

ALABAMA  
LAWS AND REGULATIONS  
GOVERNING  
OPERATION AND REGISTRATION  
OF  
VESSELS

PUBLISHED BY THE  
ALABAMA MARINE POLICE DIVISION  
ALABAMA DEPARTMENT OF  
CONSERVATION AND NATURAL  
RESOURCES  
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## **EDITOR'S NOTE**

At the time of editing and compiling this booklet, it contained all the laws and regulations relating to boating safety; however, after the printing of this booklet, there will no doubt be additional regulations promulgated by the Commissioner of Conservation and Natural Resources. For this reason the reader should contact the Department of Conservation and Natural Resources or his local Marine Police Officer for any additional regulations promulgated after the printing of this booklet.

Act number 987 of the 1971 Regular Session, Alabama Legislature renamed the Department of Conservation as the Department of Conservation and Natural Resources, and the Director and Assistant Director of said Department were renamed Commissioner and Assistant Commissioner. Said act also designates the head of the Marine Police Division as Director.

**INQUIRIES REGARDING BOATING SAFETY LAWS AND REGULATIONS SHOULD  
BE DIRECTED TO:**

Marine Police Division  
Department of Conservation and Natural Resources  
Folsom Administrative Building  
Montgomery, Alabama 36130-1451  
(334) 242-3673

**ARTICLE 9**  
**CODE OF ALABAMA TITLE 32**  
**SERIOUS TRAFFIC OFFENSES**

- Sec.  
32-5A-191.3      Operation of vessel and other marine devices while under influence of alcohol or controlled substances.
- 32-5A-192.      Homicide by vehicle or vessel.

**REGISTRATION AND OPERATION OF VESSELS**  
**CHAPTER 5.**  
**CODE OF ALABAMA 1975 TITLE 33**  
**REGISTRATION AND OPERATION OF VESSELS**

**ARTICLE 1.**  
**GENERAL PROVISIONS.**

- Sec.  
33-5-1.      Declaration of policy.
- 33-5-2.      Applicability of article.
- 33-5-3.      Definitions.
- 33-5-4.      Division of Marine Police-Generally.
- 33-5-5.      Division of Marine Police - Marine Police Officers, etc., to have powers of peace officers.
- 33-5-6.      Enforcement of article.
- 33-5-7.      Records kept pursuant to article.
- 33-5-8.      Commissioner to supply information to federal agencies.

- 33-5-9. Vessels to be registered and numbered.
- 33-5-10. Certificates of registration and numbers generally--By whom issued; issuance; fees; use of funds received under article
- 33-5-11. Certificates of registration and numbers generally - Application for and issuance of certificate and number; contents of certificate; number to be displayed on vessel; size and availability of certificate for inspection.
- 33-5-12. Certificates of registration and numbers generally - Numbering system.
- 33-5-13. Certificates of registration and numbers generally- Term of certificates and licenses.
- 33-5-14. Certificates of registration and numbers generally - Manufacturers' and dealers' vessels.
- 33-5-15. Certificates of registration and numbers generally - Foreign vessels; change of ownership.
- 33-5-16. Certificates of registration and numbers generally - Transfer of interest or destruction or abandonment of vessel; change of address; duplicate registration certificates.
- 33-5-17. Certificates of registration and numbers generally - Classification of vessels and registration fees.
- 33-5-18. Certificates of registration and numbers generally - Only authorized number to be used.
- 33-5-19. Certificates of registration and numbers generally - Exemption from numbering provisions of article.
- 33-5-20. Special agents to sell boat license.
- 33-5-21. Safety provisions relative to boat liveries.
- 33-5-22. Safety equipment and lights; flags; capacity plate; flame arrester, etc., for carburetor.
- 33-5-22.1 Sailboard Defined; hull deemed flotation device.
- 33-5-23. Muffling devices and sirens.
- 33-5-24. Repealed.

- 33-5-25. Collisions, accidents and casualties.
- 33-5-26. Water skis and aquaplanes.
- 33-5-27. Regattas, races, marine parades, tournaments, and exhibitions.
- 33-5-28. Rules and regulations - Power of Commissioner to promulgate.
- 33-5-29. Rules and regulations - Filing and publication.
- 33-5-30. Rules and regulations - Admissibility as evidence.
- 33-5-31. Local regulation.
- 33-5-32. Jurisdiction of offenses; disposition of fines.
- 33-5-33. Fees in certain prosecutions.
- 33-5-34. Fees of arresting officer.
- 33-5-35. Penalty for violations of article generally.
- 33-5-36. Warning citations.

## **ARTICLE 2**

### **BOATING SAFETY REFORM**

Sec.

- 33-5-50. Short title.
- 33-5-51. Operation of personal watercraft.
- 33-5-52. Boater safety certification generally.
- 33-5-53. Boater safety certification; application fee; examinations; exemptions.
- 33-5-54. Issuance of boater safety certification.
- 33-5-55. Reports; disposition of funds.
- 33-5-56. Certification to bear distinguishing number, color photograph, signature, and other identification information; notification on motor vehicle driver or learner license.

- 33-5-57. Persons to whom boater safety certification shall not be issued.
- 33-5-58. Persons with physical disabilities or impairments; hearings.
- 33-5-59. Display of certification required.
- 33-5-60. Reciprocal agreements with other states.
- 33-5-61. Restrictions for persons impaired from physical disabilities; special restricted certification; penalty for violation of restrictions.
- 33-5-62. Rules and regulations; point system for suspension or revocation of certifications.
- 33-5-63. Filing and indexing applications; filing accident reports and records of convictions.
- 33-5-64. Duplicates for lost or destroyed certifications; fees.
- 33-5-65. Reinstatement of certification following cancellation, suspension, or revocation.
- 33-5-66. Violations; penalties.
- 33-5-67. Operation while certification is cancelled, suspended, or revoked prohibited; penalties.
- 33-5-68. Application fee; retention by Department of Public Safety.
- 33-5-69. Flotation device; exceptions.
- 33-5-70. Reckless operation of vehicle; careless operation, violation of rules and regulations of Marine Police; penalties.
- 33-5-71. Obstruction of operator's view prohibited; penalties.
- 33-5-72. Emergency engine or motor shut-off switch.
- 33-5-73. Operation of vessel in excess of speed zone prohibited.
- 33-5-74. Markers, signs, and buoys; mooring or fastening vessel prohibited; damaging, altering, or moving prohibited; penalties.
- 33-5-75. Authority of Commissioner of Conservation and Natural Resources to cancel certification or to suspend or revoke privilege of operating vessel; procedures.

- 33-5-76. Authority to arrest at scene of boating accident.
- 33-5-77. Violation of federal laws or rules regulating engine horsepower; penalties; effective date.
- 33-5-78. "Vessel" defined.
- 33-5-79. Rules and regulations.
- 33-5-80. Exemption for law enforcement officers while performing their duties.
- 33-5-81. Boating safety as part of driver education curricula.

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## **CHAPTER 6A.**

### **RECREATIONAL VESSEL AND RESIDENCE BOAT SEWAGE DISCHARGES REGULATED.**

- 33-6A-1. Definitions.
- 33-6A-2. Rules and regulations.
- 33-6A-3. Prohibited activities.
- 33-6A-3.1 Use on specified lakes of houseboats, vessels of large size, and vessels with certain speed ratings
- 33-6A-4. Compliance with federal laws, etc.
- 33-6A-5. Pump-out stations at marinas.
- 33-6A-6. Annual inspection of vessels; decal; citations; fees.
- 33-6A-7. Public education program.
- 33-6A-8. Violations.
- 33-6A-9. Disposition of fines.





**§ 32-5A-191.3. Operation of vessel and other marine devices while under influence of alcohol or controlled substances.**

(a) A person shall not operate or be in actual physical control of any vessel, or manipulate any water skis, aquaplane, or any other marine transportation device on the waters of this state, as the waters are defined in Section 33-5-3, under any condition in which a person would be guilty of driving under the influence of alcohol or drugs pursuant to Section 32-5A-191 if the person was driving or controlling a motor vehicle.

(b) In the case of a vessel or other marine device described in subsection (a), where a law enforcement officer has probable cause to believe that the operator of the vessel or other marine device is operating in violation of this section, the law enforcement officer is authorized to administer and may test the operator, at the scene, by using field breathalyzer or other approved device, as a screening device, to determine if the operator may be operating a vessel or device in violation of subsection (a). Refusal to submit to a field breathalyzer test or other approved testing device shall result in the same punishment as provided in subsection (c) of Section 32-5-192 for operators of motor vehicles on the state highways.

(c) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

(d) Upon first or subsequent conviction, a person violating this section shall be punished in the same manner and under the same conditions as a person convicted of driving under the influence of alcohol or drugs pursuant to Section 32-5A-191 or any successor section or sections providing for the offense of driving under the influence of alcohol or drugs, except that in any case where reference is made to the Director of Public Safety and the driving privilege or driver's license of the person, the reference shall be deemed to refer to the Commissioner of Conservation and Natural Resources and the vessel operating privilege or boater safety certification of the person convicted under this section.

(e) Neither reckless or careless operation of a vessel, nor any other boating or water safety infraction, is a lesser included offense under a charge of operating a vessel while under the influence of alcohol or controlled substances.

(f) All fines collected for violation of this section as to vessels or other marine devices on the waters of this state shall be paid into the State Water Safety Fund.

(g) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in the person's blood as specified in subdivision (1) of subsection (a).

(h) Upon verification that a defendant arrested pursuant to this section is currently on probation from another court of this state as a result of a conviction for any criminal offense, the prosecutor shall provide written or oral notification of the defendant's subsequent arrest and pending prosecution to the court in which the prior conviction occurred.

(i) When any person over the age of 21 years is convicted pursuant to this

section and a child under the age of 14 years was present on the vessel or other marine device described in subsection (a) at the time of the offense, the defendant shall be sentenced to double the minimum punishment that the person would have received if the child had not been present.

(j) "Vessel," for the purposes of this section, shall mean any vessel as defined in Section 33-5-3, operated on the waters of this state, as defined in Section 33-5-3.

(k) No provision of this section shall be construed to assess points for DUI convictions under motor vehicle convictions for driving under the influence. (Acts 1994, No. 94-652, p. 1243 § 2; Act 2001-695, p. 1477, § 2.)

**§ 32-5A-192. Homicide by vehicle or vessel.**

(a) Whoever shall unlawfully and unintentionally cause the death of another person while engaged in the violation of any state law or municipal ordinance applying to the operation or use of a vehicle, or vessel, as defined in Section 33-5-3, or to the regulation of traffic or boating, shall be guilty of homicide when the violation is the proximate cause of the death.

(b) Any person convicted of homicide by vehicle or vessel shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000), or shall be imprisoned for a term not less than one year nor more than five years, or may be so fined and so imprisoned. All fines collected for violation of this section relating to vessels shall be paid into the State Water Safety Fund. (Acts 1980, No. 80-434, p. 604, § 9-107; Acts 1983, No. 83-620, p. 959, § 1; Acts 1994, No. 94-652, p. 1243, § 3.)

**ARTICLE 1.**

**GENERAL PROVISIONS.**

**§ 33-5-1. Declaration of policy.**

It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels used on the waters of this state and to promote uniformity of laws relating thereto. (Acts 1959, No. 576, p. 1442, § 1.)

**§ 33-5-2. Applicability of article.**

The provisions of this article shall be applicable to all vessels as herein defined, navigating the waters within the jurisdiction of this state, except where inconsistent with any laws or regulations of the United States, in which case such laws or regulations shall prevail. (Acts 1959, No. 576, p. 1442, § 2.)

**§ 33-5-3. Definitions.**

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

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

(2) **WATERS OF THIS STATE.** Any waters within the territorial limits of this state and the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to and from the shore of this state; provided, however, that "waters of this state" shall not be interpreted to mean any private pond which is not used for boat rentals or the charging of fees for fishing therein.

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

(4) **PERSON.** An individual, partnership, firm, corporation, association or other entity.

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

(6) **COMMISSIONER.** The Commissioner of the State Department of Conservation and Natural Resources.

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

(8) **CERTIFICATE.** Registration by a vessel owner with the Department of Conservation and Natural Resources, including the issuance of an identifying number awarded each vessel and the issuance of a pocket-size certificate of registration.

(9) **LENGTH.** Such term means measured from end to end over the deck excluding sheer. (Acts 1959, No. 576, p. 1442, § 3; Acts 1961, No. 878, p. 1377, § 1; Acts 1969, No. 1058, p. 1978, § 1.)

**§ 33-5-4. Division of Marine Police - Generally.**

(a) It is hereby expressly made the duty of the commissioner to set up a division within the Department of Conservation and Natural Resources to be known as the "Division of Marine Police" with sufficient personnel to perform the necessary clerical and routine work for the department in issuing, handling and recording vessel registration identifying numbers, including the receiving and accounting of all registration fees and payments of same into the State Treasury, receiving and recording accident reports and making such reports of such accidents to such federal agency as may be required by federal law and such other incidental clerical work connected with the administration of this chapter.

(b) The law-enforcement officers of the Division of Marine Police of the Department of Conservation and Natural Resources shall be known as marine police officers. (Acts 1959, No. 576, p. 1442, § 4; Acts 1971, No. 905, p. 1669, § 1.)

**§ 33-5-5. Division of Marine Police - Marine police officers, etc., to have powers of peace officers.**

In addition to all other power heretofore granted by law, marine police officers and all other Department of Conservation and Natural Resources enforcement officers shall have the power of peace officers in this state and may exercise such powers anywhere within the state. (Acts 1971, No. 905, p. 1669, § 2.)

**§ 33-5-6. Enforcement of article.**

This article shall be enforced by the Department of Conservation and Natural Resources, Division of Marine Police, by all law-enforcement officers of the state and by such other agents and employees of the Department of Conservation and Natural Resources as may be designated and required by the commissioner. (Acts 1959, No. 576, p. 1442, § 5.)

**§ 33-5-7. Records kept pursuant to article.**

All records of the Department of Conservation and Natural Resources, probate judge or license commissioner made or kept pursuant to this article shall be public records, except confidential reports and except accident reports as set out in this article. (Acts 1959, No. 576, p. 1442, § 12.)

**§ 33-5-8. Commissioner to supply information to federal agencies.**

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

official's request and in accordance with any federal law or regulation relative thereto, necessary information pertaining to statistics and reports compiled under the provisions of this article. (Acts 1959, No. 576, p. 1442, § 23.)

**§ 33-5-9. Vessels to be registered and numbered.**

Every vessel on the waters of this state shall be registered and numbered. No person shall operate or give permission for the operation of any vessel on such waters unless the vessel is registered and numbered with the identifying number set forth in the certificate of registration displayed on each side of the bow of such vessel, or in accordance with applicable federal law or in accordance with a federally approved numbering system of another state, and unless the certificate of number awarded to such vessel is in full force and effect. (Acts 1959, No. 576, p. 1442, § 7.)

**§ 33-5-10. Certificates of registration and numbers generally-By whom issued; issuance; fees; disposition of funds**

(a) The Department of Conservation and Natural Resources will issue annual certificates of registration directly and shall authorize all probate judges in the state or any other official in the state who is presently authorized to issue automobile license plates to issue annual certificates of registration and numbers in connection therewith. In conformity with this article and any rules and regulations which may be validly issued by the Department of Conservation and Natural Resources, the Department of Conservation and Natural Resources shall assign to each issuing officer in said county a block of numbers and certificates therefor which upon issue the issuing officer shall be allowed a fee of two dollars (\$2.00) for each certificate issued by him. In counties where the probate judge or issuing officer is on the fee system, the issuing fee shall be retained by the probate judge, and, in counties where the issuing officer or probate judge is on a salary basis, the fee shall be paid to the county treasury. The issuance fee provided for herein shall be in addition to the amount of the boat registration fee.

(b) All registration money, except the two dollar (\$2.00) fee allowed as aforesaid, shall be remitted monthly to the Department of Conservation and Natural Resources not later than 10 days after the first of each month. The Department of Conservation and Natural Resources shall transmit all money received by it to the State Treasurer, there to be deposited in a fund to be known as the "State Water Safety Fund."

(c) All moneys received out of the sale of licenses under the provisions of this chapter may be used by the Commissioner of the Department of Conservation and Natural Resources for all purposes reasonably necessary in the cost of administration of this article, including the printing of certificates of registration, postage and transportation charges, clerical, personnel, equipment purchases,

salaries and other expenses for each year; except, that no funds collected under the provisions of this article may be used to supplement or pay the salaries of any enforcement officers other than those hired specifically for the purposes of administering the provisions of this article. The Commissioner of the Department of Conservation and Natural Resources shall expend such moneys as may be appropriated to said Marine Police Division, in such manner as the Commissioner of Conservation and Natural Resources may deem necessary and appropriate; provided, however, that such appropriations may be expended only for the purposes designated by the Legislature and in the amounts provided therefor in the general appropriation bill and shall be budgeted and allotted in accordance with the provisions of Article 4 of Chapter 4 of Title 41. It is the intent of the Legislature that the Department of Conservation and Natural Resources utilize existing personnel and equipment of that department and of the sheriffs of this state to the maximum possible extent in enforcing and administering this article, to the end that there be no costly duplication of services. (Acts 1959, No. 576, p. 1442, § 6; Acts 1961, No. 878, p. 1377, § 2; Acts 1969, No. 1059, p. 1979, § 1; Acts 1979, No. 79-700, p. 1244, § 1; Acts 1984, No. 84-446, p. 1040, § 6; Act 2007-420, §1.)

