

HB358 ENGROSSED



1 11A63Z-2
2 By Representatives Shaver, Pettus
3 RFD: Public Safety and Homeland Security
4 First Read: 20-Apr-23
5
6 2023 Regular Session



HB358 Engrossed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL
TO BE ENTITLED
AN ACT

Relating to vessels; to amend Sections 33-5-3, 33-5-4, 33-5-5, 33-5-6, 33-5-7, 33-5-8, 33-5-10, 33-5-12, 33-5-15, 33-5-16, 33-5-20, 33-5-21, 33-5-22, 33-5-23, 33-5-25, 33-5-26, 33-5-27, 33-5-28, 33-5-30, 33-5-31, 33-5-32, 33-5-34, 33-5-35, 33-5-36, 33-5-51, 33-5-52, 33-5-53, 33-5-54, 33-5-55, 33-5-56, 33-5-58, 33-5-59, 33-5-60, 33-5-61, 33-5-62, 33-5-63, 33-5-64, 33-5-65, 33-5-66, 33-5-67, 33-5-68, 33-5-69, 33-5-70, 33-5-71, 33-5-72, 33-5-73, 33-5-74, 33-5-75, 33-5-77, 33-5-79, 33-5-81, Code of Alabama 1975, to establish the classification of boating violation as a recognized criminal offense classification and to reclassify various criminal offenses as boating violations and further provide for criminal penalties; to further provide for the requirement to report certain boating accidents; to further provide for the general operational and equipment requirements of a vessel; to further provide for vessel horsepower requirements and the use of engine cut-off switches; to establish the uniform electronic boating traffic ticket and provide for its issuance; to amend



HB358 Engrossed

29 Sections 12-12-50, 12-12-51, 12-12-52, 12-12-55, and
30 12-19-179, Code of Alabama 1975, to provide the district court
31 with jurisdiction over boating violations and further provide
32 for the court costs and fees for boating violations; to amend
33 Section 41-27-6, Code of Alabama 1975, to rename the Marine
34 Police Division within the Department of Public Safety to the
35 Marine Patrol Division; to make nonsubstantive, technical
36 revisions to update the existing code language to current
37 style; to repeal Sections 33-5-22.1, 33-5-29, 33-5-33, and
38 33-5-78, Code of Alabama 1975; and in connection therewith
39 would have as its purpose or effect the requirement of a new
40 or increased expenditure of local funds within the meaning of
41 Section 111.05 of the Constitution of Alabama of 2022.

42 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

43 Section 1. Sections 33-5-3, 33-5-4, 33-5-5, 33-5-6,
44 33-5-7, 33-5-8, 33-5-10, 33-5-12, 33-5-15, 33-5-16, 33-5-20,
45 33-5-21, 33-5-22, 33-5-23, 33-5-25, 33-5-26, 33-5-27, 33-5-28,
46 33-5-30, 33-5-31, 33-5-32, 33-5-34, 33-5-35, 33-5-36, 33-5-51,
47 33-5-52, 33-5-53, 33-5-54, 33-5-55, 33-5-56, 33-5-58, 33-5-59,
48 33-5-60, 33-5-61, 33-5-62, 33-5-63, 33-5-64, 33-5-65, 33-5-66,
49 33-5-67, 33-5-68, 33-5-69, 33-5-70, 33-5-71, 33-5-72, 33-5-73,
50 33-5-74, 33-5-75, 33-5-77, 33-5-79, 33-5-81, Code of Alabama
51 1975, are amended to read as follows:

52 "§33-5-3

53 As used in this ~~article~~ chapter, the following terms
54 ~~shall~~ have the following meanings ~~respectively ascribed to~~
55 ~~them in this section~~, unless the context clearly requires a
56 different meaning:



HB358 Engrossed

57 (1) ALEA. The Alabama State Law Enforcement Agency.

58 (2) BOATING VIOLATION. An offense committed on the
59 waters of this state, which does not amount to a misdemeanor
60 or felony, and for which this chapter authorizes a fine of not
61 more than two hundred dollars (\$200) or a sentence for a term
62 of imprisonment in the county jail for not more than 30 days,
63 or both.

64 ~~(1)~~ (10) VESSEL. Every description of watercraft, other
65 than a seaplane, capable of being used as a means of
66 transportation on the water, but ~~such the~~ term ~~shall~~ does not
67 include vessels 12 feet in length or less when used solely on
68 farm ponds of less than 50 acres in size.

69 ~~(2)~~ (11) WATERS OF THIS STATE. Any waters within the
70 territorial limits of this state and the marginal sea adjacent
71 to this state and the high seas when navigated as a part of a
72 journey or ride to and from the shore of this state; ~~provided,~~
73 ~~however, that "waters of this state" shall not be interpreted~~
74 ~~to mean.~~ The term does not include any private pond which is
75 not used for boat rentals or the charging of fees for fishing
76 therein.

77 ~~(3)~~ (6) OWNER. A person, other than a lienholder, having
78 the property in or title to a vessel. The term includes a
79 person entitled to the use or possession of a vessel subject
80 to an interest in another person, reserved or created by
81 agreement and securing payment or performance of an
82 obligation, but the term excludes a lessee under a lease not
83 intended as security.

84 ~~(4)~~ (7) PERSON. An individual, partnership, firm,



HB358 Engrossed

85 corporation, association, or other entity.

86 (8) PERSONAL WATERCRAFT. As defined under Section
87 33-5-51.

88 (5) OPERATE. To navigate or otherwise use a vessel.

89 ~~(6) COMMISSIONER. The commissioner of the State~~
90 ~~Department of Conservation and Natural Resources.~~

91 (9) SECRETARY. The Secretary of the Alabama State Law
92 Enforcement Agency.

93 ~~(7) STATE DEPARTMENT OF CONSERVATION AND NATURAL~~
94 ~~RESOURCES or DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.~~
95 ~~That department created by the laws of this state having~~
96 ~~supervision over game, fish, forestry, parks, seafoods and~~
97 ~~such lands of the state and such supervision over public~~
98 ~~waters of this state as now are constituted by law or any~~
99 ~~subsequent amendment thereto.~~

100 ~~(8) (3) CERTIFICATE. Registration by a vessel owner with~~
101 ~~the Department of Conservation and Natural Resources,~~
102 including the issuance of an identifying number awarded each
103 vessel and the issuance of a pocket-size certificate of
104 registration.

105 ~~(9) (4) LENGTH. Such~~ The term means measured from end to
106 end over the deck from the bow to the transom, excluding sheer
107 bowsprits, swim platforms, or engine brackets extending from
108 the hull."

109 "§33-5-4

110 (a) ~~It is hereby expressly made the duty of the~~
111 ~~commissioner to set up a division within the Department of~~
112 ~~Conservation and Natural Resources to be known as the~~



HB358 Engrossed

113 ~~"Division of Marine Police" with sufficient personnel to~~
114 ~~perform the necessary clerical and routine work for the~~
115 ~~department in~~ The Marine Patrol Division established pursuant
116 to Section 41-27-6 shall be responsible for all of the
117 following duties:

118 (1) issuing Issuing, handling, and recording vessel
119 ~~registration identifying numbers, including the receiving.~~

120 (2) Receiving and accounting of all registration fees
121 and payments ~~of same~~ to ALEA into the State Treasury,
122 ~~receiving.~~

123 (3) Receiving and recording accident reports and ~~making~~
124 ~~such providing~~ reports of ~~such the~~ accidents to ~~such the~~
125 applicable federal agency as may be required by federal law.
126 ~~and such~~

127 (4) Investigating collisions that involve injuries or
128 fatalities.

129 (5) Any other incidental clerical work connected with
130 the administration of this ~~article~~ chapter.

131 (b) The ~~law enforcement~~ law enforcement officers of the
132 ~~Division of Marine Police of the Department of Conservation~~
133 ~~and Natural Resources~~ Marine Patrol Division shall be known as
134 ~~marine police officers~~ state troopers."

135 "§33-5-5

136 In addition to all other ~~power heretofore granted~~
137 powers authorized by law, ~~marine police officers and all other~~
138 ~~Department of Conservation and Natural Resources enforcement~~
139 ~~officers~~ state troopers of the Marine Patrol Division shall
140 have the power of peace officers in this state and may



HB358 Engrossed

141 exercise such powers anywhere within the state."

142 "§33-5-6

143 This article shall be enforced by the Alabama State Law
144 Enforcement Agency, Marine Patrol ~~Division of Marine Police~~,
145 by all law enforcement officers of the state, and by other
146 agents and employees of the agency as designated and required
147 by the ~~Secretary of the Alabama State Law Enforcement Agency~~
148 secretary."

149 "§33-5-7

150 All records of ~~the Department of Conservation and~~
151 ~~Natural Resources~~, ALEA or any probate judge or license
152 commissioner made or kept pursuant to this article shall be
153 public records, except confidential reports and except
154 accident reports as set out in this article."

155 "§33-5-8

156 The ~~Commissioner of Conservation and Natural Resources~~
157 secretary shall supply to any authorized official or agency of
158 the United States, upon ~~such~~ the agency's or official's
159 request and in accordance with any federal law or regulation
160 relative thereto, necessary information pertaining to
161 statistics and reports compiled under ~~the provisions of~~ this
162 article."

163 "§33-5-10

164 (a) The ~~agency~~ secretary shall issue annual
165 certificates of registration directly and shall authorize all
166 judges of probate in the state or any other official in the
167 state who is presently authorized to issue automobile license
168 plates to issue annual certificates of registration and



HB358 Engrossed

169 numbers in connection therewith. In conformity with this
170 article and any rules adopted by the ~~agency~~secretary, the
171 ~~agency~~ secretary shall assign to each issuing officer in the
172 county a block of numbers and certificates therefor which upon
173 issue, the issuing officer shall be allowed a fee of two
174 dollars (\$2) for each certificate issued by him or her. In
175 counties where the judge of probate or issuing officer is on
176 the fee system, the issuing fee shall be retained by the judge
177 of probate, and, in counties where the issuing officer or
178 judge of probate is on a salary basis, the fee shall be paid
179 to the county treasury. The issuance fee provided for herein
180 shall be in addition to the amount of the boat registration
181 fee.

182 (b) All registration money, except the two dollar (\$2)
183 fee allowed under subsection (a), shall be remitted monthly to
184 ~~the agency~~ ALEA not later than 10 days after the first of each
185 month. The ~~agency~~secretary shall remit the registration money
186 to the State Treasurer to be deposited in the State Water
187 Safety Fund.

188 (c) All monies received out of the sale of licenses
189 under this article may be used by the ~~agency~~secretary for all
190 purposes reasonably necessary in the cost of administration of
191 this article, including the printing of certificates of
192 registration, postage and transportation charges, clerical,
193 personnel, equipment purchases, salaries, and other expenses
194 for each year; except, that no funds collected under this
195 article may be used to supplement or pay the salaries of any
196 law enforcement officers other than those hired specifically



HB358 Engrossed

197 for the purposes of administering this article. The secretary
198 shall expend the monies appropriated to the Marine
199 ~~Police~~Patrol Division as the secretary deems necessary and
200 appropriate; provided, however, that the appropriations may be
201 expended only for the purposes designated by the Legislature
202 and in the amounts provided therefor in the general
203 appropriation bill and shall be budgeted and allotted in
204 accordance with the provisions of Article 4 of Chapter 4 of
205 Title 41. It is the intent of the Legislature that the agency
206 utilize existing personnel and equipment of the agency and of
207 the sheriffs of this state to the maximum possible extent in
208 enforcing and administering this article, to the end that
209 there be no costly duplication of services."

210 "§33-5-12

211 The numbering system employed pursuant to this chapter
212 shall be determined ~~and promulgated by the Commissioner of the~~
213 ~~Department of Conservation and Natural Resources acting~~
214 ~~pursuant to the authority conferred on him by Section 33-5-28;~~
215 ~~provided, that in~~ by the secretary by rule. In the event an
216 agency of the United States government shall have in force an
217 overall system of identification numbering for vessels within
218 the United States, any numbering system ~~employed or~~
219 ~~promulgated pursuant to this article~~ used shall conform
220 ~~thereto~~ to the federal requirements."

221 "§33-5-15

222 (a) Any vessel already covered by a number in full
223 force and effect which has been awarded to it pursuant to the
224 operative federal law or federally approved numbering system



HB358 Engrossed

225 of another state may be operated on the waters of this state
226 for a period of 90 consecutive days without being licensed
227 under ~~the provisions of~~ this article. Any vessel operating for
228 more than 90 consecutive days must then be registered and
229 licensed in the same manner as other vessels are required to
230 be licensed under this article.

231 (b) Should the ownership of a vessel change, a new
232 application form with a fee of three dollars (\$3) for change
233 in registration shall be filed with ~~the Department of~~
234 ~~Conservation and Natural Resources~~ ALEA and a new certificate
235 issued transferring the original vessel number to the new
236 owner; provided, however, that the ~~Commissioner of~~
237 ~~Conservation and Natural Resources may at his or her~~
238 ~~discretion provide by duly promulgated regulations a~~
239 secretary, by rule, may adopt a system for the issuance of
240 ~~such the~~ changes of registration by the judges of probate
241 ~~judges~~ and license commissioners of this state, and, in the
242 event ~~such the~~ change of registration certificates are issued
243 by ~~such judges of~~ probate ~~judges~~ and license commissioners,
244 they shall be entitled to a fee ~~therefor~~ of two dollars (\$2).

