

HB358 INTRODUCED



1 11A63Z-1

2 By Representatives Shaver, Pettus

3 RFD: Public Safety and Homeland Security

4 First Read: 20-Apr-23

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SYNOPSIS:

Under existing law, the Marine Police Division of the Department of Public Safety, a department of the Alabama State Law Enforcement Agency, is the primary state agency charged with enforcing the laws regarding the operation of vessels in the waters of the state.

This bill would rename the division the Marine Patrol Division and reclassify law enforcement officers in the division as state troopers.

This bill would also amend a substantial portion of the code relating to the operation of vessels to correctly reference ALEA as the administrative agency charged with administering and enforcing the boating safety laws of the state.

Under existing law, violations of various boating safety laws committed on the waters of this state are classified as either misdemeanors or felonies, the penalty for which is fixed by law.

This bill would establish a new classification of a criminal offense as a boating violation, which is defined in the bill to be an offense committed on the waters of this state that does not amount to a misdemeanor or a felony, and would reclassify various misdemeanor boating offenses as boating violations. The penalty for a boating violation would be similar to a



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29 penalty for a traffic infraction.

30 Under existing law, a person is required to
31 report a boating accident involving death, personal
32 injury, or property damage of \$2,000 or more within 10
33 days of the accident.

34 This bill would require a person involved in
35 such a boating accident to report the accident within
36 24 hours.

37 Under existing law, a person may not operate a
38 vessel on the waters of this state while towing a
39 person on waterskis, aquaplane, or other recreational
40 device, and no person may engage in water skiing,
41 aquaplaning, or similar activity, at any time between
42 one hour after sunset and one hour before sunrise.

43 This bill would amend the authorized hours of
44 operation to between sunset and sunrise.

45 Under existing state law, a capacity plate is
46 required on all vessels less than 26 feet manufactured
47 or offered for sale in the state. However, under
48 existing federal law, a capacity plate is only required
49 on monohull vessels less than 20 feet, and sailboards
50 and certain personal watercraft are exempt.

51 Under existing state law, there are various
52 horsepower requirements on motor vessels. However,
53 federal law only applies to manufacturers of motor
54 vessels.

55 This bill would delete the language not in
56 conformity with federal law.



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57 Under existing law, there are various engine
58 shut-off switch requirements for vessels.

59 This bill would delete the existing engine
60 shut-off switch requirements and implement the federal
61 Coast Guard standards.

62 This bill would establish the uniform boating
63 traffic ticket and provide for its issuance and usage.

64 This bill would further provide for the
65 administration of a point system to administer and
66 enforce the suspension or revocation of boater safety
67 certifications.

68 This bill would repeal certain antiquated life
69 jacket carriage requirements on sailboards which are in
70 conflict with federal law.

71 Also under existing law, district courts have
72 exclusive original jurisdiction over traffic
73 infractions.

74 This bill would provide the district court with
75 exclusive original jurisdiction over boating violations
76 and would provide for the court costs, docket fees, and
77 other fees that would be assessed upon conviction.

78 This bill would also make various
79 nonsubstantive, technical changes to update the
80 existing code language to current style.

81 Section 111.05 of the Constitution of Alabama of
82 2022, prohibits a general law whose purpose or effect
83 would be to require a new or increased expenditure of
84 local funds from becoming effective with regard to a



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85 local governmental entity without enactment by a 2/3
86 vote unless: it comes within one of a number of
87 specified exceptions; it is approved by the affected
88 entity; or the Legislature appropriates funds, or
89 provides a local source of revenue, to the entity for
90 the purpose.

91 The purpose or effect of this bill would be to
92 require a new or increased expenditure of local funds
93 within the meaning of the amendment. However, the bill
94 does not require approval of a local governmental
95 entity or enactment by a 2/3 vote to become effective
96 because it comes within one of the specified exceptions
97 contained in the amendment.

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A BILL

103

TO BE ENTITLED

104

AN ACT

105

Relating to vessels; to amend Sections 33-5-3, 33-5-4,

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33-5-5, 33-5-6, 33-5-7, 33-5-8, 33-5-10, 33-5-12, 33-5-15,

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33-5-16, 33-5-20, 33-5-21, 33-5-22, 33-5-23, 33-5-25, 33-5-26,

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33-5-27, 33-5-28, 33-5-30, 33-5-31, 33-5-32, 33-5-34, 33-5-35,

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33-5-36, 33-5-51, 33-5-52, 33-5-53, 33-5-54, 33-5-55, 33-5-56,

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33-5-58, 33-5-59, 33-5-60, 33-5-61, 33-5-62, 33-5-63, 33-5-64,

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33-5-65, 33-5-66, 33-5-67, 33-5-68, 33-5-69, 33-5-70, 33-5-71,

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33-5-72, 33-5-73, 33-5-74, 33-5-75, 33-5-77, 33-5-79, 33-5-81,



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113 Code of Alabama 1975, to establish the classification of
114 boating violation as a recognized criminal offense
115 classification and to reclassify various criminal offenses as
116 boating violations and further provide for criminal penalties;
117 to further provide for the requirement to report certain
118 boating accidents; to further provide for the general
119 operational and equipment requirements of a vessel; to further
120 provide for vessel horsepower requirements and the use of
121 engine cut-off switches; to establish the uniform electronic
122 boating traffic ticket and provide for its issuance; to amend
123 Sections 12-12-50, 12-12-51, 12-12-52, 12-12-55, and
124 12-19-179, Code of Alabama 1975, to provide the district court
125 with jurisdiction over boating violations and further provide
126 for the court costs and fees for boating violations; to amend
127 Section 41-27-6, Code of Alabama 1975, to rename the Marine
128 Police Division within the Department of Public Safety to the
129 Marine Patrol Division; to make nonsubstantive, technical
130 revisions to update the existing code language to current
131 style; to repeal Sections 33-5-22.1, 33-5-29, 33-5-33, and
132 33-5-78, Code of Alabama 1975; and in connection therewith
133 would have as its purpose or effect the requirement of a new
134 or increased expenditure of local funds within the meaning of
135 Section 111.05 of the Constitution of Alabama of 2022.

136 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

137 Section 1. Sections 33-5-3, 33-5-4, 33-5-5, 33-5-6,
138 33-5-7, 33-5-8, 33-5-10, 33-5-12, 33-5-15, 33-5-16, 33-5-20,
139 33-5-21, 33-5-22, 33-5-23, 33-5-25, 33-5-26, 33-5-27, 33-5-28,
140 33-5-30, 33-5-31, 33-5-32, 33-5-34, 33-5-35, 33-5-36, 33-5-51,



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141 33-5-52, 33-5-53, 33-5-54, 33-5-55, 33-5-56, 33-5-58, 33-5-59,
142 33-5-60, 33-5-61, 33-5-62, 33-5-63, 33-5-64, 33-5-65, 33-5-66,
143 33-5-67, 33-5-68, 33-5-69, 33-5-70, 33-5-71, 33-5-72, 33-5-73,
144 33-5-74, 33-5-75, 33-5-77, 33-5-79, 33-5-81, Code of Alabama
145 1975, are amended to read as follows:

146 "§33-5-3

147 As used in this ~~article~~ chapter, the following terms
148 ~~shall~~ have the following meanings ~~respectively ascribed to~~
149 ~~them in this section~~, unless the context clearly requires a
150 different meaning:

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

152 (2) BOATING VIOLATION. An offense committed on the
153 waters of this state, which does not amount to a misdemeanor
154 or felony, and for which this chapter authorizes a fine of not
155 more than two hundred dollars (\$200) or a sentence for a term
156 of imprisonment in the county jail for not more than 30 days,
157 or both.

158 ~~(1)~~ (10) VESSEL. Every description of watercraft, other
159 than a seaplane, capable of being used as a means of
160 transportation on the water, but ~~such~~ the term ~~shall~~ does not
161 include vessels 12 feet in length or less when used solely on
162 farm ponds of less than 50 acres in size.

163 ~~(2)~~ (11) WATERS OF THIS STATE. Any waters within the
164 territorial limits of this state and the marginal sea adjacent
165 to this state and the high seas when navigated as a part of a
166 journey or ride to and from the shore of this state; ~~provided,~~
167 ~~however, that "waters of this state" shall not be interpreted~~
168 ~~to mean.~~ The term does not include any private pond which is



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169 not used for boat rentals or the charging of fees for fishing
170 therein.

171 ~~(3)~~ (6) OWNER. A person, other than a lienholder, having
172 the property in or title to a vessel. The term includes a
173 person entitled to the use or possession of a vessel subject
174 to an interest in another person, reserved or created by
175 agreement and securing payment or performance of an
176 obligation, but the term excludes a lessee under a lease not
177 intended as security.

178 ~~(4)~~ (7) PERSON. An individual, partnership, firm,
179 corporation, association, or other entity.

180 (8) PERSONAL WATERCRAFT. As defined under Section
181 33-5-51.

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

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

185 (9) SECRETARY. The Secretary of the Alabama State Law
186 Enforcement Agency.

187 ~~(7) STATE DEPARTMENT OF CONSERVATION AND NATURAL~~
188 ~~RESOURCES or DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.~~
189 ~~That department created by the laws of this state having~~
190 ~~supervision over game, fish, forestry, parks, seafoods and~~
191 ~~such lands of the state and such supervision over public~~
192 ~~waters of this state as now are constituted by law or any~~
193 ~~subsequent amendment thereto.~~

194 ~~(8)~~ (3) CERTIFICATE. Registration by a vessel owner ~~with~~
195 ~~the Department of Conservation and Natural Resources,~~
196 including the issuance of an identifying number awarded each



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197 vessel and the issuance of a pocket-size certificate of
198 registration.

199 ~~(9)~~ (4) LENGTH. ~~Such~~ The term means measured from end to
200 end over the deck from the bow to the transom, excluding sheer
201 bowsprits, swim platforms, or engine brackets extending from
202 the hull."

203 "§33-5-4

204 (a) ~~It is hereby expressly made the duty of the~~
205 ~~commissioner to set up a division within the Department of~~
206 ~~Conservation and Natural Resources to be known as the~~
207 ~~"Division of Marine Police" with sufficient personnel to~~
208 ~~perform the necessary clerical and routine work for the~~
209 ~~department in~~ The Marine Patrol Division established pursuant
210 to Section 41-27-6 shall be responsible for all of the
211 following duties:

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

214 (2) Receiving and accounting of all registration fees
215 and payments ~~of same~~ to ALEA into the State Treasury,
216 ~~receiving.~~

217 (3) Receiving and recording accident reports and ~~making~~
218 ~~such providing~~ reports of ~~such the~~ accidents to ~~such the~~
219 applicable federal agency as may be required by federal law.
220 ~~and such~~

221 (4) Investigating collisions that involve injuries or
222 fatalities.

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



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225 (b) The ~~law-enforcement~~ law enforcement officers of the
226 ~~Division of Marine Police of the Department of Conservation~~
227 ~~and Natural Resources~~ Marine Patrol Division shall be known as
228 ~~marine police officers~~ state troopers."

229 "§33-5-5

230 In addition to all other ~~power heretofore granted~~
231 powers authorized by law, ~~marine police officers and all other~~
232 ~~Department of Conservation and Natural Resources enforcement~~
233 ~~officers~~ state troopers of the Marine Patrol Division shall
234 have the power of peace officers in this state and may
235 exercise such powers anywhere within the state."

236 "§33-5-6

237 This article shall be enforced by the Alabama State Law
238 Enforcement Agency, Marine Patrol Division ~~of Marine Police~~,
239 by all law enforcement officers of the state, and by other
240 agents and employees of the agency as designated and required
241 by the ~~Secretary of the Alabama State Law Enforcement Agency~~
242 secretary."

243 "§33-5-7

244 All records of ~~the Department of Conservation and~~
245 ~~Natural Resources~~, ALEA or any probate judge or license
246 commissioner made or kept pursuant to this article shall be
247 public records, except confidential reports and except
248 accident reports as set out in this article."

249 "§33-5-8

250 The ~~Commissioner of Conservation and Natural Resources~~
251 secretary shall supply to any authorized official or agency of
252 the United States, upon ~~such~~ the agency's or official's



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253 request and in accordance with any federal law or regulation
254 relative thereto, necessary information pertaining to
255 statistics and reports compiled under ~~the provisions of~~ this
256 article."

257 "§33-5-10

258 (a) The ~~agency~~ secretary shall issue annual
259 certificates of registration directly and shall authorize all
260 judges of probate in the state or any other official in the
261 state who is presently authorized to issue automobile license
262 plates to issue annual certificates of registration and
263 numbers in connection therewith. In conformity with this
264 article and any rules adopted by the ~~agency~~ secretary, the
265 ~~agency~~ secretary shall assign to each issuing officer in the
266 county a block of numbers and certificates therefor which upon
267 issue, the issuing officer shall be allowed a fee of two
268 dollars (\$2) for each certificate issued by him or her. In
269 counties where the judge of probate or issuing officer is on
270 the fee system, the issuing fee shall be retained by the judge
271 of probate, and, in counties where the issuing officer or
272 judge of probate is on a salary basis, the fee shall be paid
273 to the county treasury. The issuance fee provided for herein
274 shall be in addition to the amount of the boat registration
275 fee.