The 1984 amendment, effective July 1, 1984, substituted "1.00" for "\$.50" in subsections (a) and (b).

Collateral References.--80 C.J.S., shipping, § 3.

**§33-5-11. Certification of registration and numbers generally - Application for and issuance of certificate and number; contents of certificate; number to be displayed on vessel; size and availability of certificate for inspection.**

The owner of each vessel requiring numbering by this state shall file an application for a number with the probate judges' offices, or license commissioner, in the county of residence of the purchaser, or the county in which the vessel is domiciled, or in the county where the vessel is purchased, or if purchased out of state, in the county of residence of the purchaser, or in the county where the vessel is domiciled on forms approved by the Department of Conservation and Natural Resources. The application shall be filed by the owner of the vessel and shall be accompanied by a fee in accordance with Section 33-5-17. Upon receipt of the application and its approval by the authorized issuing officer, the officer shall enter the same upon the records and issue to the applicant a certificate of registration stating the number awarded to the vessel, the name and address of the owner, and a description of the vessel. The owner shall paint on or attach to each side of the bow of the vessel the annual identification number issued in such manner as may be prescribed by rules and regulations of the Department of Conservation and Natural Resources, that it may be clearly visible and be of such size as required by the Federal Boating Act of 1958 or any subsequent amendment thereto. The number shall be maintained in legible condition. The certificate of registration shall be pocket size and shall be available at all times for inspection on the vessel for which issued whenever the vessel is in

operation. (Acts 1959, No. 576, p. 1442, § 8; Acts 1994, No. 94-622, p. 1162, § 9.)

**§ 33-5-12. Certificates of registration and numbers generally - Numbering system.**

The numbering system employed pursuant to this chapter shall be determined and promulgated by the Commissioner of the Department of Conservation and Natural Resources acting pursuant to the authority conferred on him by Section 33-5-28; provided, that in the event an agency of the United States government shall have in force an overall system of identification numbering for vessels within the United States, any numbering system employed or promulgated pursuant to this article shall conform thereto. (Acts 1959, No. 576, p. 1442, § 11.)

**§ 33-5-13. Certificates of registration and numbers generally - Term of certificates and licenses.**

(a) Every certificate and license as provided for in this article is to be issued on a yearly basis and said certificate and license shall be valid for one issuing year only.

(b) The registration of vessels shall be on a staggered basis. To implement this act, the registration of vessels may be for periods of less than or greater than 12 months during the conversion year only.

(c) The staggered system for registration of vessels shall be implemented thusly: The first letter of an individual's last name shall determine the month in which a vessel owner shall register his vessel(s), as indicated below:

- January . . . . . A, D
- February . . . . . B
- March . . . . . C, E
- April . . . . . F, G, N
- May . . . . . H, O
- June . . . . . M, I
- July . . . . . P, L
- August . . . . . J, K, R
- September . . . . . Q, S, T
- October . . . . . U, V, W, X, Y, Z, to include livery boats, dealers, and manufacturers



After the conversion period all owners of vessels shall continue to register their vessels during the month assigned to the first initial of their last name. All registrations issued on a staggered basis shall expire on the last day of the month which precedes the month assigned for the purchase or renewal of registration. All registrations issued to vessels for which registration is due in October and November shall expire on September 30. (Acts 1959, No. 576, p. 14442, § 13; Acts 1988, No. 88-552, p. 868, § 1.)

**§ 33-5-14. Certificates of registration and numbers generally - Manufacturers' and dealers' vessels.**

(a) The description of the vessel of a manufacturer or dealer shall be omitted from the certificate since the number awarded may be used on different vessels at different times. In lieu of the description, the word "manufacturer" or "dealer," as appropriate, shall be plainly marked on each certificate.

(b) The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the vessel being demonstrated or tested so long as the display meets the requirements of this article. (Acts 1959, No. 576, p. 1442, § 9.)

**§ 33-5-15. Certificates of registration and numbers generally - Foreign vessels; change of ownership.**

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

(b) Should the ownership of a vessel change, a new application form with a fee of three dollars (\$3.00) for change in registration shall be filed with the Department of Conservation and Natural Resources and a new certificate issued transferring the original vessel number to the new owner; provided, however, that the Commissioner of Conservation and Natural Resources may at his discretion provide by duly promulgated regulations a system for the issuance of such changes of registration by the probate judges and license commissioners of this state, and, in the event such change of registration certificates are issued by such probate judges and license commissioners, they shall be entitled to a fee therefor of two dollars (\$2.00).

(c) No citizen or resident of this state may operate his vessel on the waters of this state when such vessel is under foreign registry; provided, however, that

any such citizen or resident who has previously registered his vessel in another state or by federal registry before coming into this state may operate same for a period of 90 consecutive days without being required to register under the provisions of this article. (Acts 1959, No. 576, p. 1442, § 10; Acts 1965, No. 787, p. 1473, § 1; Act 2007-420, §1.)

**§33-5-16. Certificates of registration and numbers generally - Transfer of interest or destruction or abandonment of vessel; change of address; duplicate registration certificates.**

(a) The owner shall furnish the Department of Conservation and Natural Resources notice of the transfer of all or any part of his interest other than the creation of a security interest in a vessel numbered in this state pursuant to this chapter or of the destruction or abandonment of such vessel within 15 days thereof. Such transfer, destruction or abandonment shall terminate the certificate for such vessel; except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate.

(b) Any holder of a certificate shall notify the Department of Conservation and Natural Resources within 15 days if his address no longer conforms to the address appearing on the certificate and shall as a part of such notification, furnish the Department of Conservation and Natural Resources with his new address. The Department of Conservation and Natural Resources may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

(c) Any person who has purchased a registration number for his vessel and subsequently loses or misplaces the registration certificate may make application to the Department of Conservation and Natural Resources, accompanied by a fee of three dollars (\$3.00) for a duplicate registration certificate. Such applications must be made upon forms furnished by the Division of Marine Police of the Department of Conservation and Natural Resources.

(d) The Commissioner of Conservation and Natural Resources is authorized to provide by duly promulgated regulation a system wherein the probate judges and license commissioners in this state may issue duplicate registration certificates, and, in the event such probate judges and license commissioners issue such duplicate registration certificates, they shall be entitled to a fee of two dollars (\$2.00) for each duplicate certificate. (Acts 1959, No. 576, p. 1442, § 14; Acts 1961, No. 878, p. 1377, § 3; Acts 1965, No. 787, p. 1473, § 2; Act 2007-420, §1)

**§33-5-17. Certificate of registration and numbers generally -  
Classification of vessels and registration fees.**

(a) Vessels subject to the provisions of this chapter shall be classified according to the following schedule and annual fees charged by the Department of Conservation and Natural Resources for registration shall be in the following amounts:

- Class 1. Less than 16 feet in length, eighteen dollars (\$18.00) plus two dollar (\$2.00) issuance fee.
- Class 2. Sixteen feet or over and less than 26 feet in length, twenty-three (\$23.00) plus a two dollar (\$2.00) issuance fee.
- Class 3. Twenty-six feet or over and less than 40 feet in length, seventy-three (\$73.00) plus a two dollar (\$2.00) issuance fee.
- Class 4. Forty feet or over in length, ninety-eight dollars (\$98.00) plus a two dollar (\$2.00) issuance fee. The above stated fees shall also apply to livery boats.
- Class 5. Dealer or manufacturer; temporary license, twenty-three (\$23.00) plus a two dollar (\$2.00) issuance fee for each license.

(b) In addition to the foregoing fees, there shall be an inspection fee of twenty-five (\$25.00) for all homemade boats which require a hull identification number. (Acts 1959, No. 576, p. 1442, § 16; Acts 1961, No. 878, p. 1377, § 4; Acts 1971, No. 2081, p. 3352 § 1; Acts 1981, No. 81-296, p. 377 § 1; Acts 1984, No. 84-446, p. 1040, § 6; Acts 1993, No. 93-754, p. 1508, § 1; Act 2007-420, §1.)

**§ 33-5-18. Certificate of registration and numbers generally - Only authorized number to be used.**

No number other than the number awarded to the vessel or granted reciprocity pursuant to this chapter shall be painted, attached or otherwise displayed on either side of the bow of such vessel. (Acts 1959, No. 576, p. 1442, § 15.)

**§ 33-5-19. Certificate of registration and numbers generally -  
Exemption from numbering provisions of article.**

A vessel shall not be required to be numbered under this chapter if it is:

- (1) A vessel operating under valid temporary certificate or number;
- (2) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; provided, that such vessel shall not have been within this state for a period in excess of 90 consecutive days;
- (3) A vessel under registry from a country other than the United States temporarily using the waters of this state;

(4) A vessel owned by the United States, or a state, county or municipality;

(5) A ship's lifeboat; or

(6) A vessel not propelled by machinery, except sail boats and boats for hire. (Acts 1959, No. 576, p. 1442, § 18.)

**§ 33-5-20. Special Agents to sell boat licenses.**

The sheriffs of this state may be designated as special agents to sell boat licenses as provided for herein. The Commissioner of Conservation and Natural Resources is authorized to appoint other special agents to sell boat licenses as provided for herein; provided, however, that the Commissioner of Conservation and Natural Resources may not appoint any special agent until said agent is bonded for not less than \$5,000.00. Such agents shall receive licenses from the Department of Conservation and Natural Resources in the same manner as the probate judges and license commissioners and shall make such reports and be subject to such audits as the Commissioner of Conservation and Natural Resources may specify. Special agents so appointed shall make returns to the Department of Conservation and Natural Resources in the same manner as probate judges and license commissioners. The Commissioner of Conservation and Natural Resources is further authorized to cancel such special agents' authority to sell licenses at any time he may so desire. Special agents shall be entitled to an issuance fee of two dollars (\$2.00). Any special agent selling licenses in excess of the cost of licenses as herein specified shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00. (Acts 1959, No. 576, p. 1442, § 32; Act 2007-420, § 1.)

**§ 33-5-21. Safety provisions relative to boat liveries.**

The Department of Conservation and Natural Resources through its agents and employees shall have the right to inspect at any reasonable time all boats owned or controlled by a livery operator for the purpose of ascertaining their seaworthiness and safety. In the event any boat owned or used by the livery operator for rental purposes is determined to be in an unsafe or unseaworthy condition, the Department of Conservation and Natural Resources shall immediately notify the livery operator in writing as to the unsafe or unseaworthy condition of such boat or boats and, after such notification, it shall be unlawful for the boat liveryman to rent or offer to rent any boat found to be in such condition; provided, however, that if such cited boat can be placed in a seaworthy or safe condition by repairs or alterations as so directed by the department, the same may then again be used for rental purposes but only after another inspection of the vessel to ascertain whether or not such repairs or alterations have been duly made. (Acts 1959, No. 576, p. 1442, § 19; Acts 1961, No. 878, p. 1377, § 5.)

Collateral references. - Liability of owner or operator of boat livery for injury to patron. 94 A.L..R.3d 876.

**§ 33-5-22. Safety equipment and lights; flags; capacity plate; flame arrester, etc., for carburetor.**

(a) Every vessel while being operated on the waters of this state shall be equipped with reasonable safety devices and lights as may be required under regulations promulgated by the Commissioner of Conservation and Natural Resources. No person shall operate or give permission for the operation of a vessel which is not equipped as is required by rules and regulations duly promulgated by the Commissioner of the Department of Conservation and Natural Resources.

(b) All such safety equipment and safety lights required by this section shall meet such standards as the Commissioner of Conservation and Natural Resources may from time to time establish as minimum equipment, and all such safety equipment and safety lights above the minimum requirements which are required by the rules and regulations of the Department of Conservation and Natural Resources shall conform with specific standards as may be adopted by the Department of Conservation and Natural Resources.

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

(d) A diver's flag must be displayed on the surface of any water where skin divers are operating as may be stipulated by the Department of Conservation and Natural Resources.

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

(f) Every motor boat shall have the carburetor or carburetors of every engine therein, except outboard motors using gasoline as fuel, equipped with such efficient USCG approved flame arrester, backfire trap or similar device as may be prescribed by the regulations duly promulgated by the Commissioner of the Department of Conservation and Natural Resources. (Acts 1959, No. 576, p. 1442, § 17; Acts 1969, No. 1057, p. 1977 § 1.)

**§ 33-5-22.1. "Sailboard" defined; hull deemed flotation device.**

(a) For the purposes of this section "sailboard" means any sailboat whose unsupported mast is connected by a snivel or a flexible universal joint to a hull similar to the hull of a surfboard.

(b) Any law, rule or regulation to the contrary notwithstanding, the hull of a sailboard shall be deemed to be a flotation device. Any sailboarder or wind surfer is exempt from any additional type of personal flotation device. (Acts 1986, No. 86-465, p. 850, § 1, 2.)

**§33-5-23. Muffling devices and sirens.**

(a) The exhaust of every internal combustion engine used on any vessel shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cutouts is prohibited, except for vessels competing in a regatta or official boat race, and for such vessels while on trial runs.

(b) No person shall use or have on board his vessel a siren of any type while operating on the waters of this state except as may be specifically allowed by the Commissioner of Conservation and Natural Resources for enforcement purposes. (Acts 1959, No. 576, p. 1442, § 20; Acts 1961, No. 878, p. 1377, § 6.)

Collateral references.-Mufflers: public regulation requiring mufflers or similar noise- preventing devices on motor vehicles, aircraft, or boats. 49A.L.R.2d 1202.

**§ 33-5-24. Prohibited operations and penalties therefor.**

Repealed by Acts 1994, No. 94-652, p. 1243, § 36, effective April 28, 1994.

**§ 33-5-25. Collisions, accidents and casualties.**

(a) It shall be the duty of the operator of a vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(b) In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of two thousand dollars (\$2,000), shall within 10 days file with the Department of Conservation and Natural Resources a full description of the collision, accident or other casualty, including such information as the Department of Conservation and Natural Resources by regulation may require.

(c) All accident reports required by this section made by persons involved in accidents shall be without prejudice to the individuals so reporting and shall be for the confidential use of the Department of Conservation and Natural Resources or other governmental agencies having use of the record; except, that the Department of Conservation and Natural Resources may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident; except, that the Department of Conservation and Natural Resources shall furnish upon demand of any person who has, or claims to have made such a report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department of Conservation and Natural Resources solely to prove a compliance or a failure to comply with the requirements that such a report be made to the Department of Conservation and Natural Resources. (Acts 1959, No. 576, p. 1442, § 22.; Acts 2009, No 2009-151)

Collateral references. - Liability of owner or operator of motorboat for injury or damage. 63 A.L.R.2d 343, 71 A.L.R.3d 1018.

### **§ 33-5-26. Water skis and aquaplanes.**

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

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

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

(d) No person except in jump buoys and like objects used normally in competitive and recreational skiing shall operate or manipulate any vessel, tow rope,

or other device by which the direction or location of water skis, aquaplane, or any other recreational device may be affected or controlled in a manner to cause the water skis, aquaplane, or other recreational device, or any person thereon, to collide with or strike against any object or person.

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

(f) Any person who violates this section shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). (Acts 1959, No. 576, p. 1442, § 24; Acts 1994, No. 94-652, p. 1243, § 23.)

**§33-5-27. Regattas, races, marine parades, tournaments and exhibitions.**

(a) The commissioner shall adopt and may from time to time amend regulations concerning the safety of vessels and persons thereon, either observers of or participants, in any regatta, motorboat or other boat race, marine parade, tournament or exhibition.

(b) Any person or organization sponsoring a regatta, motorboat or other boat race, marine parade, tournament or exhibition shall be responsible for providing adequate protection from marine traffic interference and hazards. (Acts 1959, No. 576, p. 1442, § 25.)

**§ 33-5-28. Rules and regulations - Power of commissioner to promulgate.**

The Commissioner of the Department of Conservation and Natural Resources shall make, adopt, promulgate, amend and repeal all rules and regulations necessary or convenient for the carrying out of the duties and obligations and powers conferred on the said Commissioner of the Department of Conservation and Natural Resources by this article. Further clarifying the rule-making power of the commissioner, he shall have power and authority to make, adopt, promulgate, amend and repeal all rules and regulations as shall promote safety for persons and property in and connected with the use, operation and equipment of vessels and for the carrying out of duties, obligations and powers conferred upon the Commissioner of the Department of Conservation and Natural Resources by this chapter, subject to such supervision of the Advisory Board of Conservation and Natural Resources as set out in section 9-2-15. (Acts 1959, No. 576, p. 1442, § 28.)



**§ 33-5-29. Rules and regulations - Filing and publication.**

A copy of the regulations adopted pursuant to this article, and of any amendments thereto, shall be filed in the office of the secretary of state, and in the office of the Department of Conservation and Natural Resources. Rules and regulations may be published by the commissioner in a convenient form. The Commissioner of Conservation and Natural Resources shall cause to be publicized, by the issuance of newspaper releases, new or amended or rescinded rules and regulations promulgated by him. (Acts 1959, No. 576, p. 1442, § 27.)

**§ 33-5-30. Rules and regulations - Admissibility as evidence.**

All rules and regulations duly promulgated under the provisions of this article by the Commissioner of Conservation and Natural Resources shall be admitted as evidence in the courts of this state when accompanied by an affidavit from the Commissioner of Conservation and Natural Resources certifying that the rule or regulation has been lawfully adopted and promulgated and such affidavit shall be prima facie evidence of proper adoption and promulgation of the rule or regulation. (Acts 1959, No. 576, p. 1442, § 29.)

