



General Assembly

Amendment

January Session, 2001

LCO No. 8100

Offered by:

SEN. SULLIVAN, 5th Dist.

SEN. JEPSEN, 27th Dist.

SEN. PETERS, 20th Dist.

SEN. WILLIAMS, 29th Dist.

To: Subst. Senate Bill No. 1220

File No. 529

Cal. No. 366

"AN ACT CONCERNING BOATING SAFETY."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 15-133 of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 (a) The rules prescribed by this section shall apply on all state and
6 federal waters.

7 (b) No person shall use a vessel in a manner [which] that
8 unreasonably or unnecessarily interferes with free and proper
9 navigation. Anchoring under a bridge, in a narrow channel or in a
10 congested water not designated as an anchorage area shall be deemed
11 to be such interference, except in case of emergency.

12 (c) No person shall alter, deface or remove any capacity information

13 label affixed to any vessel.

14 (d) No person shall operate a vessel or engage in water skiing;
15 [while under the influence of intoxicating liquor or any drug, or both.
16 For the purposes of this subsection and sections 15-140l or 15-140n, a
17 person shall be considered to be under the influence of intoxicating
18 liquor if the ratio of alcohol in the blood of such person at the time of
19 the alleged offense, as determined by methods prescribed in
20 subsection (a) of section 15-140r, is ten-hundredths of one per cent or
21 more of alcohol, by weight. No person arrested for a violation of this
22 subsection shall operate a vessel or engage in water-skiing upon the
23 waters of this state for a twenty-four-hour period after such arrest.] (1)
24 While under the influence of intoxicating liquor or any drug, or both,
25 or (2) while such person has an elevated blood alcohol content. For the
26 purposes of this section and sections 15-140l, as amended by this act,
27 and 15-140n, as amended by this act, "elevated blood alcohol content"
28 means (A) a ratio of alcohol in the blood of such person that is ten-
29 hundredths of one per cent or more of alcohol, by weight, (B) if such
30 person has been convicted of a violation of this subsection, a ratio of
31 alcohol in the blood of such person that is seven-hundredths of one per
32 cent or more of alcohol, by weight, or (C) if such person is under
33 twenty-one years of age, a ratio of alcohol in the blood of such person
34 that is two-hundredths of one per cent or more of alcohol, by weight.

35 (e) In any prosecution for a violation of subdivision (1) of subsection
36 (d) of this section, evidence respecting the amount of alcohol in the
37 defendant's blood or urine at the time of the alleged offense, as shown
38 by a chemical analysis of the defendant's blood, breath or urine,
39 otherwise admissible under subsection (d) of this section, shall be
40 admissible only at the request of the defendant.

41 [(e)] (f) No person shall operate a vessel or engage in any activity
42 contrary to the regulations [of] adopted by the commissioner.

43 [(f)] (g) No person shall moor a vessel to, obstruct, remove, damage
44 or destroy any navigation aid or any device used to mark a restricted

45 area.

46 ~~[(g)]~~ (h) Any person who violates the provisions of subsection (d) of
47 this section shall: ~~[be fined not less than one hundred dollars nor more~~
48 ~~than five hundred dollars. Any person who violates any of the~~
49 ~~provisions of subsection (b), (c) or (f) of this section shall be fined not~~
50 ~~less than twenty-five dollars nor more than two hundred dollars]~~ (1)
51 For conviction of a first violation, (A) be fined not less than five
52 hundred dollars nor more than one thousand dollars, (B) be (i)
53 imprisoned not more than six months, forty-eight consecutive hours of
54 which may not be suspended or reduced in any manner, or (ii)
55 imprisoned not more than six months, with the execution of such
56 sentence of imprisonment suspended entirely and a period of
57 probation imposed requiring as a condition of such probation that
58 such person perform one hundred hours of community service, as
59 defined in section 14-227e, and (C) have such person's safe boating
60 certificate suspended for one year; (2) for conviction of a second
61 violation within ten years of a prior conviction for the same offense,
62 (A) be fined not less than one thousand dollars nor more than four
63 thousand dollars, (B) be imprisoned not more than two years, one
64 hundred twenty consecutive days of which may not be suspended or
65 reduced in any manner, and sentenced to a period of probation
66 requiring as a condition of such probation that such person perform
67 one hundred hours of community service, as defined in section 14-
68 227e, and (C) have such person's safe boating certificate suspended for
69 three years or until the date of such person's twenty-first birthday,
70 whichever is longer; and (3) for conviction of a third and subsequent
71 violation within ten years of a prior conviction for the same offense,
72 (A) be fined not less than two thousand dollars nor more than eight
73 thousand dollars, (B) be imprisoned not more than three years, one
74 year of which may not be suspended or reduced in any manner, and
75 sentenced to a period of probation requiring as a condition of such
76 probation that such person perform one hundred hours of community
77 service, as defined in section 14-227e, and (C) have such person's safe
78 boating certificate permanently revoked upon such third offense. Any