245 (c) No ~~citizen or resident of this state~~ person may
246 operate ~~his or her~~ a vessel on the waters of this state when
247 ~~such the~~ vessel is under foreign registry; provided, however,
248 that any ~~such citizen or resident~~ person who has previously
249 registered his or her vessel in another state or by federal
250 registry before coming into this state may operate ~~same the~~
251 vessel for a period of 90 consecutive days without being
252 required to register under ~~the provisions of~~ this article."



HB358 Engrossed

253 "§33-5-16

254 (a) The owner shall furnish the ~~Department of~~
255 ~~Conservation and Natural Resources~~ secretary notice of the
256 transfer of all or any part of his or her interest other than
257 the creation of a security interest in a vessel numbered in
258 this state pursuant to this article or of the destruction or
259 abandonment of ~~such the~~ vessel within 15 days thereof. ~~Such~~
260 The transfer, destruction, or abandonment shall terminate the
261 certificate for ~~such the~~ vessel; except, that in the case of a
262 transfer of a part interest which does not affect the owner's
263 right to operate ~~such the~~ vessel, ~~such the~~ transfer shall not
264 terminate the certificate.

265 (b) Any holder of a certificate shall notify ~~the~~
266 ~~Department of Conservation and Natural Resources~~ ALEA within
267 15 days if his or her address no longer conforms to the
268 address appearing on the certificate and ~~shall~~, as a part of
269 ~~such the~~ notification, shall furnish ~~the Department of~~
270 ~~Conservation and Natural Resources~~ ALEA with his or her new
271 address. The ~~Department of Conservation and Natural Resources~~
272 secretary may ~~provide in its rules and regulations~~ adopt rules
273 for the surrender of the certificate bearing the former
274 address and its replacement with a certificate bearing the new
275 address or for the alteration of an outstanding certificate to
276 show the new address of the holder.

277 (c) Any person who has purchased a ~~registration~~vessel
278 number for his or her vessel and subsequently loses or
279 misplaces the registration certificate may make application to
280 ~~the Department of Conservation and Natural Resources~~ ALEA,



HB358 Engrossed

281 accompanied by a fee of three dollars (\$3) for a duplicate
282 registration certificate. ~~Such applications must~~Each
283 application shall be made upon forms furnished by ~~the Division~~
284 ~~of Marine Police of the Department of Conservation and Natural~~
285 ~~Resources~~ ALEA.

286 (d) ~~The Commissioner of Conservation and Natural~~
287 ~~Resources is authorized to provide by duly promulgated~~
288 ~~regulation~~ secretary may provide a system ~~wherein~~ through
289 which the judges of probate ~~judges~~ and license commissioners
290 in this state may issue duplicate registration certificates,
291 ~~and, in the event such probate judges and license~~
292 ~~commissioners issue such duplicate registration certificates,~~
293 ~~they.~~ A judge of probate or license commissioner who issues a
294 duplicate registration certificate pursuant to this subsection
295 shall be entitled to a fee of two dollars (\$2) ~~for each~~
296 ~~duplicate certificate.~~"

297 "§33-5-20

298 (a) (1) The sheriffs of this state may be designated as
299 special agents to sell boat licenses ~~as provided for herein~~.

300 (2) ~~The Commissioner of Conservation and Natural~~
301 ~~Resources is authorized to~~ secretary may appoint other special
302 agents to sell boat licenses ~~as provided for herein~~; provided,
303 however, that ~~the Commissioner of Conservation and Natural~~
304 ~~Resources may not appoint~~ any special agent ~~until the agent is~~
305 appointed pursuant to this subdivision shall be bonded for not
306 less than five thousand dollars (\$5,000).

307 (b) ~~Such Special~~ agents shall receive licenses from ~~the~~
308 ~~Department of Conservation and Natural Resources~~ ALEA in the



HB358 Engrossed

309 same manner as the judges of probate ~~judges~~ and license
310 commissioners and shall make ~~such~~ any reports and be subject
311 to ~~such~~ any audits as the ~~Commissioner of Conservation and~~
312 ~~Natural Resources~~ secretary may specify. Special agents ~~so~~
313 ~~appointed~~ shall make returns to ~~the Department of Conservation~~
314 ~~and Natural Resources~~ ALEA in the same manner as judges of
315 probate ~~judges~~ and license commissioners.

316 (c) The ~~Commissioner of Conservation and Natural~~
317 ~~Resources is further authorized to~~ secretary may cancel ~~such a~~
318 special ~~agents'~~ agent's authority to sell licenses at any time
319 ~~he or she may so desire.~~

320 (d) Special agents shall be entitled to an issuance fee
321 of two dollars (\$2).

322 (e) Any special agent selling licenses in excess of the
323 cost of licenses as herein specified shall be guilty of a
324 Class C misdemeanor ~~and upon conviction thereof shall be~~
325 ~~punished by a fine of not more than one hundred dollars~~
326 ~~(\$100)."~~

327 "§33-5-21

328 (a) The ~~Department of Conservation and Natural~~
329 ~~Resources through its agents and employees shall have the~~
330 ~~right to~~ Alabama State Law Enforcement Agency may inspect at
331 any reasonable time all boats owned or controlled by a livery
332 operator for the purpose of ascertaining their seaworthiness
333 and safety.

334 (b) In the event any boat owned or used by the livery
335 operator for rental purposes is determined to be in an unsafe
336 or unseaworthy condition, ~~the Department of Conservation and~~



HB358 Engrossed

337 ~~Natural Resources~~ALEA shall immediately notify the livery
338 operator in writing as to the unsafe or unseaworthy condition
339 of ~~such the~~ boat or boats. ~~and, after such~~After receipt of the
340 notification, it shall be unlawful for the ~~boat liveryman~~
341 livery operator to rent or offer to rent ~~any the~~ boat. ~~found~~
342 ~~to be in such condition; provided, however, that if such~~

343 (c) If ALEA determines that a cited boat can be placed
344 in a seaworthy or safe condition by repairs or alterations ~~as~~
345 ~~so directed by the department, the same may then~~ boat may
346 again be used for rental purposes ~~but only after another~~
347 ~~inspection of the vessel to ascertain~~ after ALEA performs an
348 inspection on the vessel and determines ~~whether or not such~~
349 that the repairs or alterations have been duly made."

350 "§33-5-22

351 (a) Every vessel, while being operated on the waters of
352 this state, shall be equipped with reasonable safety devices
353 and navigation lights ~~as may be required under regulations~~
354 ~~promulgated in accordance with rules adopted~~ by the
355 ~~Commissioner of Conservation and Natural Resources~~ secretary.
356 No person shall operate or give permission for the operation
357 of a vessel ~~which that~~ is not equipped as ~~is~~ required by ~~rules~~
358 ~~rule and regulations duly promulgated by~~ of the ~~commissioner~~
359 ~~of the Department of Conservation and Natural Resources~~
360 secretary.

361 (b) All ~~such~~ safety equipment and ~~safety~~ navigation
362 lights required by this section shall meet ~~such the minimum~~
363 standards ~~as that~~ the ~~Commissioner of Conservation and Natural~~
364 ~~Resources~~ secretary may ~~from time to time establish~~ adopt by



HB358 Engrossed

365 rule as minimum safety equipment and navigation lights, and
366 ~~all such safety equipment and safety lights above the minimum~~
367 ~~requirements which are required by the rules and regulations~~
368 ~~of the Department of Conservation and Natural Resources shall~~
369 ~~conform with specific standards as may be adopted by the~~
370 ~~Department of Conservation and Natural Resources.~~

371 (c) Airboats shall display a flag 10 by 14 inches on a
372 12 foot mast.

373 (d) A diver's flag must be displayed on the surface of
374 any water where ~~skin~~ divers or snorkelers are operating as may
375 be ~~stipulated by the Department of Conservation and Natural~~
376 ~~Resources~~ required by the secretary by rule.

377 ~~(e) Every vessel less than 26 feet in length designed~~
378 ~~to carry one or more persons and to be propelled by machinery~~
379 ~~as its principal source of power or designed to be propelled~~
380 ~~by oars shall, if manufactured or offered for sale in this~~
381 ~~state, have affixed permanently thereto by the manufacturer a~~
382 ~~capacity plate as required by rules and regulations duly~~
383 ~~promulgated by the Commissioner of the Department of~~
384 ~~Conservation and Natural Resources. This subsection shall~~
385 ~~apply to vessels manufactured after January 1, 1971.~~

386 ~~(f)~~ (e) Every motorboat shall have the carburetor or
387 carburetors of every engine ~~therein~~, except outboard motors
388 using gasoline as fuel, equipped with ~~such~~ an efficient USCG
389 approved flame arrestor, backfire trap, or similar device as
390 may be prescribed by ~~the regulations duly promulgated by the~~
391 ~~Commissioner of the Department of Conservation and Natural~~
392 ~~Resources~~ rule of the secretary."



HB358 Engrossed

393 "§33-5-23

394 (a) The exhaust of every internal combustion engine
395 used on any vessel shall be effectively muffled by equipment
396 so constructed and used as to muffle the noise of the exhaust
397 in a reasonable manner. The use of cutouts is prohibited,
398 except for vessels competing in a regatta or official boat
399 race event that is permitted by the Marine Patrol Division,
400 ~~and for such vessels while on trial runs.~~

401 (b) No person shall use or have on board his or her
402 vessel a siren of any type while operating on the waters of
403 this state except as may be specifically allowed by ~~the~~
404 ~~Commissioner of Conservation and Natural Resources~~ the
405 secretary for enforcement purposes.

406 (c) A violation of this section is a boating
407 violation."

408 "§33-5-25

409 (a) ~~It shall be the duty of the~~ The operator of a
410 vessel involved in a collision, accident, incident, or other
411 casualty, so far as he or she can do so without serious danger
412 to his or her own vessel, crew, and passengers, if any, ~~to~~
413 shall render to other persons affected by the collision,
414 accident, incident, or other casualty assistance as may be
415 practicable and as may be necessary in order to save them from
416 or minimize any danger caused by the collision, accident,
417 incident, or other casualty, ~~and also to.~~ In addition, the
418 operator of the vessel shall give his or her name, address,
419 and identification of his or her vessel in writing to any
420 person injured and to the owner of any property damaged in the



HB358 Engrossed

421 collision, accident, incident, or other casualty.

422 (b) ~~In the case of~~ When a collision, accident,
423 incident, or other casualty involving a vessel, ~~the operator~~
424 ~~thereof, if the collision, accident, or other casualty results~~
425 results in the death or injury ~~to~~ of a person or damage to
426 property in excess of two thousand dollars (\$2,000), ~~shall~~
427 within ~~10 days~~ 24 hours, the operator of the vessel shall file
428 with ~~the Department of Conservation and Natural Resources~~ ALEA
429 a full description of the collision, accident, incident, or
430 other casualty, including ~~such~~ any information ~~as the~~
431 ~~Department of Conservation and Natural Resources by regulation~~
432 ~~may require~~ required by the secretary by rule.

433 (c) (1) Except as otherwise provided in this section,
434 ~~All~~ all accident reports required by this section made by
435 persons involved in accidents shall be without prejudice to
436 the individuals ~~so reporting~~ filing the required reports and
437 shall be for the confidential use of ~~the Department of~~
438 ~~Conservation and Natural Resources~~ ALEA or other governmental
439 agencies having use of the record; ~~except, that the Department~~
440 ~~of Conservation and Natural Resources~~.

441 (2) The Alabama State Law Enforcement Agency may
442 disclose the identity of a person involved in an accident when
443 the identity is not otherwise known or when the person denies
444 his or her presence at the accident.

445 (3) No report shall be used as evidence in any trial,
446 civil or criminal, arising out of an accident; ~~except, that~~
447 ~~the Department of Conservation and Natural Resources shall~~
448 ~~furnish~~. Notwithstanding the foregoing, upon the demand of any



HB358 Engrossed

449 person who has made, or claims to have made, ~~such~~ a report, or
450 upon demand of any court, ALEA shall furnish a certificate
451 showing that a specified accident report has or has not been
452 made to ~~the Department of Conservation and Natural Resources~~
453 ALEA solely to prove a compliance or a failure to comply with
454 the requirements that a report be made to ~~the Department of~~
455 ~~Conservation and Natural Resources~~ ALEA."

456 "§33-5-26

457 (a) No person ~~shall~~ may operate a vessel on any waters
458 of this state for towing a person or persons, ~~or~~ on water skis,
459 ~~or~~ an aquaplane, or any other recreational device, unless
460 ~~there is in the vessel a person~~, in addition to the operator,
461 there is another person in the vessel who is at least 12 years
462 of age and is observing and is capable of communicating to the
463 operator of the vessel the progress and safety of the person
464 ~~or persons~~ being towed, or the vessel is equipped with a wide
465 angle mirror with a viewing surface of at least 78 square
466 inches and a field of vision of at least 170 degrees.

467 (b) No person ~~shall~~ may operate a vessel on any waters
468 of this state towing a person or persons on water skis, an
469 aquaplane, or any other recreational device, nor shall any
470 person engage in water skiing, aquaplaning, or similar
471 activity, at any time ~~between the hours from one hour~~ after
472 sunset ~~to one hour~~ or before sunrise.

473 (c) Subsections (a) and (b) ~~of this section~~ do not
474 apply to a performer engaged in a professional exhibition or a
475 person or persons participating in an official regatta,
476 motorboat race, marine parade, tournament, or exhibition



HB358 Engrossed

477 permitted by the Marine Patrol Division and held in compliance
478 with Section 33-5-27 and any rules adopted thereunder.

