

Introduced by Senators Monning and DeSaulnierFebruary 4, 2014

An act to add Article 1.4 (commencing with Section 678) of Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as introduced, Monning. Vessel operator cards.

(1) Existing law prohibits the operation or navigation of a for-hire vessel, as defined, in the waters of California while carrying passengers, except by a person who holds a valid operator's license issued by the Division of Boating and Waterways. Under existing law, a person applying for an operator's license is required to undergo an examination, that may include, among other things, an inspection of the for-hire vessel.

Existing law requires the division to approve boating safety courses and personal watercraft education courses, as specified.

This bill would prohibit the operation of a vessel that is propelled by an engine in the waters of the state except by a person who is in possession of a valid vessel operator card developed and issued by the division, and would impose that prohibition on persons pursuant to a specified schedule. The bill would exempt certain persons from that requirement and would allow a person who rents a vessel to instead possess a rental vessel operator card, as specified.

The bill would require the division to develop vessel operator cards and issue a vessel operator card to a person who provides the division with proof that the person has passed a vessel operator examination and would require the division to develop an examination and provide links to approved examinations on its Internet Web site. The bill would require the division to charge an unspecified fee for those cards, would establish

the Vessel Operator Certification Account in the Harbors and Watercraft Revolving Fund, and would require the fees to be deposited in that account. The bill would authorize the division to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the vessel operator card program.

The bill would require the division to adopt implementing regulations.

The bill would require an amount not to exceed \$4,000,000 to be transferred, upon appropriation in the annual Budget Act, from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program. The bill would require the division to repay the loan from fees received from the issuance of vessel operator cards within 3 years of the effective date of the regulations issued by the division.

The bill would provide that a violation of the bill's provisions is an infraction, and would require a court to order a person who violates those provisions to complete and pass a boating safety course approved by the division. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 1.4 (commencing with Section 678) is
2 added to Chapter 5 of Division 3 of the Harbors and Navigation
3 Code, to read:

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5 Article 1.4. Vessel Operators' Education and Certification Cards

6

7 678. The division shall adopt regulations to implement this
8 article or to make this article more specific, including regulations
9 setting forth the fees to be charged and collected pursuant to

10 Section 678.5.

1 678.3. (a) On or before December 31, 2017, the division shall
2 develop a vessel operator card and a rental vessel operator card to
3 be issued pursuant to this article.

4 (b) The division shall issue, or cause to be issued, a vessel
5 operator card to a person who provides the division with proof that
6 the person has passed a vessel operator examination approved by
7 the division or a vessel operator course that includes an
8 examination and is approved by the division pursuant to Section
9 668.1 or 668.3.

10 (c) Except for a rental vessel operator card issued pursuant to
11 Section 678.15, a vessel operator card shall be valid for the life of
12 the person to whom it is issued.

13 678.5. (a) (1) The division shall determine the fees required
14 under this section in amounts sufficient to cover the reasonable
15 costs of the development, establishment, and operation of the
16 program. The fees shall not exceed those costs.

17 (2) The division shall charge a fee not to exceed ___ for the
18 initial vessel operator card issued pursuant to subdivision (b) of
19 Section 678.3.

20 (3) The division shall charge a fee not to exceed ___ for a
21 duplicate vessel operator card issued pursuant to subdivision (b)
22 of Section 678.3.

23 (b) In determining the amount of the fees imposed pursuant to
24 this section, the division shall establish, and consult with, a
25 technical advisory group consisting of interested persons, including,
26 but not limited to, representatives of the boating community. The
27 director shall appoint the members of the advisory group.

28 (c) The fees collected pursuant to this section shall be deposited
29 in the Vessel Operator Certification Account, which is hereby
30 established within the Harbors and Watercraft Revolving Fund.

31 (d) The division may expend the moneys in the Vessel Operator
32 Certification Account, upon appropriation by the Legislature, for
33 purposes of implementing this article.

34 678.7. (a) The division shall develop and provide a vessel
35 operator examination on the division's Internet Web site and shall
36 provide links from the division's Internet Web site to other vessel
37 operator examinations approved by the division that are available
38 through a provider whose course has been approved by the National
39 Association of State Boating Law Administrators.

1 (b) If the division contracts for the provision of vessel operator
2 examination services with test vendors, the division shall conduct
3 a formal competitive bid process and shall contract with more than
4 one vendor for those services.

5 (c) A vessel operator examination developed or approved by
6 the division shall be consistent with the National Association of
7 State Boating Law Administrators' National Boating Education
8 Standards, as applicable to basic vessel operations, rules of
9 navigation, and boating safety only.

10 678.9. (a) An amount not to exceed four million dollars
11 (\$4,000,000) shall, upon appropriation in the annual Budget Act,
12 be transferred from the Harbors and Watercraft Revolving Fund
13 to the Vessel Operator Certification Account in the form of a loan
14 to be used by the division to develop and establish the program
15 under this article.

16 (b) The division shall repay the loan described in subdivision
17 (a) from fees received pursuant to Section 678.5 within three years
18 of the effective date of the regulations issued by the division
19 pursuant to this article.

20 (c) If the division has not repaid the loan within the time period
21 specified in subdivision (b), the division shall notify the Joint
22 Legislative Budget Committee.

23 (d) The loan shall not impair the intended expenditure purposes
24 of the Harbors and Watercraft Revolving Fund.

25 678.11. On or before December 31, 2018, and on or before
26 December 31 annually thereafter, the division shall prepare a report
27 regarding the total number of vessel operator cards issued pursuant
28 to this article and shall include information about the correlation
29 between vessel operator cards issued and the number of accidents,
30 injuries, and fatalities related to the operation of vessels in the
31 state. The report shall be posted on the division's Internet Web
32 site.

