

HOUSE . . . . . No. 821

The Commonwealth of Massachusetts

PRESENTED BY:

Kathleen R. LaNatra

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to boater safety to be known as the David Hanson Act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kathleen R. LaNatra	12th Plymouth
Michelle L. Ciccolo	15th Middlesex
Josh S. Cutler	6th Plymouth
Colleen M. Garry	36th Middlesex
Patrick Joseph Kearney	4th Plymouth
Mathew J. Muratore	1st Plymouth
Patrick M. O'Connor	Plymouth and Norfolk
Thomas M. Petrolati	7th Hampden

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By Mrs. LaNatra of Kingston, a petition (accompanied by bill, House, No. 821) of Kathleen R. LaNatra and others for legislation to implement a boating education program within the Division of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION SEE HOUSE, NO. 399 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court (2019-2020)

An Act relative to boater safety to be known as the David Hanson Act.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. This Act shall be referred to as the "David Hanson Boater Safety Act".

SECTION 2. Section 1 of chapter 90B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the definition of "Director" and inserting in place thereof, the following definition:-

"Director," - the director of law enforcement of the office of law enforcement, or his authorized designee.

SECTION 3. Said section 1 of said chapter 90B, as so appearing, is hereby further amended by inserting, after the definition of "Motorboat", the following definition:-

“Office of law enforcement” or “division of law enforcement of the department of fisheries, wildlife and environmental law enforcement”, the office of law enforcement in the executive office of energy and environmental affairs established under section 10A of chapter 21A, also known as the Massachusetts Environmental Police.

SECTION 4. Said Chapter 90B is further amended by adding after section 9B the following 7 sections:-

Section 9C. In sections 9D to 9I, inclusive, the following words shall have the following meanings:

“Motorboat”, a recreational type vessel propelled by machinery whether or not, such machinery is the principal source of propulsion, and whether or not, the vessel is registered by the commonwealth, or documented by the United States Coast Guard or other agency of the federal government. A motorboat for the purposes of this definition shall not include personal watercraft as defined by regulation, or commercial vessels, excepting motorboats rented or leased for recreational uses.

“Non-resident”, a person whose legal residence is not within the commonwealth.

“Other jurisdiction” or “another jurisdiction”, any other state, territory and the District of Columbia of the United States; any state, Province and Territory of Canada; and, any other foreign state or country.

“Person”, a natural person.

Section 9D. (a) The director of the office of law enforcement shall establish and administer a boater safety education program for motorboat operators, to include without limitation, course content, education certification standards, knowledge testing, qualifications of course instructors, approval of course and equivalency examination providers and other administrative requirements pursuant to the provisions of this section and sections 9E and 9I.

(b) As a part of the boater safety education program, the director shall establish a uniform equivalency examination for persons who are of adult age and certify in writing as having not less than 3 recent years of substantial experience operating motorboats.

(c) A person upon the successful completion of an approved boater safety education course or equivalency examination for motorboat operators shall be issued a boater safety certificate pursuant to section 9E.

(d) No person who was born on or after the specified date shall operate a motorboat on the waters of the commonwealth unless the person complies with the boater safety educational requirements of this section, beginning on the respective dates as follows:

(i) For persons who were born on and after January 1, 1989, beginning on January 1, 2019, and

(ii) For persons who were born on and after January 1, 1961, beginning on January 1, 2021.

(e) No person under the age of 12, shall operate a motorboat on the waters of the commonwealth, unless the person is accompanied onboard and directly supervised by another, who is 18 years of age or older, and holds a valid boater safety certificate or other documentation showing his qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive, of subsection (f).

(f) No person who is 12 years of age or older, shall operate a motorboat on the waters of the commonwealth, unless the person has onboard a valid boater safety certificate for motorboat operators. Notwithstanding, a person who does not hold a required boater safety certificate may operate a motorboat if the person:

(i) is accompanied onboard and directly supervised by another, who is 18 years of age or older, and has onboard a valid boater safety certificate or other documentation showing his qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive;

(ii) holds a valid captain’s license, launch operator’s license or other type license to captain a commercial vessel, issued by the United States Coast Guard, or an equivalent type license issued by any state of the United States or foreign government, provided the license is onboard when operating the vessel;