479 (d) No person except in jump buoys and like objects
480 used normally in competitive and recreational skiing ~~shall~~may
481 operate or manipulate any vessel, tow rope, or other device by
482 which the direction or location of water skis, aquaplane, or
483 any other recreational device may be affected or controlled in
484 a manner to cause the water skis, aquaplane, or other
485 recreational device, or any person thereon, to collide with or
486 strike against any object or person.

487 (e) Subsection (a) shall not apply to personal
488 watercraft as defined in Section 33-5-51.

489 (f) Any person who violates this section shall be
490 guilty of a ~~Class B misdemeanor~~ boating violation, ~~punishable~~
491 ~~upon conviction as provided in Sections 13A-5-7 and 13A-5-12.~~
492 ~~Any person so convicted shall be fined not less than one~~
493 ~~hundred dollars (\$100)."~~

494 "§33-5-27

495 (a) The ~~commissioner~~secretary shall adopt and may from
496 time to time amend ~~regulations~~ rules concerning the safety of
497 vessels and persons ~~thereon, either observers of or~~
498 ~~participants,~~ observing or participating in any regatta,
499 motorboat, or other boat race, marine parade, tournament, or
500 exhibition.

501 (b) Any person ~~or organization~~ sponsoring a regatta,
502 motorboat, or other boat race, marine parade, tournament, or
503 exhibition shall be responsible for providing adequate
504 protection from marine traffic interference and hazards."



HB358 Engrossed

505 "§33-5-28

506 The ~~Commissioner of the Department of Conservation and~~
507 ~~Natural Resources~~ secretary shall ~~make,~~ adopt, ~~promulgate,~~
508 ~~amend and repeal all~~ rules ~~and regulations~~ necessary ~~or~~
509 ~~convenient~~ for the ~~carrying out of the duties and obligations~~
510 ~~and powers conferred on the said Commissioner of the~~
511 ~~Department of Conservation and Natural Resources by~~
512 administration of this article. ~~Further clarifying the~~
513 ~~rule-making power of the commissioner, he shall have power and~~
514 ~~authority to make, adopt, promulgate, amend and repeal all~~
515 ~~rules and regulations as shall promote safety for persons and~~
516 ~~property in and connected with the use, operation and~~
517 ~~equipment of vessels and for the carrying out of duties,~~
518 ~~obligations and powers conferred upon the Commissioner of the~~
519 ~~Department of Conservation and Natural Resources by this~~
520 ~~article, subject to such supervision of the Advisory Board of~~
521 ~~Conservation and Natural Resources as set out in Section~~
522 ~~9-2-15."~~

523 "§33-5-30

524 All rules ~~and regulations duly promulgated~~ adopted
525 ~~under the provisions of~~ this article by the ~~Commissioner of~~
526 ~~Conservation and Natural Resources~~ secretary shall be admitted
527 as evidence in the courts of this state when accompanied by an
528 affidavit from the ~~Commissioner of Conservation and Natural~~
529 ~~Resources~~ secretary certifying that the rule ~~or regulation~~ has
530 been lawfully adopted ~~and promulgated~~ and ~~such~~ the affidavit
531 shall be prima facie evidence of proper adoption ~~and~~
532 ~~promulgation~~ of the rule ~~or regulation."~~



HB358 Engrossed

533 "§33-5-31

534 (a) (1) The provisions of this ~~article and~~ chapter,
535 rules ~~and regulations promulgated~~ adopted pursuant thereto,
536 and other general laws of this state shall govern the
537 operation, equipment, numbering and all other matters relating
538 ~~thereto whenever any vessel shall be operated~~ to the operation
539 of a vessel on the waters of this state, ~~or when any activity~~
540 ~~regulated by this article shall take place thereon, but~~
541 ~~nothing.~~

542 (2) Nothing in this chapter shall be construed to
543 prevent the adoption of any ordinance or local law relating to
544 operation of vessels the provisions of which are identical to
545 the provisions of this ~~article, amendments thereto~~ or
546 ~~regulations issued~~ chapter or rules adopted thereunder;
547 provided, that ~~such~~ the ordinances or local laws shall be
548 operative only so long as and to the extent that they continue
549 to be identical to the applicable provisions of this article,
550 ~~amendments thereto~~ or ~~regulations~~ rule issued thereunder.

551 (b) (1) Any subdivision of this state ~~may, at any time,~~
552 ~~but only~~ after public notice, may make formal application to
553 the ~~commissioner~~ secretary for special rules ~~and regulations~~
554 ~~with reference to~~ for the operation of vessels on any waters
555 within its territorial limits and shall set forth ~~therein~~ in
556 the application the reasons ~~which make such~~ the special rules
557 ~~or regulations~~ are necessary or appropriate.

558 (2) The public notice shall be effected by the ~~said~~
559 subdivision ~~causing~~ publishing a copy of the proposed public
560 rules ~~or regulations to be published~~ one time per week for



HB358 Engrossed

561 four consecutive weeks in a newspaper of general circulation
562 within the area that the subdivision is located.

563 (c) The ~~commissioner is hereby authorized to make~~
564 secretary may adopt special rules ~~and regulations with~~
565 ~~reference to~~ regulating the operation of vessels on any waters
566 within the territorial limits of any subdivision of this
567 state."

568 "§33-5-32

569 District courts of any county of the State of Alabama
570 shall have and are hereby given final jurisdiction to try and
571 convict persons, ~~firms or corporations~~ violating ~~any of the~~
572 ~~provisions of~~ this chapter or the rules ~~and regulations~~
573 ~~promulgated~~ adopted thereunder, subject to any proper appeal;
574 and they shall remit to the ~~commissioner~~ secretary, on or
575 before the tenth day of each month, all fines and forfeitures
576 collected by them ~~for the violation of such laws, rules and~~
577 ~~regulations~~, together with a statement of the name of the
578 person, ~~firm or corporation~~ convicted ~~of such violation~~, the
579 time date of ~~such the~~ conviction, the amount of the fine or
580 penalty, the date of the remittance, and the specific charge
581 ~~for which the defendant was tried."~~

582 "§33-5-34

583 Notwithstanding any other law to the contrary, in all
584 criminal and quasi-criminal proceedings against a defendant
585 for a boating violation, when a defendant is adjudged guilty
586 or pleads guilty, or is adjudicated a juvenile delinquent or
587 youthful offender, or when a bond is forfeited and the result
588 of the forfeiture is a final disposition of the case, or where



HB358 Engrossed

589 any penalty is imposed, any court costs, docket fees, and
590 other fees and taxes assessed for traffic infractions under
591 Chapter 19 of Title 12 and Section 15-23-17 shall be imposed
592 in like manner against the defendant.~~When an arrest for~~
593 ~~violation of the provisions of this article or regulations~~
594 ~~promulgated thereunder is made by a salaried officer not~~
595 ~~employed by the Department of Conservation and Natural~~
596 ~~Resources and the defendant is convicted, there shall be taxed~~
597 ~~as cost the same fee as a sheriff in this state is entitled to~~
598 ~~for similar services and if collected from the defendant it~~
599 ~~shall be immediately remitted by the trial court directly to~~
600 ~~the treasurer of the county in which the offense occurred.~~
601 ~~When an arrest for violation of the provisions of this article~~
602 ~~or regulations promulgated thereunder is made by a salaried~~
603 ~~officer of the Department of Conservation and Natural~~
604 ~~Resources and the defendant is convicted, there shall be taxed~~
605 ~~as cost the same fee as a sheriff in this state is entitled to~~
606 ~~for similar services and if collected from the defendant it~~
607 ~~shall be immediately remitted by the trial court directly to~~
608 ~~the Department of Conservation and Natural Resources, which~~
609 ~~fee shall be deposited to the credit of the Water Safety Fund.~~
610 ~~If the officer making the arrest be a nonsalaried officer and~~
611 ~~if said fee is collected from the defendant, said nonsalaried~~
612 ~~officer shall be entitled to said fee; provided, that no~~
613 ~~person shall be entitled to receive an informer's fee; and,~~
614 ~~further provided, that no fee shall be allowed in cases of~~
615 ~~acquittal. In the event the arrest is made by a county~~
616 ~~officer, salaried or nonsalaried, 50 percent of the fine shall~~



HB358 Engrossed

617 ~~be remitted to the credit of the county treasury of the county~~
618 ~~in which the offense was committed, and the remaining 50~~
619 ~~percent of the fine shall be remitted to the State Treasury~~
620 ~~for deposit to the "State Water Safety Fund." In the event the~~
621 ~~arrest is made by an officer other than a county officer, the~~
622 ~~fine shall be remitted to the State Treasurer for deposit to~~
623 ~~the "State Water Safety Fund."~~

624 "§33-5-35

625 Any person convicted of violating any provision of this
626 ~~article chapter~~, except as ~~set out~~ otherwise provided in
627 ~~subsection (c) of Section 33-5-24~~, shall be guilty of a
628 ~~misdemeanor boating violation~~ and ~~upon conviction thereof~~
629 ~~shall be fined not less than \$10.00 nor more than \$100.00 and~~
630 ~~costs for each such violation~~ shall be sentenced by the court
631 to any of the following:

632 (1) Imprisonment in the county jail for not more than
633 30 days.

634 (2) Payment of a fine of not more than two hundred
635 dollars (\$200).

636 (3) Both imprisonment and fine.

637 (b) Boating violations shall be deemed violations as
638 described under Section 13A-5-3(d)."

639 "§33-5-36

640 The ~~Commissioner of Conservation and Natural Resources~~
641 ~~is authorized to provide by duly promulgated regulation~~
642 secretary, by rule, may establish a system for issuing warning
643 citations ~~under such conditions as he may deem proper.~~"

644 "§33-5-51



HB358 Engrossed

645 (a) As used in this ~~section~~ chapter, "personal
646 watercraft" means a vessel ~~which~~ that uses an inboard motor
647 powering a water jet pump as its primary source of motive
648 power and ~~which~~ is designed to be operated by a person
649 sitting, standing, or kneeling on the vessel, rather than the
650 conventional manner of sitting or standing inside the vessel.

651 (b) A person may not operate a personal watercraft on
652 the waters of this state, ~~as waters are defined in Section~~
653 ~~33-5-3,~~ unless each person operating, riding on, or being
654 towed by the vessel is wearing a personal flotation device
655 approved by the United States Coast Guard, in accordance with
656 rules ~~and regulations by the Commissioner of the Department of~~
657 ~~Conservation and Natural Resources~~ adopted by the secretary.

658 (c) A person operating a personal watercraft on the
659 waters of this state that does not have ~~self-circling~~
660 self-circling capability, ~~shall~~ have a lanyard type engine
661 cutoff switch and ~~must~~ shall attach the lanyard to ~~the~~ his or
662 her person, clothing, or personal flotation device, as is
663 appropriate.

664 (d) (1) A person commits the crime of reckless operation
665 of a personal watercraft ~~shall at all times be operated on the~~
666 ~~waters of this state in a reasonable and prudent manner.~~
667 ~~Maneuvers which~~ if the person maneuvers the personal
668 watercraft in a reckless manner that ~~endanger~~ endangers life,
669 limb, or property, or ~~create~~ creates a public nuisance,
670 including, but not limited to, any of the following, ~~weaving~~
671 maneuvers:

672 a. Weaving through congested vessel traffic at high



HB358 Engrossed

673 speed,~~following.~~

674 b. Following closely behind within the wake of a vessel
675 towing a person~~or persons~~ on water skis, surfboard, or other
676 water sport device,~~jumping.~~

677 c. Jumping the wake of another vessel~~travelling~~
678 traveling in the same direction in close proximity to the
679 vessel,~~cutting.~~

680 d. Cutting between a~~boat~~ vessel and the person~~or~~
681 ~~persons~~ being towed by that~~boat~~ vessel,~~or crossing.~~

682 e. Crossing at right angles in close proximity to the
683 stern of another vessel or when visibility around the other
684 vessel is obstructed,~~or steering.~~

685 f. Steering a vessel toward any object or person in the
686 water and turning sharply at close range so as to spray the
687 object or person,~~shall all constitute the reckless operation~~
688 ~~of a vessel, as provided in subsection (a) of Section 33-5-70.~~

689 (2) Any person violating this subsection shall be
690 punished upon conviction as provided in Section 33-5-70.

691 (e) No person under~~the age of 12 shall~~ 14 years of age
692 may operate a personal watercraft on the waters of this state,
693 ~~and persons who are at least 12 and over may only operate~~
694 ~~personal watercraft on the waters of this state to the extent~~
695 ~~otherwise permitted~~ except as provided under Section 33-5-57
696 or as otherwise authorized by law.

697 (f) It is unlawful for the owner of any personal
698 watercraft or any person having charge over or control of a
699 personal watercraft to authorize or knowingly permit~~these~~ the
700 personal watercraft to be operated on the waters of this state



HB358 Engrossed

701 by a person in violation of this section.

702 (g) No person shall tow any person by personal
703 watercraft unless the personal watercraft is equipped with ~~a~~
704 rearview ~~mirror~~ mirrors meeting the specifications established
705 by ~~regulation of the Commissioner of the Department of~~
706 ~~Conservation and Natural Resources~~ rule of the secretary.

707 (h) Any person who violates this section, except as
708 otherwise provided in subsection (d), shall be guilty of a
709 ~~Class B misdemeanor~~ boating violation, ~~punishable upon~~
710 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. All~~
711 ~~persons so convicted shall be fined not less than twenty-five~~
712 ~~dollars (\$25). All fines collected for violation of this~~
713 ~~section shall be paid into the State Water Safety Fund.~~

714 (i) This section does not apply to a performer engaged
715 in a professional exhibition or a person participating in a
716 regatta, race, marine parade, tournament, or exhibition
717 permitted by the Marine Patrol Division and held in compliance
718 with Section 33-5-27, ~~and any rules and regulations issued by~~
719 ~~the Commissioner of Conservation and Natural Resources~~ adopted
720 by the secretary."