33 678.13. (a) Subject to the schedule in subdivision (b), a person
34 shall not operate on waters subject to the jurisdiction of the state
35 a vessel that is propelled by an engine, regardless of whether the
36 engine is the principal source of propulsion, unless the person has
37 in his or her possession a vessel operator card issued by the division
38 pursuant to subdivision (b) of Section 678.3.

39 (b) A person is subject to subdivision (a) according to the
40 following schedule:

- 1 (1) On and after January 1, 2018: A person 20 years of age or
2 younger.
- 3 (2) On and after January 1, 2019: A person 25 years of age or
4 younger.
- 5 (3) On and after January 1, 2020: A person 35 years of age or
6 younger.
- 7 (4) On and after January 1, 2021: A person 40 years of age or
8 younger.
- 9 (5) On and after January 1, 2022: A person 45 years of age or
10 younger.
- 11 (6) On and after January 1, 2023: A person 50 years of age or
12 younger.
- 13 (7) On and after January 1, 2024: A person 60 years of age or
14 younger.
- 15 (8) On and after January 1, 2025: All persons, regardless of age.
- 16 (c) This section does not apply to the following:
- 17 (1) A person who is a resident of another state or a foreign
18 country who is operating a vessel and meets either of the following
19 requirements:
- 20 (A) The person is temporarily using the waters of this state for
21 a period not to exceed 60 days, and meets the applicable
22 requirements, if any, of his or her state of residency.
- 23 (B) The person is temporarily using the waters of this state for
24 a period not to exceed 90 days, and meets the applicable
25 requirements, if any, of his or her country of residency.
- 26 (2) A person operating a vessel while under the direct
27 supervision of a person 18 years of age or older who is in
28 possession of a vessel operator card issued pursuant to subdivision
29 (b) of Section 678.3 or a rental vessel operator card issued pursuant
30 to Section 678.15 or is not required to possess a vessel operator
31 card pursuant to paragraph (7).
- 32 (3) A person operating a vessel in an organized regatta or vessel
33 race, or water ski race.
- 34 (4) A person operating a rented vessel who is in possession of
35 a rental vessel operator card pursuant to Section 678.15.
- 36 (5) A person who is in possession of a current commercial
37 fishing license.
- 38 (6) A person who is in possession of a valid marine operator
39 license, for the waters upon which the licensee is operating, issued
40 by the United States Coast Guard.

1 678.15. (a) On and after January 1, 2018, a person engaged in
2 the business of providing for rent a vessel or vessels propelled by
3 an engine, regardless of whether the engine is the principal source
4 of propulsion, shall require the renter or operator of the rental
5 vessel to show proof of possession of a vessel operator card issued
6 pursuant to subdivision (b) of Section 678.3 before renting a vessel.
7 If the renter or operator of the rented vessel does not provide proof
8 of possession of a vessel operator card, the rental agent shall,
9 subject to the requirements of subdivision (b), issue to the renter
10 or operator of the rental vessel a rental vessel operator card
11 developed by the division pursuant to subdivision (a) of Section
12 678.3 and a map of the waterway the renter or operator indicates
13 is the location of intended operation.

14 (b) (1) The rental vessel operator card shall be issued only to
15 a person who completes and passes a rental vessel operator
16 examination that is developed or approved by the division for the
17 purpose of this section.

18 (2) The rental vessel operator examination that is developed by
19 the division shall be an abbreviated version of the vessel operator
20 examination developed by the division pursuant to Section 678.7
21 with a focus on basic vessel operation, navigation, and safety.

22 (3) The division shall also approve site-specific rental vessel
23 operator examinations. These site-specific examinations shall be
24 tailored to and recognize the vessel rental circumstances, include
25 information specific to the type of vessel and the type of waterway,
26 and provide information concerning state boating laws, operating
27 instructions, equipment operation, and boating safety.

28 (4) A person may satisfy the requirements of the rental vessel
29 operator examination by passing the division-developed rental
30 operator examination or an approved site-specific rental vessel
31 operator examination.

32 (c) A rental vessel operator card shall be valid for a period of
33 not more than 30 days from the date of the initial rental for which
34 the card was issued pursuant to subdivision (a).

35 678.17. (a) A violation of this article is an infraction.

36 (b) A person convicted of an infraction for a violation of this
37 article shall be punished as follows:

38 (1) For an initial conviction, by a fine of not more than one
39 hundred dollars (\$100).

1 (2) For a second conviction, by a fine of not more than two
2 hundred fifty dollars (\$250).

3 (3) For a third or subsequent conviction, by a fine of not more
4 than five hundred dollars (\$500).

5 (c) A fine imposed on a vessel operator pursuant to subdivision
6 (b) shall be waived, if the vessel operator provides proof that he
7 or she had a valid vessel operator card or rental vessel operator
8 card at the time of the citation.

9 (d) (1) In addition to the fines imposed by subdivision (b), the
10 court shall order a person convicted of violating this article to
11 complete and pass a boating safety course approved by the division
12 pursuant to Section 668.3.

13 (2) If a person who is ordered to complete and pass a boating
14 safety course pursuant to paragraph (1) is 18 years of age or
15 younger, the court may require that person to obtain the consent
16 of a parent or guardian to enroll in that course.

17 (3) A person who has been ordered by a court to complete a
18 boating safety course pursuant to paragraph (1) shall submit to the
19 court proof of completion and passage of the course within seven
20 months of the date of his or her conviction. The proof shall be in
21 a form that has been approved by the division and that is capable
22 of being submitted to the court or a state or local agency approved
23 by the division through the United States Postal Service or another
24 certified means of transmission.

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

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