276 (b) All registration money, except the two dollar (\$2)
277 fee allowed under subsection (a), shall be remitted monthly to
278 ~~the agency~~ ALEA not later than 10 days after the first of each
279 month. The ~~agency~~ secretary shall remit the registration money
280 to the State Treasurer to be deposited in the State Water



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281 Safety Fund.

282 (c) All monies received out of the sale of licenses
283 under this article may be used by the ~~agency~~secretary for all
284 purposes reasonably necessary in the cost of administration of
285 this article, including the printing of certificates of
286 registration, postage and transportation charges, clerical,
287 personnel, equipment purchases, salaries, and other expenses
288 for each year; except, that no funds collected under this
289 article may be used to supplement or pay the salaries of any
290 law enforcement officers other than those hired specifically
291 for the purposes of administering this article. The secretary
292 shall expend the monies appropriated to the Marine
293 ~~Police~~Patrol Division as the secretary deems necessary and
294 appropriate; provided, however, that the appropriations may be
295 expended only for the purposes designated by the Legislature
296 and in the amounts provided therefor in the general
297 appropriation bill and shall be budgeted and allotted in
298 accordance with the provisions of Article 4 of Chapter 4 of
299 Title 41. It is the intent of the Legislature that the agency
300 utilize existing personnel and equipment of the agency and of
301 the sheriffs of this state to the maximum possible extent in
302 enforcing and administering this article, to the end that
303 there be no costly duplication of services."

304 "§33-5-12

305 The numbering system employed pursuant to this chapter
306 shall be determined ~~and promulgated by the Commissioner of the~~
307 ~~Department of Conservation and Natural Resources acting~~
308 ~~pursuant to the authority conferred on him by Section 33-5-28;~~



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309 ~~provided, that in~~ by the secretary by rule. In the event an
310 agency of the United States government shall have in force an
311 overall system of identification numbering for vessels within
312 the United States, any numbering system ~~employed or~~
313 ~~promulgated pursuant to this article~~ used shall conform
314 ~~thereto~~ to the federal requirements."

315 "§33-5-15

316 (a) Any vessel already covered by a number in full
317 force and effect which has been awarded to it pursuant to the
318 operative federal law or federally approved numbering system
319 of another state may be operated on the waters of this state
320 for a period of 90 consecutive days without being licensed
321 under ~~the provisions of~~ this article. Any vessel operating for
322 more than 90 consecutive days must then be registered and
323 licensed in the same manner as other vessels are required to
324 be licensed under this article.

325 (b) Should the ownership of a vessel change, a new
326 application form with a fee of three dollars (\$3) for change
327 in registration shall be filed with ~~the Department of~~
328 ~~Conservation and Natural Resources~~ ALEA and a new certificate
329 issued transferring the original vessel number to the new
330 owner; provided, however, that the ~~Commissioner of~~
331 ~~Conservation and Natural Resources may at his or her~~
332 ~~discretion provide by duly promulgated regulations a~~
333 secretary, by rule, may adopt a system for the issuance of
334 ~~such~~ the changes of registration by the judges of probate
335 ~~judges~~ and license commissioners of this state, and, in the
336 event ~~such~~ the change of registration certificates are issued



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337 by ~~such judges of~~ probate ~~judges~~ and license commissioners,
338 they shall be entitled to a fee ~~therefor~~ of two dollars (\$2).

339 (c) No ~~citizen or resident of this state~~ person may
340 operate ~~his or her~~ a vessel on the waters of this state when
341 ~~such the~~ vessel is under foreign registry; provided, however,
342 that any ~~such citizen or resident~~ person who has previously
343 registered his or her vessel in another state or by federal
344 registry before coming into this state may operate ~~same the~~
345 vessel for a period of 90 consecutive days without being
346 required to register under ~~the provisions of~~ this article."

347 "§33-5-16

348 (a) The owner shall furnish the ~~Department of~~
349 ~~Conservation and Natural Resources~~ secretary notice of the
350 transfer of all or any part of his or her interest other than
351 the creation of a security interest in a vessel numbered in
352 this state pursuant to this article or of the destruction or
353 abandonment of ~~such the~~ vessel within 15 days thereof. ~~Such~~
354 The transfer, destruction, or abandonment shall terminate the
355 certificate for ~~such the~~ vessel; except, that in the case of a
356 transfer of a part interest which does not affect the owner's
357 right to operate ~~such the~~ vessel, ~~such the~~ transfer shall not
358 terminate the certificate.

359 (b) Any holder of a certificate shall notify ~~the~~
360 ~~Department of Conservation and Natural Resources~~ ALEA within
361 15 days if his or her address no longer conforms to the
362 address appearing on the certificate and ~~shall~~, as a part of
363 ~~such the~~ notification, shall furnish ~~the Department of~~
364 ~~Conservation and Natural Resources~~ ALEA with his or her new



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365 address. The ~~Department of Conservation and Natural Resources~~
366 secretary may ~~provide in its rules and regulations~~ adopt rules
367 for the surrender of the certificate bearing the former
368 address and its replacement with a certificate bearing the new
369 address or for the alteration of an outstanding certificate to
370 show the new address of the holder.

371 (c) Any person who has purchased a ~~registration~~vessel
372 number for his or her vessel and subsequently loses or
373 misplaces the registration certificate may make application to
374 ~~the Department of Conservation and Natural Resources~~ ALEA,
375 accompanied by a fee of three dollars (\$3) for a duplicate
376 registration certificate. ~~Such applications must~~ Each
377 application shall be made upon forms furnished by ~~the Division~~
378 ~~of Marine Police of the Department of Conservation and Natural~~
379 ~~Resources~~ ALEA.

380 (d) The ~~Commissioner of Conservation and Natural~~
381 ~~Resources is authorized to provide by duly promulgated~~
382 ~~regulation~~ secretary may provide a system ~~wherein~~ through
383 which the judges of probate ~~judges~~ and license commissioners
384 in this state may issue duplicate registration certificates,
385 ~~and, in the event such probate judges and license~~
386 ~~commissioners issue such duplicate registration certificates,~~
387 ~~they.~~ A judge of probate or license commissioner who issues a
388 duplicate registration certificate pursuant to this subsection
389 shall be entitled to a fee of two dollars (\$2) ~~for each~~
390 ~~duplicate certificate."~~

391 "§33-5-20

392 (a) (1) The sheriffs of this state may be designated as



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393 special agents to sell boat licenses ~~as provided for herein.~~

394 (2) ~~The Commissioner of Conservation and Natural~~
395 ~~Resources is authorized to~~ secretary may appoint other special
396 agents to sell boat licenses ~~as provided for herein;~~ provided,
397 however, that ~~the Commissioner of Conservation and Natural~~
398 ~~Resources may not appoint~~ any special agent ~~until the agent is~~
399 appointed pursuant to this subdivision shall be bonded for not
400 less than five thousand dollars (\$5,000).

401 (b) ~~Such Special~~ agents shall receive licenses from ~~the~~
402 ~~Department of Conservation and Natural Resources~~ ALEA in the
403 same manner as the judges of probate ~~judges~~ and license
404 commissioners and shall make ~~such~~ any reports and be subject
405 to ~~such~~ any audits as the ~~Commissioner of Conservation and~~
406 ~~Natural Resources~~ secretary may specify. Special agents ~~so~~
407 ~~appointed~~ shall make returns to ~~the Department of Conservation~~
408 ~~and Natural Resources~~ ALEA in the same manner as judges of
409 probate ~~judges~~ and license commissioners.

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

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

416 (e) Any special agent selling licenses in excess of the
417 cost of licenses as herein specified shall be guilty of a
418 Class C misdemeanor ~~and upon conviction thereof shall be~~
419 ~~punished by a fine of not more than one hundred dollars~~
420 ~~(\$100)."~~



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421 "§33-5-21

422 (a) ~~The Department of Conservation and Natural~~
423 ~~Resources through its agents and employees shall have the~~
424 ~~right to~~ Alabama State Law Enforcement Agency may inspect at
425 any reasonable time all boats owned or controlled by a livery
426 operator for the purpose of ascertaining their seaworthiness
427 and safety.

428 (b) In the event any boat owned or used by the livery
429 operator for rental purposes is determined to be in an unsafe
430 or unseaworthy condition, ~~the Department of Conservation and~~
431 ~~Natural Resources~~ ALEA shall immediately notify the livery
432 operator in writing as to the unsafe or unseaworthy condition
433 of ~~such the~~ boat or boats. ~~and, after such~~ After receipt of the
434 notification, it shall be unlawful for the ~~boat liveryman~~
435 livery operator to rent or offer to rent ~~any the~~ boat. ~~found~~
436 ~~to be in such condition; provided, however, that if such~~

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

444 "§33-5-22

445 (a) Every vessel, while being operated on the waters of
446 this state, shall be equipped with reasonable safety devices
447 and navigation lights ~~as may be required under regulations~~
448 ~~promulgated~~ in accordance with rules adopted by the



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449 ~~Commissioner of Conservation and Natural Resources~~ secretary.
450 No person shall operate or give permission for the operation
451 of a vessel ~~which~~ that is not equipped as ~~is~~ required by ~~rules~~
452 rule ~~and regulations duly promulgated by~~ of the ~~commissioner~~
453 ~~of the Department of Conservation and Natural Resources~~
454 secretary.

455 (b) All ~~such~~ safety equipment and ~~safety~~ navigation
456 lights required by this section shall meet ~~such~~ the minimum
457 standards ~~as~~ that the ~~Commissioner of Conservation and Natural~~
458 ~~Resources~~ secretary may ~~from time to time establish~~ adopt by
459 rule as minimum safety equipment and navigation lights, ~~and~~
460 ~~all such safety equipment and safety lights above the minimum~~
461 ~~requirements which are required by the rules and regulations~~
462 ~~of the Department of Conservation and Natural Resources shall~~
463 ~~conform with specific standards as may be adopted by the~~
464 ~~Department of Conservation and Natural Resources~~.

465 (c) Airboats shall display a flag 10 by 14 inches on a
466 12 foot mast.

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

471 ~~(e) Every vessel less than 26 feet in length designed~~
472 ~~to carry one or more persons and to be propelled by machinery~~
473 ~~as its principal source of power or designed to be propelled~~
474 ~~by oars shall, if manufactured or offered for sale in this~~
475 ~~state, have affixed permanently thereto by the manufacturer a~~
476 ~~capacity plate as required by rules and regulations duly~~



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477 ~~promulgated by the Commissioner of the Department of~~
478 ~~Conservation and Natural Resources. This subsection shall~~
479 ~~apply to vessels manufactured after January 1, 1971.~~

480 ~~(f)~~ (e) Every motorboat shall have the carburetor or
481 carburetors of every engine ~~therein~~, except outboard motors
482 using gasoline as fuel, equipped with ~~such~~ an efficient USCG
483 approved flame arrestor, backfire trap, or similar device as
484 may be prescribed by ~~the regulations duly promulgated by the~~
485 ~~Commissioner of the Department of Conservation and Natural~~
486 ~~Resources~~ rule of the secretary."

487 "§33-5-23

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

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

500 (c) A violation of this section is a boating
501 violation."

502 "§33-5-25

503 (a) ~~It shall be the duty of the~~ The operator of a
504 vessel involved in a collision, accident, incident, or other



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505 casualty, so far as he or she can do so without serious danger
506 to his or her own vessel, crew, and passengers, if any, ~~to~~
507 shall render to other persons affected by the collision,
508 accident, incident, or other casualty assistance as may be
509 practicable and as may be necessary in order to save them from
510 or minimize any danger caused by the collision, accident,
511 incident, or other casualty, ~~and also to~~. In addition, the
512 operator of the vessel shall give his or her name, address,
513 and identification of his or her vessel in writing to any
514 person injured and to the owner of any property damaged in the
515 collision, accident, incident, or other casualty.

516 (b) ~~In the case of~~ When a collision, accident,
517 incident, or other casualty involving a vessel, ~~the operator~~
518 ~~thereof, if the collision, accident, or other casualty results~~
519 results in the death or injury ~~to~~ of a person or damage to
520 property in excess of two thousand dollars (\$2,000), ~~shall~~
521 within ~~10 days~~ 24 hours, the operator of the vessel shall file
522 with ~~the Department of Conservation and Natural Resources~~ ALEA
523 a full description of the collision, accident, incident, or
524 other casualty, including ~~such~~ any information ~~as the~~
525 ~~Department of Conservation and Natural Resources by regulation~~
526 ~~may require~~ required by the secretary by rule.