721 "§33-5-52

722 (a) (1) Every person, ~~except those specifically exempted~~
723 ~~by statutory enactment, within five years from April 28, 1994,~~
724 shall procure a boater safety certification before operating a
725 motorized vessel upon the waters of this state, ~~as defined in~~
726 ~~Section 33-5-3~~. This section ~~shall~~ does not apply to the
727 operation of any non-motorized sailboat, rowboat, or canoe.

728 (2) Notwithstanding ~~anything~~ any law to the contrary ~~herein~~,



HB358 Engrossed

729 an Alabama resident 16 years of age ~~and or~~ older, who has not
730 been previously issued a boater safety certification, ~~may~~ for
731 a period of ~~thirty (30)~~ 30 days following the date of sale of
732 the vessel to the person, may operate the vessel upon the
733 waters, provided both of the following conditions are met:

734 (1) a. The vessel has been registered in the name of the
735 person; ~~and (2) a.~~

736 b. A bill of sale for the vessel, indicating that the
737 person is the purchaser and owner of the vessel, is in the
738 possession of the person at all times of operation.

739 ~~(3) In addition, any person while~~ A person taking test
740 drives of vessels for sale, when accompanied by a licensed
741 vessel dealer, shall be exempt during the drive from the
742 certification.

743 (4) Every new resident of the State of Alabama, before
744 operating a motorized vessel, shall procure the certification
745 within 30 days after establishing residence in this state.

746 (b) Each boater safety certification issued to a
747 person, if issued at the same time the person is issued a
748 valid Alabama motor vehicle driver or learner license, or
749 valid Alabama nondriver identification card, or if issued
750 prior to the expiration date of the driver or learner license
751 or card, shall expire on the expiration date of the person's
752 valid Alabama motor vehicle driver or learner license or card.
753 In all other cases, the expiration date of each boater safety
754 certification shall be four years from the date of issuance.

755 (c) Every boater safety certification issued under this
756 article may be renewed at the end of the certification period



HB358 Engrossed

757 without examination upon application. For the purpose of
758 renewal of a boater safety certification, ~~the Department of~~
759 ~~Public Safety~~ ALEA shall mail renewal notices to each
760 certification holder 30 days after the expiration date if the
761 certification has not been renewed. A grace period of 60 days
762 after the expiration date of certification shall exist for the
763 purpose of certification renewal and the certification shall
764 be valid for this time period. The applicant shall apply for
765 renewal of certification any time during a period beginning 30
766 days before the expiration date of the then current
767 certification until three years after the expiration date of
768 certification. Failure to make application for renewal within
769 the specified time shall result in the applicant being
770 required to take, and successfully pass, a written or oral
771 examination ~~as administered by the Department of Public Safety~~
772 ALEA. If any person's birthday is February 29, the first day
773 of March following shall be regarded as the birthday for the
774 purposes of this section.

775 (d) Nonresidents ~~at least~~ 12 or more years of age who
776 have in their immediate possession a valid boater safety
777 certification or vessel operator's certification issued in
778 their home state or country shall be exempt from the
779 requirements of this section, but under no circumstances shall
780 a person be granted any privileges of operation beyond those
781 granted to an Alabama resident certification holder of the
782 same age.

783 (e) Nonresidents ~~at least~~ 12 or more years of age whose
784 home state or country does not require boater safety



HB358 Engrossed

785 certification or the licensing of vessel operators shall also
786 be exempt from the requirements of this section for a
787 cumulative operation period of not more than 45 days in any
788 calendar year. Otherwise, any nonresidents shall be examined
789 and certified under the same terms and conditions as Alabama
790 residents. Nonresidents may be examined and obtain
791 certification in any county and the certification shall be
792 entitled "Nonresident Alabama Boater Safety Certification,"
793 but under no circumstances shall a person be granted any
794 privileges of operation beyond those granted to an Alabama
795 resident certification holder of the same age.

796 (f) A person operating a vessel pursuant to a valid and
797 legal commercial activity, ~~shall,~~ during the period of time of
798 that activity only, shall be exempt from the requirement of
799 boater safety certification. Otherwise, the person shall be
800 subject to the requirement.

801 (g) A person, while using a rental vessel from a boat
802 rental business duly licensed by the applicable municipality
803 or county, shall be exempt from the certification requirements
804 of this section if the following conditions are met:

805 ~~The person rents a vessel from a boat rental business~~
806 ~~duly licensed by the municipality or the county if the~~
807 ~~following three conditions are met:~~

808 a. (1) The rental contract specifies that the lessee has
809 been instructed in the proper and safe operation of the vessel
810 by the lessor or the authorized agent of the lessor, ~~and.~~

811 b. (2) The lessor ~~in fact~~ has complied with the terms of
812 rental contract and all parties sign the contract, ~~and.~~



HB358 Engrossed

813 ~~e.~~ (3) The lessee signs a statement that the lessee is
814 not currently under suspension or revocation of any boater
815 safety certification or vessel operation privilege ~~in this~~
816 ~~state.~~

817 (4) A copy of the applicable rental contract is on
818 board the vessel while the vessel is in operation."

819 "§33-5-53

820 (a) (1) Every person who applies for a boater safety
821 certification under this article, except as otherwise provided
822 in this subsection, shall pay a five dollar (\$5) application
823 fee and shall be given either a certificate of exemption from
824 examination, if applicable, or ~~will be given an~~ a written or
825 oral examination, ~~either written or oral,~~ before applying to
826 the judge of probate or license commissioner for the issuance
827 of the certification.

828 (2) No person shall be eligible for, or issued, an
829 exemption from examination in the event the person is
830 convicted, ~~on or after April 28, 1994,~~ of violating any crime
831 relating to the operation of a vessel, whether contained in
832 this ~~article~~ chapter or otherwise, for which a person's boater
833 safety certification or vessel operating privileges shall be
834 suspended or revoked pursuant to this ~~article~~ chapter.

835 (3)a. The person shall first apply to ~~either the~~
836 ~~officer, state trooper, or duly authorized agent of the~~
837 ~~Director of Public Safety,~~ the individual designated by the
838 ~~Director of Public Safety~~ secretary to conduct examinations for
839 the county of the applicant's residence, and a minor shall
840 furnish a certified copy of a birth certificate or a certified



HB358 Engrossed

841 statement from the county superintendent of education in which
842 the applicant resides or the superintendent of the school
843 which the person attends, to prove age and upon proof shall
844 immediately be examined.

845 b. Any operator of a boat who is 40 years of age or
846 older, whether a resident or a non-resident, as of April 28,
847 1994, shall be granted a certificate of exemption only from
848 the certification examination requirements of this article,
849 but shall be subject to all the other requirements of this
850 article. Any operator of a boat or vessel that is a holder of
851 a current valid United States Coast Guard license issued under
852 Section 46, Code of Federal Regulations, Part 10, is exempt
853 from the safety certification requirements of Section 33-5-52,
854 only while performing the duties of the operator, including,
855 but not limited to, the following: Carrying passengers for
856 hire on United States navigable waters; on all towboats
857 greater than 26 feet engaged in towing; on any steam propelled
858 vessel; on any sea-going vessel greater than 200 gross tons;
859 on any vessel engaged in off-shore oil or mineral production;
860 and on all boats or vessels over 200 gross tons. Also exempt
861 from the safety certification requirements of Section 33-5-52,
862 only upon proof of valid documentation and only while
863 performing commercial fishing duties, is an operator of a
864 commercial fishing vessel or boat. A person holding a valid
865 United States Coast Guard motorboat operator's license, and a
866 person submitting a valid certificate of successful completion
867 of any of the following boating courses: (a) United States
868 Power Squadron, (b) United States Coast Guard Auxiliary, or



HB358 Engrossed

869 (c) any State of Alabama Marine Police Division approved
870 boating safety course, shall be exempt from the examination
871 requirements, and shall be issued a certificate of exemption
872 from examination, for a boater safety certification, but shall
873 be subject to all other requirements of this article.

874 (b) A person may be examined in a county other than the
875 county designated by the ~~Director of Public Safety~~ secretary
876 by agreement in writing with the ~~Director of Public Safety~~
877 secretary.

878 (c) The ~~Commissioner of Conservation and Natural~~
879 ~~Resources~~ secretary shall establish from time to time as
880 necessary the kind of examination or test to be given, which
881 shall be of similar length and content as the motor vehicle
882 driver license examination, and the method and manner of
883 giving the test and ascertaining and reporting the results.
884 Reports of all examinations shall be on forms provided by the
885 ~~Director of Public Safety~~ secretary and shall show whether or
886 not the applicant passed the examination. No provision of this
887 subsection shall be construed to require a test of driving
888 skills. The rules ~~and regulations promulgated~~ adopted by the
889 ~~commissioner~~ secretary pursuant to this subsection shall be
890 subject to the Administrative Procedure Act.

891 (d) If the applicant passes the examination, a
892 certificate to that effect shall be given, on a form provided
893 by the ~~Director of Public Safety~~ secretary, by the ~~officer,~~
894 ~~state trooper, or duly authorized agent of the Director of~~
895 ~~Public Safety~~ individual conducting the test. The person shall
896 present the certificate, or the certificate of exemption from



HB358 Engrossed

897 examination if applicable, to the judge of probate or license
898 commissioner of the county, together with the application for
899 a boater safety certification, and the judge of probate or
900 license commissioner shall attach the certificate to the
901 application and forward it to the ~~Director of Public Safety~~
902 secretary along with the application at the time the
903 application is sent.

904 (e) If any person fails to pass the examination given,
905 no certificate shall be given and no application for a boater
906 safety certification shall be accepted by a judge of probate
907 or license commissioner unless it is accompanied by a
908 certificate showing that the applicant has passed the
909 examination.

910 (f) The application fees shall be retained by the
911 ~~Department of Public Safety~~ secretary and are appropriated on
912 a continuous basis and shall be utilized and expended for
913 boating safety or law enforcement purposes and shall not
914 revert to the General Fund at the end of the fiscal year."

915 "§33-5-54

916 (a) Unless otherwise provided in this article, upon the
917 installation of a system for the issuance of boater safety
918 certifications with color photographs of holders, all
919 certifications and renewals issued in this state shall be
920 issued in the following manner:

921 (1) The person shall apply under oath to the judge of
922 probate or license commissioner of the county of residence for
923 the certification or renewal upon a form which shall be
924 provided by the ~~Director of Public Safety~~ secretary.



HB358 Engrossed

925 (2) Subject to the other provisions of this section,
926 the judge of probate or license commissioner shall take a
927 color photograph of the holder, with equipment to be furnished
928 by the ~~Department of Public Safety~~ secretary, to be attached
929 to each application.

930 (b) It is the legislative intent to implement and
931 maintain a boater safety certification program at the lowest
932 possible cost to the citizens of Alabama. Consistent with this
933 goal, it is the legislative intent to not require payment for
934 boater safety certifications when certifications are obtained
935 at the time of issuance of a valid Alabama motor vehicle
936 driver or learner license or valid Alabama nondriver
937 identification card, but rather utilize one card for those
938 purposes.

939 (c) The following requirements shall apply to persons
940 obtaining boater safety certifications other than at the time
941 of issuance of their Alabama motor vehicle driver or learner
942 license or identification card:

943 For the purpose of defraying the cost of issuing boater
944 safety certifications with color photographs of the holder
945 thereon, the judge of probate or license commissioner shall
946 collect for each certification the sum of twenty dollars (\$20)
947 for a four-year certification, and the judge of probate or
948 license commissioner shall give the applicant a boater safety
949 certification.

950 (d) Notwithstanding anything to the contrary, in the
951 event the applicant is, at the time of issuance, also issued a
952 valid Alabama motor vehicle driver or learner license or valid



HB358 Engrossed

953 Alabama nondriver identification card, then the applicant
954 shall not be required to pay any additional amount for the
955 boater safety certification.

956 (e) Any person given a citation for failure to have a
957 boater safety certification who had a current, valid boater
958 safety certification at the time of the citation which was not
959 on his or her person at the time the citation was issued, may
960 present the boater safety certification to the court or the
961 court clerk and the citation shall be dismissed without the
962 payment of any costs."