79 person who violates the provisions of subsection (c), (f) or (g) of this
80 section shall be fined not less than one hundred dollars and not more
81 than five hundred dollars. Any person who violates the provisions of
82 subsection [(e)] (f) of this section shall have committed an infraction.

83 (i) The suspension of a safe boating certificate imposed under
84 subsection (h) of this section shall take effect immediately upon
85 expiration of any period in which an appeal of any conviction under
86 subsection (d) of this section may be taken, provided if an appeal is
87 taken, the suspension shall be stayed during the pendency of such
88 appeal. If the suspension takes effect, the defendant shall return, not
89 later than the second business day after the suspension takes effect, by
90 personal delivery or first class mail, the safe boating certificate issued
91 to the defendant.

92 (j) Any person who violates the provisions of subsection (b) of this
93 section shall be fined not more than two hundred dollars.

94 (k) (1) A record shall be kept by each court of original jurisdiction of
95 any conviction relating to the operation of a vessel. A summary of such
96 record, with a statement of the number of the operator's safe boating
97 certificate shall, within five days after such conviction, forfeiture or
98 any other disposition or nolle, be transmitted to the commissioner by
99 such court. Each court shall report each conviction under subsection
100 (d) of this section to the commissioner. The commissioner shall
101 suspend the safe boating certificate of the person reported as convicted
102 for the period of time required by subsection (h) of this section.

103 (2) The safe boating certificate of a person found guilty under
104 subsection (d) of this section who is under eighteen years of age shall
105 be suspended by the commissioner for the period of time set forth in
106 subsection (h) of this section, or until such person attains the age of
107 eighteen years, whichever period is longer.

108 Sec. 2. Section 15-140l of the general statutes is repealed and the
109 following is substituted in lieu thereof:

110 (a) A person commits the offense of reckless operation of a vessel in
111 the first degree while under the influence when, while under the
112 influence of intoxicating liquor or any drug, or both, [he] or while such
113 person has an elevated blood alcohol level content, such person
114 operates a vessel at such speed or maneuvers a vessel in such a manner
115 as to result in (1) death or serious physical injury to another person, or
116 (2) damage to property in excess of [one] five thousand dollars.

117 (b) Any person guilty of reckless operation of a vessel in the first
118 degree while under the influence shall be fined not less than five
119 hundred dollars nor more than one thousand dollars or imprisoned
120 not more than one year or both.

121 Sec. 3. Section 15-140n of the general statutes is repealed and the
122 following is substituted in lieu thereof:

123 (a) A person commits the offense of reckless operation of a vessel in
124 the second degree while under the influence when, while under the
125 influence of intoxicating liquor or any drug, or both, [he] or while such
126 person has an elevated blood alcohol level content, such person
127 operates a vessel at such speed or maneuvers a vessel in such a manner
128 as to endanger the life, limb or property of another person.

129 (b) Any person guilty of reckless operation of a vessel in the second
130 degree while under the influence shall be fined not less than two
131 hundred fifty dollars nor more than five hundred dollars or
132 imprisoned not more than six months, or both.