527 (c) (1) Except as otherwise provided in this section,
528 ~~All~~ all accident reports required by this section made by
529 persons involved in accidents shall be without prejudice to
530 the individuals ~~so reporting~~ filing the required reports and
531 shall be for the confidential use of ~~the Department of~~
532 ~~Conservation and Natural Resources~~ ALEA or other governmental



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533 agencies having use of the record; ~~except, that the Department~~
534 ~~of Conservation and Natural Resources.~~

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

539 (3) No report shall be used as evidence in any trial,
540 civil or criminal, arising out of an accident; ~~except, that~~
541 ~~the Department of Conservation and Natural Resources shall~~
542 ~~furnish.~~ Notwithstanding the foregoing, upon the demand of any
543 person who has made, or claims to have made, ~~such~~ a report, or
544 upon demand of any court, ALEA shall furnish a certificate
545 showing that a specified accident report has or has not been
546 made to ~~the Department of Conservation and Natural Resources~~
547 ALEA solely to prove a compliance or a failure to comply with
548 the requirements that a report be made to ~~the Department of~~
549 ~~Conservation and Natural Resources~~ ALEA."

550 "§33-5-26

551 (a) No person ~~shall~~ may operate a vessel on any waters
552 of this state for towing a person or persons, ~~or~~ on water skis,
553 ~~or~~ an aquaplane, or any other recreational device, unless
554 ~~there is in the vessel a person,~~ in addition to the operator,
555 there is another person in the vessel who is at least 12 years
556 of age and is observing and is capable of communicating to the
557 operator of the vessel the progress and safety of the person
558 ~~or persons~~ being towed, or the vessel is equipped with a wide
559 angle mirror with a viewing surface of at least 78 square
560 inches and a field of vision of at least 170 degrees.



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

567 (c) Subsections (a) and (b) ~~of this section~~ do not
568 apply to a performer engaged in a professional exhibition or a
569 person or persons participating in an official regatta,
570 motorboat race, marine parade, tournament, or exhibition
571 permitted by the Marine Patrol Division and held in compliance
572 with Section 33-5-27 and any rules adopted thereunder.

573 (d) No person except in jump buoys and like objects
574 used normally in competitive and recreational skiing ~~shall~~may
575 operate or manipulate any vessel, tow rope, or other device by
576 which the direction or location of water skis, aquaplane, or
577 any other recreational device may be affected or controlled in
578 a manner to cause the water skis, aquaplane, or other
579 recreational device, or any person thereon, to collide with or
580 strike against any object or person.

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

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

588 "§33-5-27



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589 (a) The ~~commissioner~~ secretary shall adopt and may from
590 time to time amend ~~regulations~~ rules concerning the safety of
591 vessels and persons ~~thereon, either observers of or~~
592 ~~participants,~~ observing or participating in any regatta,
593 motorboat, or other boat race, marine parade, tournament, or
594 exhibition.

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

599 "§33-5-28

600 The ~~Commissioner of the Department of Conservation and~~
601 ~~Natural Resources~~ secretary shall ~~make,~~ adopt, ~~promulgate,~~
602 ~~amend and repeal all~~ rules ~~and regulations~~ necessary ~~or~~
603 ~~convenient~~ for the ~~carrying out of the duties and obligations~~
604 ~~and powers conferred on the said Commissioner of the~~
605 ~~Department of Conservation and Natural Resources by~~
606 administration of this article. ~~Further clarifying the~~
607 ~~rule-making power of the commissioner, he shall have power and~~
608 ~~authority to make, adopt, promulgate, amend and repeal all~~
609 ~~rules and regulations as shall promote safety for persons and~~
610 ~~property in and connected with the use, operation and~~
611 ~~equipment of vessels and for the carrying out of duties,~~
612 ~~obligations and powers conferred upon the Commissioner of the~~
613 ~~Department of Conservation and Natural Resources by this~~
614 ~~article, subject to such supervision of the Advisory Board of~~
615 ~~Conservation and Natural Resources as set out in Section~~
616 ~~9-2-15."~~



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617 "§33-5-30

618 All rules ~~and regulations duly promulgated~~ adopted
619 under ~~the provisions of~~ this article by the ~~Commissioner of~~
620 ~~Conservation and Natural Resources~~ secretary shall be admitted
621 as evidence in the courts of this state when accompanied by an
622 affidavit from the ~~Commissioner of Conservation and Natural~~
623 ~~Resources~~ secretary certifying that the rule ~~or regulation~~ has
624 been lawfully adopted ~~and promulgated~~ and ~~such~~ the affidavit
625 shall be prima facie evidence of proper adoption ~~and~~
626 ~~promulgation~~ of the rule ~~or regulation~~."

627 "§33-5-31

628 (a) (1) The provisions of this ~~article and~~ chapter,
629 rules ~~and regulations promulgated~~ adopted pursuant thereto,
630 and other general laws of this state shall govern the
631 operation, equipment, numbering and all other matters relating
632 ~~thereto whenever any vessel shall be operated~~ to the operation
633 of a vessel on the waters of this state, ~~or when any activity~~
634 ~~regulated by this article shall take place thereon, but~~
635 ~~nothing.~~

636 (2) Nothing in this chapter shall be construed to
637 prevent the adoption of any ordinance or local law relating to
638 operation of vessels the provisions of which are identical to
639 the provisions of this ~~article, amendments thereto~~ or
640 ~~regulations issued~~ chapter or rules adopted thereunder;
641 provided, that ~~such~~ the ordinances or local laws shall be
642 operative only so long as and to the extent that they continue
643 to be identical to the applicable provisions of this article, ~~r~~
644 ~~amendments thereto~~ or ~~regulations~~ rule issued thereunder.



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645 (b) (1) Any subdivision of this state ~~may, at any time,~~
646 ~~but only~~ after public notice, may make formal application to
647 the ~~commissioner~~ secretary for special rules ~~and regulations~~
648 ~~with reference to~~ for the operation of vessels on any waters
649 within its territorial limits and shall set forth ~~therein~~ in
650 the application the reasons ~~which make such~~ the special rules
651 ~~or regulations~~ are necessary or appropriate.

652 (2) The public notice shall be effected by the ~~said~~
653 subdivision ~~causing~~ publishing a copy of the proposed public
654 rules ~~or regulations to be published~~ one time per week for
655 four consecutive weeks in a newspaper of general circulation
656 within the area that the subdivision is located.

657 (c) The ~~commissioner is hereby authorized to make~~
658 secretary may adopt special rules ~~and regulations with~~
659 ~~reference to~~ regulating the operation of vessels on any waters
660 within the territorial limits of any subdivision of this
661 state."

662 "§33-5-32

663 District courts of any county of the State of Alabama
664 shall have and are hereby given final jurisdiction to try and
665 convict persons, ~~firms or corporations~~ violating ~~any of the~~
666 ~~provisions of~~ this chapter or the rules ~~and regulations~~
667 ~~promulgated~~ adopted thereunder, subject to any proper appeal;
668 and they shall remit to the ~~commissioner~~ secretary, on or
669 before the tenth day of each month, all fines and forfeitures
670 collected by them ~~for the violation of such laws, rules and~~
671 ~~regulations~~, together with a statement of the name of the
672 person, ~~firm or corporation~~ convicted ~~of such violation~~, the



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673 ~~time date~~ of ~~such the~~ conviction, the amount of the fine or
674 penalty, the date of the remittance, and the specific charge
675 ~~for which the defendant was tried."~~

676 "§33-5-34

677 Notwithstanding any other law to the contrary, in all
678 criminal and quasi-criminal proceedings against a defendant
679 for a boating violation, when a defendant is adjudged guilty
680 or pleads guilty, or is adjudicated a juvenile delinquent or
681 youthful offender, or when a bond is forfeited and the result
682 of the forfeiture is a final disposition of the case, or where
683 any penalty is imposed, any court costs, docket fees, and
684 other fees and taxes assessed for traffic infractions under
685 Chapter 19 of Title 12 and Section 15-23-17 shall be imposed
686 in like manner against the defendant.~~When an arrest for~~
687 ~~violation of the provisions of this article or regulations~~
688 ~~promulgated thereunder is made by a salaried officer not~~
689 ~~employed by the Department of Conservation and Natural~~
690 ~~Resources and the defendant is convicted, there shall be taxed~~
691 ~~as cost the same fee as a sheriff in this state is entitled to~~
692 ~~for similar services and if collected from the defendant it~~
693 ~~shall be immediately remitted by the trial court directly to~~
694 ~~the treasurer of the county in which the offense occurred.~~
695 ~~When an arrest for violation of the provisions of this article~~
696 ~~or regulations promulgated thereunder is made by a salaried~~
697 ~~officer of the Department of Conservation and Natural~~
698 ~~Resources and the defendant is convicted, there shall be taxed~~
699 ~~as cost the same fee as a sheriff in this state is entitled to~~
700 ~~for similar services and if collected from the defendant it~~



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701 ~~shall be immediately remitted by the trial court directly to~~
702 ~~the Department of Conservation and Natural Resources, which~~
703 ~~fee shall be deposited to the credit of the Water Safety Fund.~~
704 ~~If the officer making the arrest be a nonsalaried officer and~~
705 ~~if said fee is collected from the defendant, said nonsalaried~~
706 ~~officer shall be entitled to said fee; provided, that no~~
707 ~~person shall be entitled to receive an informer's fee; and,~~
708 ~~further provided, that no fee shall be allowed in cases of~~
709 ~~acquittal. In the event the arrest is made by a county~~
710 ~~officer, salaried or nonsalaried, 50 percent of the fine shall~~
711 ~~be remitted to the credit of the county treasury of the county~~
712 ~~in which the offense was committed, and the remaining 50~~
713 ~~percent of the fine shall be remitted to the State Treasury~~
714 ~~for deposit to the "State Water Safety Fund." In the event the~~
715 ~~arrest is made by an officer other than a county officer, the~~
716 ~~fine shall be remitted to the State Treasurer for deposit to~~
717 ~~the "State Water Safety Fund."~~

718 "§33-5-35

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

726 (1) Imprisonment in the county jail for not more than
727 30 days.

728 (2) Payment of a fine of not more than two hundred



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729 dollars (\$200).

730 (3) Both imprisonment and fine.

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

733 "§33-5-36

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

738 "§33-5-51

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

745 (b) A person may not operate a personal watercraft on
746 the waters of this state, ~~as waters are defined in Section~~
747 ~~33-5-3~~, unless each person operating, riding on, or being
748 towed by the vessel is wearing a personal flotation device
749 approved by the United States Coast Guard, in accordance with
750 rules ~~and regulations by the Commissioner of the Department of~~
751 ~~Conservation and Natural Resources~~ adopted by the secretary.

752 (c) A person operating a personal watercraft on the
753 waters of this state that does not have ~~self-circling~~
754 self-circling capability, shall have a lanyard type engine
755 cutoff switch and ~~must~~ shall attach the lanyard to ~~the~~ his or
756 her person, clothing, or personal flotation device, as is



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757 appropriate.

758 (d) (1) A person commits the crime of reckless operation
759 of a personal watercraft ~~shall at all times be operated on the~~
760 ~~waters of this state in a reasonable and prudent manner.~~
761 ~~Maneuvers which~~ if the person maneuvers the personal
762 watercraft in a reckless manner that ~~endanger~~ endangers life,
763 limb, or property, or ~~create~~ creates a public nuisance,
764 including, but not limited to, any of the following, ~~weaving~~
765 maneuvers:

766 a. Weaving through congested vessel traffic at high
767 speed, ~~following.~~

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

771 c. Jumping the wake of another vessel ~~travelling~~
772 traveling in the same direction in close proximity to the
773 vessel, ~~cutting.~~

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

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

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

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



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

791 (f) It is unlawful for the owner of any personal
792 watercraft or any person having charge over or control of a
793 personal watercraft to authorize or knowingly permit ~~these~~ the
794 personal watercraft to be operated on the waters of this state
795 by a person in violation of this section.

796 (g) No person shall tow any person by personal
797 watercraft unless the personal watercraft is equipped with ~~a~~
798 rearview ~~mirror~~ mirrors meeting the specifications established
799 by ~~regulation of the Commissioner of the Department of~~
800 ~~Conservation and Natural Resources~~ rule of the secretary.

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

808 (i) This section does not apply to a performer engaged
809 in a professional exhibition or a person participating in a
810 regatta, race, marine parade, tournament, or exhibition
811 permitted by the Marine Patrol Division and held in compliance
812 with Section 33-5-27, and any rules ~~and regulations issued by~~



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813 ~~the Commissioner of Conservation and Natural Resources~~ adopted
814 by the secretary."

815 "§33-5-52

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

822 (2) Notwithstanding ~~anything~~ any law to the contrary ~~herein,~~
823 an Alabama resident 16 years of age ~~and or~~ older, who has not
824 been previously issued a boater safety certification, ~~may~~ for
825 a period of ~~thirty (30)~~ 30 days following the date of sale of
826 the vessel to the person, may operate the vessel upon the
827 waters, provided both of the following conditions are met:

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

830 b. A bill of sale for the vessel, indicating that the
831 person is the purchaser and owner of the vessel, is in the
832 possession of the person at all times of operation.

