

CHAPTER 85  
SENATE BILL No. 417

AN ACT concerning vessels; imposing certain requirements; prohibiting certain acts; providing penalties for certain violations; amending K.S.A. 32-1110, 32-1111, 32-1119, 32-1125, 32-1128 and 32-1180 and K.S.A. 2005 Supp. 32-1102, 32-1173 and 74-7336 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Sec. 1. K.S.A. 2005 Supp. 32-1102 is hereby amended to read as follows: 32-1102. As used in article 11 of chapter 32 of the Kansas Statutes Annotated and amendments thereto, unless the context clearly requires a different meaning:

(a) "Vessel" means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

(b) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(c) "Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(d) "Waters of this state" means any waters within the territorial limits of this state.

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

(f) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(g) "Department" means the Kansas department of wildlife and parks.

(h) "Secretary" means the secretary of wildlife and parks.

(i) "Length" means the length of the vessel measured from end to end over the deck excluding sheer.

(j) "Operator" means the person who operates or has charge of the navigation or use of a motorboat or a vessel.

(k) "Undocumented vessel" means a vessel which is not required to have, and does not have, a valid marine document issued by the United States coast guard or federal agency successor thereto.

(l) "Reportable boating accident" means an accident, collision or other casualty involving a vessel subject to this act which results in loss of life, injury sufficient to require first aid or medical attention, or actual physical damage to property, including a vessel, in excess of an amount established by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto.

(m) "Marine sewage" means any substance that contains any of the waste products, excrement or other discharges from the bodies of human beings or animals, or foodstuffs or materials associated with foodstuffs intended for human consumption.

(n) "Marine toilet" means any latrine, head, lavatory or toilet which is intended to receive marine sewage and which is located on or in any vessel.

(o) "Passenger" means any individual who obtains passage or is carried in or on a vessel.

(p) "Sail board" means a surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind.

(q) "Dealer" means any person who:

(1) For a commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel, whether or not the vessel is owned by such person;

(2) maintains an established place of business with sufficient space to display vessels at least equal in number to the number of dealer certificates of number the dealer has been assigned; and

(3) maintains signage easily visible from the street identifying the established place of business.

(r) "Demonstrate" means to operate a vessel on the waters of this

state for the purpose of selling, trading, negotiating or attempting to negotiate the sale or exchange of interests in new or used vessels or for the purpose of testing the design or operation of a vessel.

(s) "Sailboat" means any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water.

(t) "Boat livery" means any person offering a vessel or vessels of varying types for rent.

(u) "Cargo" means the items placed within or on a vessel and shall include any persons or objects towed on water skis, surfboards, tubes or similar devices behind the vessel.

(v) "State of principal use" means the state on the waters of which a vessel is used or to be used most during the calendar year.

(w) "Use" means to operate, navigate or employ.

(x) "Abandoned vessel" means any vessel on public waters or public or private land which remains unclaimed for a period of 15 consecutive days.

Sec. 2. K.S.A. 32-1110 is hereby amended to read as follows: 32-1110. Every undocumented, mechanically propelled vessel or sailing vessel using the waters of this state, *as its state of principal use*, shall be numbered, except those exempted by K.S.A. 32-1113, and amendments thereto. No person shall operate or give permission for the operation of any motorboat or vessel propelled by sail on such waters unless such vessel is numbered in accordance with this act, applicable federal law or a federally approved numbering system of another state, and unless (1) the certificate of number awarded to such vessel is in full force and effect and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel, unless otherwise provided by rules and regulations of the secretary.

Sec. 3. K.S.A. 32-1111 is hereby amended to read as follows: 32-1111. (a) The owner of each vessel requiring numbering by this state shall file an application for number with the secretary on forms approved by the secretary. The application shall be signed by the owner of the vessel and shall be accompanied by the vessel registration fee prescribed pursuant to K.S.A. 32-1172, and amendments thereto, and by proof of payment of any tax imposed under the provisions of K.S.A. 12-187, 12-198, the Kansas retailers' sales tax act or the Kansas compensating tax act, and amendments thereto, as the case requires, upon forms devised and furnished by the department of revenue to every county treasurer for such purpose. Upon receipt of the application in approved form and proof of payment of sales or compensating tax, the secretary shall enter the same upon the records of the department and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner. Unless otherwise provided by rules and regulations, the owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as prescribed by rules and regulations of the secretary in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and, unless otherwise provided by rules and regulations, shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation. No person charged with a violation of the preceding sentence shall be convicted of such offense if such person produces in court or the office of the arresting officer a certificate of number issued and valid at the time of such person's arrest.