**§ 33-5-31. Local regulation.**

(a) The provisions of this article and rules and regulations promulgated pursuant thereto, and other general laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this article shall take place thereon, but nothing in this chapter shall be construed to prevent the adoption of any ordinance or local law relating to operation of vessels the provisions of which are identical to the provisions of this article, amendments thereto or regulations issued thereunder; provided, that such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this article, amendments thereto or regulations issued thereunder.

(b) Any subdivision of this state may, at any time, but only after public notice, make formal application to the commissioner for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate. The public notice shall be effected by the said subdivision causing a copy of the proposed public rules or regulations to be published one time per week for four consecutive weeks in a newspaper of general circulation within the area that the subdivision is located.

(c) The commissioner is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territo-

rial limits of any subdivision of this state. (Acts 1959, No. 576, p. 1442, § 26.)

**§ 33-5-32. Jurisdiction of offenses; disposition of fines.**

District courts of any county of the State of Alabama shall have and are hereby given final jurisdiction to try and convict persons, firms or corporations violating any of the provisions of this article or the rules and regulations promulgated thereunder, subject to any proper appeal; and they shall remit to the commissioner, on or before the tenth day of each month, all fines and forfeitures collected by them for the violation of such laws, rules and regulations, together with a statement of the name of the person, firm or corporation convicted of such violation, the time of such conviction, the amount of the fine or penalty, the date of the remittance, and the specific charge for which the defendant was tried. (Acts 1959, No. 576, p. 1442, § 30.)

**§33-5-33. Fees in certain prosecutions.**

In all misdemeanor cases for violations of the provisions of this article and regulations promulgated thereunder, and in all misdemeanor cases for violation of future laws, the enforcement of which is assigned to the Marine Police Division of the State Department of Conservation and Natural Resources, cognizable in district courts or circuit courts, where the defendant pleads guilty and no appeal is taken, no fee shall be taxed or collected in said court for trial tax, district attorney's fee or entering judgment in such cases. (Acts 1967, No. 288, p. 817, § 1.)

**§ 33-5-34. Fees of arresting officer.**

When an arrest for violation of the provisions of this article or regulations promulgated thereunder is made by a salaried officer not employed by the Department of Conservation and Natural Resources and the defendant is convicted, there shall be taxed as cost the same fee as a sheriff in this state is entitled to for similar services and if collected from the defendant it shall be immediately remitted by the trial court directly to the treasurer of the county in which the offense occurred. When an arrest for violation of the provisions of this article or regulations promulgated thereunder is made by a salaried officer of the Department of Conservation and Natural Resources and the defendant is convicted, there shall be taxed as cost the same fee as sheriff in this state is entitled to for similar services and if collected from the defendant it shall be immediately remitted by the trial court directly to the Department of Conservation and Natural Resources, which fee shall be deposited to the credit of the Water Safety Fund. If the officer making the arrest be a nonsalaried officer and if said fee is collected from the defendant, said nonsalaried officer shall be entitled to said fee; provided, that no person shall be entitled to receive an informer's fee; and, further provided, that no fee shall be allowed in cases of acquittal. In the event the arrest is made

by a county officer, salaried or nonsalaried, 50 percent of the fine shall be remitted to the credit of the county treasury of the county in which the offense was committed, and the remaining 50 percent of the fine shall be remitted to the State Treasury for deposit to the "State Water Safety Fund." In the event the arrest is made by an officer other than a county officer, the fine shall be remitted to the state treasurer for deposit to the "State Water Safety Fund." (Acts 1959, No. 576, p. 1442, § 31.)

**§ 33-5-35. Penalty for violations of article generally.**

Any person convicted of violating any provision of this chapter, except as set out in subsection (c) of section 33-5-24, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10.00 nor more than \$100.00 and costs for each such violation. (Acts 1959, No. 576, p. 1442, § 33.)

**§ 33-5-36. Warning citations.**

The Commissioner of Conservation and Natural Resources is authorized to provide by duly promulgated regulation a system for issuing warning citations under such conditions as he may deem proper. (Acts 1959, No. 576, p. 1442, § 34.)

**ARTICLE 2**

**BOATING SAFETY REFORM**

**§ 33-5-50. Short title.**

This article shall be designated as the "Alabama Boating Safety Reform Act of 1994." (Acts 1994, No. 94-652, p. 1243, § 1.)

**§ 33-5-51. Operation of personal watercraft.**

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

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

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

(d) A personal watercraft shall at all times be operated on the waters of this state in a reasonable and prudent manner. Maneuvers which endanger life, limb, or property, or create a public nuisance, including, but not limited to the following, weaving through congested vessel traffic at high speed, following closely behind within the wake of a vessel towing a person or persons on water skis, surfboard, or other water sport device, jumping the wake of another vessel travelling in the same direction in close proximity to the vessel, cutting between a boat and the person or persons being towed by that boat, or crossing at right angles in close proximity to the stern of another vessel or when visibility around the other vessel is obstructed, or steering a vessel toward any object or person in the water and turning sharply at close range so as to spray the object or person, shall all constitute the reckless operation of a vessel, as provided in subsection (a) of Section 33-5-70. Any person violating this subsection shall be punished upon conviction as provided in Section 33-5-70.

(e) No person under the age of 12 shall operate a personal watercraft on the waters of this state, and persons who are at least 12 and over may only operate personal watercraft on the waters of this state to the extent otherwise permitted by law.

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

(g) No person shall tow any person by personal watercraft unless the personal watercraft is equipped with a rearview mirror meeting the specifications established by regulation of the Commissioner of the Department of Conservation and Natural Resources.

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

(i) This section does not apply to a performer engaged in a professional exhibition or a person participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with Section 33-5-27, and any rules and regulations issued by the Commissioner of Conservation and Natural Resources. (Acts 1994, No. 94-652, p. 1243, § 4; Act 2001-695, p. 1477, § 3.)

**§ 33-5-52. Boater safety certification generally.**

(a) Every person, except those specifically exempted by statutory enactment, within five years from April 28, 1994, shall procure a boater safety certification before operating a motorized vessel upon the waters of this state, as defined in Section 33- 5-3. This section shall not apply to any sailboat, rowboat, or canoe. Notwithstanding anything to the contrary herein, an Alabama resident 16 years of age and older, who has not been previously issued a boater safety certification, may for a period of thirty (30) days following the date of sale of the vessel to the person, operate the vessel upon the waters provided the following conditions are met: (1) the vessel has been registered in the name of the person; and (2) a bill of sale for the vessel, indicating that the person is the purchaser and owner of the vessel, is in the possession of the person at all times of operation. In addition, any person while taking test drives of vessels for sale when accompanied by a licensed vessel dealer, shall be exempt during the drive from the certification. Every new resident of the State of Alabama, before operating a motorized vessel, shall procure the certification within 30 days after establishing residence in this state.

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

(c) Every boater safety certification issued under this article may be renewed at the end of the certification period without examination upon application. For the purpose of renewal of a boater safety certification, the Department of Public Safety shall mail renewal notices to each certification holder 30 days after the expiration date if the certification has not been renewed. A grace period of 60 days after the expiration date of certification shall exist for the purpose of certification renewal and the certification shall be valid for this time period. The applicant shall apply for renewal of certification anytime during a period beginning 30 days before the expiration date of the then current certification until three years after the expiration date of certification. Failure to make application for renewal within the specified time shall result in the applicant being required to take, and successfully pass, a written or oral examination as administered by the Department of Public Safety. If any person's birthday is February 29, the first day

of March following shall be regarded as the birthday for the purposes of this section.

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

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

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

(g) A person, while using a rental vessel, shall be exempt from the certification requirements of this section if the following conditions are met:

(1) The person rents a vessel from a boat rental business duly licensed by the municipality or the county if the following three conditions are met:

a. The rental contract specifies that the lessee has been instructed in the proper and safe operation of the vessel by the lessor or the authorized agent of the lessor, and

b. The lessor in fact has complied with the terms of rental contract and all parties sign the contract, and

c. The lessee signs a statement that the lessee is not currently under suspension or revocation of any boater safety certification or vessel operation privilege in this state. (Acts 1994, No. 94-652, p. 1243, § 5; Act 2001-695, p. 1477, § 3.)

**§ 33-5-53. Boater safety certification; application fee; examinations; exemptions.**

(a) Every person who applies for a boater safety certification under this article, except as otherwise provided in this subsection, shall pay a five dollar (\$5) application fee and be given either a certificate of exemption from examination if applicable, or will be given an examination, either written or oral, before applying to the judge of probate or license commissioner for the issuance of the certification. No person shall be eligible for, or issued, an exemption from examination in the event the person is convicted, on or after April 28, 1994, of violating any crime relating to the operation of a vessel, whether contained in this article or otherwise, for which a person's boater safety certification or vessel operating privileges shall be suspended or revoked pursuant to this article. The person shall first apply to either the officer, state trooper, or duly authorized agent of the Director of Public Safety, designated by the Director of Public Safety to conduct examinations for the county of the applicant's residence, and a minor shall furnish a certified copy of a birth certificate or a certified statement from the county superintendent of education in which the applicant resides or the superintendent of the school which the person attends, to prove age and upon proof shall immediately be examined. Any operator of a boat who is 40 years of age or older, whether a resident or a non-resident, as of April 28, 1994, shall be granted a certificate of exemption only from the certification examination requirements of this article, but shall be subject to all the other requirements of this article. Any operator of a boat or vessel that is a holder of a current valid United States Coast Guard license issued under Section 46, Code of Federal Regulations, Part 10, is exempt from the safety certification requirements of Section 33-5-52, only while performing the duties of the operator, including, but not limited to, the following: Carrying passengers for hire on United States navigable waters; on all towboats greater than 26 feet engaged in towing; on any steam propelled vessel; on any sea-going vessel greater than 200 gross tons; on any vessel engaged in off-shore oil or mineral production; and on all boats or vessels over 200 gross tons. Also exempt from the safety certification requirements of Section 33-5-52, only upon proof of valid documentation and only while performing commercial fishing duties, is an operator of a commercial fishing vessel or boat. A Person holding a valid United States Coast Guard motorboat operator's license, and a person submitting a valid certificate of successful completion of any of the following boating courses: (a) United State Power Squadron, (b) United States Coast Guard Auxiliary, or (c) any State of Alabama Marine Police Division approved boating safety course, shall be exempt from the examination requirements, and shall be issued a certificate of exemption from examination, for a boater safety certification, but shall be subject to all other requirements of this article.

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

(c) The Commissioner of Conservation and Natural Resources shall estab-

lish from time to time as necessary the kind of examination or test to be given, which shall be of similar length and content as the motor vehicle driver license examination, and the method and manner of giving the test and ascertaining and reporting the results. Reports of all examinations shall be on forms provided by the Director of Public Safety and shall show whether or not the applicant passed the examination. No provision of this subsection shall be construed to require a test of driving skills. The rules and regulations promulgated by the commissioner pursuant to this subsection shall be subject to the Administrative Procedures Act.

(d) If the applicant passes the examination, a certificate to that effect shall be given, on a form provided by the Director of Public Safety by the officer, state trooper, or duly authorized agent of the Director of Public Safety conducting the test. The person shall present the certificate, or the certificate of exemption from examination if applicable, to the judge of probate or license commissioner of the county, together with the application for a boater safety certification, and the judge of probate or license commissioner shall attach the certificate to the application and forward it to the Director of Public Safety along with the application at the time the application is sent.

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

(f) The application fees shall be retained by the Department of Public Safety and are appropriated on a continuous basis and shall be utilized and expended for boating safety or law enforcement purposes and shall not revert to the General Fund at the end of the fiscal year. (Acts 1994, No. 94-652, p. 1243 § 6.)

**§ 33-5-54. Issuance of boater safety certification.**

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

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

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

(b) It is the legislative intent to implement and maintain a boater safety cer-



tification program at the lowest possible cost to the citizens of Alabama. Consistent with this goal, it is the legislative intent to not require payment for boater safety certifications when certifications are obtained at the time of issuance of a valid Alabama motor vehicle driver or learner license or valid Alabama nondriver identification card, but rather utilize one card for those purposes.

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

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

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

(e) Any person given a citation for failure to have a boater safety certification who had a current, valid boater safety certification at the time of the citation which was not on his or her person at the time the citation was issued, may present the boater safety certification to the court or the court clerk and the citation shall be dismissed without the payment of any costs. (Acts 1994, No. 94-652, p. 1243, § 7; Act 2001-695, p. 1477, § 3.)

**§ 33-5-55. Reports; disposition of funds.**

At the close of business on Monday of each week, when any application has been received, the judge of probate receiving the application shall prepare a report upon a form which shall be provided by the Director of Public Safety. One copy of the report, together with all applications received, shall be forwarded to the Director of Public Safety and one copy shall be retained by the judge of probate. On the tenth day of every month, the judge of probate shall prepare a report showing the number of applications received and the amount of fees received during the previous calendar month; provided, that the report shall be prepared on the twentieth day in October, November, and December. One copy of the report shall be forwarded to the Director of Public Safety, one to the Commissioner of Conservation and Natural Resources, one to the State Comptroller, and one to the State Treasurer, and the judge of probate shall retain a copy. Except as otherwise provided in this article, the judge of probate shall also at that time deliver to the State Treasurer the amount of all the fees collected, less one dollar and fifty cents (\$1.50) for each boater safety certification issued, which sum shall be retained by him or her. Except in counties where the judge of probate is compensated by fees, each one dollar and fifty cents (\$1.50) retained by the judge of probate shall be paid into the Public Highway and Traffic Fund of the county. In

counties where the judge of probate is compensated by fees, two-fifths of each one dollar and fifty cents (\$1.50) retained by the judge of probate shall be for his or her own use, and no other or further charge shall be made for services rendered in taking or receiving applications or issuing permits. The remaining three-fifths shall be paid into the Public Highway and Traffic Fund of the county. This section, providing for the allocation of the one dollar and fifty cents (\$1.50) retained by the judge of probate in counties where the judge of probate is compensated by fees, shall not repeal any local statutes or general statutes of local application providing for a different allocation of the one dollar and fifty cents (\$1.50). The fund remitted to the State Treasurer under this section, shall be deposited into the Public Safety Law Enforcement Fund within the State Treasury. All money deposited in the State Treasury to the credit of the Public Safety Law Enforcement Fund shall be expended for law enforcement purposes and shall be appropriated on a continuous basis and shall not revert to the General Fund of the State Treasury. (Acts 1994, No. 94-652, p. 1243, § 8; Act 2000-800, p. 1901, § 1.)

**§ 33-5-56. Certification to bear distinguishing number, color photo graph, signature, and other identification information; notification on motor vehicle driver or learner license.**

Each boater safety certification issued by the Department of Public Safety, except for temporary certifications issued pursuant to Section 33-5-54, or except special circumstances as determined by the Director of the Department of Public Safety, shall bear thereon a distinguishing number assigned to the holder and a color photograph of the holder, the name, birth date, address, and a description of the holder, who, for the purpose of identification and as a condition precedent to the validity of the certification, immediately upon receipt thereof, shall endorse his or her usual or regular signature in ink upon the certification in the space provided, unless a facsimile of the holder's signature appears.

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

Notwithstanding anything to the contrary, in the event a person is issued a valid Alabama motor vehicle driver or learner license, or valid Alabama nondriver identification card at the same time as issuance of the boater safety certification, the certification shall consist of a notification on the driver or learner license or the identification card, at no additional cost for notification, that the person is also the

holder of a boater safety certification. No additional fees shall be collected or retained for the issuance of a boater safety certification under these circumstances. Any person may have a duplicate card issued, at the same cost as the original cost, for the convenience of the individual. The duplicate shall be marked "duplicate". (Acts 1994, No. 94-652, p. 1243 § 9.)

**§ 33-5-57. Persons to whom boater safety certification shall not be issued.**

(a) A boater safety certification shall not be issued to the following persons:

- (1) Any person less than 12 years of age.
- (2) Any person whose vessel operating right or privilege is suspended.
- (3) Any person whose vessel operating right or privilege is revoked.
- (4) Any person who is an habitual abuser of alcohol or drugs.
- (5) Any person afflicted with or suffering from a physical or mental disability which, in the opinion of the Director of Public Safety or examining officer will prevent the person from exercising reasonable and ordinary control over a vessel.

(b) Notwithstanding any other provisions of this chapter, a person 12 years of age, but less than 14 years of age, who does not have a valid boater safety certification on January 1, 2002, may not operate a vessel, including a personal watercraft, unless the person obtains a valid boater safety certification and is under the immediate supervision of a person who is 21 years of age or older having a valid boater safety certification and who is on the vessel and is in a position to take immediate physical control of the vessel if needed. Also, notwithstanding any other provisions of this chapter, Alabama residents 12 years of age, but less than 14 years of age on the January 1, 2002, may apply for and obtain a boater safety certification and operate a vessel, including a personal watercraft, to the same extent and under the same conditions as persons 14 years of age. (Acts 1994, No. 94-652, p. 1243, § 10; Act 2001-695, p. 1477, § 3.)

**§ 33-5-58. Persons with physical disabilities or impairments; hearings.**

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

(b) Notwithstanding any law, rule, or regulation, the Department of Public Safety shall not refuse to issue or renew any certification for the operation of a vessel on the grounds of physical appearance, speculations, or generalizations

that the individual's physical impairment would impede that person's ability to operate a vessel in a safe manner without probable cause to believe the person's ability to operate a vessel in a safe manner is in fact impaired.