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

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

840 (b) Each boater safety certification issued to a



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841 person, if issued at the same time the person is issued a
842 valid Alabama motor vehicle driver or learner license, or
843 valid Alabama nondriver identification card, or if issued
844 prior to the expiration date of the driver or learner license
845 or card, shall expire on the expiration date of the person's
846 valid Alabama motor vehicle driver or learner license or card.
847 In all other cases, the expiration date of each boater safety
848 certification shall be four years from the date of issuance.

849 (c) Every boater safety certification issued under this
850 article may be renewed at the end of the certification period
851 without examination upon application. For the purpose of
852 renewal of a boater safety certification, ~~the Department of~~
853 ~~Public Safety~~ ALEA shall mail renewal notices to each
854 certification holder 30 days after the expiration date if the
855 certification has not been renewed. A grace period of 60 days
856 after the expiration date of certification shall exist for the
857 purpose of certification renewal and the certification shall
858 be valid for this time period. The applicant shall apply for
859 renewal of certification any time during a period beginning 30
860 days before the expiration date of the then current
861 certification until three years after the expiration date of
862 certification. Failure to make application for renewal within
863 the specified time shall result in the applicant being
864 required to take, and successfully pass, a written or oral
865 examination ~~as administered by the Department of Public Safety~~
866 ALEA. If any person's birthday is February 29, the first day
867 of March following shall be regarded as the birthday for the
868 purposes of this section.



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869 (d) Nonresidents ~~at least~~ 12 or more years of age who
870 have in their immediate possession a valid boater safety
871 certification or vessel operator's certification issued in
872 their home state or country shall be exempt from the
873 requirements of this section, but under no circumstances shall
874 a person be granted any privileges of operation beyond those
875 granted to an Alabama resident certification holder of the
876 same age.

877 (e) Nonresidents ~~at least~~ 12 or more years of age whose
878 home state or country does not require boater safety
879 certification or the licensing of vessel operators shall also
880 be exempt from the requirements of this section for a
881 cumulative operation period of not more than 45 days in any
882 calendar year. Otherwise, any nonresidents shall be examined
883 and certified under the same terms and conditions as Alabama
884 residents. Nonresidents may be examined and obtain
885 certification in any county and the certification shall be
886 entitled "Nonresident Alabama Boater Safety Certification,"
887 but under no circumstances shall a person be granted any
888 privileges of operation beyond those granted to an Alabama
889 resident certification holder of the same age.

890 (f) A person operating a vessel pursuant to a valid and
891 legal commercial activity, ~~shall,~~ during the period of time of
892 that activity only, shall be exempt from the requirement of
893 boater safety certification. Otherwise, the person shall be
894 subject to the requirement.

895 (g) A person, while using a rental vessel from a boat
896 rental business duly licensed by the applicable municipality



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897 or county, shall be exempt from the certification requirements
898 of this section if the following conditions are met:

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

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

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

907 ~~c.~~ (3) The lessee signs a statement that the lessee is
908 not currently under suspension or revocation of any boater
909 safety certification or vessel operation privilege ~~in this~~
910 ~~state.~~

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

913 "§33-5-53

914 (a) (1) Every person who applies for a boater safety
915 certification under this article, except as otherwise provided
916 in this subsection, shall pay a five dollar (\$5) application
917 fee and shall be given either a certificate of exemption from
918 examination, if applicable, or ~~will be given an~~ a written or
919 oral examination, ~~either written or oral~~, before applying to
920 the judge of probate or license commissioner for the issuance
921 of the certification.

922 (2) No person shall be eligible for, or issued, an
923 exemption from examination in the event the person is
924 convicted, ~~on or after April 28, 1994~~, of violating any crime



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925 relating to the operation of a vessel, whether contained in
926 this ~~article~~ chapter or otherwise, for which a person's boater
927 safety certification or vessel operating privileges shall be
928 suspended or revoked pursuant to this ~~article~~ chapter.

929 (3)a. The person shall first apply to ~~either the~~
930 ~~officer, state trooper, or duly authorized agent of the~~
931 ~~Director of Public Safety,~~ the individual designated by the
932 ~~Director of Public Safety~~ secretary to conduct examinations for
933 the county of the applicant's residence, and a minor shall
934 furnish a certified copy of a birth certificate or a certified
935 statement from the county superintendent of education in which
936 the applicant resides or the superintendent of the school
937 which the person attends, to prove age and upon proof shall
938 immediately be examined.

939 b. Any operator of a boat who is 40 years of age or
940 older, whether a resident or a non-resident, as of April 28,
941 1994, shall be granted a certificate of exemption only from
942 the certification examination requirements of this article,
943 but shall be subject to all the other requirements of this
944 article. Any operator of a boat or vessel that is a holder of
945 a current valid United States Coast Guard license issued under
946 Section 46, Code of Federal Regulations, Part 10, is exempt
947 from the safety certification requirements of Section 33-5-52,
948 only while performing the duties of the operator, including,
949 but not limited to, the following: Carrying passengers for
950 hire on United States navigable waters; on all towboats
951 greater than 26 feet engaged in towing; on any steam propelled
952 vessel; on any sea-going vessel greater than 200 gross tons;



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953 on any vessel engaged in off-shore oil or mineral production;
954 and on all boats or vessels over 200 gross tons. Also exempt
955 from the safety certification requirements of Section 33-5-52,
956 only upon proof of valid documentation and only while
957 performing commercial fishing duties, is an operator of a
958 commercial fishing vessel or boat. A person holding a valid
959 United States Coast Guard motorboat operator's license, and a
960 person submitting a valid certificate of successful completion
961 of any of the following boating courses: (a) United States
962 Power Squadron, (b) United States Coast Guard Auxiliary, or
963 (c) any State of Alabama Marine Police Division approved
964 boating safety course, shall be exempt from the examination
965 requirements, and shall be issued a certificate of exemption
966 from examination, for a boater safety certification, but shall
967 be subject to all other requirements of this article.

968 (b) A person may be examined in a county other than the
969 county designated by the ~~Director of Public Safety~~ secretary
970 by agreement in writing with the ~~Director of Public Safety~~
971 secretary.

972 (c) The ~~Commissioner of Conservation and Natural~~
973 ~~Resources~~ secretary shall establish from time to time as
974 necessary the kind of examination or test to be given, which
975 shall be of similar length and content as the motor vehicle
976 driver license examination, and the method and manner of
977 giving the test and ascertaining and reporting the results.
978 Reports of all examinations shall be on forms provided by the
979 ~~Director of Public Safety~~ secretary and shall show whether or
980 not the applicant passed the examination. No provision of this



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981 subsection shall be construed to require a test of driving
982 skills. The rules ~~and regulations promulgated~~ adopted by the
983 ~~commissioner~~ secretary pursuant to this subsection shall be
984 subject to the Administrative Procedure Act.

985 (d) If the applicant passes the examination, a
986 certificate to that effect shall be given, on a form provided
987 by the ~~Director of Public Safety~~ secretary, by the ~~officer,~~
988 ~~state trooper, or duly authorized agent of the Director of~~
989 ~~Public Safety~~ individual conducting the test. The person shall
990 present the certificate, or the certificate of exemption from
991 examination if applicable, to the judge of probate or license
992 commissioner of the county, together with the application for
993 a boater safety certification, and the judge of probate or
994 license commissioner shall attach the certificate to the
995 application and forward it to the ~~Director of Public Safety~~
996 secretary along with the application at the time the
997 application is sent.

998 (e) If any person fails to pass the examination given,
999 no certificate shall be given and no application for a boater
1000 safety certification shall be accepted by a judge of probate
1001 or license commissioner unless it is accompanied by a
1002 certificate showing that the applicant has passed the
1003 examination.

1004 (f) The application fees shall be retained by the
1005 ~~Department of Public Safety~~ secretary and are appropriated on
1006 a continuous basis and shall be utilized and expended for
1007 boating safety or law enforcement purposes and shall not
1008 revert to the General Fund at the end of the fiscal year."



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1009 "§33-5-54

1010 (a) Unless otherwise provided in this article, upon the
1011 installation of a system for the issuance of boater safety
1012 certifications with color photographs of holders, all
1013 certifications and renewals issued in this state shall be
1014 issued in the following manner:

1015 (1) The person shall apply under oath to the judge of
1016 probate or license commissioner of the county of residence for
1017 the certification or renewal upon a form which shall be
1018 provided by the ~~Director of Public Safety~~ secretary.

1019 (2) Subject to the other provisions of this section,
1020 the judge of probate or license commissioner shall take a
1021 color photograph of the holder, with equipment to be furnished
1022 by the ~~Department of Public Safety~~ secretary, to be attached
1023 to each application.

1024 (b) It is the legislative intent to implement and
1025 maintain a boater safety certification program at the lowest
1026 possible cost to the citizens of Alabama. Consistent with this
1027 goal, it is the legislative intent to not require payment for
1028 boater safety certifications when certifications are obtained
1029 at the time of issuance of a valid Alabama motor vehicle
1030 driver or learner license or valid Alabama nondriver
1031 identification card, but rather utilize one card for those
1032 purposes.

1033 (c) The following requirements shall apply to persons
1034 obtaining boater safety certifications other than at the time
1035 of issuance of their Alabama motor vehicle driver or learner
1036 license or identification card:



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1037 For the purpose of defraying the cost of issuing boater
1038 safety certifications with color photographs of the holder
1039 thereon, the judge of probate or license commissioner shall
1040 collect for each certification the sum of twenty dollars (\$20)
1041 for a four-year certification, and the judge of probate or
1042 license commissioner shall give the applicant a boater safety
1043 certification.

1044 (d) Notwithstanding anything to the contrary, in the
1045 event the applicant is, at the time of issuance, also issued a
1046 valid Alabama motor vehicle driver or learner license or valid
1047 Alabama nondriver identification card, then the applicant
1048 shall not be required to pay any additional amount for the
1049 boater safety certification.

1050 (e) Any person given a citation for failure to have a
1051 boater safety certification who had a current, valid boater
1052 safety certification at the time of the citation which was not
1053 on his or her person at the time the citation was issued, may
1054 present the boater safety certification to the court or the
1055 court clerk and the citation shall be dismissed without the
1056 payment of any costs."

1057 "§33-5-55

1058 At the close of business on Monday of each week, when
1059 any application has been received, the judge of probate
1060 receiving the application shall prepare a report upon a form
1061 which shall be provided by the ~~Director of Public Safety~~
1062 secretary. One copy of the report, together with all
1063 applications received, shall be forwarded to the ~~Director of~~
1064 ~~Public Safety~~ secretary and one copy shall be retained by the



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1065 judge of probate. On the tenth day of every month, the judge
1066 of probate shall prepare a report showing the number of
1067 applications received and the amount of fees received during
1068 the previous calendar month; provided, that the report shall
1069 be prepared on the twentieth day in October, November, and
1070 December. One copy of the report shall be forwarded to the
1071 ~~Director of Public Safety~~ secretary, ~~one to the Commissioner~~
1072 ~~of Conservation and Natural Resources~~, one to the state
1073 Comptroller, and one to the State Treasurer, and the judge of
1074 probate shall retain a copy. Except as otherwise provided in
1075 this article, the judge of probate shall also at that time
1076 deliver to the State Treasurer the amount of all the fees
1077 collected, less one dollar fifty cents (\$1.50) for each boater
1078 safety certification issued, which sum shall be retained by
1079 him or her. Except in counties where the judge of probate is
1080 compensated by fees, each one dollar fifty cents (\$1.50)
1081 retained by the judge of probate shall be paid into the public
1082 highway and traffic fund of the county. In counties where the
1083 judge of probate is compensated by fees, two-fifths of each
1084 one dollar fifty cents (\$1.50) retained by the judge of
1085 probate shall be for his or her own use, and no other or
1086 further charge shall be made for services rendered in taking
1087 or receiving applications or issuing permits. The remaining
1088 three-fifths shall be paid into the public highway and traffic
1089 fund of the county. This section, providing for the allocation
1090 of the one dollar fifty cents (\$1.50) retained by the judge of
1091 probate in counties where the judge of probate is compensated
1092 by fees, shall not repeal any local statutes or general



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1093 statutes of local application providing for a different
1094 allocation of the one dollar fifty cents (\$1.50). The funds
1095 remitted to the State Treasurer under this section, shall be
1096 deposited into the Highway Traffic Safety Fund for the
1097 Department of Public Safety within the State Treasury. All
1098 money deposited in the State Treasury to the credit of the
1099 Highway Traffic Safety Fund for the Department of Public
1100 Safety shall be expended for law enforcement purposes and
1101 shall be appropriated on a continuous basis and shall not
1102 revert to the General Fund of the State Treasury."