(b) The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to the then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the vessel on the waters of this state in excess of the 60-day reciprocity period provided for in subsection (1) of K.S.A. 32-1113, and amendments thereto. Such recordation shall be in the manner and pursuant to the procedure required for the award of a number under this subsection, including the submission of proof of payment of sales or compensating tax, except that no additional or substitute number shall be issued.

(c) Should the ownership of a numbered vessel change, a new application form with fee and proof of payment of sales or compensating tax shall be filed with the secretary and a new certificate of number shall be awarded in the same manner as provided for in an original award of

number, except that where the state of principal use remains unchanged the number may be identical with the previous one.

(d) If an agency of the United States government has in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this act by the secretary shall be in conformity therewith.

(e) The secretary may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. If a person accepts such authorization, such person may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the secretary, shall be valid as if awarded directly by the secretary.

(f) All records of the secretary made or kept pursuant to this section shall be public records.

(g) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the number.

(h) The secretary shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

(i) The owner shall furnish the secretary notice of the transfer of all or any part of such owner's interest other than the creation of a security interest in a vessel numbered in this state pursuant to subsections (a) and (b) or of the destruction or abandonment of such vessel within 15 days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such vessel and the certificate of number shall be surrendered to the secretary as a part of the notification of transfer, destruction, or abandonment except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of number.

(j) Any holder of a certificate of number shall notify the secretary within 15 days if the holder's address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the secretary with a new address. The secretary may provide by rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

(k) No number other than the number awarded to a vessel or granted reciprocity pursuant to this act shall be painted, attached, or otherwise displayed on either side of the bow of such vessel.

(l) If a certificate of number becomes lost, destroyed, mutilated or illegible, the owner of the vessel for which the same was issued may obtain a duplicate of such certificate upon application therefor to the secretary. The application shall be in writing, shall describe the circumstances of the loss or destruction and shall be accompanied by the duplicate fee prescribed pursuant to K.S.A. 32-1172, and amendments thereto.

(m) The secretary is authorized, in the secretary's discretion, to provide and have issued for vessels requiring registration and numbering under this act, a 30-day temporary registration permit for the temporary vessel registration fee prescribed pursuant to K.S.A. 32-1172, and amendments thereto.

Such permits shall be in the form as prescribed by the secretary and available for purchase or resale by any person designated by the secretary. In addition to the permit fee, any person selling such temporary permits may collect a service charge of not to exceed ~~\$ .50~~ \$1 for each permit issued.

Such temporary permit shall expire 30 days from the date of issuance.

(n) (1) *The owner of any vessel documented by the United States Coast Guard and the new owner of any vessel, who upon the sale or transfer of the vessel that documents the vessel with the United States Coast Guard, shall apply for a vessel certificate of registration and pay a fee equal to the amount required for a vessel registration pursuant to K.S.A. 32-1172, and amendments thereto, before using such vessel on the waters of this state. The application shall include the county in which such vessel will be normally maintained by the owner and any other in-*

formation required by the secretary.

A certificate of registration and a set of registration decals in the form prescribed by the secretary shall be issued for a documented vessel. A nonresident shall make application for a vessel certificate of registration within 60 days after acquiring a vessel in this state or bringing a vessel into this state if the vessel will be kept in this state for a period in excess of 60 consecutive days. A delinquency penalty fee of \$20 shall be imposed for each 30 days of delinquency, not to exceed a total of \$60. If the secretary learns that any person failed to acquire a vessel certificate of registration in accordance with this section or has sold a vessel documented by the United States Coast Guard without obtaining a certificate of registration as provided by this section, the secretary shall cancel the registration of all vessels registered in the name of the person, whether as sole owner or a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee together with all fees, charges and payments which the person should have paid in connection with the vessel certificate of registration. The secretary shall maintain a listing of such registered documented vessels, to be supplied to the county assessor of each county in the state as required under K.S.A. 32-1104, and amendments thereto. Such vessels shall not be included in the total number of registered vessels of the state applied toward the number reflected on any United States Coast Guard grants, where prohibited.