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

(d) This section shall be interpreted to be consistent with and to further the purposes and policies of Section 504 of the Rehabilitation Act of 1973, as amended, 34 CFR Part 104 and P.L. 101-336, The Americans with Disabilities Act of 1990, together with implementing regulations, and amendments to the laws and regulations. (Acts 1994, No. 94-652, p. 1243, § 11.)

**§ 33-5-59. Display of certification required.**

Every holder of a boater safety certification shall have the certification in personal possession at all times when operating a motorized vessel and shall display the certificate upon demand of a judge of any court, a peace officer, state marine police officer, or a state trooper. No person charged with violating this section shall be convicted, if the person produces in court or in the office of the arresting officer a boater safety certification issued prior to the arrest and valid at the time of arrest. (Acts 1994, No. 94-652, p. 1243, § 12.)

**§ 33-5-60. Reciprocal agreements with other states.**

The Director of Public Safety and Commissioner of Conservation and Natural Resources are empowered to enter into reciprocal agreements with other states constituting an exchange of rights or privileges in the use of boater safety certifications, vessel operator's certifications, or vessel operating privileges, within this state by residents of other states. Nothing in this article shall in any way affect the revocation of certifications of another state. The reciprocal agreement can be annulled on notice issued to either party by the other party within 30 days. No agreement shall authorize a person who has been a resident of this state for the past 90 days to operate a motorized vessel in this state without a valid boater safety certification issued by the Director of Public Safety of this state. (Acts 1994, No. 94-652, p. 1243, § 13.)

**§ 33-5-61. Restrictions for persons impaired from physical disabilities; special restricted certification; penalty for violation of restrictions.**

(a) The director of Public Safety, upon issuing a boater safety certification, shall have authority whenever the holder is impaired from a physical disability to impose restrictions suitable to the holder's operating ability with respect to the type of or special mechanical control devices required on a vessel which the holder may operate or other restrictions applicable to the holder as the Director of Public Safety or Commissioner of Conservation and Natural Resources may determine to be appropriate to assure the safe operation of a vessel by the holder.

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

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

(d) It shall be a Class C misdemeanor for any person to operate a vessel in any manner in violation of the restrictions imposed in a restricted certification. Any fines collected for the violation of this section shall be deposited into the State Water Safety Fund. (Acts 1994, No. 94-652, p. 1243, § 14.)

**§ 33-5-62. Rules and regulations; point system for suspension or revocation of certifications.**

The Commissioner of Conservation and Natural Resources may establish and promulgate reasonable rules and regulations, not in conflict with the laws of this state, concerning operation of vessels and concerning the enforcement of this article. All fines collected shall be deposited into the State Water Safety Fund. Specifically, but not by way of limitation, the commissioner may establish, by regulation, in addition to all other penalties, a point system by which boater safety certifications may be suspended or revoked, as well as hearing procedures related to the suspension or revocation of certifications. Unless otherwise provided by law, the penalty for the violation of any rules and regulations promulgated under this article shall be a Class C misdemeanor punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. A person so convicted shall be fined not less than fifty dollars (\$50). (Acts 1994, No. 94-652, p. 1243, § 15.)

**§ 33-5-63. Filing and indexing applications; filing accident reports and records of convictions.**

The Director of Public Safety shall file every application for a boater safety certification received by him and shall maintain suitable indices. The Commissioner of Conservation and Natural Resources shall also file all accident reports and abstracts of court records of convictions received under the laws of this state, and in that connection, maintain convenient records or make suitable notations in order that an individual record of each certification holder showing the convictions of and the accidents in which the holder has been involved. The records shall be readily ascertainable and available for the consideration of the commissioner and director upon any application for renewal of certification and at other suitable times. (Acts 1994, No. 94- 652, p. 1243, § 16.)

**§ 33-5-64. Duplicates for lost or destroyed certifications; fees.**

(a) In the event any boater safety certification issued under this article is lost or destroyed, the person may upon payment of a fee of five dollars (\$5) and upon furnishing proof to the Director of Public Safety that the certificate has been lost or destroyed, secure a duplicate. The second and subsequent duplicates applied for will require the payment of a fee of fifteen dollars (\$15) and, upon furnishing proof to the Director of Public Safety that the previously held certification or duplicate has been lost or destroyed, a duplicate may be secured. Application for the duplicate shall be made to the Director of Public Safety on forms provided by the official. The fee shall be collected by the director, paid into the State Treasury and credited to the Department of Public Safety. The fee shall be retained by the Department of Public Safety and is appropriated on a continuous basis and shall be utilized and expended for boating safety or law enforcement purposes and shall not revert to the General Fund at the end of the fiscal year.

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

(c) Notwithstanding anything to the contrary, however, the person shall not be required to pay any additional fees for the reissuance of a lost or destroyed certification as denoted on any reissued lost or destroyed motor vehicle driver license, when the license and a boater safety certification were previously issued at the same time. (Act 1994, No. 94-652, p. 1243, § 17.)

**§33-5-65. Reinstatement of certification following cancellation, suspension, or revocation.**

Any person whose boater safety certification has been cancelled, suspended, or revoked under any provision of Alabama law, by the Commissioner of Conservation and Natural Resources, or by any court of competent jurisdiction shall, upon application for reinstatement of the certification, pay to the Director of Public Safety a fee of fifty dollars (\$50) for each cancellation, suspension, or revocation action. An additional fifty dollars (\$50) is imposed if the cancelled, suspended, or revoked certification is not voluntarily surrendered within 30 days of a cancellation, suspension, or revocation notice. Upon receipt of the reinstatement fee, clearance for recertification will be provided. The second and any subsequent clearance for recertification for this action will be provided for a fee of five dollars (\$5). Upon reinstatement the holder is required to obtain a duplicate certification with a new photograph and current personal data. Fees collected by the director under this section shall be retained by the Department of Public Safety and shall not be returned to the applicant for reinstatement of certification, notwithstanding what action the Commissioner of Conservation and Natural Resources may take on the person's application for reinstatement of certification. (Acts 1994, No. 94- 652, p. 1243, § 18.)

**§ 33-5-66. Violations; penalties.**

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

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

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

(d) Any person who willfully conceals or withholds a material fact called for in an application for or renewal of a boater safety certification with intent to obtain certification by fraud shall be guilty of a Class C misdemeanor and, upon conviction,

tion, is punishable as provided in Section 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than twenty-five dollars (\$25.00).

(e) Any person who violates any provision of this article for which no fixed punishment is prescribed or who violates any rule or regulation promulgated as authorized by this article shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A - 5 - 7 and 13A - 5 - 12. Any persons so convicted shall be fined not less than twenty-five (\$25).

(f) All fines, penalties, or forfeitures imposed and collected under this article shall be forwarded immediately by the officer of the court who collects them to the Commissioner of Conservation and Natural Resources, together with a report giving a list and description of each case in which a fine, penalty, or forfeiture was collected. The reports shall be on forms provided by the commissioner and shall contain information as the commissioner may require. All moneys received by the commissioner shall be covered by him immediately upon receipt into the State Treasury to the credit of the State Water Safety Fund. Any officer of the court who fails to make the reports provided for or who fails to remit any fines, penalties, or forfeitures, as provided by law, and collected under this articles in the manner provided shall be guilty of a Class C misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100). (Acts 1994, No. 94-652, p. 1243, § 19; Act 2001-695, p. 1477, § 3.)

**§ 33-5-67. Operation while certification is cancelled, suspended, or revoked prohibited; penalties.**

Any person whose boater safety certification or vessel operator's certification issued in this or another state or whose vessel operating privilege as a nonresident has been cancelled, suspended, or revoked, as provided in this article, and who operates any motorized vessel upon the waters of this state while certification or privilege is cancelled, suspended, or revoked shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A- 5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). Also, at the discretion of the Commissioner of Conservation and Natural Resources, the person's certification or privilege may be revoked for an additional revocation period of six months. (Acts 1994, No. 94-652, p. 1243, § 20.)

**§33-5-68. Application fee; retention by Department of Public Safety.**

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



(b) The Department of Public Safety shall issue proper receipts for the application fee. The application fees are appropriated on a continuous basis to the Department of Public Safety, and shall be retained by the department and utilized for boating safety or law enforcement purposes and shall not revert to the State General Fund at the end of each fiscal year. (Acts 1994, No. 94-652, p. 1243, § 21.)

**§ 33-5-69. Flotation device; exceptions.**

(a) All persons under eight years of age on board any vessel or boat of any kind on the waters of this state shall at all times wear a United States Coast Guard approved wearable personal flotation device of proper size for the person, except that no personal flotation device shall be required for any person who is inside of an enclosed cabin or enclosed sleeping space regardless of whether the vessel is in operation.

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

(c) Any person who fails to require or permits any person under their legal custody or control to fail to comply with, the requirements of this section, shall be guilty of a Class B misdemeanor, and upon conviction is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). (Acts 1994, No. 94-652, p. 1243, § 22.)

**§ 33-5-70. Reckless operation of vehicle; careless operation, violation of rules and regulations of Marine Police; penalties.**

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

(b) Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, so as not to endanger the life, limb, or property of any person. The endangerment of life, limb, or property through the negligence, carelessness, or inattention of any person operating a vessel on the waters of this state shall constitute careless operation. Vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates this subsection is guilty of a Class B misdemeanor,

punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

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

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

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

(d) In addition to all other penalties contained in this section, any person convicted of violating this section shall be subject to the revocation or suspension of their boating safety certification or vessel operator's certification or vessel operating privileges upon the waters of this state, as provided by law and rules and regulations of the Department of Conservation and Natural Resources. (Acts 1994, No.94-652, p. 1243 § 24.)

**§ 33-5-71. Obstruction of operator's view prohibited; penalties.**

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

(b) Any person violating this section shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). (Acts 1994, No. 94-652, p. 1243, § 25.)

**§ 33-5-72. Emergency engine or motor shut-off switch.**

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

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

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

(d) Any person violating this section shall be guilty of a Class B misdemeanor, and upon conviction shall be punishable as provided by Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). (Acts 1994, No. 94-652, p. 1243, § 26.)

**§ 33-5-73. Operation of vessel in excess of speed zone prohibited.**

No person shall under any circumstances operate a vessel on the waters of this state in excess of a speed zone established by regulation of the Commissioner of Conservation and Natural Resources. The commissioner may promulgate rules and regulations establishing speed zones, in areas on the waters of this state as deemed hazardous by the commissioner. (Acts 1994, No. 94-652, p. 1243, § 27.)

**§ 33-5-74. Markers, signs, and buoys; mooring or fastening vessel prohibited; damaging, altering, or moving prohibited; penalties.**

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

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

(c) Any person violating this section shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). (Acts 1994, No. 94-652, p. 1243, § 28.)

**§ 33-5-75. Authority of Commissioner of Conservation and Natural Resources to cancel certification or to suspend or revoke privilege of operating vessel; procedures.**

(a) The Commissioner of Conservation and Natural Resources may cancel any boater safety certification upon determining that the holder of the certification was not entitled to the issuance or that the holder failed to give the correct or required information in the application for certification. Upon cancellation the holder shall surrender the certification cancelled and any duplicate. A holder who refuses to surrender the certification and any duplicate shall be guilty of a Class C misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12.

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

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

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

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

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

(g) Whenever any person is convicted of any offense for which this article makes mandatory the revocation of the certification of the person, the court in which the conviction is had shall require the surrender of the certification documents and duplicates of any boater safety certification then held by the person convicted and the court shall thereupon forward the proof of certification surrendered together with a record of the conviction to the commissioner.

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

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

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

- (1) Manslaughter or homicide by vehicle or vessel resulting from the operation of a vessel.
- (2) Any violation of [Section 32-5A-191.3] which requires revocation.
- (3) Any offense of any law or regulation for which mandatory revocation is required upon conviction.
- (4) Any felony in the commission of which a vessel is used.
- (5) Failure to stop, render aid, or identify the person as required under the laws of this state in the event of a boating accident resulting in the death or personal injury of another.
- (6) Perjury or the making of a false affidavit or statement under oath to the Director of Public Safety or Commissioner of Conservation and Natural Resources under this article or under any other law or regulation relating to the ownership or operation of vessels.
- (7) Conviction upon three charges of reckless or careless operation of a vessel committed within a period of 12 months.
- (8) Unauthorized use of a vessel belonging to another, which act does not amount to a felony.

(k) The Commissioner of Conservation and Natural Resources may suspend the certification or operating privilege of a vessel operator without preliminary hearing upon a showing by its records or other sufficient evidence that the operator did the following:

- (1) Has committed an offense for which mandatory revocation is required upon conviction.
- (2) Has been convicted of any offense under Section 32-5A-191.3

which provides for suspension.

- (3) Has been convicted of any offense of any law or regulation which provides for suspension.
- (4) Has been convicted with frequency of serious offenses against boating or vessel operation laws or regulations governing the movement of vessels as to indicate a disrespect for boating or vessel operation laws and a disregard for the safety of other persons on the waters of this state.
- (5) Is an habitually reckless, careless, or negligent operator of a vessel, established by a record of accidents, or by other evidence.
- (6) Is incompetent to operate a vessel.
- (7) Has permitted an unlawful or fraudulent use of certification.
- (8) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.
- (9) Has been convicted of fleeing or attempting to elude a marine police officer.
- (10) Has violated a restricted boater safety certification pursuant to Section 33-5-61.

(l) Upon suspending the certification or operating privilege of any person, the Commissioner of Conservation and Natural Resources shall immediately notify the person in writing and upon request shall afford the person an opportunity for a hearing as early as practicable, not to exceed 30 days after receipt of the request, in the county where the person resides or in Montgomery County in the case of a nonresident, unless the Commissioner of Conservation and Natural Resources and the person agree that the hearing may be held in some other county. The hearing shall be before the Commissioner of Conservation and Natural Resources or a duly authorized agent. At the hearing the Commissioner of Conservation and Natural Resources, or duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the person. At the hearing, the Commissioner of Conservation and Natural Resources, or duly authorized agent, shall either rescind its order of suspension or, upon good cause shown, may continue, modify, or extend the suspension or revoke the certification or operating privilege of the person. If the certification or operating privilege has been suspended as a result of the person's operation while under the influence of alcohol, the commissioner or agent conducting the hearing shall take into account, among other relevant factors, the person's successful completion of any duly established waterway intoxication seminar, "DUI counterattack course", or similar educational program designed for problem drinking operators. If the hearing is conducted by a duly authorized agent instead of by the Commissioner of Conservation and Natural Resources, the action of the agent shall first be approved by the Commissioner of Conservation and Natural Resources prior to implementation.

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

(n) The Commissioner of Conservation and Natural Resources upon cancelling, suspending, or revoking a certification shall require that proof of certification and any duplicates be surrendered to and be retained by the Commissioner of Conservation and Natural Resources. Any person whose certification has been cancelled, suspended, or revoked shall immediately return the certification and any duplicates to the Commissioner of Conservation and Natural Resources. If the person refuses to surrender the certification, the person shall be guilty of a Class C misdemeanor punishable as provided by law.

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

(p) Any person denied a certification or whose certification or operating privilege has been cancelled, suspended, or revoked by the Commissioner of Conservation and Natural Resources, except where cancellation, suspension, or revocation is mandatory under this article, shall have the right to file a petition within 30 days for a hearing in the matter in the circuit court in the county wherein the person resides, or in the case of cancellation, suspension, or revocation of a nonresident's certification or operating privilege in the county in which the main office of the Commissioner of Conservation and Natural Resources is located, and the circuit court is vested with jurisdiction for hearing the petitions for certification or operating privilege. The circuit court shall set the matter for hearing upon 30 days' written notice to the Commissioner of Conservation and Natural Resources and take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a certification or operating privilege under this section or is subject to suspension, cancellation, or revocation. (Acts 1994, No. 94-652, p. 1243, § 29.)

**§ 33-5-76. Authority to arrest at scene of boating accident.**

A uniformed police officer, state trooper, state law enforcement officer, state marine police officer, county sheriff, a deputy, or a member of a municipal police force, may arrest, at the scene of a boating accident, any operator of a boat or vessel involved in the accident if upon personal investigation, including information from eyewitnesses, the officer has reasonable grounds to believe that the person, by violating Section 32-5A-191.3, contributed to the accident. The law enforcement officer may arrest the person without a warrant although the officer did not personally see the violation. (Acts 1994, No. 94-652, p. 1243, § 30.)

**§ 33-5-77. Violation of federal laws or rules regulating engine horsepower; penalties; effective date.**

(a) It shall be unlawful in this state for any person to violate the federal laws or rules regulating the horsepower of the engines of the vessels operating on the

waters of this state.

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

(c) The effective date of only this section shall be five years from April 28, 1994. (Acts 1994, No. 94-652, p. 1243, § 31.)

**§ 33-5-78. "Vessel" defined.**

For the purpose of this article, the term "vessel" shall be as defined by Section 33-5-3. (Acts 1994, No. 94-652, p. 1243, § 32.)

**§ 33-5-79. Rules and regulations.**

The Commissioner of Conservation and Natural Resources may implement and enforce reasonable and necessary rules and regulations to enforce this article. (Acts 1994, No. 94-652, p. 1243, § 33.)