133 Sec. 4. Section 15-140o of the general statutes is repealed and the
134 following is substituted in lieu thereof:

135 (a) Any police officer authorized to enforce the provisions of
136 sections 15-129, 15-133, 15-133b, 15-133c, 15-140e to 15-140u, inclusive,
137 15-154 and 15-156 who arrests an operator for a violation of
138 [subsection] subsections (d) and (e) of section 15-133 or section 15-
139 140k, 15-140l, 15-140m or 15-140n may take the vessel operated in such
140 violation into [his] such police officer's custody and shall cause the

141 same to be taken to and stored in a suitable place. There shall be no
142 liability attached to such officer for any damages to such vessel while
143 in [his] such police officer's custody. All charges necessarily incurred
144 by such officer in the performance of such duty shall be a lien upon
145 such vessel. The owner or keeper of any marina or other place where
146 such vessel is stored shall have a lien upon the same for [his] such
147 owner's storage charges and if such vessel has been stored for a period
148 of not less than sixty days, such owner or keeper may sell the same for
149 storage charges owed thereon, provided a notice of intent to sell shall
150 be sent to the Commissioner of Environmental Protection, the
151 Commissioner of Motor Vehicles, and the owner of such vessel, if
152 known, five days before the sale of such vessel. If the owner is
153 unknown, such sale shall be advertised by such marina owner or
154 keeper in a newspaper published or having a circulation in the town
155 where such marina or other place is located three times, commencing
156 at least five days before the sale. The proceeds of such sale, after
157 deducting the amount due such marina owner or keeper and all
158 expenses of the police officer who placed such vessel in storage, shall
159 be paid to the owner of such vessel or [his] such owner's legal
160 representatives, if claimed by [him] such owner or them at any time
161 within one year from the date of such sale. If such balance is not
162 claimed within said period, it shall escheat to the state.

163 (b) Any vessel [being] that is operated by a person who is arrested
164 for a violation of section 15-140n, [shall] as amended by this act, in
165 connection with such operation, or for a violation of section 15-140l, as
166 amended by this act, after being involved in a boating accident, may be
167 impounded for twenty-four hours after the arrest. Any vessel involved
168 in a boating accident that results in death, serious physical injury, a
169 missing person or property damage in excess of five thousand dollars
170 may be seized for the collection of evidence and held until the
171 investigation of the boating accident or court proceedings are
172 concluded. The trailer utilized by the operator to transport the vessel
173 may also be impounded to facilitate transport and handling of the
174 vessel.

175 Sec. 5. Section 15-140q of the general statutes is repealed and the
176 following is substituted in lieu thereof:

177 (a) Any person who operates a vessel or engages in water skiing in
178 this state shall be deemed to have consented to a chemical analysis of
179 such person's blood, breath or urine, and if such person is a minor,
180 such person's parent or parents or guardian shall also be deemed to
181 have given their consent.

182 [(a)] (b) If any such person, having been placed under arrest for:
183 [violating] (1) Violating subsection (b) of section 53-206d; [, or for] (2)
184 operating a vessel upon the waters of this state while under the
185 influence of intoxicating liquor or any drug, or both; [,] (3) water skiing
186 upon the waters of this state while under the influence of intoxicating
187 liquor or any drug, or both; (4) operating a vessel upon the waters of
188 this state or water skiing upon the waters of this state while such
189 person has an elevated blood alcohol content, or while such person's
190 ability to operate such vessel or engage in water skiing is impaired by
191 the consumption of intoxicating liquor and thereafter, after being
192 apprised of [his] such person's constitutional rights, having been
193 requested to submit to a blood, breath or urine test at the option of the
194 police officer, having been afforded a reasonable opportunity to
195 telephone an attorney prior to the performance of such test and having
196 been informed that such person's safe boating certificate shall be
197 suspended in accordance with the provisions of this section if such
198 person refuses to submit to such test or if such person submits to such
199 test and the results of such test indicate that such person has an
200 elevated blood alcohol content and that evidence of any such refusal
201 shall be admissible in accordance with subsection (d) of section 15-
202 140r, as amended by this act, and may be used against [him] such
203 person in any criminal prosecution, refuses to submit to the designated
204 test, the test shall not be given; provided, if [the] such person refuses or
205 is unable to submit to a blood test, the police officer shall designate the
206 breath or urine test as the test to be taken. The police officer shall make
207 a notation upon the records of the police department that such officer
208 informed such person that such person's safe boating certificate would

209 be suspended if such person refused to submit to such test or if such
210 person submitted to such test and the results of such test indicated that
211 such person has an elevated blood alcohol content.