(2) The registration decals for any vessel documented by the United States Coast Guard shall be in force and effect for a period of three years so long as the vessel is owned or held by the original holder of the certificate of registration and shall be renewed upon application and payment of a registration renewal fee equal to the amount required for a vessel registration pursuant to K.S.A. 32-1172, and amendments thereto. The owner shall attach the registration decals to both sides of the forward half of the bow of the documented vessel in a place that is fully visible.

(3) Upon the sale or transfer of any vessel documented by the United States Coast Guard, the new owner shall submit, in addition to the properly assigned certificate of registration, proof of release from the documentation of the United States Coast Guard and shall comply with the provisions of this section. If the new owner elects not to document the vessel with the United States Coast Guard, the owner shall comply with the applicable provisions for registering vessels in this state.

(4) The certificate of registration shall be available at all times for inspection on the vessel for which it is issued, whenever the vessel is in operation, moored or occupied while on waters within this state.

(o) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for the administration of the provisions of this section, including but not limited to numbering applications, certificates of number, temporary 30-day permits, display of number and reports on change of address, destruction and sale or transfer of ownership.

Sec. 4. K.S.A. 32-1119 is hereby amended to read as follows: 32-1119. (a) Motorboats subject to the provisions of this act shall be divided into four classes as follows:

Class A. Less than 16 feet in length.

Class 1. Sixteen feet or over and less than 26 feet in length.

Class 2. Twenty-six feet or over and less than 40 feet in length.

Class 3. Forty feet and over in length.

(b) Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited.

(1) *Definitions.*

(A) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to present the light from the right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(B) "Sidelights" means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less

than 20 meters in length, the sidelights may be combined in one lantern carried on the fore and aft centerline of the vessel.

(C) “Sternlight” means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light of 67.5 degrees from right aft on each side of the vessel.

(D) “All-round light” means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(2) Every motorboat of classes A and 1 shall carry the following lights:

~~First. A bright white light aft to show all around the horizon.~~

~~Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on the respective sides.~~

~~First. An all-round light carried aft and high enough to be unobstructed.~~

~~Second. Sidelights in the fore part of the vessel and lower than the all-round light.~~

~~(2) (3) Every motorboat of classes 2 and 3 shall carry the following lights:~~

~~First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side.~~

~~Second. A bright white light aft to show all around the horizon and higher than the white light forward.~~

~~Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow a masthead light, sternlight and sidelights. The sidelights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.~~

~~(3) (4) Motorboats of classes A and 1 when propelled by sail alone, and sailing vessels of similar size when propelled by sail alone, shall carry the combined lantern prescribed by this section and a 12 point white light aft. Motorboats of classes 2 and 3, when so propelled, and sailing vessels of similar size, when propelled by sail alone, shall carry the colored side lights, suitably screened, prescribed by this section and a 12 point white light aft sidelights and a sternlight.~~

~~(4) (5) Manually propelled vessels shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.~~

~~(5) (6) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word “visible” in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.~~

~~(6) (7) When propelled by sail and machinery any motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.~~

~~(7) (8) All vessels at anchor between sunset and sunrise, unless anchored at a designated site, shall carry forward, or where it can best be seen, a bright white light to show all around the horizon and visible for one mile.~~

~~(c) In lieu of the lights required by subsection (b), any vessel may carry and exhibit the lights required by the federal regulations for preventing collisions at sea, 1960, federal act of September 24, 1963 (33 USC 1051-1053) and (1061-1064) as amended in lieu of the lights required by subsection (b) under the inland navigational rules act of December 24, 1981 (33 U.S.C. 2020-2030), as in effect on the effective date of this act, or as prescribed by rules and regulations of the secretary.~~

~~(d) Every motorboat of class 1, 2, or 3 shall be provided with an~~

efficient whistle or other sound-producing mechanical appliance.

(e) Every motorboat of class ~~2~~ or 3 shall be provided with an efficient bell.