1103 "§33-5-56

1104 (a) Each boater safety certification issued by ~~the~~
1105 ~~Department of Public Safety~~ ALEA, except for temporary
1106 certifications issued pursuant to Section 33-5-54, or except
1107 special circumstances as determined by the ~~Director of the~~
1108 ~~Department of Public Safety~~ secretary, shall bear ~~thereon~~ a
1109 distinguishing number assigned to the holder and a color
1110 photograph of the holder, the name, birth date, address, and a
1111 description of the holder, who, for the purpose of
1112 identification and as a condition precedent to the validity of
1113 the certification, immediately upon receipt thereof, shall
1114 endorse his or her usual or regular signature in ink or
1115 electronically upon the certification in the space provided,
1116 unless a facsimile of the holder's signature appears.

1117 (b) The photo boater safety certification, as provided
1118 in Section 33-5-54, shall have a photo core that meets the
1119 minimum width and length dimensions specified in ANSI
1120 standards X4.13-1971 and ANSI standard CR80, plus or minus 1/4



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1121 inch. In addition to ~~all current and existing~~ any other fees,
1122 ~~the Department of Public Safety~~ ALEA may charge an additional
1123 fee to recover the cost of obtaining boater safety
1124 certifications and terminal support equipment from the
1125 supplier. The fee may not exceed ten cents (\$.10) over the
1126 actual cost of obtaining the necessary material from the
1127 supplier. Revenues collected under this section shall be used
1128 by ~~the department~~ ALEA for the sole purpose of this program
1129 and any excess shall revert to the State General Fund at the
1130 end of each fiscal year.

1131 (c) Notwithstanding ~~anything~~ any other law to the
1132 contrary, in the event a person is issued a valid Alabama
1133 motor vehicle driver or learner license, or valid Alabama
1134 nondriver identification card at the same time as issuance of
1135 the boater safety certification, the certification shall
1136 consist of a notification on the driver or learner license or
1137 the identification card, at no additional cost for
1138 notification, that the person is also the holder of a boater
1139 safety certification. No additional fees ~~shall~~ may be
1140 collected or retained for the issuance of a boater safety
1141 certification under these circumstances. Any person may have a
1142 duplicate card issued, at the same cost as the original cost,
1143 for the convenience of the individual. The duplicate shall be
1144 marked "duplicate."

1145 "§33-5-58

1146 (a) Any person with physical disabilities, a record of
1147 an impairment, or regarded as having an impairment, shall be
1148 subject to the same laws, and rules, ~~and regulations set forth~~



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1149 adopted by the ~~Department of Public Safety and the Department~~
1150 ~~of Conservation and Natural Resources~~secretary relating to the
1151 certification of an individual to operate a vessel.

1152 (b) Notwithstanding any law, or rule to the contrary,
1153 ~~or regulation,~~ the ~~Department of Public Safety~~ secretary shall
1154 not refuse to issue or renew any certification for the
1155 operation of a vessel on the grounds of physical appearance,
1156 speculations, or generalizations that the individual's
1157 physical impairment would impede that person's ability to
1158 operate a vessel in a safe manner without probable cause to
1159 believe the person's ability to operate a vessel in a safe
1160 manner is ~~in fact~~ impaired.

1161 (c) If ~~the department refuses to issue a person's~~
1162 application for a certification is denied ~~or arbitrarily~~
1163 ~~questions the person's abilities,~~ based on the physical
1164 appearance or speculated inability of the person to operate a
1165 vessel in a safe manner, the person shall have a right to an
1166 impartial hearing before the ~~Director of Public Safety~~
1167 secretary or his or her designee. At the hearing, the person
1168 shall have the right to be represented by counsel and to
1169 present witnesses including, but not limited to, a physician
1170 of choice. The person may appeal any decision to the circuit
1171 court of competent jurisdiction for a trial de novo.

1172 (d) This section shall be interpreted to be consistent
1173 with and to further the purposes and policies of Section 504
1174 of the Rehabilitation Act of 1973, as amended, 34 CFR Part 104
1175 and P.L. 101-336, The Americans with Disabilities Act of 1990,
1176 together with implementing regulations, and amendments to the



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1177 laws and regulations."

1178 "§33-5-59

1179 Every holder of a boater safety certification shall
1180 have the certification in personal possession at all times
1181 when operating a motorized vessel and shall display the
1182 certificate upon demand of a judge of any court, ~~a peace~~
1183 ~~officer, state marine police officer, or a state trooper~~ or
1184 law enforcement officer. No person charged with violating this
1185 section shall be convicted, if the person produces in court or
1186 in the office of the arresting officer a boater safety
1187 certification issued prior to the arrest and valid at the time
1188 of arrest."

1189 "§33-5-60

1190 (a) ~~The Director of Public Safety and Commissioner of~~
1191 ~~Conservation and Natural Resources are empowered to~~ secretary
1192 may enter into reciprocal agreements with other states
1193 constituting an exchange of rights or privileges in the use of
1194 boater safety certifications, vessel operator's
1195 certifications, or vessel operating privileges, within this
1196 state by residents of other states.

1197 (b) Nothing in this article shall in any way affect the
1198 revocation of certifications of another state.

1199 (c) The reciprocal agreement ~~can~~ may be annulled on
1200 notice issued to either party by the other party within 30
1201 days.

1202 (d) No reciprocal agreement shall authorize a person
1203 who has been a resident of this state for the past 90 or more
1204 days to operate a motorized vessel in this state without a



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1205 valid boater safety certification issued by the ~~Director of~~
1206 ~~Public Safety of this state~~ secretary."

1207 "§33-5-61

1208 (a) The ~~Director of Public Safety~~ secretary, upon
1209 issuing a boater safety certification, ~~shall have authority~~
1210 ~~whenever the holder~~ to an individual who is impaired from a
1211 physical disability, ~~to~~ may impose restrictions suitable to
1212 the holder's operating ability with respect to the type of or
1213 special mechanical control devices required on a vessel ~~which~~
1214 that the holder may operate or other restrictions applicable
1215 to the holder ~~as the Director of Public Safety or Commissioner~~
1216 ~~of Conservation and Natural Resources may determine to be~~
1217 ~~appropriate~~ to assure the safe operation of a vessel by the
1218 holder.

1219 (b) The ~~Director of Public Safety~~ secretary may either
1220 issue a special restricted certification or may set ~~forth~~
1221 restrictions upon the usual certification form in the issuance
1222 of certification under subsection (a) ~~of this section~~.

1223 (c) The ~~Commissioner of Conservation and National~~
1224 ~~Resources may~~ secretary, upon receiving satisfactory evidence
1225 of any violation of the restrictions of certification subject
1226 to subsection (a), may suspend the certification, but the
1227 person shall be entitled to a hearing as upon a suspension
1228 under Section 33-5-75.

1229 (d) ~~It shall be a Class C misdemeanor for any person to~~
1230 ~~operate~~ A person who operates a vessel in any manner in
1231 violation of the restrictions imposed in a restricted
1232 certification shall be guilty of a boating violation. ~~Any~~



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1233 ~~finest collected for the violation of this section shall be~~
1234 ~~deposited into the State Water Safety Fund."~~

1235 "§33-5-62

1236 (a) ~~The Commissioner of Conservation and Natural~~
1237 ~~Resources~~ secretary may ~~establish and promulgate~~ adopt
1238 reasonable rules ~~and regulations, not in conflict with the~~
1239 ~~laws of this state,~~ concerning the operation of vessels and
1240 concerning the enforcement of this ~~article~~ chapter. All fines
1241 collected shall be deposited into the State Treasury to the
1242 credit of the State Water Safety Fund.

1243 (b) ~~Specifically, but not by way of limitation, the~~
1244 ~~commissioner may establish, by regulation, in~~ In addition to
1245 all other penalties, the secretary, by rule, shall assign each
1246 type of boating violation a point value through the creation
1247 of a point system by which boater safety certifications may be
1248 suspended or revoked, as well as hearing procedures related to
1249 the suspension or revocation of certifications. Point values
1250 shall be assigned based on the severity of a boating
1251 violation, as determined by the secretary. Reports of boating
1252 violations shall retain their point value for suspension
1253 purposes for a period of two years from the date of
1254 conviction; provided, if any period of suspension is
1255 mitigated, the points shall remain effective during any period
1256 of probation which may be imposed.

1257 (c) Unless otherwise provided by law, the penalty for
1258 the violation of any ~~rules and regulations promulgated~~ rule
1259 adopted under this article shall be a ~~Class C misdemeanor~~
1260 ~~punishable upon conviction as provided in Sections 13A-5-7 and~~



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1261 ~~13A-5-12. A person so convicted shall be fined~~ boating
1262 violation not less than fifty dollars (\$50)."

1263 "§33-5-63

1264 The ~~Director of Public Safety~~ secretary shall file
1265 every application for a boater safety certification received
1266 ~~by him~~ and shall maintain suitable indices. The ~~Commissioner~~
1267 ~~of Conservation and Natural Resources~~ secretary shall also file
1268 all accident reports and abstracts of court records of
1269 convictions received under the laws of this state and, in that
1270 connection, maintain convenient records or make suitable
1271 notations in order that an individual record of each
1272 certification holder showing the convictions of and the
1273 accidents in which the holder has been involved. The record
1274 shall be readily ascertainable and available for the
1275 consideration of the ~~commissioner and director~~ secretary upon
1276 any application for renewal of certification and at other
1277 suitable times."

1278 "§33-5-64

1279 (a) In the event any boater safety certification issued
1280 under this article is lost or destroyed, the Secretary of ALEA
1281 may issue a duplicate to the person under the following
1282 conditions:

1283 (1) Upon application for a first duplicate, the person
1284 ~~may upon payment of~~ shall pay a fee of five dollars (\$5) and
1285 ~~upon furnishing~~ furnish proof to the ~~Director of Public Safety~~
1286 secretary that the certificate has been lost or destroyed,
1287 ~~secure a duplicate.~~

1288 (2) The Upon application for a second ~~and or~~ subsequent



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1289 ~~duplicates~~ duplicate, ~~the person shall pay~~ ~~applied for will~~
1290 ~~require the payment of~~ a fee of fifteen dollars (\$15) and ~~,~~
1291 ~~upon furnishing~~ furnish proof satisfactory to the ~~Director of~~
1292 ~~Public Safety~~ secretary that the previously held certification
1293 or duplicate has been lost or destroyed, ~~a duplicate may be~~
1294 ~~secured.~~

1295 (b) Application for ~~the~~ a duplicate shall be made to
1296 the ~~Director of Public Safety~~ secretary on forms provided by
1297 ~~the official~~ ALEA. The fee shall be collected by the ~~director~~
1298 secretary, paid into the State Treasury, and credited to the
1299 ~~Department of Public Safety~~ State Water Safety Fund. The fee
1300 shall be retained by ~~the Department of Public Safety~~ ALEA, and
1301 ~~is~~ appropriated on a continuous basis, and ~~shall be~~ utilized
1302 and expended for boating safety or law enforcement purposes.
1303 ~~and~~ The fee shall not revert to the General Fund at the end of
1304 the fiscal year.

1305 ~~(b)~~ (c) Any person making a false affidavit to the
1306 ~~Director of Public Safety~~ secretary for the purpose of
1307 obtaining a duplicate certification shall be guilty of a Class
1308 C misdemeanor and ~~upon conviction shall be punished as~~
1309 ~~provided in Sections 13A-5-7 and 13A-5-12. Any person so~~
1310 ~~convicted~~ shall be fined not less than fifty dollars (\$50).
1311 All fines collected for the violation of this subsection shall
1312 be deposited into the State Water Safety Fund.

1313 ~~(e)~~ (d) Notwithstanding ~~anything~~ any other provision of
1314 law to the contrary, ~~however, the~~ in the event a person is
1315 issued a valid Alabama motor vehicle driver or learner license
1316 or valid Alabama nondriver identification card at the same



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1317 time as issuance of the boater safety certification, the
1318 person shall not be required to pay any additional fees for
1319 the reissuance of a lost or destroyed boater safety
1320 certification as denoted on any reissued lost or destroyed
1321 motor vehicle driver license, ~~when the license and a boater~~
1322 ~~safety certification were previously issued at the same time."~~

1323 "§33-5-65

1324 (a) Any person whose boater safety certification has
1325 been cancelled, suspended, or revoked ~~under any provision of~~
1326 ~~Alabama law, by the Commissioner of Conservation and Natural~~
1327 ~~Resources, or by any court of competent jurisdiction shall,~~
1328 upon application for reinstatement of the certification, shall
1329 pay to the ~~Director of Public Safety~~ secretary a fee of fifty
1330 dollars (\$50) for each cancellation, suspension, or revocation
1331 action. An additional fifty dollars (\$50) ~~is~~ shall be imposed
1332 if the cancelled, suspended, or revoked certification is not
1333 voluntarily surrendered within 30 days of a cancellation,
1334 suspension, or revocation notice.