212 (c) If the person arrested pursuant to subdivision (2), (3) or (4) of
213 subsection (b) of this section refuses to submit to such test or analysis
214 or submits to such test or analysis, commenced within two hours of the
215 time of operation, and the results of such test or analysis indicate that
216 at the time of the alleged offense such person had an elevated blood
217 alcohol content, the police officer shall immediately revoke the
218 operating privilege of such person for a twenty-four-hour period and
219 shall issue a temporary operating privilege form to such person valid
220 for the period commencing twenty-four hours after issuance and
221 ending thirty-five days after the date such person received notice of
222 such person's arrest by the police officer. The police officer shall
223 prepare a written report of the incident and shall mail the report,
224 together with a copy of the completed temporary operating privilege
225 form, any certificate taken into possession and a copy of the results of
226 any chemical test or analysis, to the Department of Environmental
227 Protection within three business days. The report shall be made on a
228 form approved by the commissioner and shall be subscribed and
229 sworn to under penalty of false statement as provided in section 53a-
230 157b by the police officer before whom such refusal was made or who
231 administered or caused to be administered such test or analysis. If the
232 person arrested refused to submit to such test or analysis, the report
233 shall be endorsed by a third person who witnessed such refusal. The
234 report shall set forth the grounds for the police officer's belief that
235 there was probable cause to arrest such person for operating such
236 vessel or engaging in water skiing while under the influence of
237 intoxicating liquor or any drug, or both, or while such person has an
238 elevated blood alcohol content, or while the ability of such person to
239 operate such vessel or engage in water skiing was impaired by the
240 consumption of intoxicating liquor, and shall state that such person
241 refused to submit to such test or analysis when requested by such
242 police officer or that such person submitted to such test or analysis,

243 commenced within two hours of the time of operation, and the results
244 of such test or analysis indicated that such person at the time of the
245 alleged offense had an elevated blood alcohol content.

246 (d) If the person arrested pursuant to subdivision (2), (3) or (4) of
247 subsection (b) of this section submits to a blood or urine test at the
248 request of the police officer, and the specimen requires laboratory
249 analysis in order to obtain the test results, and if the test results
250 indicate that such person has an elevated blood alcohol content, the
251 police officer, immediately upon receipt of the test results, shall notify
252 and submit to the commissioner the written report required pursuant
253 to subsection (c) of this section.

254 (e) Upon receipt of such report, the commissioner shall suspend the
255 safe boating certificate of such person effective as of a date certain,
256 such date shall be no later than thirty-five days after the date such
257 person received notice of such person's arrest by the police officer. Any
258 person whose safe boating certificate or operating privilege is
259 suspended in accordance with this subsection shall be entitled to a
260 hearing before the commissioner to be held prior to the effective date
261 of the suspension. The commissioner shall send a suspension notice to
262 such person informing such person that such person's safe boating
263 certificate is suspended and shall specify the date of such suspension
264 and that such person is entitled to a hearing prior to the effective date
265 of the suspension and may schedule such hearing by contacting the
266 Department of Environmental Protection not later than ten days after
267 the date of mailing of such suspension notice.

268 (f) If such person does not contact the department to schedule a
269 hearing, the commissioner shall affirm the suspension contained in the
270 suspension notice for the appropriate period specified in subsection (i)
271 of this section.