(f) Every vessel, other than sail boards used for wind surfing, racing shells or rowing sculls shall carry at least one coast guard approved life-saving device of the sort prescribed by rules and regulations of the secretary, in good and serviceable condition, for each person on board, so placed as to be readily accessible. As used in this subsection, "racing shell" and "rowing scull" mean a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing in which all occupants row, scull or paddle, with the exception of a coxswain, and is not designed to carry and does not carry any equipment, not solely for competitive racing.

(g) Every motorboat shall be provided with such number, size, and type of coast guard approved fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by rules and regulations of the secretary, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

(h) The provisions of subsections (d), (e) and (g) shall not apply to outboard motorboats while competing in any race conducted pursuant to K.S.A. 32-1149, and amendments thereto, or, if such boats are designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(i) Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors, using gasoline as fuel, equipped with such efficient coast guard approved flame arrester, backfire trap or other similar device as may be prescribed by rules and regulations of the secretary.

(j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature shall be provided with such means as may be prescribed by rules and regulations of the secretary for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(k) The secretary is hereby authorized to adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations required to carry out in the most effective manner all of the provisions of this act and to alter, modify or supplement the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States coast guard.

(l) The secretary is hereby authorized to establish and maintain, for the operation of vessels on the waters of this state, pilot rules in conformity with the pilot rules contained in the federal navigation laws or the navigation rules promulgated by the United States coast guard.

(m) No person shall operate or give permission for the operation of a vessel which is not equipped as required by the laws of Kansas and rules and regulations of the secretary.

(n) No person shall operate a motorboat or other vessel close to swimming areas, moored boats or vessels engaged in fishing, servicing buoys or markings, or similar activities, without reducing the speed of the vessel so as to prevent wash or wake from the vessel causing damage or unnecessary inconvenience to the occupants of the area or other vessels.

Sec. 5. K.S.A. 32-1125 is hereby amended to read as follows: 32-1125. (a) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(b) No person shall manipulate any water skis, surfboard or similar device while under the influence of alcohol or drugs, or both.

(c) No person shall operate any motorboat or vessel for pleasure riding or pull any water skis, surfboard or similar device in any waters of this state marked by buoys or otherwise designated as a mooring, launching, fishing or hunting nonboating area by a county or other political subdivision or by the secretary, except that a motorboat or vessel used for fishing may be operated in a mooring or launching nonboating area.

As used in this subsection, "waters of this state" includes, but is not limited to, any water storage reservoir impoundments over which the secretary has been granted jurisdiction by the proper agency or official of the United States government.

(d) No person shall operate or moor a vessel within a water area which is marked, by buoys or some other distinguishing device, as a bathing or swimming area or as an all-boats-prohibited area. No person shall operate a vessel for purposes other than fishing in areas marked by buoys or otherwise designated as fishing areas, and no person shall operate a vessel for purposes other than hunting in areas marked by buoys or otherwise designated as hunting areas, and in areas designated for combined use of fishing and hunting, vessels may be used for both purposes unless prohibited by federal law.

(e) No owner or person in possession of a vessel shall permit a person under 12 years of age to operate a motorboat unless accompanied and under the direct and audible supervision of a parent or other person over 17 years of age. *“Direct and audible supervision” means a person on board the same vessel and in sufficiently close proximity of the operator’s station to enable such person to quickly and safely assume control of such vessel if needed.*

(f) No operator of a vessel shall willfully fail or refuse to bring such vessel to a stop, or otherwise flee or attempt to elude a pursuing law enforcement vehicle or vessel, when given a visual or audible signal to bring the operator’s vessel to a stop. The signal may be given by hand, voice, emergency light or siren and shall be given by a uniformed law enforcement officer prominently displaying the officer’s badge of office.

Sec. 6. K.S.A. 32-1128 is hereby amended to read as follows: 32-1128. (a) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from ~~one~~ *one-half* hour after sunset to ~~one~~ *one-half* hour before sunrise.

(b) The provisions of subsection (a) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under K.S.A. 32-1149, *and amendments thereto.*

(c) 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.