**§ 33-5-80. Exemption for law enforcement officers while performing their duties.**

Law enforcement officers while performing their duties shall be exempt from this article while enforcing the speeding and regulatory laws pursuant to this article. No law enforcement officer shall be personally exempt from Section 32-5A- 191.3. (Acts 1994, No. 94-652, p. 1243, § 34.)

**§ 33-5-81. Boating safety as part of driver education curricula.**

The State Department of Education shall require a segment of the approved driver education curricula to include boating safety in Alabama, beginning with the 1994-95 school year. The boating safety curricula shall be approved in writing by the Commissioner of Conservation and Natural Resources and the State Superintendent of Education. (Acts 1994, No. 94-652, p. 1243, § 35.)

**CHAPTER 6A  
RECREATIONAL VESSEL AND RESIDENCE BOAT  
SEWAGE DISCHARGE REGULATED.**

**§33-6A-1. (Effective October 1, 2003) Definitions.**

For the purpose of this chapter, the following terms shall have the following



meanings, unless the context clearly indicates otherwise:

(1) DEPARTMENT. The state Department of Conservation and Natural Resources.

(2) DISCHARGE. Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping in state waters.

(3) MARINA. Any entity required to have a business license which is located on any waters of this state and which moors, docks, stores, or anchors vessels for periods of seven consecutive calendar days or longer for a fee.

(4) MARINE SANITATION DEVICE. Any equipment for installation on board a vessel, or a floating or over-the water residence, which is designated to receive, retain, treat, or discharge sewage, and any process to treat such sewage except that marine sanitation device shall not be interpreted to include portable toilets of any type.

(5) RECREATIONAL VESSEL. Every description of watercraft or other artificial contrivance used primarily as a means of recreational transportation on the waters of this state. Such term shall exclude, without limitation, commercial watercraft such as a tow boat or commercial passenger carrying vessels.

(6) RESIDENCE BOAT. Any structure used primarily for habitation located on any waters in the state, floating or supported totally or partially on pilings.

(7) SEWAGE. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes, but does not include by-catch or bait discharge by fishermen, galley water, bath and shower water, or bilge water. (Act 2002-59, p. 145, § 1.)

### **§33-6A-2. (Effective October 1, 2003) Rules and regulations.**

The department shall be the agency of the state responsible for regulating recreational vessel and residence boat sewage discharges. The department is authorized to adopt rules and regulations or orders designed to control and regulate the discharge of sewage from recreational vessels and residence boats into the waters of this state. (Act 2002-59, § 2.)

### **§33-6A-3. (Effective October 1, 2003) Prohibited activities.**

(a) Discharge of untreated sewage is prohibited in all waters of this state.

(b) Recreational vessels with no installed marine sanitation device or approved sewage disposal system and residence boats are prohibited from discharging sewage in all state waters. Notwithstanding any provision of this chapter to the contrary, this chapter shall not be construed as prohibiting the disposal of sewage by a vessel or residence boat into a sewage disposal system constructed and operated according to law and approved by the Department of Public Health. (Act 2002-59, p.145, § 3.)

**§33-6A-3.1 (Effective October 1, 2006) Use on specified lakes of houseboats, vessels of large size, and vessels with certain speed ratings.**

(a) The prohibitions in this section shall apply only to the following lakes: Lake Harris (Lake Wedowee), Lake Martin, and Weiss Lake.

(1) Except as authorized under subsection (d), beginning July 1, 2007, the use of houseboats shall be prohibited. The term houseboat shall include any residence boat as defined in subdivision (6) of Section 33-6A-1 or any recreational vessel that constitutes a fully equipped dwelling similar in content to a mobile home, with a marine sanitation device, galley, and sleeping quarters.

(2) Beginning October 1, 2006, the use of recreational vessels greater than 26 feet 11 inches in length and rated by the manufacturer for or capable of a top speed in excess of 60 miles an hour shall be prohibited.

(3) Except as authorized under subsection (d), beginning July 1, 2007, the use of recreational vessels greater than 30 feet 6 inches in length, as determined by the straight line distance between the ends of the boat, excluding bowsprits, outboard motor brackets, rudders, or other attachments, shall be prohibited.

(b) Vessels used for law enforcement, public safety, search and rescue, scientific research, or dam operation or maintenance or medical vessels shall be excluded from the prohibitions in this section.

(c) Sailboats equipped with a mast and sails that are dependent upon the wind for propulsion in the normal course of operation shall be excluded from the prohibitions in this section.

(d) The department shall adopt rules pursuant to the Alabama Administrative Procedure Act within six months of July 1, 2006, authorizing the use of vessels otherwise prohibited by this section in the following circumstances:

(1) Vessels needed for use on a temporary basis.

(2) Houseboats that were licensed and in use on July 1, 2006, provided, that they meet all applicable standards for sewage discharges, are moored at a marina or other facility with a certified pump-out station or other approved means of sewage disposal, and are inspected annually.

(3) Boats exceeding 30 feet 6 inches in length not to include any boat covered by subdivision (2) of subsection (a) that was licensed and in use or that

was on site and available for sale at a marina located on one of the lakes referenced in subsection (a) on July 1, 2006.

(e) A permit issued under subsection (d) shall specify the lake where continued use of the vessel is authorized and shall not be transferable to any other lake referenced in subsection (a). Each permit issued under subsection (d) shall have a term of one year and shall be issued on or after the annual inspection of the vessel, if required. The department may charge and collect a fee sufficient to cover the reasonable anticipated costs for annual inspections and permit issuance under subsection (d). (Act 2006-398, p. 1004, § 1.)

**§ 33-6A-4. (Effective October 1, 2003) Compliance with federal laws,**

Every recreational vessel and residence boat owner, operator, and occupant shall comply with United States Coast Guard or other federal laws and regulations pertaining to marine sanitation devices and with United States Environmental Protection Agency or other federal laws and regulations pertaining to areas in which the discharge of sewage, treated or untreated, is prohibited. (Act 2002-59, p. 145, § 4.)

**§ 33-6A-5. (Effective October 1, 2003) Pump-out stations at marinas.**

An owner, operator, employee, or agent of a marina which does not provide a pump-out station or other approved means of properly disposing of sewage from recreational vessels, shall not, except in the case of safety emergency, permit a recreational vessel with Type III marine sanitation device to moor, anchor, dock, or be stored at the marina. The department may, in cooperation with the Alabama Department of Economic and Community Affairs, Department of Public Health, and the Alabama Department of Environmental Management, establish by regulation in accordance with the Alabama Administrative Procedure Act, a program for financial assistance to marina facilities for the establishment of pump-out stations or other approved means of disposing of sewage from such vessels. (Act 2002-59, p. 145, § 5.)

**§ 33-6A-6. (Effective October 1, 2003) Annual inspection of vessels; decal; citations; fees.**

Every recreational vessel required to be registered in Alabama or residence boat on the waters of this state having a marine sanitation device installed on board shall be inspected annually by the department in the county where the recreational vessel or residence boat is domiciled or located to assure that the recreational vessel or residence boat is in compliance with this chapter and department rules. When a recreational vessel or residence boat meets the requirements of the department, an annual inspection decal will be issued. This decal shall be placed on the port side of the hull of each recre-

ational vessel and shall be placed on the residence boat in a position to be clearly visible from the water. The department may, at the request of a recreational vessel or residence boat owner and as part of an ongoing public educational program, conduct courtesy inspections of recreational vessels and residence boats for compliance with this chapter and may, in its sole discretion, provide warning citations under such circumstances as it deems appropriate. The department may, at the end of five years from October 1, 2003, establish by regulation, a reasonable fee not to exceed fifty dollars (\$50) for the conduct of any mandatory annual inspections pertaining to this chapter, which fees shall be credited to the State Water Safety Fund. (Act 2002-59, p. 145, § 6.)

**§ 33-6A-7. (Effective October 1, 2003) Public education program.**

The department is hereby authorized to undertake and to enlist the support and cooperation of all agencies, political subdivisions, and organizations in the conduct of a public education program designed to inform the public of the undesirability of depositing untreated sewage, trash, litter, and other materials in the waters of this state and of the penalties provided by this chapter for such action, and to use funds provided by the Legislature for this purpose. The department is further authorized to utilize all means of communication in the conduct of this program. (Act 2002-59, p. 145, § 7.)

**§ 33-6A-8. (Effective October 1, 2003) Violations.**

(a) Marine police officers or any duly sworn peace officer of the state may board and inspect a recreational vessel or residence boat for compliance with this chapter and department rules at any time if there is probable cause to believe that a violation of this chapter or department rules has occurred.

(b) Any person who violates this chapter or any rule adopted by the department pursuant to this chapter shall be guilty of a Class B misdemeanor and fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation; provided, however, that first-time offenders of any provision of this chapter or of any rule adopted pursuant to this chapter shall be given a warning citation providing a 90-day opportunity to comply with the provision, and in the event of the failure of the offender to comply within the 90-day period, the offender shall be cited for violating the provision. (Act 2002-59, p. 145, § 8.)

**§ 33-6A-9. (Effective October 1, 2003) Disposition of fines.**

All fines paid or collected under this chapter shall be paid to the account of State Water Safety Fund. (Act 2002-59, p. 145, § 9.)

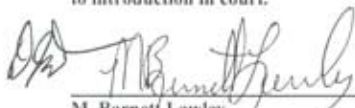
CERTIFICATE OF LAWFUL ADOPTION  
OF  
BOATING SAFETY REGULATIONS

STATE OF ALABAMA)  
MONTGOMERY COUNTY)


Before me, the undersigned authority, appeared M. Barnett Lawley, known to me to be the Commissioner of the Department of Conservation and Natural Resources, State of Alabama, who, being duly sworn, deposes and says:

That Boating Safety Regulations as appearing herein have been lawfully adopted and promulgated by the Commissioner of the Department of Conservation and Natural Resources under the authority of Articles 1 and 2 of Chapter 5, and Chapter 6A, of Title 33 of the Code of Alabama 1975, as amended.

This affidavit is made in compliance with Section 33-5-30, Code of Alabama 1975, as amended, providing for certification of certain regulations as a prerequisite to introduction in court.

  
\_\_\_\_\_  
M. Barnett Lawley  
Commissioner of Conservation  
and Natural Resources

Sworn to and subscribed before me this 5 day of January, 2010

  
\_\_\_\_\_  
Notary Public



ROBIN M. NUMMY  
NOTARY PUBLIC  
STATE OF ALABAMA  
MY COMM. EXP. 1-3-12

By authority vested in me as Commissioner of Conservation and Natural Resources of the State of Alabama as provided for by §15 of Act No. 94-652 (Regular Session, 1994) and §33-5-62, Code of Alabama 1975, I do hereby establish, proclaim and promulgate the following regulations, which has the force and effect of law:

**220-6-.01                    Vessel Identification Numbers**

(1) Every vessel identification number issued by the State of Alabama shall be divided into three parts.

(a) The first part shall consist of the capital letters "AL". The second part shall consist of not more than four arabic numerals. The third part shall consist of not more than two capital letters. Each part shall be separated from the other by a hyphen or equivalent space. For example: AL- 1234-AA.

(b) The identification numbers issued shall read from left to right and shall be in block characters of good proportion not less than 76 millimeters (three inches) in height and shall be of a color which will contrast with the color of the background, (i.e. dark numbers on light background or light numbers on dark background).

(2) Rule 220-6-.01, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.02                    Applications for Vessel Identification Numbers**

(1) All applications for vessel identification numbers issued under the State of Alabama's system shall include the following information and shall be submitted on forms furnished by the Department of Conservation and Natural Resources, Marine Police Division:

- (1) Name of the owner.
  - (2) Address of the owner, including zip code.
  - (3) Date of Birth of the owner.
  - (4) State in which vessel is or will be principally used.
  - (5) The number previously issued by an issuing authority for the vessel, if any.
  - (6) Whether the application is for a new number, renewal of a number, or transfer of ownership.
  - (7) Whether the vessel is used for pleasure, rent or lease, or dealer or manufacturer demonstration commercial passenger carrying commercial fishing, or other commercial use.
  - (8) Make of vessel.\*
  - (9) Year vessel was manufactured or model year.\*
- (10) Manufacturer's hull identification number, if manufactured after

August 1, 1972.\*

- (11) Overall length of vessel.\*
- (12) Type of vessel (open, cabin, house, or other).\*
- (13) Whether the hull is wood, steel, aluminum, fiberglass, plastic or other.\*
- (14) Whether the propulsion is inboard, outboard, inboard outdrive, auxiliary sail, or sail, and name of engine manufacturer, if available.\*#
- (15) Whether the fuel is gasoline, diesel, or other.\*#
- (16) The signature of the owner.

Items marked with \* may be omitted on applications submitted by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes. Items marked with # may be omitted on applications submitted by a person who intends to lease or rent a vessel without propulsion machinery.

(a) All requirements governing the application for number and certificate of number shall apply to rental boats, except that the description of the motor, if any, and type of fuel will be omitted from the application for number and the certificate of number in every case where the motor is not rented as part of the boat. All applications for rental boats operation will be submitted to the Alabama Marine Police Division. The certificate of number on rental boats shall be plainly marked "Rental Boat".

(b) Any vessel that is rented or leased, must have on board a copy of the lease or rental agreement, signed by the owner or his agent and by the person leasing or renting the vessel, that contains the following:

- (1) The vessel number that appears on certificate of number.
- (2) The period of time for which the vessel is leased or rented.
- (3) Number of persons on board at time of departure from place of rental.

It shall be unlawful to rent or to offer to rent any vessel that is not registered with the Alabama Marine Police Division as a rental vessel.

The certificate of number for vessels less than 8 meters (26 feet) in length and leased or rented to another for the latter's noncommercial use of less than 24 hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative.

(c) Bona fide boat dealers or boat manufacturers may procure a dealer's or manufacturer's certificate of number by submitting an application to the Alabama Marine Police Division. The identification number awarded pursuant to such application shall be used by such dealers or manufacturers by having the same

placed upon or attached to a removable board or similar object to be temporarily but firmly mounted upon or attached to the vessel being demonstrated.

(d) Applications for number and certificates by boat dealers or boat manufacturers for a dealer's tag shall not require a description of the boat, since the numbers and certificates of number awarded may be transferred from one boat to another. In lieu of the description the word "manufacturer" or "dealer" as appropriate will be plainly marked on each certificate.

(e) Each certificate of number must contain the following information:

- (1) Number issued to the vessel.
- (2) Expiration date of the certificate.
- (3) State of principal use.
- (4) Name of the owner.
- (5) Address of owner, including zip code.
- (6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying commercial fishing or other commercial use.
- (7) Manufacturer's hull identification number, if manufactured after August 1, 1972.
- (8) Make of vessel.
- (9) Year vessel was manufactured.
- (10) Overall length of vessel.
- (11) Whether the vessel is an open boat, cabin cruiser, houseboat, or other type.
- (12) Hull material.
- (13) Whether the propulsion is inboard, outboard, inboard outdrive, or sail.
- (14) Whether the fuel is gasoline, diesel or other.

(f) Each person using a vessel to which this regulation applies shall present the certificate or lease or rental agreement required by (b), (c) and (e) to any Federal, State, or local law enforcement officer for inspection at his request.

(2) Rule 220-6-.02, as previously promulgated, is hereby expressly repealed in its entirety.

### **220-6-.03 Placement of Vessel Identification Numbers**

(1) Each person purchasing a vessel identification number shall place said number on each side of the bow of the vessel for which it was purchased in such position as will make it clearly visible at all times.

(a) Such number may be placed on each side of the bow of the vessel by decals or paint. Such number shall be of block characters of good proportion



and in no event less than 76 millimeters [(3) inches] in height and properly spaced so as to be easily readable and such paint or decals shall contrast with the color of the background upon which they are placed. Such numbers must at all times be maintained in a legible condition. Marine Police Officers may require the owner of any vessel to repaint or reattach such numbers when same are, in his judgement, not legible, or are improperly spaced.

(b) Operators of vessels used exclusively for racing are not required to paint or attach the vessels' license number to the bow; provided, however, the number shall be affixed or painted at some other conspicuous position in or on said vessel.

(c) In addition to the number herein required to be placed on each side of the bow of every licensed vessel, the owner shall also be required to place a current-year decal within 151 millimeters (six inches) of the registration number on each side of the vessel at either the beginning or the end of his registration number. Such decals shall be given to the registration purchaser at the time he purchases his annual registration certificate.

(d) It shall be a violation of this regulation to operate or permit a vessel to be operated unless said vessel has attached to each side of the bow said registration number, together with the current-year decals. Only the current-year decal shall be displayed on vessel.

(e) A valid registration number issued to a vessel shall remain with that vessel until the vessel is destroyed, abandoned, or vessel is no longer principally used in the state where the certificate was issued.

(f) The person whose name appears on the certificate of number as the owner of the vessel shall remove the number and validation decal from the vessel when:

- (1) The vessel is commercially documented by the USCG.
- (2) The certificate of number becomes invalid for reasons other than annual expiration.
- (3) The vessel is no longer principally used in the state where the certificate was issued.

(2) Rule 220-6-.03, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.04**

**Repealed by Acts 1994, No. 94- 652.**

**220-6-.05****Transfer of Vessel Ownership**

(1) The probate judges and license commissioners of the various counties of this state may issue boat transfer certificates, transferring the ownership of a registered boat on forms furnished by the Marine Police Division, Department of Conservation and Natural Resources, providing the boat's last registration record is with the county where application is being made or the applicant presents the registration certificate of the immediate former owner. The probate judges and license commissioners of the various counties of this state may issue replacement certificates to applicants for those lost or destroyed, providing the boat's last registration record is with the county where application is being made and subject boat is currently registered.