272 (g) If such person contacts the department to schedule a hearing, the
273 department shall assign a date, time and place for the hearing, which
274 date shall be prior to the effective date of the suspension. At the

275 request of such person or hearing officer and upon a showing of good
276 cause, the commissioner may grant one continuance for a period not to
277 exceed thirty days. If a continuance is granted, the commissioner shall
278 extend the validity of the temporary operating privilege issued
279 pursuant to subsection (b) of this section for a period not to exceed the
280 period of such continuance. The hearing shall be limited to a
281 determination of the following issues: (1) Whether the police officer
282 had probable cause to arrest the person for operating the vessel or
283 engaging in water skiing while under the influence of intoxicating
284 liquor or drug, or both, or while such person has an elevated blood
285 alcohol content, or while the ability of such person to operate such
286 vessel or engage in water skiing was impaired by the consumption of
287 intoxicating liquor; (2) whether such person was placed under arrest;
288 (3) whether such person (A) refused to submit to such test or analysis,
289 or (B) submitted to such test or analysis, commenced within two hours
290 of the time of operation, and the results of such test or analysis
291 indicated that at the time of the alleged offense that such person had
292 an elevated blood alcohol content; (4) whether such person was
293 operating the vessel or engaging in water skiing; and (5) whether the
294 blood sample was obtained in accordance with conditions for
295 admissibility as set forth in subsection (b) of section 15-140r, as
296 amended by this act. In the hearing, the results of the test or analysis
297 shall be sufficient to indicate the ratio of alcohol in the blood of such
298 person at the time of operation, except that if the results of an
299 additional test, administered pursuant to section 15-140r, as amended
300 by this act, indicate that the ratio of alcohol in the blood of such person
301 is twelve-hundredths of one per cent or less of alcohol, by weight, and
302 is higher than the results of the first test, evidence shall be presented
303 that demonstrates that the test results and analysis thereof accurately
304 indicate the blood alcohol content at the time of operation. The fees of
305 any witness summoned to appear at the hearing shall be the same as
306 provided in section 52-260.

307 (h) If, after such hearing, the commissioner finds on any one of said
308 issues in the negative, the commissioner shall reinstate such safe

309 boating certificate. If, after such hearing, the commissioner does not
310 find on any one of said issues in the negative or if such person fails to
311 appear at such hearing, the commissioner shall affirm the suspension
312 contained in the suspension notice for the appropriate period specified
313 in subsection (i) of this section. The commissioner shall render a
314 decision at the conclusion of such hearing or send a notice of the
315 decision by certified mail to such person not later than thirty days
316 from the date of notice of such person's arrest by the police officer or, if
317 a continuance is granted, not later than forty-five days from the date
318 such person received notice of such person's arrest by the police
319 officer. The notice of such decision sent by certified mail to the address
320 of such person as shown by the records of the commissioner shall be
321 sufficient notice to such person that such person's safe boating
322 certificate is reinstated or suspended. Unless a continuance of the
323 hearing is granted pursuant to subsection (g) of this section, if the
324 commissioner fails to render a decision within thirty days from the
325 date such person received notice of such person's arrest by the police
326 officer, the commissioner shall reinstate such person's safe boating
327 certificate.

328 (i) The commissioner shall suspend the operator's safe boating
329 certificate and revoke the temporary operating privilege issued
330 pursuant to subsection (c) of this section, of a person who does not
331 contact the department to schedule a hearing under subsection (e) of
332 this section, who fails to appear at such hearing, or against whom, after
333 a hearing, the commissioner holds pursuant to subsection (g) of this
334 section. Such suspension shall be as of the effective date contained in
335 the suspension notice or the date the commissioner renders a decision,
336 whichever is later, for a period of: (1) (A) Except as provided in
337 subparagraph (B) of this subdivision, ninety days if such person
338 submitted to a test or analysis and the results of such test or analysis
339 indicated that at the time of the alleged offense that such person had
340 an elevated blood alcohol content, (B) one hundred twenty days if such
341 person submitted to a test or analysis and the results of such test or
342 analysis indicated that the ratio of alcohol in the blood of such person