(d) No person shall operate a motorboat on any waters of this state for towing a person or persons on water skis, a surfboard, or similar device, unless the boat is equipped with a wide angle rear view mirror properly placed to provide a maximum vision of the person or persons being towed, or there is an observer in the boat in addition to the operator. The observer must be a responsible person of at least ~~twelve~~ *(12)* 12 years of age.

(e) *The operator or observer shall observe the person or persons being towed and shall display a flag immediately after the towed person or persons enter into the water and during the time preparatory to towing or retrieving while the person or persons are still in the water. Such flag shall be a bright or brilliant orange or red color, measuring not less than 12 inches per side, mounted on a handle and displayed as to be visible from all directions. It shall be unlawful to display such flag except under the conditions listed in this subsection.*

New Sec. 7. (a) The exhaust of every internal combustion engine used on any motorboat on the waters of the state shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust.

The muffler system shall be in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.

(b) Muffler means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

(c) A motorboat operating on the waters of the state shall have an exhaust water manifold or a factory-type muffler installed on the engine.

(d) A person shall not operate or give permission for the operation of any motorboat in or upon the waters of this state if the motorboat is equipped with an altered muffler, muffler cutout, muffler bypass or any other device designed or installed so that it can be used continually or intermittently to bypass any muffler or muffler system installed on the

motorboat, or to reduce or eliminate the effectiveness of such a muffler or muffler system.

(e) A motorboat shall not be operated on the waters of this state under any condition or in any manner whereby the motorboat emits a sound level in excess of 86 decibels on the "A" weighted scale, when measured from a distance of 50 feet or more from the motorboat, as prescribed in society of automotive engineers standards, SAE J34 and SAE J2005.

(f) No person shall remove, alter or otherwise modify in any manner a muffler or muffler system installed on a motorboat to prevent the muffler or muffler system from being operated in accordance with this statute.

(g) The provisions of subsections (c) through (e) shall not apply to motorboats officially registered and competing in or while on trial runs 48 hours immediately preceding a regatta, race, marine parade, tournament or exhibition which has been authorized or permitted by the department.

(h) A law enforcement officer who has reason to believe a motorboat is being operated in violation of the noise levels established in this section may direct the operator of the motorboat to submit to an on-site test to measure noise level. An operator of a motorboat who receives a request from a law enforcement officer pursuant to this section shall allow the motorboat to be tested. If, based on a test to determine the noise level of a motorboat, the noise level of the motorboat exceeds the decibel levels established in this section, the law enforcement officer shall direct the operator of the motorboat to take immediate and reasonable measures to correct the violation, including, but not limited to, terminating the voyage of the motorboat until the motorboat no longer operates in violation of this section.

New Sec. 8. (a) No person shall:

(1) Intentionally deface, destroy, remove or alter any hull identification number required for a vessel, without written authorization from the secretary.

(2) Place or stamp any serial number upon a vessel other than a number assigned to the vessel by the secretary.

(b) It shall be unlawful to sell, barter, exchange or possess any vessel if the original hull identification number has been destroyed, removed, altered or defaced.

(c) This section does not prohibit:

(1) The restoration of the original hull identification number by an owner of a vessel when the restoration of such number is authorized by the secretary.

(2) Any manufacturer from placing numbers or marks in the ordinary course of business upon new vessels or parts of vessels.

(d) Any law enforcement officer having knowledge of a vessel with a hull identification number that has been destroyed, removed, altered or defaced may seize and take possession of such vessel and may arrest the owner or custodian thereof and cause prosecution to be brought in a court of competent jurisdiction.

(e) The secretary, upon request, shall assign a hull identification number to any handmade vessel.

(f) Any person who knowingly violates any provision of subsection (a) or (b) shall be guilty of a class A nonperson misdemeanor.

New Sec. 9. (a) When application for a certificate of number is made for a vessel which has been assembled, reconstructed, reconstituted or restored from one or more vessels, or the hull identification number as required by law is unidentifiable or uncertain, the owner of such vessel shall request the secretary inquire into the origin of the vessel. Such information shall be supplied by affidavit of the owner, if requested by the secretary. If, in the determination of the secretary, the vessel contains no stolen parts, the secretary shall assign an existing or new hull identification number to the vessel and direct the location and manner to affix the hull identification number. A charge of \$10 shall be paid by the owner of a vessel requesting the inquiry.