963 "§33-5-55

964 At the close of business on Monday of each week, when
965 any application has been received, the judge of probate
966 receiving the application shall prepare a report upon a form
967 which shall be provided by the ~~Director of Public Safety~~
968 secretary. One copy of the report, together with all
969 applications received, shall be forwarded to the ~~Director of~~
970 ~~Public Safety~~ secretary and one copy shall be retained by the
971 judge of probate. On the tenth day of every month, the judge
972 of probate shall prepare a report showing the number of
973 applications received and the amount of fees received during
974 the previous calendar month; provided, that the report shall
975 be prepared on the twentieth day in October, November, and
976 December. One copy of the report shall be forwarded to the
977 ~~Director of Public Safety~~ secretary, ~~one to the Commissioner~~
978 ~~of Conservation and Natural Resources~~, one to the state
979 Comptroller, and one to the State Treasurer, and the judge of
980 probate shall retain a copy. Except as otherwise provided in



HB358 Engrossed

981 this article, the judge of probate shall also at that time
982 deliver to the State Treasurer the amount of all the fees
983 collected, less one dollar fifty cents (\$1.50) for each boater
984 safety certification issued, which sum shall be retained by
985 him or her. Except in counties where the judge of probate is
986 compensated by fees, each one dollar fifty cents (\$1.50)
987 retained by the judge of probate shall be paid into the public
988 highway and traffic fund of the county. In counties where the
989 judge of probate is compensated by fees, two-fifths of each
990 one dollar fifty cents (\$1.50) retained by the judge of
991 probate shall be for his or her own use, and no other or
992 further charge shall be made for services rendered in taking
993 or receiving applications or issuing permits. The remaining
994 three-fifths shall be paid into the public highway and traffic
995 fund of the county. This section, providing for the allocation
996 of the one dollar fifty cents (\$1.50) retained by the judge of
997 probate in counties where the judge of probate is compensated
998 by fees, shall not repeal any local statutes or general
999 statutes of local application providing for a different
1000 allocation of the one dollar fifty cents (\$1.50). The funds
1001 remitted to the State Treasurer under this section, shall be
1002 deposited into the Highway Traffic Safety Fund for the
1003 Department of Public Safety within the State Treasury. All
1004 money deposited in the State Treasury to the credit of the
1005 Highway Traffic Safety Fund for the Department of Public
1006 Safety shall be expended for law enforcement purposes and
1007 shall be appropriated on a continuous basis and shall not
1008 revert to the General Fund of the State Treasury."



HB358 Engrossed

1009 "§33-5-56

1010 (a) Each boater safety certification issued by ~~the~~
1011 ~~Department of Public Safety~~ ALEA, except for temporary
1012 certifications issued pursuant to Section 33-5-54, or except
1013 special circumstances as determined by the ~~Director of the~~
1014 ~~Department of Public Safety~~ secretary, shall bear ~~thereon~~ a
1015 distinguishing number assigned to the holder and a color
1016 photograph of the holder, the name, birth date, address, and a
1017 description of the holder, who, for the purpose of
1018 identification and as a condition precedent to the validity of
1019 the certification, immediately upon receipt thereof, shall
1020 endorse his or her usual or regular signature in ink or
1021 electronically upon the certification in the space provided,
1022 unless a facsimile of the holder's signature appears.

1023 (b) The photo boater safety certification, as provided
1024 in Section 33-5-54, shall have a photo core that meets the
1025 minimum width and length dimensions specified in ANSI
1026 standards X4.13-1971 and ANSI standard CR80, plus or minus 1/4
1027 inch. In addition to ~~all current and existing~~ any other fees,
1028 ~~the Department of Public Safety~~ ALEA may charge an additional
1029 fee to recover the cost of obtaining boater safety
1030 certifications and terminal support equipment from the
1031 supplier. The fee may not exceed ten cents (\$.10) over the
1032 actual cost of obtaining the necessary material from the
1033 supplier. Revenues collected under this section shall be used
1034 by ~~the department~~ ALEA for the sole purpose of this program
1035 and any excess shall revert to the State General Fund at the
1036 end of each fiscal year.



HB358 Engrossed

1037 (c) Notwithstanding ~~anything~~ any other law to the
1038 contrary, in the event a person is issued a valid Alabama
1039 motor vehicle driver or learner license, or valid Alabama
1040 nondriver identification card at the same time as issuance of
1041 the boater safety certification, the certification shall
1042 consist of a notification on the driver or learner license or
1043 the identification card, at no additional cost for
1044 notification, that the person is also the holder of a boater
1045 safety certification. No additional fees ~~shall~~ may be
1046 collected or retained for the issuance of a boater safety
1047 certification under these circumstances. Any person may have a
1048 duplicate card issued, at the same cost as the original cost,
1049 for the convenience of the individual. The duplicate shall be
1050 marked "duplicate."

1051 "§33-5-58

1052 (a) Any person with physical disabilities, a record of
1053 an impairment, or regarded as having an impairment, shall be
1054 subject to the same laws, and rules, ~~and regulations set forth~~
1055 adopted by the ~~Department of Public Safety and the Department~~
1056 ~~of Conservation and Natural Resources~~ secretary relating to the
1057 certification of an individual to operate a vessel.

1058 (b) Notwithstanding any law, or rule to the contrary,
1059 ~~or regulation~~, the ~~Department of Public Safety~~ secretary shall
1060 not refuse to issue or renew any certification for the
1061 operation of a vessel on the grounds of physical appearance,
1062 speculations, or generalizations that the individual's
1063 physical impairment would impede that person's ability to
1064 operate a vessel in a safe manner without probable cause to



HB358 Engrossed

1065 believe the person's ability to operate a vessel in a safe
1066 manner is ~~in fact~~ impaired.

1067 (c) If ~~the department refuses to issue a person's~~
1068 application for a certification is denied ~~or arbitrarily~~
1069 ~~questions the person's abilities,~~ based on the physical
1070 appearance or speculated inability of the person to operate a
1071 vessel in a safe manner, the person shall have a right to an
1072 impartial hearing before the ~~Director of Public Safety~~
1073 secretary or his or her designee. At the hearing, the person
1074 shall have the right to be represented by counsel and to
1075 present witnesses including, but not limited to, a physician
1076 of choice. The person may appeal any decision to the circuit
1077 court of competent jurisdiction for a trial de novo.

1078 (d) This section shall be interpreted to be consistent
1079 with and to further the purposes and policies of Section 504
1080 of the Rehabilitation Act of 1973, as amended, 34 CFR Part 104
1081 and P.L. 101-336, The Americans with Disabilities Act of 1990,
1082 together with implementing regulations, and amendments to the
1083 laws and regulations."

1084 "§33-5-59

1085 Every holder of a boater safety certification shall
1086 have the certification in personal possession at all times
1087 when operating a motorized vessel and shall display the
1088 certificate upon demand of a judge of any court, ~~a peace~~
1089 ~~officer, state marine police officer, or a state trooper~~ or
1090 law enforcement officer. No person charged with violating this
1091 section shall be convicted, ~~r~~ if the person produces in court or
1092 in the office of the arresting officer a boater safety



HB358 Engrossed

1093 certification issued prior to the arrest and valid at the time
1094 of arrest."

1095 "§33-5-60

1096 (a) ~~The Director of Public Safety and Commissioner of~~
1097 ~~Conservation and Natural Resources are empowered to~~ secretary
1098 may enter into reciprocal agreements with other states
1099 constituting an exchange of rights or privileges in the use of
1100 boater safety certifications, vessel operator's
1101 certifications, or vessel operating privileges, within this
1102 state by residents of other states.

1103 (b) Nothing in this article shall in any way affect the
1104 revocation of certifications of another state.

1105 (c) The reciprocal agreement ~~can~~ may be annulled on
1106 notice issued to either party by the other party within 30
1107 days.

1108 (d) No reciprocal agreement shall authorize a person
1109 who has been a resident of this state for the past 90 or more
1110 days to operate a motorized vessel in this state without a
1111 valid boater safety certification issued by the ~~Director of~~
1112 ~~Public Safety of this state~~ secretary."

1113 "§33-5-61

1114 (a) The ~~Director of Public Safety~~ secretary, upon
1115 issuing a boater safety certification, ~~shall have authority~~
1116 ~~whenever the holder~~ to an individual who is impaired from a
1117 physical disability, ~~to~~ may impose restrictions suitable to
1118 the holder's operating ability with respect to the type of or
1119 special mechanical control devices required on a vessel ~~which~~
1120 that the holder may operate or other restrictions applicable



HB358 Engrossed

1121 to the holder ~~as the Director of Public Safety or Commissioner~~
1122 ~~of Conservation and Natural Resources may determine to be~~
1123 ~~appropriate~~ to assure the safe operation of a vessel by the
1124 holder.

1125 (b) The ~~Director of Public Safety~~ secretary may either
1126 issue a special restricted certification or may set ~~forth~~
1127 restrictions upon the usual certification form in the issuance
1128 of certification under subsection (a) ~~of this section~~.

1129 (c) The ~~Commissioner of Conservation and National~~
1130 ~~Resources may~~ secretary, upon receiving satisfactory evidence
1131 of any violation of the restrictions of certification subject
1132 to subsection (a), may suspend the certification, but the
1133 person shall be entitled to a hearing as upon a suspension
1134 under Section 33-5-75.

1135 (d) ~~It shall be a Class C misdemeanor for any person to~~
1136 ~~operate~~ A person who operates a vessel in any manner in
1137 violation of the restrictions imposed in a restricted
1138 certification shall be guilty of a boating violation. ~~Any~~
1139 ~~finest collected for the violation of this section shall be~~
1140 ~~deposited into the State Water Safety Fund."~~

1141 "§33-5-62

1142 (a) The ~~Commissioner of Conservation and Natural~~
1143 ~~Resources~~ secretary may ~~establish and promulgate~~ adopt
1144 reasonable rules ~~and regulations, not in conflict with the~~
1145 ~~laws of this state~~, concerning the operation of vessels and
1146 concerning the enforcement of this ~~article~~ chapter. All fines
1147 collected shall be deposited into the State Treasury to the
1148 credit of the State Water Safety Fund.



HB358 Engrossed

1149 ~~(b) Specifically, but not by way of limitation, the~~
1150 ~~commissioner may establish, by regulation, in~~ In addition to
1151 all other penalties, the secretary, by rule, shall assign each
1152 type of boating violation a point value through the creation
1153 of a point system by which boater safety certifications may be
1154 suspended or revoked, as well as hearing procedures related to
1155 the suspension or revocation of certifications. Point values
1156 shall be assigned based on the severity of a boating
1157 violation, as determined by the secretary. Reports of boating
1158 violations shall retain their point value for suspension
1159 purposes for a period of two years from the date of
1160 conviction; provided, if any period of suspension is
1161 mitigated, the points shall remain effective during any period
1162 of probation which may be imposed.

1163 (c) Unless otherwise provided by law, the penalty for
1164 the violation of any ~~rules and regulations promulgated~~ rule
1165 adopted under this article shall be a ~~Class C misdemeanor~~
1166 ~~punishable upon conviction as provided in Sections 13A-5-7 and~~
1167 ~~13A-5-12. A person so convicted shall be fined~~ boating
1168 violation not less than fifty dollars (\$50)."

1169 "§33-5-63

1170 The ~~Director of Public Safety~~ secretary shall file
1171 every application for a boater safety certification received
1172 ~~by him~~ and shall maintain suitable indices. The ~~Commissioner~~
1173 ~~of Conservation and Natural Resources~~ secretary shall also file
1174 all accident reports and abstracts of court records of
1175 convictions received under the laws of this state and, in that
1176 connection, maintain convenient records or make suitable



HB358 Engrossed

1177 notations in order that an individual record of each
1178 certification holder showing the convictions of and the
1179 accidents in which the holder has been involved. The record
1180 shall be readily ascertainable and available for the
1181 consideration of the ~~commissioner and director~~ secretary upon
1182 any application for renewal of certification and at other
1183 suitable times."

1184 "§33-5-64

1185 (a) In the event any boater safety certification issued
1186 under this article is lost or destroyed, the Secretary of ALEA
1187 may issue a duplicate to the person under the following
1188 conditions:

1189 (1) Upon application for a first duplicate, the person
1190 ~~may upon payment of~~ shall pay a fee of five dollars (\$5) and
1191 ~~upon furnishing~~ furnish proof to the ~~Director of Public Safety~~
1192 secretary that the certificate has been lost or destroyed,
1193 ~~secure a duplicate.~~

1194 (2) The Upon application for a second ~~and or~~ subsequent
1195 ~~duplicates~~ duplicate, the person shall pay ~~applied for will~~
1196 ~~require the payment of~~ a fee of fifteen dollars (\$15) and,
1197 ~~upon furnishing~~ furnish proof satisfactory to the ~~Director of~~
1198 ~~Public Safety~~ secretary that the previously held certification
1199 or duplicate has been lost or destroyed, ~~a duplicate may be~~
1200 ~~secured.~~

1201 (b) Application for ~~the a~~ duplicate shall be made to
1202 the ~~Director of Public Safety~~ secretary on forms provided by
1203 ~~the official~~ ALEA. The fee shall be collected by the ~~director~~
1204 secretary, paid into the State Treasury, and credited to the



HB358 Engrossed

1205 ~~Department of Public Safety~~ State Water Safety Fund. The fee
1206 shall be retained by ~~the Department of Public Safety~~ ALEA, and
1207 ~~is~~ appropriated on a continuous basis, and shall be utilized
1208 and expended for boating safety or law enforcement purposes.
1209 ~~and~~ The fee shall not revert to the General Fund at the end of
1210 the fiscal year.

1211 ~~(b)~~ (c) Any person making a false affidavit to the
1212 ~~Director of Public Safety~~ secretary for the purpose of
1213 obtaining a duplicate certification shall be guilty of a Class
1214 C misdemeanor and ~~upon conviction shall be punished as~~
1215 ~~provided in Sections 13A-5-7 and 13A-5-12. Any person so~~
1216 ~~convicted~~ shall be fined not less than fifty dollars (\$50).
1217 All fines collected for the violation of this subsection shall
1218 be deposited into the State Water Safety Fund.

