

Chapter 05.25. WATERCRAFT

Article 01. SAFETY REQUIREMENTS

Sec. 05.25.010. Safety requirements.

- (a) Except as otherwise provided by law, a boat placed on the water of the state
- (1) must be equipped with and use the sound producing devices and visual distress signals of the same number, type, and specifications as required by the United States Coast Guard;
 - (2) that is equipped with a gasoline engine for electrical generation, mechanical power, or mechanical propulsion must also be equipped with the ventilation systems and backfire flame control devices of the same type and specifications as required by the United States Coast Guard; and
 - (3) that is equipped with an engine for electrical generation, mechanical power, or mechanical propulsion must also be equipped with the fire extinguishers of the same number, type, and specifications as required by the United States Coast Guard.
- (b) The provisions of (a) of this section apply regardless of whether the boat is placed or operated on water of the state subject to federal jurisdiction.
- (c) During the period of time extending from sunset to sunrise and during periods of restricted visibility, a boat placed on water of the state must display lights of the same number, type, and specifications as required by the United States Coast Guard under 33 U.S.C. 1602 and 33 U.S.C. 2002.
- (d) A boat on water of the state must carry one United States Coast Guard approved Type I, Type II, or Type III personal flotation device in serviceable condition for each person on board the boat. A Type V personal flotation device may be carried in lieu of a personal flotation device required in this subsection if the Type V personal flotation device is in serviceable condition and
- (1) if the approval label on the Type V personal flotation device indicates that the device is approved for the activity in which the boat is being used, or that the device is approved as a substitute for a personal flotation device of the type required on the boat; and
 - (2) for a device that contains a reference to an owner's manual, if the Type V personal flotation device is used in accordance with the requirements in the owner's manual.
- (e) In addition to the requirements in (d) of this section, a boat that is 16 feet or longer, other than a kayak or canoe, must carry one Type IV personal flotation device that can be thrown and that is approved by the United States Coast Guard.

(f) A person may not use a flashing or revolving red or blue emergency light on a boat unless the boat is operated by a peace officer or emergency professional in the performance of official duties.

(g) The operator of a boat on water of the state may not transport a person under 13 years of age on the deck of a boat or in an open boat unless the person is wearing a United States Coast Guard approved Type I, Type II, or Type III personal flotation device. A Type V personal flotation device may be worn in lieu of a personal flotation device required in this subsection if the Type V personal flotation device is in serviceable condition and

(1) if the approval label on the Type V personal flotation device indicates that the device is approved for the activity in which the boat is being used, or that the device is approved as a substitute for a personal flotation device of the type required on the boat; and

(2) for a device that contains a reference to an owner's manual, if the Type V personal flotation device is used in accordance with the requirements in the owner's manual.

(h) The Department of Public Safety may require, by regulation, that a boat or class of boats carry additional equipment that is necessary for the safety of persons and property.

Sec. 05.25.012. Diver's flag.

A person who is in the water using an underwater breathing device may display a diver's flag constructed of rigidly supported material at least 12 inches by 12 inches in area of red background with a white diagonal stripe. This diver's flag may be displayed on a boat or surface float and must extend a minimum distance of three feet from the surface of the water. The diver's flag shall be placed at or near the point of submergence and constitutes a warning that a diver is submerged and may be within 100 feet of the flag. A diver shall remain within 100 feet of the diver's flag while at or near the surface. A boat operator within sight of a diver's flag shall proceed with caution, steering clear of the flag by a distance of 100 feet. Outside commercial shipping lanes, boats maneuvering within a 100-foot radius of a diver's flag shall be slowed to no-wake speeds or five miles per hour, whichever is necessary to maintain steerage in the seaway. A diver's flag shall be displayed only while diving operations are underway.

Sec. 05.25.020. Use of boat with water skis and surfboards.

(a) A person may not operate a boat on water of the state for towing a person on water skis, a surfboard, or a similar device unless

(1) the boat is equipped with a rearview mirror in which the person being towed can be viewed; or

(2) there is, in the boat, a person of 12 years of age or older in addition to the operator in a position to observe the progress of the person being towed.

(b) A person may not operate a boat on water of the state to tow a person under 13 years of age on water skis, a surfboard, or a similar device unless the person being towed is wearing a United States Coast Guard approved

(1) Type I, Type II, or Type III personal flotation device; or

(2) Type V personal flotation device if the Type V personal flotation device is in serviceable condition and

(A) if the approval label on the Type V personal flotation device indicates that the device is approved for the activity;

(B) for a device that contains a reference to an owner's manual, if the Type V personal flotation device is used in accordance with the requirements in the owner's manual.

Article 02. ACCIDENTS AND LIABILITY

Sec. 05.25.030. Boat collisions, accidents, and casualties.