1335 (b) Upon receipt of the reinstatement fee, clearance
1336 for recertification ~~will~~ shall be provided. The second and any
1337 subsequent clearance for recertification for this action ~~will~~
1338 shall be provided for a fee of five dollars (\$5).

1339 (c) Upon reinstatement, the holder ~~is required to~~ shall
1340 obtain a duplicate certification with a new photograph and
1341 current personal data.

1342 (d) Fees collected ~~by the director~~ under this section
1343 shall be deposited into the State Treasury to the credit of
1344 the State Water Safety Fund ~~retained by the Department of~~



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1345 ~~Public Safety and shall not be returned to the applicant for~~
1346 ~~reinstatement of certification, notwithstanding what action~~
1347 ~~the Commissioner of Conservation and Natural Resources may~~
1348 ~~take on the person's application for reinstatement of~~
1349 ~~certification."~~

1350 "§33-5-66

1351 (a) Any person of whom a boater safety certification is
1352 required, who operates a motorized vessel on the waters of
1353 this state ~~as the terms are defined in Section 33-5-3,~~ without
1354 first complying with this article, or the rules ~~and~~
1355 ~~regulations promulgated~~ adopted thereunder, shall be guilty of
1356 a ~~Class B misdemeanor~~ boating violation, and, ~~upon conviction~~
1357 ~~is punishable as provided in Sections 13A-5-7 and 13A-5-12.~~
1358 ~~Any person so convicted shall be fined not less than~~
1359 ~~twenty-five dollars (\$25).~~

1360 (b) Any person who knowingly gives permission to
1361 operate a motorized vessel on the waters of this state, ~~as the~~
1362 ~~terms are defined in Section 33-5-3,~~ to another person who is
1363 required to have a boater safety certification ~~pursuant to~~
1364 ~~this article~~ and who does not have a boater safety
1365 certification ~~in compliance with this article~~, or to another
1366 person required to be accompanied ~~pursuant to this article~~ and
1367 who is not accompanied ~~in compliance with this article~~, shall
1368 be guilty of a ~~Class C misdemeanor and, upon conviction, is~~
1369 ~~punishable as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1370 ~~person so convicted shall be~~ boating violation ~~finned not less~~
1371 ~~than twenty-five dollars (\$25).~~

1372 (c) Any person who willfully makes a false statement



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1373 under oath in an application for or renewal ~~for~~ of a boater
1374 safety certification, shall be guilty of perjury and upon
1375 conviction ~~is punishable~~ shall be punished as provided by law.

1376 (d) Any person who willfully conceals or withholds a
1377 material fact called for in an application for or renewal of a
1378 boater safety certification, with intent to obtain
1379 certification by fraud, shall be guilty of a ~~Class C~~
1380 ~~misdemeanor and, upon conviction, is punishable as provided in~~
1381 ~~Sections 13A-5-7 and 13A-5-12. Any person so convicted shall~~
1382 ~~be boating violation fined not less than twenty-five dollars~~
1383 ~~(\$25).~~

1384 (e) Any person who violates any provision of this
1385 article for which no fixed punishment is prescribed, or who
1386 violates any rule ~~or regulation promulgated as authorized by~~
1387 adopted pursuant to this article, shall be guilty of a ~~Class C~~
1388 ~~misdemeanor and, upon conviction, is punishable as provided in~~
1389 ~~Sections 13A-5-7 and 13A-5-12. Any person so convicted~~ boating
1390 violation ~~shall be fined not less than twenty-five dollars~~
1391 ~~(\$25).~~

1392 (f) All fines, penalties, or forfeitures imposed and
1393 collected under this article shall be forwarded immediately by
1394 the officer of the court who collects them to the ~~Commissioner~~
1395 ~~of Conservation and Natural Resources~~ secretary, together with
1396 a report giving a list and description of each case in which a
1397 fine, penalty, or forfeiture was collected. The reports shall
1398 be on forms provided by the ~~commissioner~~ secretary and shall
1399 contain information as the ~~commissioner~~ secretary may require.
1400 All ~~moneys~~ monies received by the ~~commissioner~~ secretary shall



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1401 be ~~covered by him immediately upon receipt~~ deposited into the
1402 State Treasury to the credit of the State Water Safety Fund.
1403 ~~Any officer of the court who fails to make the reports~~
1404 ~~provided for or who fails to remit any fines, penalties, or~~
1405 ~~forfeitures, as provided by law, and collected under this~~
1406 ~~article in the manner provided shall be guilty of a Class C~~
1407 ~~misdemeanor and, upon conviction, shall be fined not more than~~
1408 ~~one hundred dollars (\$100)."~~

1409 "§33-5-67

1410 Any person whose boater safety certification or vessel
1411 operator's certification issued in this or another state or
1412 whose vessel operating privilege as a nonresident has been
1413 cancelled, suspended, or revoked, as provided in this article,
1414 and who operates any motorized vessel upon the waters of this
1415 state while certification or privilege is cancelled,
1416 suspended, or revoked shall be guilty of a ~~Class C misdemeanor~~
1417 ~~and, upon conviction, is punishable as provided in Sections~~
1418 ~~13A-5-7 and 13A-5-12. Any person so convicted shall be~~ boating
1419 violation and fined not less than one hundred dollars (\$100).
1420 Also, at the discretion of the ~~Commissioner of Conservation~~
1421 ~~and Natural Resources~~ secretary, the person's certification or
1422 privilege may be revoked or suspended for an additional
1423 ~~revocation~~ period of six months."

1424 "§33-5-68

1425 (a) Every applicant for an original boater safety
1426 certification shall be required to pay an application fee of
1427 five dollars (\$5) to the ~~Department of Public Safety~~ secretary
1428 upon applying to the ~~officer, state trooper, or duly~~



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1429 ~~authorized agent of the Director of Public Safety, or to one~~
1430 ~~of them where there is more than one~~ person designated by the
1431 ~~Director of Public Safety,~~ secretary to conduct examinations
1432 in the county of the applicant's residence. The five dollar
1433 (\$5) application fee shall be required prior to the issuance
1434 of each certification of examination or exemption from
1435 examination.

1436 (b) The ~~Department of Public Safety~~ secretary shall
1437 issue proper receipts for the application fee. The application
1438 fees are appropriated on a continuous basis to ~~the Department~~
1439 ~~of Public Safety,~~ ALEA and shall be retained by the department
1440 and utilized for boating safety or law enforcement purposes
1441 and shall not revert to the State General Fund at the end of
1442 each fiscal year."

1443 "§33-5-69

1444 (a) ~~All persons~~ It shall be the duty of the parent or
1445 guardian of any child under eight years of age on board any
1446 vessel or boat of any kind on the waters of this state ~~shall~~
1447 to require the child to at all times wear a United States
1448 Coast Guard approved wearable personal flotation device of
1449 proper size for the ~~person~~ child, except that no personal
1450 flotation device shall be required for any ~~person~~ child who is
1451 inside of an enclosed cabin or enclosed sleeping space
1452 regardless of whether the vessel is in operation.

1453 (b) Any personal flotation devices required in this
1454 section shall be strapped, snapped, or zippered securely and
1455 maintained in good condition at all times they are required to
1456 be worn.



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1457 (c) Any person who ~~fails to require or permits any~~
1458 ~~person under their legal custody or control to fail to comply~~
1459 ~~with,~~ violates the requirements of this section, shall be
1460 guilty of a ~~Class B misdemeanor, and upon conviction is~~
1461 ~~punishable as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1462 ~~person so convicted shall be~~ boating violation ~~finned not less~~
1463 ~~than one hundred dollars (\$100)."~~

1464 "§33-5-70

1465 (a) It is unlawful to operate a vessel in a reckless
1466 manner upon the waters of this state. A person is guilty of
1467 the reckless operation of a vessel ~~who~~ if the person operates
1468 any vessel, or manipulates any water skis, aquaplane, or other
1469 marine transportation device, upon the waters of this state in
1470 willful or wanton disregard for the safety of persons or
1471 property at a speed, or in a manner likely to endanger, ~~or~~
1472 ~~likely to endanger,~~ the life, limb, or ~~damage the~~ property of,
1473 ~~or injure~~ any person. Any person who violates this subsection
1474 ~~is~~ shall be guilty of a Class A misdemeanor, ~~punishable upon~~
1475 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1476 ~~person so convicted~~ and shall be fined not less than one
1477 hundred fifty dollars (\$150).

1478 (b) Any person operating a vessel upon the waters of
1479 this state shall operate the vessel in a reasonable and
1480 prudent manner, so as not to endanger the life, limb, or
1481 property of any person. The endangerment of life, limb, or
1482 property through the negligence, carelessness, or inattention
1483 of any person operating a vessel on the waters of this state
1484 shall constitute careless operation of a vessel. Vessel wake



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1485 and shoreline wash resulting from the reasonable and prudent
1486 operation of a vessel ~~shall~~, absent negligence, shall not
1487 constitute damage or endangerment to property. Any person who
1488 violates this subsection ~~is shall be~~ guilty of a ~~Class B~~
1489 ~~misdemeanor, punishable upon conviction as provided in~~
1490 ~~Sections 13A-5-7 and 13A-5-12. Any person so convicted~~ boating
1491 violation and shall be fined not less than one hundred dollars
1492 (\$100).

1493 (c) Each person operating a vessel upon the waters of
1494 this state shall comply with all of the rules ~~and regulations~~
1495 ~~of the Marine Police Division of the Department of~~
1496 ~~Conservation and Natural Resources~~ of the secretary.

1497 (1) A person whose violation of the rules ~~and~~
1498 ~~regulations~~ results in a boating accident, but whose violation
1499 did not constitute reckless or careless operation of a vessel,
1500 ~~is shall be~~ guilty of a ~~Class C misdemeanor punishable upon~~
1501 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1502 ~~person so convicted~~ boating violation and shall be fined not
1503 less than one hundred dollars (\$100).

1504 (2) A person whose violation of the rules ~~and~~
1505 ~~regulations~~ does not result in a boating accident and does not
1506 constitute reckless or careless operation of a vessel ~~is shall~~
1507 be guilty of a ~~Class C misdemeanor, punishable upon conviction~~
1508 ~~as provided in Sections 13A-5-7 and 13A-5-12. Any person so~~
1509 ~~convicted~~ boating violation ~~shall be fined not less than fifty~~
1510 ~~dollars (\$50)~~.

1511 (d) In addition to all other penalties contained in
1512 this section, any person convicted of violating this section



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1513 shall be subject to the revocation or suspension of ~~their~~his
1514 or her boating safety certification or vessel operator's
1515 certification or vessel operating privileges upon the waters
1516 of this state, as provided by law and rules ~~and regulations of~~
1517 ~~the Department of Conservation and Natural Resources~~ adopted
1518 by the secretary."

1519 "§33-5-71

1520 (a) It shall be unlawful for the operator of a vessel,
1521 when the vessel is operated at or above plane speed, to
1522 position or allow the positioning of, persons or equipment,
1523 including but not limited to, seats, coolers, tackle, ski, and
1524 tubing devices, in a manner that would obstruct the operator's
1525 view ~~to impair,~~ or ~~would~~ otherwise impair, the safe operation
1526 of the vessel while operating on the waters of this state.
1527 Sailboats and auxiliary sailboats are exempt from this
1528 section.

1529 (b) Any person ~~violating~~ who violates this section
1530 shall be guilty of a ~~Class B misdemeanor, and upon conviction~~
1531 ~~shall be punished as provided by Sections 13A-5-7 and~~
1532 ~~13A-5-12. Any person so convicted~~ boating violation ~~shall be~~
1533 ~~finned not less than one hundred dollars (\$100)."~~

1534 "§33-5-72

1535 ~~(a) It shall be unlawful on the waters of this state~~
1536 ~~for any person to operate, or give permission to another~~
1537 ~~person to operate, any vessel less than 24 feet in length~~
1538 ~~having an open construction and having more than 50~~
1539 ~~horsepower, unless the vessel is equipped with an emergency~~
1540 ~~engine or motor shut-off switch.~~



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1541 ~~(b) The shut-off switch referred to in subsection (a),~~
1542 ~~shall be a lanyard-type engine cutoff switch and shall be~~
1543 ~~attached to the person, clothing, or personal flotation device~~
1544 ~~of the operator, as is appropriate, and shall be constructed~~
1545 ~~and installed in a manner so that when in use, any removal of~~
1546 ~~the operator from the normal operating station will result in~~
1547 ~~the immediate shut-off of the engine or motor.~~

1548 ~~(c) For the purpose of this section, "open~~
1549 ~~construction" means any vessel described herein not having a~~
1550 ~~permanently affixed top or cabin.~~

1551 (a) As used in this section, the following terms have
1552 the following meanings:

1553 (1) COVERED RECREATIONAL VESSEL. A recreational vessel
1554 that meets both of the following requirements:

1555 a. Measures less than 26 feet in overall length.