(b) Any vessel having a destroyed, removed, altered or defaced hull identification number, which was not constructed in accordance with subsection (a), and if the true identity of the vessel cannot be determined, shall be reassigned a new hull identification number by the secretary or destroyed.

New Sec. 10. (a) Whenever the secretary assigns a hull identification



number to a handmade vessel, the hull identification number shall consist of two letters designating the state followed by the letter "Z"; the next five characters shall be an identifying serial number and the last four characters shall indicate the month and year of the vessel certificate of ownership issuance.

(b) The registered owner of a handmade vessel for which a hull identification number has been assigned shall carve, burn, stamp, emboss or otherwise permanently affix the assigned number to the outboard side of the starboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism and above the waterline of the vessel in such a way that alteration, removal, or replacement would be evident. The number must be at least ¼ inch in height.

(c) The secretary shall issue a decal which indicates the assigned hull identification number to be affixed to each vessel which has been assigned under this section. The decal shall be affixed no more than two inches below the location of the hull identification number placed pursuant to the provisions in subsection (b). Such decal, as well as a duplicate decal placed in an unexposed portion of the interior of the vessel, shall be affixed by the department.

(d) It shall be unlawful to remove, alter or deface a decal or duplicate decal which has been issued for or affixed to a vessel pursuant to the provisions of subsection (c), or to affix or otherwise display such a decal or duplicate decal on any vessel other than the vessel for which the hull identification number was assigned, without first having obtained the written permission by the department.

(e) A hull identification inspection fee of \$10 shall be assessed to the owner of a vessel requesting a hull identification number pursuant to this section.

New Sec. 11. (a) No person shall abandon a vessel upon a public waterway or upon public or private property without the consent of the owner or person in lawful possession or control of the property.

(b) The abandonment of any vessel in a manner prohibited by subsection (a) is prima facie evidence that the last registered owner of record is responsible for the abandonment, unless such owner has notified the department or other appropriate law enforcement agency of such owner's relinquishment of title or registration or interest therein. The person so responsible shall be required to pay the cost of removal and disposition of the vessel.

(c) A law enforcement officer of this state may remove a vessel from a public waterway when:

(1) The vessel is left unattended and is adrift, moored, docked, beached or made fast to land in such a position as to interfere with navigation or in such a condition as to create a hazard to other vessels using the waterway, to public safety or to the property of another.

(2) The vessel is found upon a waterway and a report has previously been made that the vessel has been stolen or embezzled.

(3) The person in charge of the vessel is by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(4) A law enforcement officer arresting a person operating or in control of the vessel for an alleged offense, and the officer is required or permitted to take, and does take, the person arrested into custody without unnecessary delay.

(5) The vessel seriously interferes with navigation or otherwise poses a critical and immediate danger to navigation or to the public health, safety or welfare.

New Sec. 12. (a) A law enforcement officer may attempt to identify the registered owner of a vessel abandoned on private property by inspection of the vessel and any trailer to which it is attached and may supply the information to the real property owner upon which vessel is presumed abandoned. The real property owner must declare by affidavit the reasons why such real property owner believes the property to be abandoned. The real property owner must give 5-days' notice to the last registered vessel owner before causing the removal of the vessel. If the last registered owner is unknown or cannot be notified, the vessel may immediately be removed to a secure location designated by a law enforcement officer.

(b) A law enforcement officer, within 48 hours after directing the

removal of an abandoned vessel on a public waterway or public or private property, shall notify the department of the status of the vessel.

(c) A law enforcement officer who has custody of an abandoned vessel, if the law enforcement agency knows or can reasonably discover the name and address of the owner of the vessel or any person who holds a security interest in the vessel, shall notify the owner or the holder of the security interest of the location of the vessel and the method by which the vessel may be claimed. This notice must be sent by certified or registered mail.

(d) If the abandoned vessel is held by a law enforcement agency as evidence in the investigation or prosecution of a criminal offense, the notice required by subsection (c) shall be sent:

(1) Upon the decision of the law enforcement agency or prosecuting attorney not to pursue or prosecute the case;

(2) upon the conviction of the person who committed the offense; or

(3) if the case is otherwise terminated.