(a) The operator of a boat involved in a collision, accident, or casualty shall

(1) render assistance as is practicable and necessary to save other persons from danger or to minimize the danger to other persons to the extent that the operator can do so without serious danger to the operator's boat, crew, and passengers; and

(2) give the operator's name, address, and identification number of the operator's boat in writing to each person injured in the collision, accident, or casualty and to the owner of property damaged in the collision, accident, or casualty.

(b) For the purpose of gathering boating accident statistics, the operator of a boat involved in a collision, accident, or casualty that results in death or injury to a person, or damage to property in excess of \$500 for each incident, shall file a report with the Department of Public Safety on or before the 20th day after the incident. The Department of Public Safety shall prepare a form for the report and make the form available to other agencies and to the public.

(c) In response to a request from an authorized official or agency of the United States, a law enforcement agency, or in compliance with United States Coast Guard regulations, the Department of Public Safety shall provide statistical information compiled or otherwise available to the Department of Public Safety from the reports required under (b) of this section.

Sec. 05.25.040. Owner's civil liability.

Except as provided under AS 09.65.112 and AS 09.65.290, the owner of a boat is liable for injury or damage caused by the negligent operation of the owner's boat whether the negligence consists of a violation of a state statute or the failure to exercise ordinary care in the operation of the boat as the rules of the common law require. The owner is not liable, however, unless the

boat is used with the owner's express or implied consent. It is presumed that the boat is being operated with the knowledge and consent of the owner if, at the time of the injury or damage, it is under the control of the owner's spouse, father, mother, brother, sister, son, daughter, or other member of the owner's immediate family. This chapter does not relieve any other person from a liability that the person would otherwise incur and does not authorize or permit recovery in excess of injury or damage actually incurred.

Article 03. GENERAL PROVISIONS

Sec. 05.25.050. Declaration of policy.

It is the policy of the state to promote safety for persons and property in and connected with the use, operation, and equipment of boats on water of the state and to promote uniformity of laws relating to boat safety.

Sec. 05.25.052. Uniform state waterway marking system.

The department shall develop and adopt regulations establishing a uniform state waterway marking system for the placement of regulatory markers. The regulations must be compatible with the system of aids to navigation prescribed by the United States Coast Guard.

Sec. 05.25.053. Boating safety program.

(a) Except as provided in this section, the department shall administer a statewide boating safety program. The program must, to the extent consistent with state law,

(1) secure the full benefits available to the state under 46 U.S.C. 13101 - 13110; and

(2) take additional actions necessary to gain initial and ongoing federal acceptance of the boating safety program and to qualify and apply for federal money under 46 U.S.C. 13102.

(b) The department shall cooperate with local, state, and federal agencies, private and public organizations, and individuals to provide for

(1) a statewide boating safety education program; the program must

(A) develop educational materials relevant to the unique needs of urban and rural boaters in this state;

(B) support statewide boating safety training programs;

(C) support boating safety education and training programs for children and other high risk groups;

(D) train, certify, and support boating safety instructors;

(E) evaluate, on an ongoing basis, the effectiveness of programs funded under this chapter;

(2) a boating safety advisory council as described in AS 05.25.057;

(3) a uniform state waterway marking system; and

(4) a boat registration and numbering system through the Department of Administration.

(c) The Department of Public Safety shall cooperate with local, state, and federal agencies, private and public organizations, and individuals to provide for

(1) a boating collisions, accidents, and casualties reporting system; and

(2) boating safety patrol and law enforcement activity.

Sec. 05.25.055. Registration and numbering of boats.

(a) An undocumented boat placed on water of the state must be registered and numbered as required by this chapter. The Department of Administration shall adopt by regulation a boat registration and numbering system that is consistent with the national standard for state numbering systems established by the United States Coast Guard.

(b) In adopting a boat registration system under (a) of this section, the Department of Administration shall authorize agents, including boat dealers, to register boats.

(c) A boat dealer shall require a purchaser of a new or used boat sold at retail to complete a registration application and pay the registration fee before the boat leaves the dealer's premises unless the boat is exempt from registration and numbering under this chapter or regulations adopted under this chapter.

(d) A person may not operate a boat on water of the state unless a valid certificate of number has been awarded by the Department of Administration to the boat and the identification number and any required validation decals are properly displayed on the boat.

(e) The Department of Administration shall authorize agents to accept an application and registration fee for registration, to issue a registration, and to forward the application and registration fee to the Department of Administration.

(f) Unless otherwise provided by this chapter, or unless the owner has been awarded a current, valid Alaska certificate of number from the United States Coast Guard, the owner of a boat for which a current certificate of number has been awarded under federal law or a federally approved numbering system of another state shall apply for a certificate of number in this state as required by this chapter if the boat is operated on water of the state for more than 90 consecutive days. If a boat has an existing number, the owner may request that the department issue the same number for purposes of this section, and the department shall comply with the request unless compliance would result in a duplication of numbers.