1219 ~~(c)~~ (d) Notwithstanding ~~anything~~ any other provision of
1220 law to the contrary, ~~however, the~~ in the event a person is
1221 issued a valid Alabama motor vehicle driver or learner license
1222 or valid Alabama nondriver identification card at the same
1223 time as issuance of the boater safety certification, the
1224 person shall not be required to pay any additional fees for
1225 the reissuance of a lost or destroyed boater safety
1226 certification as denoted on any reissued lost or destroyed
1227 motor vehicle driver license, ~~when the license and a boater~~
1228 ~~safety certification were previously issued at the same time."~~

1229 "§33-5-65

1230 (a) Any person whose boater safety certification has
1231 been cancelled, suspended, or revoked ~~under any provision of~~
1232 ~~Alabama law, by the Commissioner of Conservation and Natural~~



HB358 Engrossed

1233 ~~Resources, or by any court of competent jurisdiction shall,~~
1234 upon application for reinstatement of the certification, shall
1235 pay to the ~~Director of Public Safety~~ secretary a fee of fifty
1236 dollars (\$50) for each cancellation, suspension, or revocation
1237 action. An additional fifty dollars (\$50) ~~is~~ shall be imposed
1238 if the cancelled, suspended, or revoked certification is not
1239 voluntarily surrendered within 30 days of a cancellation,
1240 suspension, or revocation notice.

1241 (b) Upon receipt of the reinstatement fee, clearance
1242 for recertification ~~will~~ shall be provided. The second and any
1243 subsequent clearance for recertification for this action ~~will~~
1244 shall be provided for a fee of five dollars (\$5).

1245 (c) Upon reinstatement, the holder ~~is required to~~ shall
1246 obtain a duplicate certification with a new photograph and
1247 current personal data.

1248 (d) Fees collected ~~by the director~~ under this section
1249 shall be deposited into the State Treasury to the credit of
1250 the State Water Safety Fund ~~retained by the Department of~~
1251 ~~Public Safety and shall not be returned to the applicant for~~
1252 ~~reinstatement of certification, notwithstanding what action~~
1253 ~~the Commissioner of Conservation and Natural Resources may~~
1254 ~~take on the person's application for reinstatement of~~
1255 ~~certification."~~

1256 "§33-5-66

1257 (a) Any person of whom a boater safety certification is
1258 required, who operates a motorized vessel on the waters of
1259 this state ~~as the terms are defined in Section 33-5-3,~~ without
1260 first complying with this article, or the rules ~~and~~



HB358 Engrossed

1261 ~~regulations promulgated~~ adopted thereunder, shall be guilty of
1262 a ~~Class B misdemeanor~~ boating violation, ~~and, upon conviction~~
1263 ~~is punishable as provided in Sections 13A-5-7 and 13A-5-12.~~
1264 ~~Any person so convicted shall be fined not less than~~
1265 ~~twenty-five dollars (\$25).~~

1266 (b) Any person who knowingly gives permission to
1267 operate a motorized vessel on the waters of this state, ~~as the~~
1268 ~~terms are defined in Section 33-5-3,~~ to another person who is
1269 required to have a boater safety certification ~~pursuant to~~
1270 ~~this article~~ and who does not have a boater safety
1271 certification ~~in compliance with this article~~, or to another
1272 person required to be accompanied ~~pursuant to this article~~ and
1273 who is not accompanied ~~in compliance with this article~~, shall
1274 be guilty of a ~~Class C misdemeanor and, upon conviction, is~~
1275 ~~punishable as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1276 ~~person so convicted shall be~~ boating violation ~~fin~~
1277 ~~than twenty-five dollars (\$25).~~

1278 (c) Any person who willfully makes a false statement
1279 under oath in an application for or renewal ~~for~~ of a boater
1280 safety certification, shall be guilty of perjury and upon
1281 conviction ~~is punishable~~ shall be punished as provided by law.

1282 (d) Any person who willfully conceals or withholds a
1283 material fact called for in an application for or renewal of a
1284 boater safety certification, with intent to obtain
1285 certification by fraud, shall be guilty of a ~~Class C~~
1286 ~~misdemeanor and, upon conviction, is punishable as provided in~~
1287 ~~Sections 13A-5-7 and 13A-5-12. Any person so convicted shall~~
1288 ~~be~~ boating violation ~~fin~~



HB358 Engrossed

1289 ~~(\$25).~~

1290 (e) Any person who violates any provision of this
1291 article for which no fixed punishment is prescribed, or who
1292 violates any rule ~~or regulation promulgated as authorized by~~
1293 adopted pursuant to this article, shall be guilty of a ~~Class C~~
1294 ~~misdemeanor and, upon conviction, is punishable as provided in~~
1295 ~~Sections 13A-5-7 and 13A-5-12. Any person so convicted~~ boating
1296 violation ~~shall be fined not less than twenty-five dollars~~
1297 ~~(\$25).~~

1298 (f) All fines, penalties, or forfeitures imposed and
1299 collected under this article shall be forwarded immediately by
1300 the officer of the court who collects them to the ~~Commissioner~~
1301 ~~of Conservation and Natural Resources~~ secretary, together with
1302 a report giving a list and description of each case in which a
1303 fine, penalty, or forfeiture was collected. The reports shall
1304 be on forms provided by the ~~commissioner~~ secretary and shall
1305 contain information as the ~~commissioner~~ secretary may require.
1306 All ~~moneys~~ monies received by the ~~commissioner~~ secretary shall
1307 be ~~covered by him immediately upon receipt~~ deposited into the
1308 State Treasury to the credit of the State Water Safety Fund.
1309 ~~Any officer of the court who fails to make the reports~~
1310 ~~provided for or who fails to remit any fines, penalties, or~~
1311 ~~forfeitures, as provided by law, and collected under this~~
1312 ~~article in the manner provided shall be guilty of a Class C~~
1313 ~~misdemeanor and, upon conviction, shall be fined not more than~~
1314 ~~one hundred dollars (\$100)."~~

1315 "§33-5-67

1316 Any person whose boater safety certification or vessel



HB358 Engrossed

1317 operator's certification issued in this or another state or
1318 whose vessel operating privilege as a nonresident has been
1319 cancelled, suspended, or revoked, as provided in this article,
1320 and who operates any motorized vessel upon the waters of this
1321 state while certification or privilege is cancelled,
1322 suspended, or revoked shall be guilty of a ~~Class C misdemeanor~~
1323 ~~and, upon conviction, is punishable as provided in Sections~~
1324 ~~13A-5-7 and 13A-5-12. Any person so convicted shall be~~ boating
1325 violation and fined not less than one hundred dollars (\$100).
1326 Also, at the discretion of the ~~Commissioner of Conservation~~
1327 ~~and Natural Resources~~ secretary, the person's certification or
1328 privilege may be revoked or suspended for an additional
1329 ~~revocation~~ period of six months."

1330 "§33-5-68

1331 (a) Every applicant for an original boater safety
1332 certification shall be required to pay an application fee of
1333 five dollars (\$5) to the ~~Department of Public Safety~~ secretary
1334 upon applying to the ~~officer, state trooper, or duly~~
1335 ~~authorized agent of the Director of Public Safety, or to one~~
1336 ~~of them where there is more than one~~ person designated by the
1337 ~~Director of Public Safety,~~ secretary to conduct examinations
1338 in the county of the applicant's residence. The five dollar
1339 (\$5) application fee shall be required prior to the issuance
1340 of each certification of examination or exemption from
1341 examination.

1342 (b) The ~~Department of Public Safety~~ secretary shall
1343 issue proper receipts for the application fee. The application
1344 fees are appropriated on a continuous basis to ~~the Department~~



HB358 Engrossed

1345 ~~of Public Safety,~~ ALEA and shall be retained by the department
1346 and utilized for boating safety or law enforcement purposes
1347 and shall not revert to the State General Fund at the end of
1348 each fiscal year."

1349 "§33-5-69

1350 (a) ~~All persons~~ It shall be the duty of the parent or
1351 guardian of any child under eight years of age on board any
1352 vessel or boat of any kind on the waters of this state ~~shall~~
1353 to require the child to at all times wear a United States
1354 Coast Guard approved wearable personal flotation device of
1355 proper size for the ~~person~~ child, except that no personal
1356 flotation device shall be required for any ~~person~~ child who is
1357 inside of an enclosed cabin or enclosed sleeping space
1358 regardless of whether the vessel is in operation.

1359 (b) Any personal flotation devices required in this
1360 section shall be strapped, snapped, or zippered securely and
1361 maintained in good condition at all times they are required to
1362 be worn.

1363 (c) Any person who ~~fails to require or permits any~~
1364 ~~person under their legal custody or control to fail to comply~~
1365 ~~with,~~ violates the requirements of this section, shall be
1366 guilty of a ~~Class B misdemeanor, and upon conviction is~~
1367 ~~punishable as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1368 ~~person so convicted shall be~~ boating violation ~~fined not less~~
1369 ~~than one hundred dollars (\$100)."~~

1370 "§33-5-70

1371 (a) It is unlawful to operate a vessel in a reckless
1372 manner upon the waters of this state. A person is guilty of



HB358 Engrossed

1373 the reckless operation of a vessel ~~who~~ if the person operates
1374 any vessel, or manipulates any water skis, aquaplane, or other
1375 marine transportation device, upon the waters of this state in
1376 willful or wanton disregard for the safety of persons or
1377 property at a speed, or in a manner likely to endanger, ~~or~~
1378 ~~likely to endanger,~~ the life, limb, or ~~damage the~~ property of,
1379 ~~or injure~~ any person. Any person who violates this subsection
1380 ~~is~~ shall be guilty of a Class A misdemeanor, ~~punishable upon~~
1381 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1382 ~~person so convicted~~ and shall be fined not less than one
1383 hundred fifty dollars (\$150).

1384 (b) Any person operating a vessel upon the waters of
1385 this state shall operate the vessel in a reasonable and
1386 prudent manner, so as not to endanger the life, limb, or
1387 property of any person. The endangerment of life, limb, or
1388 property through the negligence, carelessness, or inattention
1389 of any person operating a vessel on the waters of this state
1390 shall constitute careless operation of a vessel. Vessel wake
1391 and shoreline wash resulting from the reasonable and prudent
1392 operation of a vessel ~~shall~~, absent negligence, shall not
1393 constitute damage or endangerment to property. Any person who
1394 violates this subsection ~~is~~ shall be guilty of a ~~Class B~~
1395 ~~misdemeanor, punishable upon conviction as provided in~~
1396 ~~Sections 13A-5-7 and 13A-5-12. Any person so convicted~~ boating
1397 violation and shall be fined not less than one hundred dollars
1398 (\$100).

1399 (c) Each person operating a vessel upon the waters of
1400 this state shall comply with all of the rules ~~and regulations~~



HB358 Engrossed

1401 ~~of the Marine Police Division of the Department of~~
1402 ~~Conservation and Natural Resources~~ of the secretary.

1403 (1) A person whose violation of the rules ~~and~~
1404 ~~regulations~~ results in a boating accident, but whose violation
1405 did not constitute reckless or careless operation of a vessel,
1406 ~~is~~ shall be guilty of a ~~Class C misdemeanor punishable upon~~
1407 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1408 ~~person so convicted~~ boating violation and shall be fined not
1409 less than one hundred dollars (\$100).

1410 (2) A person whose violation of the rules ~~and~~
1411 ~~regulations~~ does not result in a boating accident and does not
1412 constitute reckless or careless operation of a vessel ~~is~~ shall
1413 be guilty of a ~~Class C misdemeanor, punishable upon conviction~~
1414 ~~as provided in Sections 13A-5-7 and 13A-5-12. Any person so~~
1415 ~~convicted~~ boating violation ~~shall be fined not less than fifty~~
1416 ~~dollars (\$50).~~

1417 (d) In addition to all other penalties contained in
1418 this section, any person convicted of violating this section
1419 shall be subject to the revocation or suspension of ~~their~~ his
1420 or her boating safety certification or vessel operator's
1421 certification or vessel operating privileges upon the waters
1422 of this state, as provided by law and rules ~~and regulations of~~
1423 ~~the Department of Conservation and Natural Resources~~ adopted
1424 by the secretary."

1425 "§33-5-71

1426 (a) It shall be unlawful for the operator of a vessel,
1427 when the vessel is operated at or above plane speed, to
1428 position or allow the positioning of, persons or equipment,



HB358 Engrossed

1429 including but not limited to, seats, coolers, tackle, ski, and
1430 tubing devices, in a manner that would obstruct the operator's
1431 view ~~to impair,~~ or ~~would~~ otherwise impair, the safe operation
1432 of the vessel while operating on the waters of this state.
1433 Sailboats and auxiliary sailboats are exempt from this
1434 section.

1435 (b) Any person ~~violating~~ who violates this section
1436 shall be guilty of a ~~Class B misdemeanor, and upon conviction~~
1437 ~~shall be punished as provided by Sections 13A-5-7 and~~
1438 ~~13A-5-12. Any person so convicted~~ boating violation ~~shall be~~
1439 ~~fined not less than one hundred dollars (\$100)."~~

1440 "§33-5-72

1441 ~~(a) It shall be unlawful on the waters of this state~~
1442 ~~for any person to operate, or give permission to another~~
1443 ~~person to operate, any vessel less than 24 feet in length~~
1444 ~~having an open construction and having more than 50~~
1445 ~~horsepower, unless the vessel is equipped with an emergency~~
1446 ~~engine or motor shut-off switch.~~

1447 ~~(b) The shut-off switch referred to in subsection (a),~~
1448 ~~shall be a lanyard-type engine cutoff switch and shall be~~
1449 ~~attached to the person, clothing, or personal flotation device~~
1450 ~~of the operator, as is appropriate, and shall be constructed~~
1451 ~~and installed in a manner so that when in use, any removal of~~
1452 ~~the operator from the normal operating station will result in~~
1453 ~~the immediate shut-off of the engine or motor.~~

1454 ~~(c) For the purpose of this section, "open~~
1455 ~~construction" means any vessel described herein not having a~~
1456 ~~permanently affixed top or cabin.~~



HB358 Engrossed

1457 (a) As used in this section, the following terms have
1458 the following meanings:

1459 (1) COVERED RECREATIONAL VESSEL. A recreational vessel
1460 that meets both of the following requirements:

1461 a. Measures less than 26 feet in overall length.