343 was sixteen-hundredths of one per cent or more of alcohol, by weight,
344 or (C) six months if such person refused to submit to such test or
345 analysis; (2) if such person has previously had such person's privilege
346 suspended under this section, (A) except as provided in subparagraph
347 (B) of this subdivision, nine months if such person submitted to a test
348 or analysis and the results of such test or analysis indicated that at the
349 time of the alleged offense that such person had an elevated blood
350 alcohol content, (B) ten months if such person submitted to a test or
351 analysis and the results of such test or analysis indicated that the ratio
352 of alcohol in the blood of such person was sixteen-hundredths of one
353 per cent or more of alcohol, by weight, and (C) one year if such person
354 refused to submit to such test or analysis; and (3) if such person has
355 two or more times previously had such person's certificate or
356 operating privilege suspended under this section, (A) except as
357 provided in subparagraph (B) of this subdivision, two years if such
358 person submitted to a test or analysis and the results of such test or
359 analysis indicated that at the time of the alleged offense that such
360 person had an elevated blood alcohol content, (B) two and one-half
361 years if such person submitted to a test or analysis and the results of
362 such test or analysis indicated that the ratio of alcohol in the blood of
363 such person was sixteen-hundredths of one per cent or more of
364 alcohol, by weight, and (C) three years if such person refused to
365 submit to such test or analysis.

366 (j) Notwithstanding the provisions of subsections (b) to (i),
367 inclusive, of this section, any police officer who obtains the results of a
368 chemical analysis of a blood sample taken from an operator of a vessel
369 involved in an accident who suffered or allegedly suffered physical
370 injury in such accident shall notify the commissioner and submit to the
371 commissioner a written report if such results indicate that at the time
372 of the alleged offense such person had an elevated blood alcohol
373 content, and if such person was arrested for violation of subsection (d)
374 of section 15-133 and sections 15-140l and 15-140n in connection with
375 such accident. The report shall be made on a form approved by the
376 commissioner containing such information as the commissioner

377 prescribes and shall be subscribed and sworn to under penalty of false
378 statement, as provided in section 53a-157b, by the police officer. The
379 commissioner shall, after notice and an opportunity for hearing, which
380 shall be conducted in accordance with chapter 54, suspend the safe
381 boating certificate of such person for a period of up to ninety days, or,
382 if such person has previously had such person's operating privilege
383 suspended under this section, for a period up to one year. Each
384 hearing conducted under this section shall be limited to a
385 determination of the following issues: (1) Whether the police officer
386 had probable cause to arrest the person for operating a vessel or
387 engaging in water skiing while under the influence of intoxicating
388 liquor or drug, or both, or while such person has an elevated blood
389 alcohol content, or while the person's ability to operate the vessel or to
390 engage in water skiing was impaired by the consumption of
391 intoxicating liquor; (2) whether such person was placed under arrest;
392 (3) whether such person was operating the vessel or engaged in water
393 skiing; (4) whether the results of the analysis of the blood of such
394 person indicate that such person had an elevated blood alcohol
395 content; and (5) whether the blood sample was obtained in accordance
396 with conditions for admissibility as set forth in subsection (b) of
397 section 15-140r, as amended by this act. If, after such hearing, the
398 commissioner finds on any one of the said issues in the negative, the
399 commissioner shall not impose a suspension. The fees of any witness
400 summoned to appear at the hearing shall be the same as provided by
401 the general statutes for witnesses in criminal cases.

402 (k) The provisions of this section shall apply with the same effect to
403 the refusal by any person to submit to an additional chemical test as
404 provided in subdivision (5) of subsection (a) of section 15-140r, as
405 amended by this act.

406 [(b)] (l) The provisions of this section shall not apply to any person
407 whose physical condition is such that, according to competent medical
408 advice, such test would be inadvisable.

409 [(c)] (m) The state shall pay the reasonable charges of any physician

410 who, at the request of a municipal police department, takes a blood
411 sample for purposes of a test under the provisions of this section.