(g) A certificate of number issued under this chapter is valid for three years unless terminated or discontinued earlier as required by this chapter and regulations adopted under this chapter. The certificate expires on the last day of the month at the end of the three-year period. The expiration date shall be indicated on the certificate.

(h) All records of ownership of boats that are kept by the Department of Administration under this section are public records. The Department of Administration shall provide records of ownership and registration expense reports to the Department of Public Safety for the purposes of meeting the federal requirements for state programs and implementing this chapter.

(i) The following boats are exempt from the numbering and registration provisions of this section:

(1) a boat that is operated in this state for a period not exceeding 90 consecutive days and that has a current, valid certificate of number issued by another state having a federally approved numbering system;

(2) a foreign boat operated in water of the state for a period not exceeding 90 consecutive days;

(3) a boat owned by the United States or an entity or political subdivision of the United States, or a boat owned by a state or an entity or political subdivision of a state;

(4) a boat that is not equipped with mechanical propulsion;

(5) a boat with a valid document to operate the boat that is issued by the United States or a foreign government;

(6) a handmade nonmotorized umiaq with a walrus or sealskin covering.

Sec. 05.25.057. Alaska Boating Safety Advisory Council established.

(a) The Alaska Boating Safety Advisory Council is established in the department.

(b) The council consists of seven members appointed by the governor. The governor shall appoint each member on the basis of interest in public affairs, knowledge of boating issues as they relate to both safety and water of the state, and good judgment and ability concerning boating safety. The appointed members shall represent boat owner interests, including owners of boats powered by engines and owners of boats that are paddled, poled, rowed, or powered by wind, shall be residents of the state, and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the council, but shall be ex officio secretary.

(c) The purpose of the council is to

(1) recommend to the department boating safety educational materials;

(2) review and make recommendations on proposed boating regulations;

(3) consider regional boating safety needs and promote boating safety education programs throughout the state; and

(4) advise the department on state, regional, and national boating issues.

(d) The council may not meet more than two times in each calendar year. Members of the council receive no compensation for services on the council, but are entitled to per diem and travel expenses authorized for boards under AS 39.20.180.

(e) In this section, "council" means the Alaska Boating Safety Advisory Council.

Sec. 05.25.060. Prohibited operation.

A person may not operate a boat on water of the state

(1) for a recreational purpose or another purpose, or tow water skis, a surfboard, or a similar device, in a reckless or negligent manner so as to endanger the life or property of another person; or

(2) that is not equipped as required under this chapter and regulations adopted under this chapter.

Sec. 05.25.070. Exemptions.

Boats and persons operating boats are exempt from this chapter when participating in the area set aside for a public regatta, race, marine parade, tournament, or exhibition on inland water; for purposes of this section, "inland water" means water of the state that is not offshore water.

Sec. 05.25.080. Enforcement.

(a) The Department of Public Safety has authority for enforcement of this chapter and the regulations adopted under this chapter. Nothing in this chapter authorizes a department or board to enter into an agreement with a department or agency of the federal government that cedes state authority for the management of its waterways to the federal government.

(b) A peace officer, other than a person employed by the federal government, may enforce this chapter and, in the exercise of enforcement, may stop and, if the peace officer has probable cause to believe a violation of this chapter has occurred, board watercraft subject to this chapter. A peace officer may issue a citation as provided in AS 12.25.175 - 12.25.230 to a person who violates a provision of this chapter.

(c) A person employed by the Department of Natural Resources, or a person, other than a person employed by the federal government, authorized by the commissioner under AS

41.21.955 (a), acting as a peace officer, may enforce this chapter and regulations adopted under this chapter only in units of the state park system.

Sec. 05.25.090. Penalties.

(a) Except as provided in (b) of this section, a person who violates a provision of this chapter or regulations adopted under this chapter is guilty of a class A misdemeanor.

(b) A person who violates

(1) AS 05.25.010, 05.25.020, 05.25.030(b), 05.25.060(2), or a regulation adopted under this chapter relating to AS 05.25.010 or 05.25.020 is guilty of a violation as defined in AS 11.81.900 and may be fined up to \$500;

(2) AS 05.25.055 is guilty of a violation as defined in AS 11.81.900 and may be fined up to \$50.

(c) The supreme court shall establish by order or rule a schedule of bail amounts for violations under (b) of this section that allow the disposition of a citation without a court appearance.

Sec. 05.25.095. Regulations.

(a) Except as provided in (c) - (e) of this section, the department may adopt regulations regarding requirements for certification of programs on boating safety education.