(iii) is a non-resident, who is operating a motorboat on the waters of the commonwealth in accordance with the provisions of section 9H;

(iv) is an active member in the armed forces of the United States, National Guard, or United States Coast, and who is qualified to operate motorboats based on training or position in such branch or organization; provided, the person has onboard documentation showing his qualification;

(v) has acquired new ownership of a motorboat that is registered by the commonwealth or documented by the United States Coast Guard, and has onboard a valid temporary boater safety certificate to operate the vessel issued to the person by the director under section 9F;

(vi) is an operator of a motorboat rented in the commonwealth accordance with the provisions of section 9G; or

(vii) is an operator of a motorboat in a qualified boater safety education course.

(g) The boater safety education requirements and operator age requirements to operate motorboats under this section shall not apply when: (i) the vessel is operated by a law enforcement officer or a public fire service member in the performance of an official duty, (ii) the person is operating the motorboat in reasonable response to an onboard emergency, when the operator or person supervising the operator, while underway, becomes incapacitated or physically unable to operate or supervise the operation of the vessel, (iii) the person is operating the motorboat under the direction of a law enforcement officer, (iv) the vessel is a "ship's lifeboat" as defined in section 1, (v) the vessel, is the property of a branch of the armed forces of the United States, National Guard, or United States Coast Guard, or is a military vessel of a foreign country, (vi) the vessel is a sailboat of not more than 24 feet in length, with an auxiliary outboard motor not exceeding 10 horsepower, and is operated by a person who is 16 years of age or older, or (vii) the person operating the vessel is exempted under regulation or by waiver issued by the director.

(h) All current laws and regulations applicable to the boater safety educational requirements for motorboat operators under this chapter shall be posted on the office of law enforcement's public internet website.

Section 9E. (a) Providers of authorized boater safety education courses or examinations for motorboat operators, shall issue a boater safety certificate to any eligible person who has successfully completed a course or equivalency exam. Boater safety certificates issued shall be in the form prescribed by the director. No person unless authorized by the director, shall issue boater safety certificates on behalf of the director under the boater safety education program.

The director shall be authorized to issue a boater safety certificate to motorboat operators without the completion of a boater safety education course or equivalency examination, if the person holds a valid boating safety certificate to operate motorboats issued or recognized by the government of another jurisdiction and that meets the boating safety education standards of the commonwealth.

No person who is under 12 years of age, shall be issued a boater safety certificate.

Boater safety certificates issued under this subsection shall be valid for the lifetime of the person named on the certificate, except as otherwise provided by law.

(b) A resident of the commonwealth, who prior to the passage of this act, had successfully completed a boater safety education course for motorboat operators, and as a result was issued a boater safety certificate or equivalent documentation shall be considered valid, if issued by: (i) the director, or (ii) a course provider other than the director, provided, the certificate or documentation evidences the successful passage of a boating safety education course for motorboat operators and, when issued, met the standards of the National Association of State Boating Law Administrators or the United States Coast Guard.

Section 9F. An eligible person who is a resident of the commonwealth and has acquired new ownership of a motorboat that is registered by the commonwealth or documented by the United States Coast Guard, shall upon proper application to the director, be issued a one-time temporary boater safety certificate limited to the operation of the motorboat. A temporary boater safety certificate issued by the director shall expire 120 days from the date the new registration or documentation for the vessel issues. The director shall not issue a temporary boater certificate to a person who is under 18 years of age or has been issued a certificate under this section. No temporary boater safety certificate shall be extended or renewed.

Section 9G. (a) A person may operate a motorboat that is rented from a boat rental business in the commonwealth for a period not exceeding 14 days, who does not hold a valid boater safety certificate or other documentation that shows his qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive, of subsection (f) of section 9D, provided the person: (i) is 16 years of age or older, (ii) before operating the motorboat has recently viewed at the boat rental business or other location, a brief instructional audiovisual on motorboat safety as prescribed by the director, and, (iii) has certified under oath to viewing completely the motorboat safety audiovisual on the rental agreement and in the form prescribed by the director.

A person under the age of 16 who does not hold a valid boater safety certificate issued in the commonwealth or other jurisdiction, may operate a rented motorboat, if a supervising adult is onboard the vessel, provided, the adult is an authorized operator listed in the rental agreement, and holds documentation that shows his qualification to operate the rental motorboat as described in the prior paragraph.