1462 b. Is capable of developing 115 pounds or more of
1463 static thrust.

1464 (2) PROPULSION MACHINERY. A self-contained propulsion
1465 system, including, but not limited to, inboard engines,
1466 outboard motors, and sterndrive engines.

1467 (3) STATIC THRUST. The forward or backward thrust
1468 developed by propulsion machinery while stationary.

1469 (b) A manufacturer, distributor, or dealer that
1470 installs propulsion machinery and associated starting controls
1471 on a covered recreational vessel shall equip the vessel with
1472 an engine cut-off switch and an engine cut-off switch link
1473 that meet American Boat and Yacht Council Standard A-33, as in
1474 effect on the date of the enactment of the Frank LoBiondo
1475 Coast Guard Authorization Act of 2018.

1476 (c) (1) An individual operating a covered recreational
1477 vessel shall use an engine cut-off switch link while operating
1478 on plane or above displacement speed.

1479 (2) The requirements of subdivision (1) do not apply
1480 under either of the following conditions:

1481 a. The main helm of the covered recreational vessel is
1482 installed within an enclosed cabin.

1483 b. The covered recreational vessel does not have an
1484 engine cut-off switch and is not required to have one under



HB358 Engrossed

1485 subsection (b).

1486 (d) Any person ~~violating~~ who violates this section
1487 shall be guilty of a ~~Class B misdemeanor, and upon conviction~~
1488 ~~shall be punishable as provided by Sections 13A-5-7 and~~
1489 ~~13A-5-12. Any person so convicted~~ boating violation ~~shall be~~
1490 ~~fined not less than one hundred dollars (\$100)."~~

1491 "§33-5-73

1492 (a) No person ~~shall under any circumstances~~ may operate
1493 a vessel on the waters of this state in excess of a speed
1494 zone, including a no-wake zone, established by ~~regulation of~~
1495 ~~the Commissioner of Conservation and Natural Resources~~ the
1496 secretary. The ~~commissioner~~ secretary may ~~promulgate rules and~~
1497 ~~regulations establishing~~ establish speed zones, including
1498 no-wake zones, in areas on the waters of this state ~~as deemed~~
1499 ~~hazardous by the commissioner.~~

1500 (b) A person who violates this section shall be guilty
1501 of a boating violation."

1502 "§33-5-74

1503 (a) Except in case of emergency, no person shall moor
1504 or fasten a vessel to a lawfully placed aid-to-navigation
1505 marker, sign, or buoy, regulatory marker, sign, or buoy, or
1506 area boundary marker, sign, or buoy, placed or executed by any
1507 governmental agency.

1508 (b) No person shall willfully damage, alter, or move a
1509 lawfully placed aid-to-navigation marker, sign, or buoy,
1510 regulatory marker, sign, or buoy, or area boundary marker,
1511 sign, or buoy.

1512 (c) Any person ~~violating~~ who violates this section



HB358 Engrossed

1513 shall be guilty of a ~~Class B misdemeanor, punishable upon~~
1514 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1515 ~~person so convicted~~ boating violation and shall be fined not
1516 less than one hundred dollars (\$100)."

1517 "§33-5-75

1518 (a) The ~~Commissioner of Conservation and Natural~~
1519 ~~Resources~~ secretary may cancel any boater safety certification
1520 upon determining that the holder of the certification was not
1521 entitled to the issuance or that the holder failed to give the
1522 correct or required information in the application for
1523 certification. Upon cancellation, the holder shall surrender
1524 ~~the~~ his or her canceled certification ~~cancelled~~ and any
1525 duplicate of the certification. ~~A holder who refuses to~~
1526 ~~surrender the certification and any duplicate shall be guilty~~
1527 ~~of a Class C misdemeanor, punishable upon conviction as~~
1528 ~~provided in Sections 13A-5-7 and 13A-5-12.~~

1529 (b) The privilege of operating a vessel on the waters
1530 of this state, ~~as defined in Section 33-5-3,~~ shall be subject
1531 to suspension or revocation by the ~~commissioner~~ secretary in
1532 like manner and for like cause as a boater safety
1533 certification may be suspended or revoked.

1534 (c) The ~~commissioner may~~ secretary, upon receiving a
1535 record of the conviction in this state of a nonresident
1536 operator of a vessel of any offense, may forward a certified
1537 copy of the record to the boater safety administrator in the
1538 state where the person was convicted is a resident.

1539 (d) When a nonresident's operating privilege or Alabama
1540 boater safety certification is suspended or revoked, the



HB358 Engrossed

1541 ~~commissioner~~ secretary may forward a certified copy of the
1542 record of the action to the boater safety administrator in the
1543 state where the person resides.

1544 (e) The ~~commissioner~~ secretary may suspend or revoke
1545 the boater safety certification of any person in this state or
1546 the privilege of any person to operate a vessel on the waters
1547 of this state upon receiving notice of the conviction of the
1548 person in another state of any offense therein which, if
1549 committed in this state, would be grounds for the suspension
1550 or revocation of the boater safety certification or vessel
1551 operating privilege of a vessel operator.

1552 (f) The ~~commissioner~~ secretary may give effect to
1553 conduct of a resident in another state as is provided by the
1554 laws of this state had the conduct occurred in this state.

1555 (g) ~~Whenever~~ When any person is convicted of any
1556 offense for which this article makes mandatory the revocation
1557 of the certification of the person, the court ~~in which the~~
1558 ~~conviction is had~~ shall require the surrender of the
1559 certification documents and duplicates of any boater safety
1560 certification ~~then~~ held by the person convicted and ~~the court~~
1561 shall ~~thereupon~~ forward the proof of certification surrendered
1562 together with a record of the conviction to the ~~commissioner~~
1563 secretary.

1564 (h) ~~Every court with jurisdiction over offenses~~
1565 ~~committed under this article, or any other law of this state,~~
1566 ~~or municipal ordinance adopted by a local authority,~~
1567 ~~regulating the operation of vessels on the waters, shall~~
1568 ~~forward to the commissioner, within~~ Within 10-15 days of a



HB358 Engrossed

1569 ~~record of the~~ conviction of any person ~~in the court~~ for a
1570 violation of any ~~laws~~ law for which the person is subject to
1571 boater safety certification or vessel operating privilege
1572 suspension or revocation, the court shall forward a record of
1573 the conviction to the secretary and ~~the court~~ may recommend
1574 the suspension of the certification or vessel operating
1575 privilege of the person ~~so convicted~~.

1576 (i) For the purposes of this section, the term
1577 "conviction" shall mean a final conviction. Also, for the
1578 purposes of this section, an unvacated forfeiture of bail or
1579 collateral deposited to secure a defendant's appearance in
1580 court, a plea of nolo contendere accepted by the court, the
1581 payment of a fine, a plea of guilty, or a finding of guilt of
1582 a boating or vessel operation violation charge, shall be
1583 equivalent to a conviction regardless of whether the penalty
1584 is rebated, suspended, or probated.

1585 (j) The ~~commissioner~~ secretary shall ~~forthwith~~ revoke
1586 the certification or vessel operating privilege of any person
1587 upon receiving a record of the person's conviction of any of
1588 the following offenses:

1589 (1) Manslaughter or homicide by vehicle or vessel
1590 resulting from the operation of a vessel.

1591 (2) Any violation of Section 32-5A-191.3 which requires
1592 revocation.

1593 (3) Any offense of any law or ~~regulation~~ rule for which
1594 mandatory revocation is required upon conviction.

1595 (4) Any felony in the commission of which a vessel is
1596 used.



HB358 Engrossed

1597 (5) Failure to stop, render aid, or identify the person
1598 as required under the laws of this state in the event of a
1599 boating accident resulting in the death or personal injury of
1600 another.

1601 (6) Perjury or the making of a false affidavit or
1602 statement under oath to the ~~Director of Public Safety or~~
1603 ~~Commissioner of Conservation and Natural Resources~~ secretary
1604 under this article or under any other law or ~~regulation~~ rule
1605 relating to the ownership or operation of vessels.

1606 (7) Conviction upon three charges of reckless or
1607 careless operation of a vessel committed within a period of 12
1608 months.

1609 (8) Unauthorized use of a vessel belonging to another,
1610 which ~~act~~ use does not amount to a felony.

1611 (k) The ~~Commissioner of Conservation and Natural~~
1612 ~~Resources~~ secretary may suspend the certification or operating
1613 privilege of a ~~vessel operator~~ person without preliminary
1614 hearing upon a showing by its records or other sufficient
1615 evidence that the ~~operator~~ person did any of the following:

1616 (1) Has committed an offense for which mandatory
1617 revocation is required upon conviction.

1618 (2) Has been convicted of any offense under Section
1619 32-5A-191.3 which provides for suspension.

1620 (3) Has been convicted of any offense of any law or
1621 ~~regulation~~ rule which provides for suspension.

1622 (4) Has been convicted with frequency of serious
1623 offenses against boating or vessel operation laws or
1624 ~~regulations~~ rules governing the movement of vessels ~~as to~~



HB358 Engrossed

1625 ~~indicate~~ indicating a disrespect for boating or vessel
1626 operation laws and a disregard for the safety of other persons
1627 on the waters of this state.

1628 (5) Is an habitually reckless, careless, or negligent
1629 operator of a vessel, established by a record of accidents, or
1630 by other evidence.

1631 (6) Is incompetent to operate a vessel.

1632 (7) Has permitted an unlawful or fraudulent use of
1633 certification.

1634 (8) Has committed an offense in another state which if
1635 committed in this state would be grounds for suspension or
1636 revocation.

1637 (9) Has been convicted of fleeing or attempting to
1638 elude ~~a marine police officer~~ any law enforcement officer.

1639 (10) Has violated a restricted boater safety
1640 certification pursuant to Section 33-5-61.

1641 (1) Upon suspending the certification or operating
1642 privilege of any person, the ~~Commissioner of Conservation and~~
1643 ~~Natural Resources~~ secretary shall immediately notify the
1644 person in writing and upon request shall afford the person an
1645 opportunity for a hearing as early as practicable, not to
1646 exceed 30 days after receipt of the request, in the county
1647 where the person resides or in Montgomery County in the case
1648 of a nonresident, unless the ~~Commissioner of Conservation and~~
1649 ~~Natural Resources~~ secretary and the person agree that the
1650 hearing may be held in some other county. The hearing shall be
1651 before the ~~Commissioner of Conservation and Natural Resources~~
1652 secretary or a duly authorized agent. At the hearing, the



HB358 Engrossed

1653 ~~Commissioner of Conservation and Natural Resources,~~ secretary
1654 or duly authorized agent, ~~and may~~ issue
1655 subpoenas for the attendance of witnesses and the production
1656 of relevant books and papers, and ~~may~~ require a reexamination
1657 of the person. At the hearing, the ~~Commissioner of~~
1658 ~~Conservation and Natural Resources,~~ secretary or duly
1659 authorized agent, shall either rescind its order of suspension
1660 or, upon good cause shown, may continue, modify, or extend the
1661 suspension or revoke the certification or operating privilege
1662 of the person. If the certification or operating privilege has
1663 been suspended as a result of the person's operation while
1664 under the influence of alcohol, the ~~commissioner~~ secretary or
1665 duly authorized agent ~~conducting the hearing shall take into~~
1666 ~~account~~ shall consider, among other relevant factors, the
1667 person's successful completion of any duly established
1668 waterway intoxication seminar, "DUI counterattack course," or
1669 similar educational program designed for problem drinking
1670 operators. If the hearing is conducted by a duly authorized
1671 agent instead of by the ~~Commissioner of Conservation and~~
1672 ~~Natural Resources~~ secretary, the action of the agent shall
1673 first be approved by the ~~Commissioner of Conservation and~~
1674 ~~Natural Resources~~ secretary prior to implementation.

1675 ~~(m) At the end of the period of suspension, a~~
1676 ~~certification surrendered to the Commissioner of Conservation~~
1677 ~~and Natural Resources under subsection (n) shall be returned~~
1678 ~~to the person.~~

1679 ~~(n) (m)~~ The ~~Commissioner of Conservation and Natural~~
1680 ~~Resources~~ secretary, upon cancelling, suspending, or revoking



HB358 Engrossed

1681 a certification, shall require that proof of certification and
1682 any duplicates be surrendered to ~~and be retained by the~~
1683 ~~Commissioner of Conservation and Natural Resources~~ ALEA. Any
1684 person whose certification has been cancelled, suspended, or
1685 revoked shall immediately return the certification and any
1686 duplicates to ~~the Commissioner of Conservation and Natural~~
1687 ~~Resources~~ ALEA. If the person refuses to surrender the
1688 certification, the person shall be guilty of a Class C
1689 misdemeanor ~~punishable as provided by law~~.

1690 ~~(e)~~ (n) Any resident or nonresident whose certification
1691 or privilege to operate a vessel in this state has been
1692 suspended or revoked, as provided in this section, ~~shall~~ may
1693 not operate a vessel in this state under a certification, or
1694 other approved valid document issued by any other jurisdiction
1695 ~~or otherwise~~ during the suspension or after revocation until a
1696 new Alabama certification or privilege is obtained as
1697 permitted under this article.