1556 b. Is capable of developing 115 pounds or more of
1557 static thrust.

1558 (2) PROPULSION MACHINERY. A self-contained propulsion
1559 system, including, but not limited to, inboard engines,
1560 outboard motors, and sterndrive engines.

1561 (3) STATIC THRUST. The forward or backward thrust
1562 developed by propulsion machinery while stationary.

1563 (b) A manufacturer, distributor, or dealer that
1564 installs propulsion machinery and associated starting controls
1565 on a covered recreational vessel shall equip the vessel with
1566 an engine cut-off switch and an engine cut-off switch link
1567 that meet American Boat and Yacht Council Standard A-33, as in
1568 effect on the date of the enactment of the Frank LoBiondo



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1569 Coast Guard Authorization Act of 2018.

1570 (c) (1) An individual operating a covered recreational
1571 vessel shall use an engine cut-off switch link while operating
1572 on plane or above displacement speed.

1573 (2) The requirements of subdivision (1) do not apply
1574 under either of the following conditions:

1575 a. The main helm of the covered recreational vessel is
1576 installed within an enclosed cabin.

1577 b. The covered recreational vessel does not have an
1578 engine cut-off switch and is not required to have one under
1579 subsection (b).

1580 (d) Any person ~~violating~~ who violates this section
1581 shall be guilty of a ~~Class B misdemeanor, and upon conviction~~
1582 ~~shall be punishable as provided by Sections 13A-5-7 and~~
1583 ~~13A-5-12. Any person so convicted~~ boating violation ~~shall be~~
1584 ~~fined not less than one hundred dollars (\$100)."~~

1585 "§33-5-73

1586 (a) No person shall under any circumstances may operate
1587 a vessel on the waters of this state in excess of a speed
1588 zone, including a no-wake zone, established by ~~regulation of~~
1589 ~~the Commissioner of Conservation and Natural Resources~~ the
1590 secretary. The ~~commissioner~~ secretary may ~~promulgate rules and~~
1591 ~~regulations establishing~~ establish speed zones, including
1592 no-wake zones, in areas on the waters of this state ~~as deemed~~
1593 ~~hazardous by the commissioner.~~

1594 (b) A person who violates this section shall be guilty
1595 of a boating violation."

1596 "§33-5-74



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1597 (a) Except in case of emergency, no person shall moor
1598 or fasten a vessel to a lawfully placed aid-to-navigation
1599 marker, sign, or buoy, regulatory marker, sign, or buoy, or
1600 area boundary marker, sign, or buoy, placed or executed by any
1601 governmental agency.

1602 (b) No person shall willfully damage, alter, or move a
1603 lawfully placed aid-to-navigation marker, sign, or buoy,
1604 regulatory marker, sign, or buoy, or area boundary marker,
1605 sign, or buoy.

1606 (c) Any person ~~violating~~ who violates this section
1607 shall be guilty of a ~~Class B misdemeanor, punishable upon~~
1608 ~~conviction as provided in Sections 13A-5-7 and 13A-5-12. Any~~
1609 ~~person so convicted~~ boating violation and shall be fined not
1610 less than one hundred dollars (\$100)."

1611 "§33-5-75

1612 (a) The ~~Commissioner of Conservation and Natural~~
1613 ~~Resources~~ secretary may cancel any boater safety certification
1614 upon determining that the holder of the certification was not
1615 entitled to the issuance or that the holder failed to give the
1616 correct or required information in the application for
1617 certification. Upon cancellation, the the holder shall surrender
1618 ~~the~~ his or her canceled certification ~~cancelled~~ and any
1619 duplicate of the certification. ~~A holder who refuses to~~
1620 ~~surrender the certification and any duplicate shall be guilty~~
1621 ~~of a Class C misdemeanor, punishable upon conviction as~~
1622 ~~provided in Sections 13A-5-7 and 13A-5-12.~~

1623 (b) The privilege of operating a vessel on the waters
1624 of this state, ~~as defined in Section 33-5-3,~~ shall be subject



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1625 to suspension or revocation by the ~~commissioner~~ secretary in
1626 like manner and for like cause as a boater safety
1627 certification may be suspended or revoked.

1628 (c) The ~~commissioner may~~ secretary, upon receiving a
1629 record of the conviction in this state of a nonresident
1630 operator of a vessel of any offense, may forward a certified
1631 copy of the record to the boater safety administrator in the
1632 state where the person was convicted is a resident.

1633 (d) When a nonresident's operating privilege or Alabama
1634 boater safety certification is suspended or revoked, the
1635 ~~commissioner~~ secretary may forward a certified copy of the
1636 record of the action to the boater safety administrator in the
1637 state where the person resides.

1638 (e) The ~~commissioner~~ secretary may suspend or revoke
1639 the boater safety certification of any person in this state or
1640 the privilege of any person to operate a vessel on the waters
1641 of this state upon receiving notice of the conviction of the
1642 person in another state of any offense therein which, if
1643 committed in this state, would be grounds for the suspension
1644 or revocation of the boater safety certification or vessel
1645 operating privilege of a vessel operator.

1646 (f) The ~~commissioner~~ secretary may give effect to
1647 conduct of a resident in another state as is provided by the
1648 laws of this state had the conduct occurred in this state.

1649 (g) ~~Whenever~~ When any person is convicted of any
1650 offense for which this article makes mandatory the revocation
1651 of the certification of the person, the court ~~in which the~~
1652 ~~conviction is had~~ shall require the surrender of the



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1653 certification documents and duplicates of any boater safety
1654 certification ~~then~~ held by the person convicted and ~~the court~~
1655 shall ~~thereupon~~ forward the proof of certification surrendered
1656 together with a record of the conviction to the ~~commissioner~~
1657 secretary.

1658 (h) ~~Every court with jurisdiction over offenses~~
1659 ~~committed under this article, or any other law of this state,~~
1660 ~~or municipal ordinance adopted by a local authority,~~
1661 ~~regulating the operation of vessels on the waters, shall~~
1662 ~~forward to the commissioner, within~~ Within 10 days of a ~~record~~
1663 ~~of the~~ conviction of any person ~~in the court~~ for a violation
1664 of any ~~laws~~ law for which the person is subject to boater
1665 safety certification or vessel operating privilege suspension
1666 or revocation, the court shall forward a record of the
1667 conviction to the secretary and ~~the court~~ may recommend the
1668 suspension of the certification or vessel operating privilege
1669 of the person ~~so convicted~~.

1670 (i) For the purposes of this section, the term
1671 "conviction" shall mean a final conviction. Also, for the
1672 purposes of this section, an unvacated forfeiture of bail or
1673 collateral deposited to secure a defendant's appearance in
1674 court, a plea of nolo contendere accepted by the court, the
1675 payment of a fine, a plea of guilty, or a finding of guilt of
1676 a boating or vessel operation violation charge, shall be
1677 equivalent to a conviction regardless of whether the penalty
1678 is rebated, suspended, or probated.

1679 (j) The ~~commissioner~~ secretary shall ~~forthwith~~ revoke
1680 the certification or vessel operating privilege of any person



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1681 upon receiving a record of the person's conviction of any of
1682 the following offenses:

1683 (1) Manslaughter or homicide by vehicle or vessel
1684 resulting from the operation of a vessel.

1685 (2) Any violation of Section 32-5A-191.3 which requires
1686 revocation.

1687 (3) Any offense of any law or ~~regulation~~ rule for which
1688 mandatory revocation is required upon conviction.

1689 (4) Any felony in the commission of which a vessel is
1690 used.

1691 (5) Failure to stop, render aid, or identify the person
1692 as required under the laws of this state in the event of a
1693 boating accident resulting in the death or personal injury of
1694 another.

1695 (6) Perjury or the making of a false affidavit or
1696 statement under oath to the ~~Director of Public Safety or~~
1697 ~~Commissioner of Conservation and Natural Resources~~ secretary
1698 under this article or under any other law or ~~regulation~~ rule
1699 relating to the ownership or operation of vessels.

1700 (7) Conviction upon three charges of reckless or
1701 careless operation of a vessel committed within a period of 12
1702 months.

1703 (8) Unauthorized use of a vessel belonging to another,
1704 which ~~act~~ use does not amount to a felony.

1705 (k) The ~~Commissioner of Conservation and Natural~~
1706 ~~Resources~~ secretary may suspend the certification or operating
1707 privilege of a ~~vessel operator~~ person without preliminary
1708 hearing upon a showing by its records or other sufficient



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1709 evidence that the ~~operator~~ person did any of the following:

1710 (1) Has committed an offense for which mandatory
1711 revocation is required upon conviction.

1712 (2) Has been convicted of any offense under Section
1713 32-5A-191.3 which provides for suspension.

1714 (3) Has been convicted of any offense of any law or
1715 ~~regulation~~ rule which provides for suspension.

1716 (4) Has been convicted with frequency of serious
1717 offenses against boating or vessel operation laws or
1718 ~~regulations~~ rules governing the movement of vessels ~~as to~~
1719 ~~indicate~~ indicating a disrespect for boating or vessel
1720 operation laws and a disregard for the safety of other persons
1721 on the waters of this state.

1722 (5) Is an habitually reckless, careless, or negligent
1723 operator of a vessel, established by a record of accidents, or
1724 by other evidence.

1725 (6) Is incompetent to operate a vessel.

1726 (7) Has permitted an unlawful or fraudulent use of
1727 certification.

1728 (8) Has committed an offense in another state which if
1729 committed in this state would be grounds for suspension or
1730 revocation.

1731 (9) Has been convicted of fleeing or attempting to
1732 elude ~~a marine police officer~~ any law enforcement officer.

1733 (10) Has violated a restricted boater safety
1734 certification pursuant to Section 33-5-61.

1735 (1) Upon suspending the certification or operating
1736 privilege of any person, the ~~Commissioner of Conservation and~~



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1737 ~~Natural Resources~~ secretary shall immediately notify the
1738 person in writing and upon request shall afford the person an
1739 opportunity for a hearing as early as practicable, not to
1740 exceed 30 days after receipt of the request, in the county
1741 where the person resides or in Montgomery County in the case
1742 of a nonresident, unless the ~~Commissioner of Conservation and~~
1743 ~~Natural Resources~~ secretary and the person agree that the
1744 hearing may be held in some other county. The hearing shall be
1745 before the ~~Commissioner of Conservation and Natural Resources~~
1746 secretary or a duly authorized agent. At the hearing, the
1747 ~~Commissioner of Conservation and Natural Resources,~~ secretary
1748 or duly authorized agent, may administer oaths, ~~and may~~ issue
1749 subpoenas for the attendance of witnesses and the production
1750 of relevant books and papers, and ~~may~~ require a reexamination
1751 of the person. At the hearing, the ~~Commissioner of~~
1752 ~~Conservation and Natural Resources,~~ secretary or duly
1753 authorized agent, shall either rescind its order of suspension
1754 or, upon good cause shown, may continue, modify, or extend the
1755 suspension or revoke the certification or operating privilege
1756 of the person. If the certification or operating privilege has
1757 been suspended as a result of the person's operation while
1758 under the influence of alcohol, the ~~commissioner~~ secretary or
1759 duly authorized agent ~~conducting the hearing shall take into~~
1760 ~~account~~ shall consider, among other relevant factors, the
1761 person's successful completion of any duly established
1762 waterway intoxication seminar, "DUI counterattack course," or
1763 similar educational program designed for problem drinking
1764 operators. If the hearing is conducted by a duly authorized



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1765 agent instead of by the ~~Commissioner of Conservation and~~
1766 ~~Natural Resources~~ secretary, the action of the agent shall
1767 first be approved by the ~~Commissioner of Conservation and~~
1768 ~~Natural Resources~~ secretary prior to implementation.

1769 ~~(m) At the end of the period of suspension, a~~
1770 ~~certification surrendered to the Commissioner of Conservation~~
1771 ~~and Natural Resources under subsection (n) shall be returned~~
1772 ~~to the person.~~

1773 ~~(n) (m)~~ The ~~Commissioner of Conservation and Natural~~
1774 ~~Resources~~ secretary, upon cancelling, suspending, or revoking
1775 a certification, shall require that proof of certification and
1776 any duplicates be surrendered to ~~and be retained by the~~
1777 ~~Commissioner of Conservation and Natural Resources~~ ALEA. Any
1778 person whose certification has been cancelled, suspended, or
1779 revoked shall immediately return the certification and any
1780 duplicates to ~~the Commissioner of Conservation and Natural~~
1781 ~~Resources~~ ALEA. If the person refuses to surrender the
1782 certification, the person shall be guilty of a Class C
1783 misdemeanor ~~punishable as provided by law.~~

1784 ~~(o) (n)~~ Any resident or nonresident whose certification
1785 or privilege to operate a vessel in this state has been
1786 suspended or revoked, as provided in this section, ~~shall~~ may
1787 not operate a vessel in this state under a certification, or
1788 other approved valid document issued by any other jurisdiction
1789 ~~or otherwise~~ during the suspension or after revocation until a
1790 new Alabama certification or privilege is obtained as
1791 permitted under this article.