(b) No person shall operate a motorboat rented in the commonwealth unless the person is an authorized operator listed in the rental agreement by the boat rental business and, the rental agreement document or accessible electronic copy is onboard when operating the vessel.

(c) No boat rental business, its owners, agents or employees, shall rent a motorboat to a person unless the person meets the boater safety educational requirements to operate the vessel under this chapter or regulation.

Section 9H. A person who is a non-resident may operate a motorboat on the waters of the commonwealth, if the person (i) is in compliance with the boater safety education requirements of another jurisdiction where he legally resides, and (ii) has onboard a valid boater safety certificate or other equivalent documentation showing the person is in compliance with the boating safety education requirements to operate motorboats, issued or recognized by the government of such other jurisdiction. If the jurisdiction of the non-resident person does not have mandated boater safety education requirements for motorboat operators, then the person shall be required to have onboard valid government issued documentation that identifies the person and his legal residential address, provided however, such identification documentation shall not meet the boater safety educational qualifications to operate motorboats rented in the commonwealth.

Non-resident persons who, operate motorboats pursuant to this section and are 18 years of age or older, may supervise the operation of motorboats by others, under the applicable provisions of subsections (e) and (f) of section 9D and section 9G.

Section 9I. (a) The director shall establish a minimum standard of boater safety education competency and skills necessary to operate motorboats under section 9D, which to the extent practicable shall incorporate, the applicable standards, practices and policies of the National Association of State Boating Law Administrators, United States Coast Guard and the boating laws, rules and regulations of the commonwealth.

The director shall establish the required minimum hours of course instruction or equivalent training, for boater safety education courses for motorboat operators.

As necessary, the director may modify the program to comply with any change of standards, policies, laws and regulations related to motorboat safety.

(b) The director shall regulate providers of boater safety education courses and equivalency examinations for motorboat operators, to ensure boating safety educational program requirements and guidelines are observed.

The director shall establish by regulation a uniform standard for the approval and participation of providers of boater safety education courses and equivalency examinations for motorboat operators. The regulations shall include, without limitation, the applicable standards and procedures related to, approval of providers; course instructor qualifications; manner and content of courses and equivalency examinations; issuance of boater safety certificates; and other administrative requirements. To increase public access to boater safety education, the director shall have the authority to approve boater safety courses and equivalency examinations that are accessible in an internet format.

A request to the director for approval as a provider of boater safety education courses or equivalency examinations for motorboat operators shall be made by written application pursuant to regulations then in effect. The director shall approve an application, if the provider and the planned course or

equivalency examinations meet the applicable regulatory standards.

Approval of boater safety courses or examinations providers shall be subject to continued compliance by the provider of program standards and requirements.

(c) A current list of director approved providers of boater safety education courses and equivalency examinations shall be posted on the office of law enforcement's public internet website.

SECTION 5. Paragraph (b) of section 11 of said chapter 90B, as so appearing, is hereby amended by inserting after the word "Issue", in line 39, the words:- or authorize his designees to issue, .

SECTION 6. Chapter 90B is hereby amended by inserting after section 38, the following section:-

Section 38A. Any person who, is operating a motorboat or is supervising a motorboat operator, when requested by an officer empowered to enforce this chapter, fails without reasonable excuse, to produce and allow examination of a required boater safety certificate or other documentation, to show compliance with the boater safety education requirements under sections 9C to 9I, inclusive, shall for any violation of this provision or regulation adopted hereof, be subject to a \$100 civil penalty. A person shall have an affirmative defense against a charge for the failure to produce the a required certificate or other document, if before or at trial on such charge, the prior issued certificate or other document, or actual copy thereof, that was valid when the violation occurred, is given to the court or trial justice.

Any person who, in response to a request by an enforcing officer under the prior paragraph, produces a forged or altered boater safety certificate or other documentation to show compliance with the boater safety education requirements under said sections 9C to 9I, inclusive, excepting copies or corrections allowed by the director or issuing government authority; or falsely represents to the officer that the produced certificate or other document belongs to such person or was issued or authorized by a governmental authority, shall be punished by a fine of not more than a \$500 fine, or by imprisonment in the house of correction for not more than 1 year, or by both fine and imprisonment.