(e) Failure to reclaim the vessel within 180 days after the date the notice is mailed constitutes a waiver of interest in the vessel by any person having an interest in the vessel and the vessel shall be deemed abandoned for all purposes.

(f) If all recorded interests in a vessel are waived, as provided in subsection (e) or by written disclaimer, the department may issue a certificate of ownership to the law enforcement agency that has custody of the vessel. If necessary, the secretary may assign a hull number to the vessel. This subsection shall not preclude the subsequent return of a vessel, or any component part thereof, by a law enforcement agency to the registered owner of the vessel upon presentation by the registered owner of satisfactory proof of ownership.

(g) A law enforcement agency to which a certificate of ownership is issued pursuant to subsection (f) may use, sell or destroy the vessel and shall keep a record of the disposition of the vessel. If the law enforcement agency:

(1) Sells the vessel, all proceeds from the sale of the vessel shall become the property of the law enforcement agency.

(2) Destroys the vessel, the law enforcement agency shall, within 10 days, give notice of the destruction of the vessel to the department.

New Sec. 13. (a) The registered owner of a destroyed or abandoned vessel that is numbered pursuant to chapter 32 of the Kansas Statutes Annotated, and amendments thereto, shall provide the notice required by K.S.A. 32-1111, and amendments thereto, to the secretary in writing. The written notice must be signed by the registered owner and notarized.

(b) The written notice provided pursuant to subsection (a) must indicate the reason for the destruction or abandonment of the vessel and the current location and condition of the vessel.

(c) The registered owner shall surrender to the secretary the certificate of number and the certificate of ownership issued for the motorboat, if in existence, at the time the owner provides the written notice to the secretary pursuant to subsection (a).

(d) Once a vessel has been destroyed or abandoned, the secretary shall print the word "salvage" on each subsequent certificate of number which it issues for that vessel.

New Sec. 14. (a) If a law enforcement officer has probable cause to believe that a vessel or its contents contain evidence tending to show that a criminal offense has been committed or that a particular person has committed an offense, the officer may take whatever steps are reasonable to ensure the preservation of the evidence, including safe storage of the vessel or its contents.

(b) If a criminal conviction is obtained as a result of an action taken pursuant to subsection (a), the person convicted shall pay any storage fees incurred pursuant to that subsection. If a conviction is not obtained, the law enforcement agency that seized the vessel pursuant to subsection (a) shall pay any storage fees incurred.

Sec. 15. K.S.A. 2005 Supp. 32-1173 is hereby amended to read as follows: 32-1173. All moneys received pursuant to K.S.A. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~ 32-1177 through 32-1180 *and sections 9 and 10*, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215 *and* 74-7336, and amendments thereto.

Upon receipt of each such remittance, the state treasurer shall deposit the entire amount *as prescribed by K.S.A. 74-7336, and amendments thereto*, in the state treasury to the credit of the boating fee fund, which is hereby created, to be dedicated and used to administer and enforce the provisions of K.S.A. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~, 32-1177 through 32-1180 *and sections 7 through 14*, and amendments thereto. When sufficient moneys are available from the fees so collected, the secretary may use the same to construct or repair boating facilities, ramps and docks at public waters within this state.

Sec. 16. K.S.A. 32-1180 is hereby amended to read as follows: 32-1180. Unless otherwise provided by statute or rules and regulations of the secretary, violation of K.S.A. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~, 32-1177 through 32-1180 *and sections 7 and 11*, and amendments thereto, or rules and regulations adopted thereunder is a class C misdemeanor.

Sec. 17. K.S.A. 2005 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit 11.99% to the crime victims compensation fund, 2.45% to the crime victims assistance fund, 2.01% to the community alcoholism and intoxication programs fund, 2.01% to the department of corrections alcohol and drug abuse treatment fund *and 0.17% to the boating fee fund*. The remainder of the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

Sec. 18. K.S.A. 32-1110, 32-1111, 32-1119, 32-1125, 32-1128 and 32-1180 and K.S.A. 2005 Supp. 32-1102, 32-1173 and 74-7336 are hereby repealed.

Sec. 19. This act shall take effect and be in force from and after January 1, 2007, and its publication in the statute book.

Approved April 6, 2006.

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