(a) The fee for transferring the original registration number to the new owner by issuance of a transfer certificate is three dollars (\$3.00). The fee for issuing replacement certificates for those lost or destroyed is three dollars (\$3.00). The probate judges and license commissioners are entitled to levy an issuing fee of two dollars (\$2.00).

(b) The probate judges and license commissioners will remit to the Department of Conservation and Natural Resources all monies collected (except their levied issuing fee) on the same forms and at the same time as they presently remit collections for the sale of boat registration certificates.

(2) Rule 220-6-.05, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.06****Boating Accident Reports**

(1) Whenever a boating accident results in the (1) loss of life or the disappearance of any person; (2) injury causing any person to remain incapacitated for a period in excess of seventy-two (72) hours; (3) actual damage to any vessel, or to any other property in excess of fifty dollars two thousand dollars (\$2000.00); the operator of said boat shall submit, within ten (10) days from the date of the accident, to the Department of Conservation and Natural Resources, Marine Police Division, a written report of the said accident on forms furnished by the Department of Conservation and Natural Resources, which report must contain the following:

- (1) The numbers and names of each vessel involved.
- (2) The name and address of each owner of each vessel involved.
- (3) The name of the nearest city or town, the county, the State, and the body of water.
- (4) The time and date the casualty or accident occurred.
- (5) The location on the water.
- (6) The visibility, weather, and water conditions.

- (7) The estimated air and water temperatures.
- (8) The name, address, age or date of birth, telephone number, - vessel operating experience and boating safety training of the operator making the report.
- (9) The name and address of each operator of each vessel involved.
- (10) The number of persons on board or towed on skis by each - vessel.
- (11) The name, address, and date of birth of each person injured or killed.
- (12) The cause of each death.
- (13) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.
- (14) The name and address of each owner of property involved.
- (15) The availability and use of personal flotation devices.
- (16) The type and amount of each fire extinguisher used.
- (17) The nature and extent of each injury.
- (18) A description of all property damage and vessel damage with an estimate of the cost of all repairs.
- (19) A description of each equipment failure that caused or contributed to the cause of the casualty.
- (20) A description of the vessel casualty or accident.
- (21) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).
- (22) The opinion of the person making the report as to the cause of the casualty.
- (23) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horse power, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.
- (24) The name, address, and telephone number of each witness.
- (25) The manufacturer's hull identification number (HIN), or serial number if no HIN is affixed, of the reporting operator's vessel.
- (26) The name, address, and telephone number of the person submitting the report.

(a) For the purpose of this regulation a "boat accident" means a collision, accident, or other casualty which occurs to, or is caused by, or in any other way, involves a vessel while being operated on the waters of this state.

(b) A vessel shall be considered to be involved in a "boat accident" whenever the occurrence results in damage by or to the vessel or its equipment; any injury or loss of life to any person or in the disappearance of any person resulting from the accident under circumstances which indicate the possibility of death or injury.

(2) This regulation shall be applicable to all vessels, except commercially documented vessels, which are within the jurisdiction of this state at the time of the accident, and to all vessels carrying Alabama registration numbers, regardless of where the accident occurs.

(3) Nothing in this regulation should be so construed as to show intent to excuse any vessel licensed by the State of Alabama which is involved in a boating accident in another State from complying with any laws or regulations of such other State regarding reports of boating accidents within the State. The necessity of reporting the accident to the officials of another State shall not exonerate or excuse any failure to file a report in the State of Alabama as herein required.

(4) The provisions of this regulation shall apply to all vessels operated on the waters of this State, except vessels commercially documented by the Federal Government, and regardless of whether or not the vessel involved in a accident is registered or required to be registered under Alabama law.

(5) Rule 220-6-.06, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.07            Traffic “Rules of the Road”**

(1) The water traffic “Rules of the Road” in the State of Alabama shall be as follows:

- (1) Vessels passing head-on shall keep to the right.
- (2) Vessels overtaking another vessel may do so on either side, but must grant the right-of-way to the vessel being overtaken.
- (3) When vessels are passing at right angles, the vessel on the left will yield right-of-way to vessel on the right.
- (4) Motor boats shall yield right-of-way to non-motor powered boats except as follows:
  - a) When being overtaken by non-powered vessels.
  - b) For deep draft vessels that have to remain in narrow channels.
  - c) When vessel is towing another vessel.
- (5) Motor boats must maintain a direct course when passing sail boats.
- (6) Any vessel approaching a landing dock or pier shall yield the right-of-way to any departing vessel.
- (7) Any vessel departing shoreline or tributary shall yield right-of-way to through traffic and vessels approaching shoreline or tributary.
- (8) Vessels will not abruptly change course without first determining that it can be safely done without risk of collision with another

vessel.

- (9) If an operator fails to fully understand course of an approaching vessel he must slow down immediately to a speed barely sufficient for steerageway until the other vessel has passed.
- (10) Vessels yielding right-of-way shall reduce speed, stop, reverse, or alter course to avoid collision. Vessel with right-of-way shall hold course and speed. If there is danger of collision, all vessels will slow down, stop, or reverse until danger is averted.
- (11) Vessels will issue warning signals in fog or inclement weather.
- (12) No mechanically propelled vessel shall be operated in a circular course around any other vessel or any person swimming.
- (13) In narrow channel, vessels will keep to the right of mid channel.
- (14) Vessels approaching or passing another vessel shall be operated in such manner and at such rate of speed as will not create a hazardous wash or wake.
- (15) No vessel shall obstruct or interfere with take-off, landing, or taxiing of aircraft.
- (16) All vessels shall be operated at reasonable speeds for given situations and must be under the complete control of the operator at all times.
- (17) No vessel or person shall obstruct or block navigation channel, entrance to channel, mooring slip, landing dock, launching ramp, pier or tributary.
- (18) Vessels shall keep at least 30.5 meters (100 feet) clearance of displayed diver's flag.
- (19) Operator must maintain a proper look-out.

(2) Rule 220-6-.07, as previously promulgated, is hereby expressly repealed in its entirety.

## **220-6-.08            Signal Devices Required**

(1) All vessels as hereinafter designated shall be equipped with signal devices for use during night-time operation (sunset to sunrise) and during inclement weather where visibility is greatly reduced.

(a) All vessels 4.9 meters [(16) feet] in length but less than 8 meters [(26) feet] are required to be equipped with an efficient whistle or other sound-producing mechanical device, whether operated by hand or power, capable of producing a blast of two seconds or more duration and audible for at least .8 kilometers (one-half mile).

(b) All vessels 8 meters [(26) feet] in length but not exceeding 12.2 meters [(40) feet] are required to be equipped with an efficient whistle or other sound-producing mechanical device, hand or power operated, capable of producing a blast of two seconds or more duration and audible for a distance of at

least 1.6 kilometers (one mile).

(c) All vessels exceeding 12.2 meters [(40) feet] in length shall be equipped with an efficient whistle or similar device, power operated, capable of producing a blast of two seconds or more duration and audible for a distance of at least 1.6 kilometers (one mile).

(d) Nothing in this regulation shall be so construed as exempting a vessel from any further sound signal devices which may be required by the United States Coast Guard or other governmental agency when operating on the navigable waters of this state.

(2) Rule 220-6-.08, as previously promulgated, is hereby expressly repealed in its entirety.

### **220-6-.09            Navigation Lights Required**

(1) The following designated vessels shall be required to display, when under way between sunset and sunrise, and also between sunrise and sunset in restricted visibility, the following specific lights:

(a) Manually propelled vessels less than 7 meters [(23) feet] in length shall have readily at hand a lantern or flashlight showing a white light which shall be temporarily exhibited by the operator in sufficient time to prevent collision.

(b) All mechanically propelled vessels, and combination sail and power vessels when under power, less than 12 meters (39.4 feet) in length shall have one combination light in the fore part of the vessel showing red to port and green to starboard from dead ahead to 112.5 degrees on each side (225 degrees combination), visible at least 1.6 kilometers (one mile), along with either one bright, white light at the stern showing all around the horizon (360 degrees), or a masthead light placed as nearly as practicable to the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from dead ahead to 112.5 degrees on both sides of the vessel in addition to a stern light placed as nearly as practicable at the stern showing an unbroken white light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees on each side of the vessel, visible at least 3.2 kilometers (two miles). All around white lights and masthead lights stipulated in this paragraph (b) shall be carried at least one (1) meter (3.28 feet) higher than sidelights or red and green combination lights.

(c) Mechanically propelled vessels, and combination sail and power vessels when under power, that are 12 meters (39.4 feet) in length but less than 20 meters (65.6 feet) in length shall have on the port side, properly screened, a red light which shall show from dead ahead to 112.5 degrees on that side, visible at least 3.2 kilometers (two miles); and on the starboard side, properly screened,

a green light which shall show from dead ahead to 112.5 degrees on that side, visible at least 3.2 kilometers (two miles) or one combination light in the fore part of the vessel showing red to port and green to starboard from dead ahead to 112.5 degrees on each side (225 degrees combination), visible at least 3.2 kilometers (two miles); one white masthead light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from dead ahead to 112.5 degrees on both sides of the vessel, visible at least 4.8 kilometers (three miles) along with a stern light placed as nearly as practicable at the stern showing an unbroken white light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees on each side of the vessel visible at least 3.2 kilometers (two miles).

(d) Sail vessels under sail only, less than 20 meters (65.6 feet) in length shall have one of the following light configurations:

(1) One combination light forward showing red and green lights over 225 degrees with red to port and green to starboard, together with a 135 degree white light at the stern all of which will be visible at least 3.2 kilometers (two miles).

(2) One properly screened red light on the port side showing from dead ahead to 112.5 degrees on that side, visible at least 3.2 kilometers (two miles), and one properly screened green light on the starboard side showing from dead ahead to 112.5 degrees on that side, visible at least 3.2 kilometers (two miles) and on the stern a 135 degree white light visible astern for at least 3.2 kilometers (two miles).

(3) One combination lantern with red to port, green to starboard and white to the stern carried at or near the top of the mast where it can best be seen, visible at least 3.2 kilometers (two miles).

(e) All vessels of whatever description or size when anchored on the waters of this state shall carry and display a steady white light showing all around the horizon (360 degrees), visible at least 3.2 kilometers (two miles), as a warning signal to avert collisions.

(2) The lights required above may also be displayed in any other circumstances when it is deemed necessary by the operator.

(3) Rule 220-6-.09, as previously promulgated, is hereby expressly repealed in its entirety.

Section 2. Any person violating any of the provisions of this regulation shall be punished as provided by §33-5-62, Code of Alabama 1975.

Section 3. This regulation shall become effective on the 36th day following filing of same with the Legislative Reference Service.

**20-6-.10**

**Fire Extinguishers Required**

(1) All vessels hereinafter designated shall be equipped with fire extinguisher equipment which shall be kept in such a workable condition and location as to make it available for immediate and effective use when the vessel is occupied.

(a) All inboard and inboard/outboard motor vessels, regardless of size, shall have a hand portable fire extinguisher or semi-portable fire extinguisher using carbon dioxide (CO2), foam, halon or other chemical ingredient such as is commonly used for extinguishing gasoline fires or petroleum product fires. Such fire extinguisher shall be approved by the U. S. Coast Guard.

(b) All vessels equipped with any butane gas, propane gas, kerosene, gasoline or petroleum product consuming device, except outboard motors, shall have a hand portable fire extinguisher or semi-portable fire extinguisher using carbon dioxide (CO2), foam, halon or other chemical ingredient such as is commonly used for extinguishing a fire produced by the use of such device. Such fire extinguisher shall be approved by the U. S. Coast Guard.

(c) All motor vessels having closed or semi-closed cabins and any vessel with sleeping accommodations shall have a hand portable fire extinguisher or semi-portable fire extinguisher using carbon dioxide (CO2), foam, halon or other chemical ingredient such as is commonly used for extinguishing fires. Such fire extinguisher shall be approved by the U. S. Coast Guard.

(d) All motor vessels having closed compartments wherein portable fuel tanks are stored or having permanently installed fuel tanks shall have a hand portable or semi-portable fire extinguisher approved by the U. S. Coast Guard.

(e) Vessels requiring fire extinguishers shall carry at least the minimum number of hand portable or semi-portable fire extinguishers as follows:

VESSELS WITHOUT FIXED EXT. SYSTEM IN MACHINERY SPACE				
CLASS OF MOTOR BOAT	FOAM (MIN L)	CARBON DIOXIDE (MIN KGS)	DRY CHEMICAL (MIN KGS)	HALON (MIN KGS)
(1) Less than 4.9 M (16 ft)	4.2 L (1 1/4 gal)	1.8 kg (4 lbs)	.9 kg (2 lbs)	1.1 kg (2 1/2 lbs)

VESSELS WITHOUT FIXED EXT. SYSTEM IN MACHINERY SPACE				
CLASS OF MOTOR BOAT	FOAM (MIN L)	CARBON DIOXIDE (MIN KGS)	DRY CHEMICAL (MIN KGS)	HALON (MIN KGS)



(2) 4.9 M (16 ft) but less than 4.2 L				
8 M (26 ft)	(1 1/4 gal)	1.8 kg (4 lbs)	.9 kg (2 lbs)	1.1 kg (2 1/2 lbs)
(3) 8 M (26 ft) but less than 9.5 L				
12.2 M (40 ft)	(2 1/2 gal)	3.6 kg (8 lbs)	1.8 kg (4 lbs)	2.3 kg (5 lbs)
(4) 12.2 M (40 ft) and over	14 L (3 3/4 gal)	5.4 kg (12 lbs)	2.7 kg (6 lbs)	3.4 kg (7 1/2 lbs)

**VESSELS WITH FIXED EXT. SYSTEM IN MACHINERY SPACE**

CLASS OF MOTOR BOAT	FOAM (MIN L)	CARBON DIOXIDE (MIN. KGS)	DRY CHEMICAL (MIN. KGS)	HALON (MIN. KGS)
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(1) Less than 4.9 M (16 ft)	None	None	None	None
(2) 4.9 M (16 ft) but less than 8 M (26 ft)	None	None	None	None
(3) 8 M (26 ft) but less than 12.2 M (40 ft)	4.2 L (1 1/4 gal)	1.8 kg (4 lbs)	.9 kg (2 lbs)	1.1 kg (2 1/2 lbs)
(4) 12.2 M (40 ft) and over	9.5 L (2 1/2 gal)	3.6 kg (8 lbs)	1.8 kg (4 lbs)	2.3 kg (5 lbs)

(2) Rule 220-6-.10, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.11 Personal Flotation Devices Required**

(1) Every vessel operated on the waters of this state is required to have on board at least one U. S. Coast Guard approved personal flotation device (PFD) for each occupant aboard the vessel as specified below:

Class I - Less than 4.9 meters (16 feet): a Type I, II, or III.

Class II - 4.9 meters (16 feet) but less than 8 meters (26 feet): a Type I, II, or III.

Class III - 8 meters (26 feet) but less than 12.2 meters (40 feet): a Type I, II, or III.

Class IV - 12.2 meters (40 feet) and over: a Type I, II, or III.

(a) A type V PFD may be carried in lieu of any PFD required in

220-6-.11, paragraph (1) if that type V PFD is U. S. Coast Guard approved for the activity in which the recreational boat is being used.

A type V (Hybrid) PFD must be worn while underway in open boats and when not within an enclosed space on larger boats. The hybrid PFD must be U. S. Coast Guard approved and labeled for use on recreational boats.

(b) In addition to the above requirements for personal flotation devices, all recreational boats 4.9 meters (16 feet) and over in length operated on the waters of this state shall carry at least one Type IV PFD (cushion or ring buoy) as a throwable device.

(c) All required PFD's must be placed or stored on the vessel in such manner as to be readily available for use in case of emergency.

(d) PFD's that are torn, rotted, or damaged lose their U. S. Coast Guard approval.

(e) All PFD's shall be proper size for occupants on board.

(f) The Department of Conservation and Natural Resources, through its enforcement officers, shall have the right to inspect any required safety equipment aboard any vessel operated on the waters of this state or any safety equipment offered for rent.

(g) Any safety equipment found to be in an unserviceable condition may be stamped or marked as unserviceable equipment and its use prohibited.

(h) Nothing in this regulation shall be interpreted so as to mean that stamping or marking shall be prerequisite for prosecuting a person who violates any provision of this regulation.

(2) Rule 220-6-.11, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.12                    Repealed by Acts 1994, No. 94- 652.**

**220-6-.13                    Ventilation Requirements**

(1) Every motor boat except those of open construction using as fuel any inflammable or toxic fluid in any enclosure shall be provided with an efficient natural or mechanical ventilation system which is capable of removing inflammable or explosive gases.

(2) Rule 220-6-.13, as previously promulgated, is hereby expressly repealed

in its entirety.

**220-6-.14 Horsepower Limitations**

(1) No vessel shall be equipped with any motor or other propulsion machinery beyond its safe power capacity, taking into consideration the type and construction of such vessel and other existing operating conditions.

(2) Rule 220-6-.14, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.15 Load Capacity**

(1) No vessel shall be loaded beyond its safe carrying capacity, taking into consideration weather and existing operating conditions.

(2) Rule 220-6-.15, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.16 Capacity Plate To Be Affixed**

(1) No person shall operate, give permission to operate, or offer for sale any vessel without a capacity plate affixed permanently thereto as specified by U. S. Coast Guard standards.