1792 ~~(p) (o)~~ Any person denied a certification or whose



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1793 certification or operating privilege has been cancelled,
1794 suspended, or revoked by the ~~Commissioner of Conservation and~~
1795 ~~Natural Resources~~ secretary, except where cancellation,
1796 suspension, or revocation is mandatory under this article,
1797 ~~shall have the right to~~ may file a petition within 30 days for
1798 a hearing in the matter in the circuit court in the county
1799 wherein the person resides, or, in the case of cancellation,
1800 suspension, or revocation of a nonresident's certification or
1801 operating privilege, in the county in which the main office of
1802 the ~~Commissioner of Conservation and Natural~~
1803 ~~Resources~~ secretary is located, ~~and the~~ The circuit court ~~is~~
1804 ~~vested with~~ shall have jurisdiction for hearing the petitions
1805 for certification or operating privilege. The circuit court
1806 shall set the matter for hearing upon 30 days' written notice
1807 to the ~~Commissioner of Conservation and Natural Resources~~
1808 secretary and shall take testimony, examine the facts of the
1809 case, and determine whether the petitioner is entitled to a
1810 certification or operating privilege under this section or is
1811 subject to suspension, cancellation, or revocation."

1812 "§33-5-77

1813 (a) It shall be unlawful ~~in this state for any person~~
1814 ~~to violate the federal laws or rules regulating the horsepower~~
1815 ~~of the engines of the vessels operating on the waters of this~~
1816 ~~state~~ to operate a vessel powered beyond the manufacturer's
1817 capacity plate.

1818 (b) Any person violating this section shall be guilty
1819 of a ~~Class C misdemeanor that is punishable, upon conviction,~~
1820 ~~as provided by Sections 13A-5-7 and 13A-5-12. Any person so~~



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1821 ~~convicted shall be fined not less than one hundred dollars~~
1822 ~~(\$100)~~ boating violation.

1823 ~~(c) The effective date of only this section shall be~~
1824 ~~five years from April 28, 1994."~~

1825 "§33-5-79

1826 The ~~Commissioner of Conservation and Natural Resources~~
1827 secretary may ~~implement~~ adopt and enforce reasonable and
1828 necessary rules ~~and regulations~~ to administer and enforce this
1829 ~~article~~ chapter."

1830 "§33-5-81

1831 The State Department of Education shall require a
1832 segment of the approved driver education curricula to include
1833 boating safety in Alabama, ~~beginning with the 1994-95 school~~
1834 ~~year~~. The boating safety curricula shall be approved in
1835 writing by the ~~Commissioner of Conservation and Natural~~
1836 ~~Resources~~ secretary and the State Superintendent of
1837 Education."

1838 Section 2. (a) For purposes of this section, an
1839 electronic boating traffic ticket, or "e-ticket," is defined
1840 as a ticket that is generated and printed at the site of an
1841 offense committed on the waters of this state, as defined
1842 under Section 33-5-3, Code of Alabama 1975, after the
1843 violation has been electronically transmitted to the court.

1844 (b) When any person is arrested for an offense
1845 committed on the waters of this state, the arresting officer,
1846 unless otherwise provided in this section, shall take the name
1847 and address of the person and registration information of his
1848 or her vessel and issue a summons or otherwise notify the



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1849 person in writing or by an e-ticket to appear at a time and
1850 place to be specified in the summons, notice, or e-ticket.

1851 (c) An arresting officer shall transfer the arrest and
1852 licensing information of a violator electronically to the
1853 court. The court shall electronically record the arrest and
1854 issue a complaint and summons or notice to appear, which shall
1855 be printed at the site of the offense and given to the
1856 violator.

1857 (d) The person arrested, if he or she so desires, shall
1858 have a right to an immediate hearing or a hearing within 24
1859 hours at a convenient hour before a magistrate within the
1860 county or city where the offense was committed, or if an
1861 e-ticket is written, the person shall have a right, if he or
1862 she desires, to an immediate hearing or a hearing within 24
1863 hours at a convenient hour before any magistrate within this
1864 state.

1865 (e) (1) Except when an arresting officer cites a person
1866 with an e-ticket, the officer, upon the giving by the person
1867 of the required bond to appear at a certain time and place,
1868 shall release the person from custody.

1869 (2) Except when an arresting officer cites a person
1870 with an e-ticket, a person refusing to give bond to appear
1871 shall be taken immediately by the arresting officer before the
1872 nearest or most accessible magistrate.

1873 (3) When an e-ticket is used by an arresting officer, a
1874 person shall be deemed to have given his or her written bond
1875 to appear in court on the date as specified on the e-ticket.

1876 (f) Any person who willfully violates his or her



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1877 written bond by failing to timely appear shall be guilty of a
1878 Class C misdemeanor regardless of the disposition of the
1879 charge upon which he or she was originally arrested.

1880 (g) This section does not apply to any of the following
1881 persons:

1882 (1) A person arrested and charged with an offense
1883 causing or contributing to an accident resulting in injury or
1884 death to any person.

1885 (2) A person charged with operating a vessel in
1886 violation of Section 32-5A-191.3, Code of Alabama 1975.

1887 (3) A person whom the arresting officer has good cause
1888 to believe has committed any felony.

1889 (h) When a person is arrested or charged with an
1890 offense described in subsection (g), the arresting officer
1891 shall take the person before the nearest or most accessible
1892 magistrate.

1893 Section 3. Sections 12-12-50, 12-12-51, 12-12-52,
1894 12-12-55, and 12-19-179, Code of Alabama 1975, are amended to
1895 read as follows:

1896 "§12-12-50

1897 As used in this article, the following terms have the
1898 following meanings:

1899 (1) BOATING VIOLATION. As defined in Section 33-5-3.

1900 ~~A "traffic infraction" is any~~ (2) TRAFFIC INFRACTION.

1901 Any violation of a statute, ordinance, or rule relating to the
1902 operation or use of motor or other vehicles or the use of
1903 streets and highways by pedestrians."

1904 "§12-12-51



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1905 The district court shall have exclusive original
1906 jurisdiction of misdemeanor prosecutions for traffic
1907 infractions and all boating violations, except ordinance
1908 infractions prosecuted in municipal courts."

1909 "§12-12-52

1910 Pursuant to the provisions of Section 12-17-251,
1911 magistrates may receive pleas of guilty in traffic infraction
1912 and boating violation prosecutions, but may not receive pleas
1913 in matters involving any of the following:

1914 (1) Violations resulting in personal injury~~†~~.

1915 (2) Operation of a motor vehicle or vessel while
1916 intoxicated~~†~~.

1917 (3) Reckless driving or reckless operation of a
1918 vessel~~†~~.

1919 (4) Felonies or indictable offenses~~†~~.

1920 (5) Operation of a motor ~~vehicles~~ vehicle or vessel
1921 without an operator's license or boater safety certification,
1922 as applicable, or while the license or certification is
1923 suspended or revoked~~†~~ ~~or~~.

1924 (6) A defendant convicted of two or more previous
1925 traffic offenses or boating violations in the preceding 12
1926 months."

1927 "§12-12-55

1928 (a) Schedules of fines to be imposed for traffic
1929 infractions and boating violations shall be established by law
1930 or rule.

1931 (b) The manner in which fines and costs shall be paid
1932 to and accounted for by personnel assigned to accept payment



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1933 shall be provided by administrative rule."

1934 "§12-19-179

1935 (a) The following distribution shall be made of docket
1936 fees for traffic infractions and boating violations in
1937 district court:

1938 (1) Three dollars (\$3) to the Police Officers' Annuity
1939 Fund.

1940 (2) Sixteen dollars (\$16) to the Fair Trial Tax Fund.

1941 (3) Eight dollars fifty cents (\$8.50) to the State
1942 Drivers' Fund.

1943 (4) Forty-nine dollars (\$49) to the State General Fund.

1944 (5) Three dollars (\$3) to the county general fund.

1945 (6) An arrest fee of five dollars (\$5) to the State
1946 General Fund or the state funds prescribed by law; except,
1947 that the arrest fee shall be paid into the county general fund
1948 in cases initiated by county law enforcement officers.

1949 (7) Two dollars fifty cents (\$2.50) to the District
1950 Attorney Fund or to the fund prescribed by law for district
1951 attorney fees.

1952 (8) Five dollars (\$5) to the Advanced Technology and
1953 Data Exchange Fund.

1954 (b) The additional five dollars (\$5) assessed and
1955 collected in traffic cases in district court, effective
1956 October 1, 2000, shall be distributed to the Fair Trial Tax
1957 Fund.

1958 (c) Fees for issuance of alias writs from circuit and
1959 district courts shall be distributed as follows:

1960 (1) Writs issuing from district court:



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- 1961 a. Two dollars (\$2) to the county general fund.
1962 b. Eighteen dollars (\$18) to the State General Fund.
1963 (2) Writs issuing from circuit court:
1964 a. Five dollars (\$5) to the county general fund.
1965 b. Twenty-five dollars (\$25) to the State General
1966 Fund."

1967 Section 4. Section 41-27-6, Code of Alabama 1975, is
1968 amended to read as follows:

1969 "§41-27-6

1970 (a) (1) The Director of the Department of Public Safety
1971 shall be appointed by the Secretary of the Alabama State Law
1972 Enforcement Agency, after consultation with the Governor, and
1973 shall hold office at the pleasure of the secretary. The
1974 director shall be appointed from a legacy agency as defined in
1975 Section 41-27-7. The salary of the director shall be set by
1976 the secretary, and shall not be subject to Section 36-6-6. A
1977 person appointed director shall have an extensive law
1978 enforcement background and, by virtue of office, is a state
1979 law enforcement officer with the immunity set forth in Section
1980 6-5-338.

1981 (2) The director shall have overall supervision and
1982 management of functions transferred to the department pursuant
1983 to this section, subject to the approval of the secretary,
1984 including the power to change the working title of any
1985 position or to reorganize or rename any of the divisions,
1986 units, or functions specified in this section. Any change of
1987 working title shall not alter the classification or
1988 compensation of any person in the state Merit System.



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1989 (3) All functions performed by the department on
1990 October 1, 2014, shall remain under the Department of Public
1991 Safety unless reorganized by the secretary or otherwise
1992 transferred pursuant to this chapter.

1993 (b) (1) The Highway Patrol Division of the Department of
1994 Public Safety succeeds to and is vested with all law
1995 enforcement functions of the following enforcement units, and
1996 a reference in any law to these enforcement units shall be
1997 deemed a reference to the Highway Patrol Division of the
1998 Department of Public Safety:

1999 a. The law enforcement unit of the Public Service
2000 Commission.

2001 b. The revenue enforcement officers of the Department
2002 of Revenue.

2003 (2) The director shall appoint a chief of the division.

2004 (c) (1) The Marine ~~Police~~ Patrol Division is hereby
2005 created within the Department of Public Safety. The director
2006 shall appoint a chief of the division.

2007 (2) The Marine ~~Police~~ Patrol Division of the Department
2008 of Public Safety succeeds to and is vested with all functions
2009 of the Marine Police Division of the Department of
2010 Conservation and Natural Resources. A reference in any law to
2011 the Marine Police Division of the Department of Conservation
2012 and Natural Resources shall be deemed a reference to the
2013 Marine ~~Police~~ Patrol Division of the Department of Public
2014 Safety."

2015 Section 5. It is the intent of the Legislature, in
2016 implementing this act, that the Alabama Supreme Court would



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2017 adopt rules pursuant to its authority under Section 150 of the
2018 Constitution of Alabama of 2022, to adopt a schedule of fines
2019 for boating violations, and to adopt a Uniform Boating Traffic
2020 Ticket and Complaint form or an electronic version thereof,
2021 and provide for the use, content, numbering schemes, and
2022 issuance of the ticket.

2023 Section 6. The following sections of the Code of
2024 Alabama 1975, are repealed:

2025 (1) Section 33-5-22.1, Code of Alabama 1975, providing
2026 that the hull of a sailboard is deemed a flotation device.

2027 (2) Section 33-5-29, Code of Alabama 1975, relating to
2028 the publication of rules.

2029 (3) Section 33-5-33, Code of Alabama 1975, relating to
2030 fees in certain prosecutions.

2031 (4) Section 33-5-78, Code of Alabama 1975, relating to
2032 the definition of vessels.

2033 Section 7. Although this bill would have as its purpose
2034 or effect the requirement of a new or increased expenditure of
2035 local funds, the bill is excluded from further requirements
2036 and application under Section 111.05 of the Constitution of
2037 Alabama of 2022, because the bill defines a new crime or
2038 amends the definition of an existing crime.

2039 Section 8. This act shall become effective January 1,
2040 2024, following its passage and approval by the Governor, or
2041 its otherwise becoming law.