1698 ~~(p)~~ (o) Any person denied a certification or whose
1699 certification or operating privilege has been cancelled,
1700 suspended, or revoked by the ~~Commissioner of Conservation and~~
1701 ~~Natural Resources~~ secretary, except where cancellation,
1702 suspension, or revocation is mandatory under this article,
1703 ~~shall have the right to~~ may file a petition within 30 days for
1704 a hearing in the matter in the circuit court in the county
1705 wherein the person resides, or, in the case of cancellation,
1706 suspension, or revocation of a nonresident's certification or
1707 operating privilege, in the county in which the main office of
1708 the ~~Commissioner of Conservation and Natural~~



HB358 Engrossed

1709 ~~Resources~~secretary is located, ~~and the .~~ The circuit court ~~is~~
1710 ~~vested with~~ shall have jurisdiction for hearing the petitions
1711 for certification or operating privilege. The circuit court
1712 shall set the matter for hearing upon 30 days' written notice
1713 to the ~~Commissioner of Conservation and Natural Resources~~
1714 secretary and shall take testimony, examine the facts of the
1715 case, and determine whether the petitioner is entitled to a
1716 certification or operating privilege under this section or is
1717 subject to suspension, cancellation, or revocation."

1718 "§33-5-77

1719 (a) It shall be unlawful ~~in this state for any person~~
1720 ~~to violate the federal laws or rules regulating the horsepower~~
1721 ~~of the engines of the vessels operating on the waters of this~~
1722 ~~state~~ to operate a vessel powered beyond the manufacturer's
1723 capacity plate.

1724 (b) Any person violating this section shall be guilty
1725 of a ~~Class C misdemeanor that is punishable, upon conviction,~~
1726 ~~as provided by Sections 13A-5-7 and 13A-5-12. Any person so~~
1727 ~~convicted shall be fined not less than one hundred dollars~~
1728 ~~(\$100)~~ boating violation.

1729 ~~(c) The effective date of only this section shall be~~
1730 ~~five years from April 28, 1994."~~

1731 "§33-5-79

1732 The ~~Commissioner of Conservation and Natural Resources~~
1733 secretary may ~~implement~~ adopt and enforce reasonable and
1734 necessary rules ~~and regulations~~ to administer and enforce this
1735 ~~article~~ chapter."

1736 "§33-5-81



HB358 Engrossed

1737 The State Department of Education shall require a
1738 segment of the approved driver education curricula to include
1739 boating safety in Alabama, ~~beginning with the 1994-95 school~~
1740 ~~year~~. The boating safety curricula shall be approved in
1741 writing by the ~~Commissioner of Conservation and Natural~~
1742 ~~Resources~~ secretary and the State Superintendent of
1743 Education."

1744 Section 2. (a) For purposes of this section, an
1745 electronic boating traffic ticket, or "e-ticket," is defined
1746 as a ticket that is generated and printed at the site of an
1747 offense committed on the waters of this state, as defined
1748 under Section 33-5-3, Code of Alabama 1975, after the
1749 violation has been electronically transmitted to the court.

1750 (b) When any person is arrested for an offense
1751 committed on the waters of this state, the arresting officer,
1752 unless otherwise provided in this section, shall take the name
1753 and address of the person and registration information of his
1754 or her vessel and issue a summons or otherwise notify the
1755 person in writing or by an e-ticket to appear at a time and
1756 place to be specified in the summons, notice, or e-ticket.

1757 (c) An arresting officer shall transfer the arrest and
1758 licensing information of a violator electronically to the
1759 court. The court shall electronically record the arrest and
1760 issue a complaint and summons or notice to appear, which shall
1761 be printed at the site of the offense and given to the
1762 violator.

1763 (d) The person arrested, if he or she so desires, shall
1764 have a right to an immediate hearing or a hearing within 24



HB358 Engrossed

1765 hours at a convenient hour before a magistrate within the
1766 county or city where the offense was committed, or if an
1767 e-ticket is written, the person shall have a right, if he or
1768 she desires, to an immediate hearing or a hearing within 24
1769 hours at a convenient hour before any magistrate within this
1770 state.

1771 (e) (1) Except when an arresting officer cites a person
1772 with an e-ticket, the officer, upon the giving by the person
1773 of the required bond to appear at a certain time and place,
1774 shall release the person from custody.

1775 (2) Except when an arresting officer cites a person
1776 with an e-ticket, a person refusing to give bond to appear
1777 shall be taken immediately by the arresting officer before the
1778 nearest or most accessible magistrate.

1779 (3) When an e-ticket is used by an arresting officer, a
1780 person shall be deemed to have given his or her written bond
1781 to appear in court on the date as specified on the e-ticket.

1782 (f) Any person who willfully violates his or her
1783 written bond by failing to timely appear shall be guilty of a
1784 Class C misdemeanor regardless of the disposition of the
1785 charge upon which he or she was originally arrested.

1786 (g) This section does not apply to any of the following
1787 persons:

1788 (1) A person arrested and charged with an offense
1789 causing or contributing to an accident resulting in injury or
1790 death to any person.

1791 (2) A person charged with operating a vessel in
1792 violation of Section 32-5A-191.3, Code of Alabama 1975.



HB358 Engrossed

1793 (3) A person whom the arresting officer has good cause
1794 to believe has committed any felony.

1795 (h) When a person is arrested or charged with an
1796 offense described in subsection (g), the arresting officer
1797 shall take the person before the nearest or most accessible
1798 magistrate.

1799 Section 3. Sections 12-12-50, 12-12-51, 12-12-52,
1800 12-12-55, and 12-19-179, Code of Alabama 1975, are amended to
1801 read as follows:

1802 "§12-12-50

1803 As used in this article, the following terms have the
1804 following meanings:

1805 (1) BOATING VIOLATION. As defined in Section 33-5-3.

1806 ~~A "traffic infraction" is any~~ (2) TRAFFIC INFRACTION.

1807 Any violation of a statute, ordinance, or rule relating to the
1808 operation or use of motor or other vehicles or the use of
1809 streets and highways by pedestrians."

1810 "§12-12-51

1811 The district court shall have exclusive original
1812 jurisdiction of misdemeanor prosecutions for traffic
1813 infractions and all boating violations, except ordinance
1814 infractions prosecuted in municipal courts."

1815 "§12-12-52

1816 Pursuant to the provisions of Section 12-17-251,
1817 magistrates may receive pleas of guilty in traffic infraction
1818 and boating violation prosecutions, but may not receive pleas
1819 in matters involving any of the following:

1820 (1) Violations resulting in personal injury~~†~~.



HB358 Engrossed

1821 (2) Operation of a motor vehicle or vessel while
1822 intoxicated~~;~~.

1823 (3) Reckless driving or reckless operation of a
1824 vessel~~;~~.

1825 (4) Felonies or indictable offenses~~;~~.

1826 (5) Operation of a motor ~~vehicles~~ vehicle or vessel
1827 without an operator's license or boater safety certification,
1828 as applicable, or while the license or certification is
1829 suspended or revoked~~;~~~~or~~.

1830 (6) A defendant convicted of two or more previous
1831 traffic offenses or boating violations in the preceding 12
1832 months."

1833 "§12-12-55

1834 (a) Schedules of fines to be imposed for traffic
1835 infractions and boating violations shall be established by law
1836 or rule.

1837 (b) The manner in which fines and costs shall be paid
1838 to and accounted for by personnel assigned to accept payment
1839 shall be provided by administrative rule."

1840 "§12-19-179

1841 (a) The following distribution shall be made of docket
1842 fees for traffic infractions and boating violations in
1843 district court:

1844 (1) Three dollars (\$3) to the Police Officers' Annuity
1845 Fund.

1846 (2) Sixteen dollars (\$16) to the Fair Trial Tax Fund.

1847 (3) Eight dollars fifty cents (\$8.50) to the State
1848 Drivers' Fund.



HB358 Engrossed

1849 (4) Forty-nine dollars (\$49) to the State General Fund;
1850 provided, that in boating violation cases initiated by a
1851 county law enforcement officer, twenty-four dollars and fifty
1852 cents (\$24.50) shall be paid into the State General Fund and
1853 twenty-four dollars and fifty cents (\$24.50) shall be paid
1854 into the county general fund.

1855 (5) Three dollars (\$3) to the county general fund.

1856 (6) An arrest fee of five dollars (\$5) to the State
1857 General Fund or the state funds prescribed by law; except,
1858 that the arrest fee shall be paid into the county general fund
1859 in cases initiated by county law enforcement officers.

1860 (7) Two dollars fifty cents (\$2.50) to the District
1861 Attorney Fund or to the fund prescribed by law for district
1862 attorney fees.

1863 (8) Five dollars (\$5) to the Advanced Technology and
1864 Data Exchange Fund.

1865 (b) The additional five dollars (\$5) assessed and
1866 collected in traffic cases in district court, effective
1867 October 1, 2000, shall be distributed to the Fair Trial Tax
1868 Fund.

1869 (c) Fees for issuance of alias writs from circuit and
1870 district courts shall be distributed as follows:

1871 (1) Writs issuing from district court:

1872 a. Two dollars (\$2) to the county general fund.

1873 b. Eighteen dollars (\$18) to the State General Fund.

1874 (2) Writs issuing from circuit court:

1875 a. Five dollars (\$5) to the county general fund.

1876 b. Twenty-five dollars (\$25) to the State General



HB358 Engrossed

1877 Fund."

1878 Section 4. Section 41-27-6, Code of Alabama 1975, is
1879 amended to read as follows:

1880 "§41-27-6

1881 (a) (1) The Director of the Department of Public Safety
1882 shall be appointed by the Secretary of the Alabama State Law
1883 Enforcement Agency, after consultation with the Governor, and
1884 shall hold office at the pleasure of the secretary. The
1885 director shall be appointed from a legacy agency as defined in
1886 Section 41-27-7. The salary of the director shall be set by
1887 the secretary, and shall not be subject to Section 36-6-6. A
1888 person appointed director shall have an extensive law
1889 enforcement background and, by virtue of office, is a state
1890 law enforcement officer with the immunity set forth in Section
1891 6-5-338.

1892 (2) The director shall have overall supervision and
1893 management of functions transferred to the department pursuant
1894 to this section, subject to the approval of the secretary,
1895 including the power to change the working title of any
1896 position or to reorganize or rename any of the divisions,
1897 units, or functions specified in this section. Any change of
1898 working title shall not alter the classification or
1899 compensation of any person in the state Merit System.

1900 (3) All functions performed by the department on
1901 October 1, 2014, shall remain under the Department of Public
1902 Safety unless reorganized by the secretary or otherwise
1903 transferred pursuant to this chapter.

1904 (b) (1) The Highway Patrol Division of the Department of



HB358 Engrossed

1905 Public Safety succeeds to and is vested with all law
1906 enforcement functions of the following enforcement units, and
1907 a reference in any law to these enforcement units shall be
1908 deemed a reference to the Highway Patrol Division of the
1909 Department of Public Safety:

1910 a. The law enforcement unit of the Public Service
1911 Commission.

1912 b. The revenue enforcement officers of the Department
1913 of Revenue.

1914 (2) The director shall appoint a chief of the division.

1915 (c) (1) The Marine ~~Police~~ Patrol Division is hereby
1916 created within the Department of Public Safety. The director
1917 shall appoint a chief of the division.

1918 (2) The Marine ~~Police~~ Patrol Division of the Department
1919 of Public Safety succeeds to and is vested with all functions
1920 of the Marine Police Division of the Department of
1921 Conservation and Natural Resources. A reference in any law to
1922 the Marine Police Division of the Department of Conservation
1923 and Natural Resources shall be deemed a reference to the
1924 Marine ~~Police~~ Patrol Division of the Department of Public
1925 Safety."

1926 Section 5. It is the intent of the Legislature, in
1927 implementing this act, that the Alabama Supreme Court would
1928 adopt rules pursuant to its authority under Section 150 of the
1929 Constitution of Alabama of 2022, to adopt a schedule of fines
1930 for boating violations, and to adopt a Uniform Boating Traffic
1931 Ticket and Complaint form or an electronic version thereof,
1932 and provide for the use, content, numbering schemes, and



HB358 Engrossed

1933 issuance of the ticket.

1934 Section 6. The following sections of the Code of
1935 Alabama 1975, are repealed:

1936 (1) Section 33-5-22.1, Code of Alabama 1975, providing
1937 that the hull of a sailboard is deemed a flotation device.

1938 (2) Section 33-5-29, Code of Alabama 1975, relating to
1939 the publication of rules.

1940 (3) Section 33-5-33, Code of Alabama 1975, relating to
1941 fees in certain prosecutions.

1942 (4) Section 33-5-78, Code of Alabama 1975, relating to
1943 the definition of vessels.

1944 Section 7. Although this bill would have as its purpose
1945 or effect the requirement of a new or increased expenditure of
1946 local funds, the bill is excluded from further requirements
1947 and application under Section 111.05 of the Constitution of
1948 Alabama of 2022, because the bill defines a new crime or
1949 amends the definition of an existing crime.

1950 Section 8. This act shall become effective January 1,
1951 2024, following its passage and approval by the Governor, or
1952 its otherwise becoming law.



HB358 Engrossed

1953
1954
1955

House of Representatives

1956 Read for the first time and referred20-Apr-23
1957 to the House of Representatives
1958 committee on Public Safety and
1959 Homeland Security
1960
1961 Read for the second time and placed27-Apr-23
1962 on the calendar:
1963 2 amendments
1964
1965 Read for the third time and passed09-May-23
1966 as amended
1967 Yeas 97
1968 Nays 0
1969 Abstains 6
1970
1971
1972 John Treadwell
1973 Clerk
1974