(b) In consultation with the Department of Public Safety, the Department of Administration may adopt regulations to implement this chapter with respect to the numbering, marking, and titling of undocumented boats.

(c) Regulations adopted under this chapter may not be less stringent than applicable minimum requirements of regulations governing recreational boat safety of the United States Coast Guard.

(d) The department may not adopt a regulation under (a) of this section if, before or during the period for public comment on the proposed regulation provided by AS 44.62.190, the Alaska Boating Safety Advisory Council provides the department with a written objection regarding the regulation, unless the department modifies the proposed regulation to satisfy the objection. The prohibition of this subsection does not apply if modification of the proposed regulation to satisfy the council's objection would result in

(1) failure to meet a federal stringency requirement described under (c) of this section; or

(2) a regulation that is not consistent with another provision of law.

(e) Nothing in this section authorizes the department to prohibit a use of or access to the water of the state by a person or user group.

Sec. 05.25.096. Fees.

(a) The Department of Administration shall assess the following fees:

(1) motorized boat registration, registration renewal, and transfer of registration, \$24 for a three-year period;

(2) nonmotorized boat registration, registration renewal, and transfer of registration, \$10 for a three-year period;

(3) replacement of lost registration, \$5;

(4) replacement of lost registration validation decals, \$5.

(b) The Department of Administration shall separately account for fees collected under (a) of this section for boat registration that are deposited in the general fund. The annual estimated balance in that account may be used by the legislature to make appropriations to the department and the Department of Administration to carry out the purposes of this chapter.

Sec. 05.25.100. Definitions.

In this chapter, unless the context requires otherwise,

(1) "aids to navigation" means buoys, beacons, or other fixed objects in the water that are used to mark obstructions to navigation or to direct navigation through safe channels;

(2) "boat" means watercraft used or capable of being used as a means of transportation on water, except for

(A) a ship's lifeboat;

(B) a seaplane;

(C) an inspected passenger vessel; and

(D) a single air mattress, single inner tube, or other water toy;

(3) "boat dealer" means a person engaged wholly or in part in the business of selling or offering for sale, buying or taking in trade for the purpose of resale, or exchanging, displaying, demonstrating, or offering for sale three or more boats within 12 consecutive months and who receives or expects to receive money, profit, or any other thing of value;

(4) "certificate of number" means the document bearing the identification number issued to a boat by the Department of Administration under this chapter, by a federal agency, or by the state of principal use under a federally approved numbering system;

(5) "commissioner" means the commissioner of natural resources;

(6) "department" means the Department of Natural Resources;

(7) "operate" means to navigate or to be in actual physical control of a boat used or capable of being used as a means of transportation on water of the state;

(8) "owner" means a person who has a property interest other than a security interest in a boat and the right of use or possession of the boat; "owner" does not include a lessee unless the lease is intended as security;

(9) "ownership" means a property interest other than a security interest;

(10) "passenger" means a person on board a boat who is not the master, operator, crew member, or other person engaged in a capacity in the business of the boat;

(11) "regulatory marker" means an anchored or fixed marker in or on the water, or sign on the shore or on a bridge over the water, other than aids to navigation; "regulatory marker" includes swimming markers, bathing markers, speed zone markers, identification markers, danger zone markers, boat keep out areas, special anchorage areas, and mooring buoys;

(12) "serviceable condition" as applied to personal flotation devices means

(A) metal or plastic hardware is not broken, deformed, or weakened by corrosion;

(B) webbings or straps are not ripped, torn, or separated from an attachment point;

(C) there are no rotted or deteriorated structural components that fail when tugged;

(D) there are no rips, tears, or open seams in fabric or coatings that are large enough to allow the loss of buoyant material;

(E) buoyant material has not become hardened, nonresilient, permanently compressed, waterlogged, or oil-soaked, and does not show evidence of fungus or mildew;

(F) there is no loss of buoyant material or evidence of buoyant material that is not securely held in position;

(G) there is a properly armed inflation mechanism, complete with a full inflation medium cartridge and all status indicators showing that the inflation mechanism is properly armed, unless the PFD is worn inflated;

(H) inflatable chambers are all capable of holding air;

(I) oral inflation tubes are not blocked, detached, or broken;

(J) the manual inflation lanyard or lever is not inaccessible, broken, or missing;

(K) inflator status indicators are not broken or otherwise non-functional;

(13) "undocumented boat" means a boat that does not possess a valid certificate of documentation issued by the United States Coast Guard under 46 U.S.C. 12101 - 12123;

(14) "validation decal" means a decal that has the state of registration and registration expiration year clearly marked;

(15) "water of the state" has the meaning given in the term "navigable water" in AS 38.05.965; "water of the state" also includes the marginal sea adjacent to the state and the high seas within the territorial limits of the state, irrespective of the ownership of the land underlying those waters.

1/4/13