412 (n) For the purposes of this section, "elevated blood alcohol content"
413 means: (1) A ratio of alcohol in the blood of such person that is ten-
414 hundredths of one per cent or more of alcohol, by weight, (2) if such
415 person has been convicted of a violation of subsection (e) of section 15-
416 133, a ratio of alcohol in the blood of such person that is seven-
417 hundredths of one per cent or more of alcohol, by weight, or (3) if such
418 person is under twenty-one years of age, a ratio of alcohol in the blood
419 of such person that is two-hundredths of one per cent or more of
420 alcohol, by weight; and "impaired" means that the ratio of alcohol in
421 the blood of such person was more than seven-hundredths of one per
422 cent of alcohol, by weight, but less than one per cent of alcohol, by
423 weight.

424 (o) The commissioner may adopt regulations, in accordance with
425 chapter 54, to implement the provisions of this section.

426 Sec. 6. Section 15-140r of the general statutes is repealed and the
427 following is substituted in lieu thereof:

428 [(a) In any criminal prosecution for violation of section 15-140l or
429 15-140n, subsection (a) of section 15-133 or]

430 (a) Except as provided in subsection (d) of this section, in any
431 criminal prosecution for the violation of: (1) Subsection (d) of section
432 15-133; (2) sections 15-140l and 15-140n; and (3) subsection (b) of
433 section 53-206d, evidence respecting the amount of alcohol or drug in
434 the defendant's blood or urine at the time of the alleged offense, as
435 shown by a chemical analysis of the defendant's breath, blood or urine
436 shall be admissible and competent provided: [(1)] (A) The defendant
437 was afforded a reasonable opportunity to telephone an attorney prior
438 to the performance of the test and consented to the taking of the test
439 upon which such analysis is made; [(2)] (B) a true copy of the report of
440 the test result was mailed to or personally delivered to the defendant
441 within twenty-four hours or by the end of the next regular business

442 day, after such result was known, whichever is later; [(3)] (C) the test
443 was performed by or at the direction of [a] an authorized law
444 enforcement officer according to methods and with equipment
445 approved by the Department of Public Health and was performed [by
446 a person certified or recertified for such purpose by said department or
447 recertified by persons certified as instructors by the Commissioner of
448 Public Health. If a blood test is taken, it shall be on a blood sample
449 taken by a person licensed to practice medicine and surgery in this
450 state, a qualified laboratory technician, an emergency medical
451 technician II or a registered nurse] in accordance with the regulations
452 adopted under subsection (b) of this section; [(4)] (D) the device used
453 for such test was checked for accuracy [at the beginning of each
454 workday and no later than the end of each workday by a person
455 certified by the Department of Public Health] in accordance with the
456 regulations adopted under subsection (b) of this section; [(5)] (E) an
457 additional chemical test of the same type was performed [and the
458 device was checked for accuracy by a person certified or recertified by
459 the Department of Public Health,] at least thirty minutes after the
460 initial test was performed or, if requested by the police officer for
461 reasonable cause, an additional chemical test of a different type was
462 performed to detect the presence of a drug or drugs other than or in
463 addition to alcohol, provided the results of the initial test shall not be
464 inadmissible under this subsection if reasonable efforts were made to
465 have such additional test performed in accordance with the conditions
466 set forth in this subsection and such additional test was not performed
467 or was not performed within a reasonable time, or the results of such
468 additional test are not admissible for failure to meet a condition set
469 forth in this subsection; and [(6)] (F) evidence is presented [which
470 demonstrates that the test results and the analysis thereof accurately
471 reflect] that the test was commenced within two hours of operation of
472 the vessel. In any prosecution under this section it shall be a rebuttable
473 presumption that the results of such chemical analysis establish the
474 ratio of alcohol in the blood of the defendant at the time of the alleged
475 offense, except that if the results of the additional test indicate that the
476 ratio of alcohol in the blood of such defendant is twelve-hundredths of

477 one per cent or less of alcohol, by weight, and is higher than the results
478 of the first test, evidence shall be presented that demonstrates that the
479 test results and the analysis thereof accurately indicate the blood
480 alcohol content at the time of the alleged offense.

