's residence or employment. In order to enable  
5 all required persons to participate, each person shall pay the  
6 program costs commensurate with the person's ability to pay as  
7 determined pursuant to Section 11837.4 of the Health and Safety  
8 Code.

9 (i) The court shall not absolve a person who is convicted of a  
10 violation of subdivision (f) of Section 655 within seven years of  
11 a separate conviction of a violation of subdivision (b), (c), (d), (e),  
12 or (f) of Section 655, of subdivision (a) or (b) of Section 192.5  
13 of the Penal Code, or Section 23152 or 23153 of the Vehicle Code,  
14 or Section 191.5 or subdivision (a) of Section 192.5 of the Penal  
15 Code, when the separate conviction resulted from the operation  
16 of a motor vehicle, from the minimum time in confinement  
17 provided in this section and a fine of at least two hundred fifty  
18 dollars (\$250), except as provided in subdivision (h).

19 (j) Except in unusual cases where the interests of justice demand  
20 an exception, the court shall not strike a separate conviction of an  
21 offense under subdivision (b), (c), (d), (e), or (f) of Section 655  
22 or of subdivision (a) or (b) of Section 192.5 of the Penal Code,  
23 or Section 23152 or 23153 of the Vehicle Code, or Section 191.5  
24 or subdivision (a) of Section 192.5 of the Penal Code, when the  
25 separate conviction resulted from the operation of a motor vehicle,  
26 for purposes of sentencing in order to avoid imposing, as part of  
27 the sentence or as a term of probation, the minimum time in  
28 confinement and the minimum fine, as provided in this section.  
29 When a separate conviction is stricken by the court for purposes  
30 of sentencing, the court shall specify the reason or reasons for the  
31 striking order. On appeal by the people from an order striking a  
32 separate conviction, it shall be conclusively presumed that the  
33 order was made only for the reasons specified in the order, and  
34 the order shall be reversed if there is no substantial basis in the  
35 record for any of those reasons.

36 (k) A person who flees the scene of the crime after committing  
37 a violation of subdivision (a), (b), or (c) of Section 192.5 of the  
38 Penal Code shall be subject to subdivision (c) of Section 20001  
39 of the Vehicle Code.

1     *(l)* Any person who violates Section 654.3 is guilty of an  
2     infraction punishable by a fine of not more than five hundred  
3     dollars (\$500) for each separate violation.

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