(2) Rule 220-6-.16, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.17 Permit for Marine Events Required**

(1) No person, organization, or association shall sponsor or hold any marine regatta, race, trial runs, parade, tournament or exhibition that interferes with marine traffic or creates a potential safety hazard until said event has been approved either by the Marine Police Division, Department of Conservation and Natural Resources, or the United States Coast Guard.

(a) Any person, organization or association desiring to hold or sponsor such regatta, race, trial runs, parade, tournament or exhibition on the waters of this state which are navigable waters of the United States and on which the United States Coast Guard maintains aids to navigation and which area is normally used for commercial traffic or navigation shall make application for such event to the Marine Police Division and to the responsible Coast Guard district under such rules as that agency prescribes.

(b) Any person, organization or association desiring to hold or sponsor

such regatta, race, trial runs, parade, tournament or exhibition on the waters of this state other than those waters described in subparagraph (1) (a) hereof shall make written application for such event to the Marine Police Division of the Department of Conservation and Natural Resources on forms provided by said Division which application must be submitted at least fifteen (15) days before the date of the proposed event. Upon approval by the Marine Police Division of the said marine event application, a written permit shall be issued to the applicant.

(2) Rule 220-6-.17, as previously promulgated, is hereby expressly repealed in its entirety.

#### **220-6-.18 PFD Required for Skiers**

(1) No person shall operate or give permission to operate any vessel on the waters of this state towing a person or persons on water skis, surfboard, spinners, or other similar devices unless such person or persons being towed are wearing a type I, II, III or V U. S. Coast Guard approved personal flotation device (PFD).

(2) No person shall engage in that certain aquatic sport known as water skiing, including the use of surfboards, discs, spinners, tubes, or other similar devices, without wearing a type I, II, III or V U. S. Coast Guard approved PFD.

(3) Any person being towed on skis, aquaplane, surfboard, spinner, tubes, or other similar devices shall be considered an occupant of the towing vessel.

(4) The provisions of this regulation shall not apply to any person performing in a marine exhibition or tournament officially recognized by the Department of Conservation and Natural Resources or the United States Coast Guard.

(5) Rule 220-6-.18, as previously promulgated, is hereby expressly repealed in its entirety.

#### **220-6-.19 Aids to Navigation and Regulatory Markers**

(1) Whenever the Director of the Marine Police Division of the Department of Conservation and Natural Resources shall determine that, in the interests of public safety, it is necessary to restrict the speed of boats or boating activities on, or prohibit entrance of boats into, certain areas of the waters of this state, or otherwise regulate or prohibit the use of boats or water skis (including all devices similar to water skis) in such areas, he shall designate such restricted areas by appropriate signs, which signs shall be as follows:

- a) A symbol of a diamond shape with a cross within the diamond, colored international orange on a white background, shall mean "Boats Keep Out".
- b) A symbol of a circle shape, colored international orange on white

background, designates a controlled or prohibited boating activity such as, limiting the speed of a vessel, prohibiting fishing or skiing or swimming, etc. In most instances, lettering will be placed in the center of said circle designating the prohibited or controlled boating activity.

Provided that whenever said restriction affects the interests of another division of the Department of Conservation and Natural Resources, the Director of the Division affected shall be consulted by the Director of the Marine Police Division and an agreement reached before the restriction becomes effective. If no agreement on the restriction is reached, the Commissioner of Conservation and Natural Resources shall resolve the difference.

(2) It shall be unlawful for any person, firm or corporation to place or maintain any regulatory markers (signs or buoys) on the public waters of this state without first having received permission for the erection of such regulatory markers from the Marine Police Division of the Department of Conservation and Natural Resources. When permission for the erection of such markers is given, same may only be of a standard type and with standard lettering and colors which shall be specified and designated by the Marine Police Division of the Department of Conservation and Natural Resources. Any person, firm or corporation desiring to place or erect regulatory markers on the public waters of this state must first make application to the Marine Police Division for permission. Upon receipt of such application, the Marine Police Division shall notify such applicant or applicants of the necessary specifications for regulatory markers of the type desired and if permission for the erection and placing of markers is granted to the applicant, same must comply with the specifications as provided by the Marine Police Division.

(3) The diver's flag shall not be less than 300 millimeters (12 inches) square, colored red with a white two-inch strip running diagonally from the top staff corner to the bottom fly corner and shall be prominently displayed and visible from all directions and kept within a 15.2 meters (50 foot) radius of divers when said divers are in the water.

(4) It shall be unlawful to fail to comply with any restrictive sign, buoy, or marker as approved by the Director of the Alabama Marine Police Division.

(5) Nothing in this regulation shall be interpreted so as to mean that signs or markers shall be a prerequisite for prosecuting a person who violates any other provisions of law or any other rule or regulation.

(6) Rule 220-6-.19, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.20 PFD to be Worn Below Dam**

(1) It shall be unlawful for any person to operate any vessel on the waters of this State within 244 meters (800 feet) below a hydroelectric dam and/or navigation lock and dam unless each person aboard, including the operator, is wearing a U. S. Coast Guard approved personal flotation device Type I, Type II, Type III, or Type V.

(a) Such personal flotation device will be worn and securely fastened in accordance with manufacturers instructions and recommendations for such personal flotation device.

(b) This regulation is not intended to affect regulations promulgated by other governmental agencies, federal or state, related to activities that may or may not be conducted within 244 meters (800 feet) of such dams.

(2) Rule 220-6-.20, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.21 Operator's Age**

Section 1:

(1) No person owning or having control of a mechanically propelled vessel shall permit any person under the age of twelve (12) years to operate said vessel on the waters of this State.

(a) The provisions of this regulation shall not apply to any person operating a vessel under the age of twelve (12) years in a Department of Conservation and Natural Resources or United States Coast Guard officially recognized marine event provided a written permit has been issued by the Commissioner.

Section 2:

Any person violating any of the provisions of this regulation shall be punished as provided by § 15 of Act. No. 94-652.

**220-6-.22 Flame Arrestor**

(1) Every motor boat using gasoline as fuel except outboard motors shall have the carburetor or carburetors of every engine therein equipped with a United States Coast Guard approved flame arrestor or backfire trap.

(2) Rule 220-6-.22, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.23****Noise Level Restriction**

(1) It shall be unlawful for any person to operate or give permission to operate any vessel powered by an engine or outboard motor on the waters of this State in such a manner as to exceed a noise level of 86 decibels measured by the Society of Automotive Engineers (SAE) Stationary Sound Level Measurement Procedure SAE-J-2005 or as measured by the Society of Automotive Engineer (SAE) Shoreline Sound Level Measurement Procedure SAE-J-1970.

(a) It shall be a violation of this regulation for any person reasonably suspected by a Marine Policeman or other authorized law enforcement officer to be operating a vessel that exceeds the noise limitation prescribed herein to refuse to submit his vessel for a noise emission test.

(b) The provisions of this regulation shall not apply to vessels competing in a regatta, boat race or speed trial run provided that such regatta, race or speed trial has been officially approved by the Marine Police Division or United States Coast Guard and is being conducted during the time and in the designated area authorized by the permit.

(2) Rule 220-6-.23, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.24****Swimming Area at Gulf Shores**

(1) For the purposes of this regulation, the Municipal Swimming Area of the City of Gulf Shores is defined as that portion of the Gulf of Mexico bounded on the north by the main public beach area of the City of Gulf Shores at the intersection of State Highway 59 and State Highway 182 and bounded on the south by a line running parallel to the mean high tide line along said beach area at a distance of 122 meters (400 feet) from the mean high tide or at such lesser distance from the mean high tide line as the City of Gulf Shores may designate from day-to-day by means of buoys or other markers.

(2) Except as provided in paragraph (3) below, during the period from March 1 through October 31 of each year, no person shall operate a vessel, sailboard, surfboard, windsurfer, water skis, aquaplane, paddleboat or other watercraft in the Municipal Swimming Area of the City of Gulf Shores at any time during the hours from sunrise to one hour after sunset.

(3) This regulation shall not apply to officers and agents of the United States, the State of Alabama, Baldwin County, or the City of Gulf Shores when acting in the line and scope of their duty in the implementation or enforcement of federal, state, or local laws and regulations.

(4) Rule 220-6-.24, as previously promulgated, is hereby expressly repealed in its entirety.

**220-6-.25                    Repealed by Acts 1994, No. 94- 652.**

**220-6-.26                    Rearview Mirrors on Personal Watercraft**

(a) The specifications for rearview mirrors on personal watercraft used for towing any person shall be as follows: Each mirror shall contain a minimum viewing area size of 65 square centimeters [ten (10) square inches], a minimum viewing area height of 64 millimeters [2.5 inches], and a minimum viewing area width of 100 millimeters [4.0 inches]. Said mirrors shall be mounted or attached on both the right and left sides of the personal watercraft so as to provide the maximum rearward observation by the operator. Mirrors shall not be mounted or attached to the steering mechanism of the personal watercraft. The minimum combined viewing area of both mirrors shall be 130 square centimeters [twenty (20) square inches].

(b) It shall be a violation of §4 (g) of Act No. 94-652 (Regular Session, 1994) and §33-5-62, Code of Alabama 1975, to tow any person by personal watercraft unless said watercraft meets all of these specifications.

**220-6-.27                    Fleeting or Attempting To Elude Marine Police Officer**

(1) Any driver of a vessel who willfully fails or refuses to bring his vessel to a stop, or who otherwise flees or attempts to elude a pursuing marine police officer, when given a visual or audible signal to bring the vessel to a stop, shall be in violation of this regulation. The signal given by the Marine Police officer may be by hand, voice, emergency light or siren.

(2) The penalty for the violation of this regulation shall be as provided in §15 of Act No. 94-652 (Regular Session, 1994) and §33-5-62, Code of Alabama 1975. In addition, any person convicted of violating this regulation shall be subject to the suspension provisions of §29 of Act No. 94-652 (Regular Session, 1994) and §33-5-75, Code of Alabama 1975.

**220-6-.28                    Altering or Defacing of Boater Certification (License)**

(1) Any person who willfully or knowingly alters or defaces a boater certification (license) shall be in violation of this regulation.

(2) The penalty for the violation of this regulation shall be as provided in §15 of Act No. 94-652 (Regular Session, 1994) and §33-5-62, Code of Alabama 1975.

**220-6-.29                    Point System - Operation of Vessels**

(1) The following point system is hereby established for various violations of



the Alabama boating safety laws and regulations; points shall be assessed for various violations as follows:

- (1) Any conviction which resulted from a charge that involved the drinking of alcoholic beverages and the operation of a vessel but does not require mandatory suspension or revocation of the boater safety certification . . . . . 6 points
- (2) Reckless operation  
(\$24 of Act No. 94-652, §33-5-70) . . . . . 6 points
- (3) Careless operation  
(\$24 of Act No. 94-652, §33-5-70) . . . . . 5 points  
[Note: §29(j)(7) of Act No. 94-652 [§33-5-75] provides that convictions within a twelve (12) month period of time upon 3 charges of either (2) or (3) above shall result in the mandatory revocation of the boater safety certification or vessel operating privilege. In addition §29(k)(5) of Act No. 94-652 [§33-5-75] provides that habitual violations of either (2) or (3) above may result in the suspension of the boater safety certification or vessel operating privilege.]
- (4) Failure to comply with waterway rules of the road (Rule 220-6-.07) . . . . . 4 points
- (5) Restricted view of operator  
(\$25 of Act No. 94-652, 33-5-71) . . . . . 4 points
- (6) Non-compliance with waterway traffic control devices (buoys/signs) . . . . . 3 points
- (7) All safety equipment violations . . . . . 2 points
- (8) Failure to submit accident report as required in §33-5-25, Code of Alabama 1975 . . . . . 3 points

(2) The following schedule is used to determine the length of a suspension period:

12 - 14 Points in a 2-year period . . . . .	60 days
15 - 17 Points in a 2-year period . . . . .	90 days
18 - 20 Points in a 2-year period . . . . .	120 days
21 - 23 Points in a 2-year period . . . . .	180 days
24 and above points in a 2-year period . . . . .	365 days

(3) Any person who is assessed points as provided for above shall be subject to the suspension of their boater safety certification for such period of time as provided for above.

(4) After a conviction is 2 years old, it loses its point count for suspension purposes but remains on the operator's record.

(5) Action taken by the Department of Conservation and Natural Resources pursuant to the point system provided for herein shall be in accordance with the procedural requirements of §29 of Act No. 94-652 and §33-5-75, Code of Alabama 1975.

### **220-6-.30 Examination for Boat Operator's Certification**

(1) The examination or test to be given applicants for boat operator's certification shall be of similar length and content as the motor vehicle driver license examination. The method and manner of giving the test and of ascertaining and reporting the results shall also be similar to the procedure followed for the motor vehicle driver license examination. Reports of all examinations shall be on forms provided by the Director of Public Safety and shall show whether or not the applicant passed the examination.

(2) The written examination used for testing applicants shall contain approximately 25 multiple choice questions. The examination shall be in at least four (4) different forms, which shall be utilized on a rotating basis. The general subject areas covered on the examination shall consist of the following areas:

(1) Knowledge of equipment requirements, such as PFDs, fire extinguishers, emergency cut-off switch, navigation lights, flame arresters, Alabama regulations, sound devices, diver's flags, ventilation, mufflers, and other equipment;

(2) Knowledge of safe operation and waterway rules of the road, including such matters as operator awareness, overloading and overpowering, speed regulations, motorboat operator's age, reckless and careless operation, personal watercraft, DUI, operator's restricted vision, rules of the road, interference with navigation, rearview mirrors for personal watercraft, vehicular homicide, water skiing, and other related matters;

(3) Aids to navigation, including such matters as uniform state waterway marking system, federal waterway marking system, and other related matters; and

(4) Boating accidents, including such matters as requirements for submitting accident reports, and other related matters.

### **220-6-.35 Boater Safety Certification/Vessel Operating Privilege Suspension Period Guidelines - Section 33-5-75(k)**

(1) Under Section 33-5-75, Code of Alabama 1975, paragraph (k), the Commissioner of Conservation and Natural Resources may suspend the certification or operating privilege of a vessel operator without preliminary hearing

upon a showing by its records or other sufficient evidence that the operator did the following:

“§33-5-75...

“(k)...

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

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

“(3) Has been convicted of any offense of any law or regulation which provides for suspension.

“(4) Has been convicted with frequency of serious offenses against boating or vessel operation laws or regulations governing the movement of vessels as to indicate a disrespect for boating or vessel operation laws and a disregard for the safety of other persons on the waters of this state.

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

“(6) Is incompetent to operate a vessel

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

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

“(9) Has been convicted of fleeing or attempting to elude a marine police officer.

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

(2) Subject to the provision of Section 33-5-75, Code of Alabama 1975, the following suspension period guidelines are established for the matters referred to in subparagraphs (1) - (10) of paragraph (k) of Section 33-5-75, listed in paragraph (k) of Section 33-5-75, listed in paragraph (1) above:

(a) For §33-5-75(k) (1), during the pendency of any proceeding for an offense for which mandatory revocation is required upon conviction;

(b) For § 33-5-75(k)(2), the mandatory suspension period provided for under Section 32 5A-191.3;

(c) For § 33-5-75(k)(2), as determined by the Commissioner of Conservation and Natural Resources, consistent with said law or regulation and, if applicable, with the provision of Rule 220-6-.29, entitled “Point System/ Operation of Vessels”.

(d) For §33-5-75(k)(4), 90 days;

(e) For § 33-5-75(k)(5), 90 days.

(f) For § 33-5-75(k)(6), during the period of incompetency;

(g) For § 33-5-75(k)(7), 90 days;

(h) For § 33-5-75(k)(8), as determined by the Commissioner of Conservation and Natural Resources based on the applicable period of suspension had the offense occurred in Alabama:

(i) For § 33-5-75(k)(9), 90 days; and

(j) For § 33-5-75(k)(10), 60 days.

(3) Action taken by the Department of Conservation and Natural Resources pursuant to the provisions contained herein shall be in accordance with the procedural requirements of Section 33-5-75, Code of Alabama 1975.”

Section 1. Rule 220-6-.36 entitled “Idle Speed Zones For Certain Gulf Waters”, is hereby adopted to read as follows:

**“220-6-.36            Idle Speed Zones For Certain Gulf Waters**

There is hereby established an “idle speed zone” for all motorized vessels operated within the following areas: (1) from the shoreline of the Gulf of Mexico to the southernmost edge of the first sand bar located seaward of the shoreline in that area, extending from the Florida line westward beyond Fort Morgan to the westward end of the island; provided however, such area shall not include the area of Perdido Pass south of the bridge; and (2) from the south shoreline of Dauphin Island southward for a distance of 100 yards from the shoreline in that area, extending from Ft. Gaines westward to the end of the island. It shall be unlawful to operate any motorized vessel, including personal watercraft, in excess of idle speed within the above-described “idle speed zones.” For the purposes of this regulation, “vessel” is defined as provided in §33-5-3, Code of Alabama 1975, and “personal watercraft” is defined as provided in § 33-5-51, Code of Alabama 1975, and “idle speed” is hereby defined as the slowest speed at which a said vessel or watercraft can be operated and maintain steerage. The penalty for the violation of this regulation shall be a Class C misdemeanor as provided by § 33-5-62, Code of Alabama 1975.”

Section 2. This regulation shall become effective on the 36th day after filing with the Legislative Service.

[Note: The effective date of this regulation is 9/15/00]

**220-6-.50            Securing of Marine Sanitation Devices.**

(a) It shall be unlawful for any person to operate a recreational vessel or residence boat on the waters of this state where the discharge of treated or untreated sewage is prohibited unless the operator secures each Type I and Type

II Marine Sanitation Device (MSD) in a manner which prevents discharge of treated or untreated sewage. Acceptable methods of securing the device include:

1. Closing the seacock and removing the handle;
2. Padlocking the seacock in the closed position;
3. Using a non-releasabe wire-tie to hold the seacock in the closed position; or
4. Locking the door to the space enclosing the toilets with a padlock or door handle key lock.

(b) It shall be unlawful for any person to operate a recreational vessel or residence boat on the waters of this state where the discharge of untreated sewage is prohibited unless the operator secures each Type III Marine Sanitation Device (MSD) in a manner which prevents discharge of sewage. Acceptable methods of securing the device include:

1. Closing each valve leading to an overboard discharge and removing the handle;
2. Padlocking each valve leading to an overboard discharge in the closed position; or
3. Using a non-releasabe wire-tie to hold each valve leading to an overboard discharge in the closed position.

(c) Any person violating any of the provisions of this regulation shall be punished as provided by §33-6A-8, Code of Ala. 1975.

**220-6-.52**                    **Prohibition of Certain Lights.**

(a) No vessel equipped with a flashing, rotating, or oscillating blue light may be operated on the waters of this state except lawfully authorized law enforcement vessels.

(b) Any person violating any of the provisions of this regulation shall be punished as provided by §33-5-62., Code of Ala. 1975.

**220-6-.53**                    **Refusal To Submit To Inspection.**

(a) Section 33-5-11, Code of Ala. 1975, requires a certificate of registration to be available at all times for inspection on the vessel for which issued whenever the vessel is in operation. Section 33-5-22, Code of Ala. 1975, requires

every vessel while being operated on the waters of this state to be equipped with the reasonable safety devices and lights as may be required under regulations promulgated by the Commissioner of Conservation and Natural Resources. Section 33-5-52, Code of Ala. 1975, requires persons, except those specifically exempted by statutory enactment, to procure a boater safety certification before operating a motorized vessel upon the waters of this state. Section 33-6A-8, Code of Ala. 1975, permits the inspection of recreational vessels or residence boats for compliance with Sections 33-6A-1 through 9, Code of Ala. 1975, and department rules promulgated thereunder at any time if there is probable cause to believe that a violation has occurred.

(b) Any person who refused to allow inspection of the certificate of registration or boater safety certification described above, or who refuses to allow inspection of a vessel for the purposes of determining compliance with the reasonable safety devices and lights requirement described above, shall be in violation of this regulation and shall be punished as provide by §33-5-62, Code of Ala. 1975.

(c) Any person who refuses to allow the inspection of a vessel or residence boat for determining compliance with Sections 33-6A-1 through 9, Code of Ala. 1975, and department rules promulgated thereunder described above, shall be punished as provided by §33-6A-8, Code of Ala. 1975.

**220-6-.54                      Bird Island/Walker Island Vessel Restriction.**

(a) It shall be unlawful to operate a motorized vessel in the area designated by a series of signs erected adjacent to Bird Island and adjacent to Walker Island in the Perdido Pass/Bayou St. John area of Baldwin County. Vessels utilizing this area must either be paddled or push poled.

(b) Any person violating any of the provisions of this regulation shall be punished as provide by §33-5-62, Code of Ala. 1975.

**220-6-.55                      Lake Permit Regulation.**

(a) This regulation is adopted to comply with the provisions of Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975. The act requires the Department of Conservation and Natural Resources to adopt rules authorizing the use of vessels otherwise prohibited by the act in the following circumstances:

- (1) Vessels needed for use on a temporary basis;
- (2) Houseboats [defined in the act as either (a) “residence boats”, defined in Section 33-6A-1 (6) as “any structure used primarily for habitation located on any waters in the state, floating or supported totally or partially on pilings” or (b) recreational vessels that constitute a fully equipped dwelling similar in

content to a mobile home, with a marine sanitation device, galley, and sleeping quarters)] that were licensed and use on July 1, 2006, provided, that they meet all applicable standards for sewage discharges, are moored at a marina or other facility with a certified pump-out station or other approved means of sewage disposal, and are inspected annually; or

(3) Boats exceeding 30 feet 6 inches in length [not to include any boat covered by subdivision (2) of subsection (a) of the act] that was licensed and in use or that was on site and available for sale at a marina located on one of the lakes referenced in subsection (a) of the act on July 1, 2006.

(b) The owner of a vessel that may be permitted must submit an application that can be obtained from the Marine Police Division along with the appropriate fee to the Marine Police Division Headquarters. Except as otherwise provided herein for those vessels referred to in (a) (1) above, to meet requirements for approval, the owner must submit: (1) proof that the vessel was in compliance with the boat registration laws of the State of Alabama on or after July 1, 2003 but not later than July 1, 2006, and that the vessel was placed in the water of the particular lake, or was in storage at or adjacent to the particular lake, at some point on or after July 1, 2003 but not later than July 1, 2006; OR (2) [Applicable to boats referred to in (a) (3) above only] proof that the boat was on site and available for sale at a marina located on one of the subject lakes on July 1, 2006. Proof can be in the form of previous registration certificates, marine rental agreements, dealer invoices, past MSD inspections, or other proof that can be authenticated. Once originally approved, two stickers bearing lake-specific markings and a permit will be mailed to the applicant. The permit shall expire on December 31 each year and must be renewed annually by the vessel owner by mailing in the appropriate fee and an application for an approved vessel that can be obtained from the Marine Police Division. An approved vessel will not have to replace the decal each year but must obtain a valid permit. A valid permit must be onboard any vessel that is required to be permitted an such permit must be readily available for inspection.

(c) Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975, state that “recreational vessels greater than 26 feet 11 inches in length and rated by the manufacturer for or capable of a top speed in excess of 60 miles an hour shall be prohibited.”

(1) Any vessel greater than 26 feet 11 inches in length referenced by this act that is witnessed by an enforcement officer to be exceeding 60 miles an hour shall be on the first offense issued a warning for being illegally operating on the lake and must not operate upon the lake until such time that the boat owner is able to provide written proof to the Marine Police Division that the vessel has been altered so that such vessel is incapable of a top speed in excess of 60 miles per hour. Such written proof must be notarized and signed by a manufacturer certified marine mechanic or technician, currently certified, stating what modifications were made to the vessel and that such modifications will make the vessel

permanently incapable of exceeding 60 miles an hour. If written proof of modifications of the vessel (to assure that the vessel is permanently incapable of exceeding 60 miles per hour) is not received within 90-days of the date of warning, such vessel shall be considered in violation of Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975.

(2) Any vessel that has received a written warning and provided documentation that the vessel has been altered to make the vessel permanently incapable of exceeding 60 miles an hour that is witnessed by an enforcement officer to be exceeding 60 miles an hour shall be considered in violation of Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975.

(3) Any vessel which is otherwise determined to be rated by the manufacturer for or capable of a top speed in excess of 60 miles an hour shall be considered in violation of Act 206-398, Acts of Alabama and §33-6A-3.1, Code of Ala. 1975.

(d) **Definitions of Certain Terms:** For the purposes of the administration and enforcement of Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Ala. 1975 , the following terms shall be defined as follows:

(1) **“Licensed on the effective date of this section”** - Vessels complying with the boat registration laws of the State of Alabama on or after July 1, 2003 but no later than July 1, 2006.

(2) **“In use on the effective date of this section”** - The vessel was placed in the water of the particular lake, or was in storage at or adjacent to the particular lake, at some point on or after July 1, 2003 but not later than July 1, 2006.

(3) **“Recreational vessel that constitutes a fully equipped dwelling similar in content to a mobile home”** - A recreational vessel that has at least one dedicated sleeping area similar to that sleeping area in a mobile home, has a galley (which shall include a stove, refrigerator, and a sink), and has a marine sanitation device. Cuddy cabin boats are specifically excluded from this definition.

(e) **Permits for Vessels on Lake Harris (Lake Wedowee), Lake Martin, and Weiss Lake.** - Permits shall be issued on a “per lake” basis. Permits shall be issued on or about January 1, 2009, or as soon as reasonably practical thereafter. The cost of each annual permit shall be \$45.00. The cost for temporary permits shall be \$10.00 per day. Permits for vessels may be transferred from one vessel owner to another for a permit transfer fee of \$25.00. [Informational Note: Marine Sanitation Inspections required under §33-6A-6, Code of Ala. 1975 , are conducted at no additional charge until October 1, 2008.] All vessels required to be permitted must have such permit on board the vessel prior to operation on or after March 1, 2009.



(f) **Method of Measurement of Length** - For the purposes of the administration and enforcement of Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975, the length of vessels shall be determined by

measuring the straight line distance from the bow to the lowest part of the transom, excluding bowsprits, outboard motor brackets, rudders, or other attachments, and excluding any swim platforms whether molded into the hull construction or otherwise. Notwithstanding the foregoing, the length of the vessel as shown on the current vessel registration shall be prima facie evidence of the length of the vessel for the purposes of the administration and enforcement of Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975 .

(g) **Determination of Temporary Need for Vessel Use** -

Determinations for any temporary need for use of vessels otherwise prohibited by the act shall be made on a case-by-case basis by the Commissioner of Conservation and Natural Resources, after receipt of written applications detailing the particular need and the nature and length of the proposed use of the vessel.

(h) **Advisory Opinions Regarding Compliance** - Persons with

uncertainty as to compliance with the provisions of this regulation and/or with Act 2006-398, Acts of Alabama and §33-6A-3.1, Code of Alabama 1975, may obtain

written advisory opinions from the Commissioner of Conservation and Natural Resources.

(i) The penalty for the violation of any provisions of this regulation shall be as provided by Section 33-6A-8, Code of Alabama 1975.

**220-6-.59 Closure To Vessels And Watercraft - Portion of Gulf Waters Adjacent To Certain Pier.**

Effective immediately, unless otherwise authorized by the Department of Conservation and Natural Resources, and until further official notification by the Commissioner of Conservation and Natural Resources, the following waters shall be closed to the operation of all vessels and watercraft: Those waters of the Gulf of Mexico within a distance of 100 yards of any saltwater fishing pier operated by the State of Alabama, Department of Conservation and Natural Resources, or its authorized agent.

Any person violating any of the provisions of this regulation shall be punished as provided by §33-5-62, Code of Ala. 1975,

**220-6-.61 Marine Sanitation Device (MSD) Inspections And Appointment Of Special Agents.**

(1) Effective October 1, 2008, the Department of Conservation and

Natural Resources will designate special agents to conduct annual inspections on those vessels and residence boats required to be inspected by §33-6A-6, Code of Ala. 1975. These special agents will be required to have the following credentials as recognized by the ADCNR:

- (a) The special agent must possess a Federal Tax Identification Number/EIN.
  - (b) The special agent must possess the applicable business licenses required by the county and /or municipality where they are headquartered.
  - (c) The special agent must be bonded for a minimum of \$10,000 indemnity.
  - (d) The special agent must receive initial training designated or provided by the Marine Police Division of the Department of Conservation and Natural Resources for the proper recognition and technical understanding of marine sanitation devices, to be followed by periodic refresher certification as outlined by Marine Police Division policy.
  - (e) The special agent must contractually agree to abide by all policies and procedures established by the Marine Police Division.
- (2) The Maine Police Division will provide inspection forms and decals to the special agent for conducting the inspections.
- (a) All forms and fees required in this regulation must be filed with the Marine Police Division by the 10th day of the following month. The forms must include the following and any other information specified by the Director of the Marine Police Division:
- 1. MSD permit applicant's name, physical address, and permit number issued;
  - 2. special agent's signature;
  - 3. vessel/residence boat owner or agent's signature;
  - 4. vessel registration number or Federal documentation number;
  - 5. date of inspection;
  - 6. vessel/residence boat location;
  - 7. boat name (if applicable);

8. type of device inspected;

9. decal number issued.

(b) **INSPECTION FEES FOR INSPECTIONS BY SPECIAL AGENTS:** The annual inspection fee for inspections conducted by special agents will be \$10 per vessel, which amount shall be remitted by the special agent to the Marine Police Division as provided for herein. In addition, the special agent may charge up to a \$40 service fee per vessel (which amount may be retained by the special agent) so that the total price of the annual MSD inspection conducted by the special agent will not exceed \$50 maximum for the vessel/residence boat owner.

(c) The Director of the Marine Police Division or other persons as designated for such purposes shall have the power and authority to inspect and examine the books, records, decals, ledgers, and any other paperwork or records of any type, relating to special agent's inspections, at any reasonable time during regular business hours.

(3) The Department of Conservation and Natural Resources may cancel the authorization of the special agent to conduct inspections at any time, when it, in its sole discretion, determines that such cancellation is in the best interest of the State. Upon such cancellation, the special agent shall immediately: (a) remit all amounts owed and (b) return all forms, records, books, and decals, to the Marine Police Division.

(4) **INSPECTION FEES FOR INSPECTIONS BY ADCNR PERSONNEL:** The annual inspection fee for inspections conducted by personnel of the Department of Conservation and Natural Resources will be \$50 per vessel.



## INDEX

Aids to Navigation and Regulatory Markers . . . . .	59-60
Altering or defacing of Boater Operation License . . . . .	63
Boating accident report required . . . . .	49-51
Capacity plate to be affixed . . . . .	58
Certification in possession, failure to have . . . . .	27
Comply with Marine Police Rules/Regulations, Non-accident, failure to . . . . .	32-33
Comply with restrictive signs, failure to . . . . .	60
Comply with Marine Police Rules/Regulations so as to cause boating accident, failure to . . . . .	33
Emergency engine or motor shut-off switch required . . . . .	33
Examination for Boat Operator's Certification description . . . . .	65
Fire extinguisher required . . . . .	55-56
Flame arrester . . . . .	61
Fleeing or attempting to elude Marine Police Officer . . . . .	63
Giving permission to operate a vessel to a person under age 12 . . . . .	61
Giving permission to operate in violation of 33-5-51 . . . . .	18
Have engine cut-off switch lanyard attached to operator of Personal Watercraft, failure to . . . . .	19
Homicide by vehicle or vessel . . . . .	2
Horsepower limitation . . . . .	58
Load capacity . . . . .	58
Making false affidavit to obtain duplicate certificate . . . . .	29

Marine Sanitation Device Inspections/Special Agents . . . . .	72-74
Mooring, fastening, damaging, altering or moving legal aid to navigation marker, etc. . . . .	34
Navigation lights required . . . . .	53-54
Obstructing operator's view to impair safe operation of vessel . . . . .	33
Operate Personal Watercraft in a reasonable and prudent manner/reckless operation, failure to . . . . .	18, 19 &32
Operating or giving permission to operate vessel without engine shut-off switch . . . . .	33-34
Operating vessel in a reasonable and prudent manner/ careless operation, failure to . . . . .	32-33
Operating vessel without boater certification . . . . .	30-31
Operating vessel with improper muffler . . . . .	13
Operating vessel without current registration and/or displayed . . . . .	5
Operating vessel with improper or no safety devices or lights . . . . .	12
Operating vessel while certificate is revoked, suspended or cancelled . . . . .	28
Operating a vessel in a reckless manner/ reckless operation . . . . .	32-33
Operating vessel in excess of a speed zone . . . . .	34
Operation of Personal Watercraft by person under the age of 12 . . . . .	19
Operation of vessel and other marine devices while under the influence of alcohol or other controlled substances . . . . .	1-2
Permit for Marine Event required . . . . .	58-59
Personal Flotation Device required for skier . . . . .	59

Personal Flotation Devices required . . . . .	56-57
Placement of Vessel Identification numbers . . . . .	47-48
Point System - Operation of vessels . . . . .	63-65
Pump-out Stations at Marinas.. . . . .	42
Rearview mirrors on Personal Watercraft required . . . . .	63
Refusal to Submit to Inspection . . . . .	68-69
Rented/leased vessels, lease not on board . . . . .	46
Required person under eight (8) years of age to wear Personal Flotation Device . . . . .	32
Sewage Discharge Regulated . . . . .	39-40
Skin divers; no diver flag . . . . .	12, 60
Swim area at Gulf Shores . . . . .	62
Three Lakes Law (Vessel restrictions on Lake Martin, Lake Wedowee, Weiss Lake) . . . . .	41-42, 69-71
Towing person or persons on skis, etc. without observer twelve (12) years of age or without a rearview mirror with a minimum of 78 square inches of viewing surface . . . . .	14
Towing person on Personal Watercraft without proper rearview mirror . . . . .	63
Towing person on skis, etc. to cause to collide with or strike against any object or person . . . . .	14-15
Towing person on skis, etc. between hours from one hour after sunset to one hour before sunrise . . . . .	14-15
Traffic rules of the road . . . . .	51-52
Transfer of vessel ownership . . . . .	49
Ventilation requirements . . . . .	57-58
Vessel Identification Numbers required . . . . .	45

Vessel: Excessive noise level (86 decibels) . . . . .	62
Vessel: No current year decal . . . . .	48
Vessel: Improper signal devices . . . . .	52-53
Violating federal laws or rules regulating horsepower of motor on vessels . . . . .	38-39
Wear Personal Flotation Device while operating, riding on, or being towed by Personal Watercraft, failure to . . . . .	19
Wear Personal Flotation Device within 800 feet of dam, failure to . . . . .	61