481 (b) The Commissioner of Public [Health] Safety shall ascertain the
482 reliability of each method and type of device offered for chemical
483 testing and analysis purposes of blood, of breath and of urine and
484 certify those methods and types which [he] said commissioner finds
485 suitable for use in testing and analysis of blood, [testing] breath and
486 [testing] urine, respectively in this state. [He] The Commissioner of
487 Public Safety, after consultation with the Commissioner of Public
488 Health, shall adopt regulations governing the conduct of chemical
489 tests, the operation and use of chemical test devices and the training []
490 and certification [and annual recertification of operators of such
491 devices as he] of operators of such devices and the drawing or
492 obtaining of blood, breath or urine samples as said commissioner finds
493 necessary to protect the health and safety of persons who submit to
494 chemical tests and to insure reasonable accuracy in testing results.
495 Such regulations shall not require recertification of a police officer
496 solely because such officer terminates such officer's employment with
497 the law enforcement agency for which certification was originally
498 issued and commences employment with another such agency.

499 (c) If a person is charged with a violation of subsection (d) of section
500 15-133 the charge may not be reduced, nolle or dismissed unless the
501 prosecuting authority states in open court [his] such prosecutor's
502 reasons for the reduction, nolle or dismissal.

503 (d) In any criminal prosecution for a violation of subsection (d) of
504 section 15-133 or section 15-140l or 15-140n, evidence that the
505 defendant refused to submit to a blood, breath or urine test requested
506 in accordance with section 15-140q shall be admissible provided the
507 requirements of subsection (a) of said section have been satisfied. If a
508 case involving a violation of subsection (d) of section 15-133 or section
509 15-140l or 15-140n is tried to a jury, the court shall instruct the jury as

510 to any inference that may or may not be drawn from the defendant's
511 refusal to submit to a blood, breath or urine test.

512 Sec. 7. Section 15-154 of the general statutes is repealed and the
513 following is substituted in lieu thereof:

514 (a) Any harbor master, deputy harbor master, conservation officer,
515 special conservation officer or state police officer and any municipal
516 police officer, any special police officer appointed under sections 29-18
517 and 29-19 or members of the volunteer police auxiliary force
518 established under section 29-22, any town marine officers appointed
519 under section 15-154a and certified by the commissioner for marine
520 police duty and any lake patrolman appointed under section 7-151b
521 may enforce the provisions of this chapter and chapter 446k, provided
522 the provisions of this act shall be enforced only by either a state police
523 officer, municipal police officer or town marine officer appointed
524 under section 15-154a and certified by the commissioner for marine
525 police duty. In the enforcement of this chapter, such officer may arrest,
526 without previous complaint and warrant, any person who fails to
527 comply with the provisions of this chapter. Failure to appear in court
528 pursuant to such arrest, unless excused by the court or the state's
529 attorney or assistant state's attorney, shall constitute sufficient cause
530 for the suspension by the Commissioner of Motor Vehicles of the boat
531 registration of the boat involved for not more than thirty days or until
532 the matter is resolved by the court, whichever is sooner.

533 (b) When engaged in the enforcement of this chapter and chapter
534 446k such authorized law enforcement officer shall have the authority
535 to stop and board any vessel which is under way or which is moored
536 on the waters of this state for the purposes of (1) examining decals,
537 certificates and other documents, (2) inspecting safety equipment and
538 waste disposal systems, (3) determining if the operation of such vessel
539 exceeds the noise levels established in subsection (b) of section 15-129,
540 (4) searching when [he] such law enforcement officer has probable
541 cause to believe that any provision of any law of this state or any rule
542 or regulation of the Department of Environmental Protection relating

543 to boating or water pollution has been violated, (5) determining
544 compliance with [subsection (d)] sections 15-140l and 15-140n and
545 subsections (d) and (e) of section 15-133, as amended by this act, when
546 [he] such authorized law enforcement officer has probable cause to
547 believe said section or subsection has been violated, and (6) making
548 arrests. No person operating a vessel shall refuse to stop [his] such
549 vessel or, if sea conditions make stopping in that area unsafe, refuse to
550 take [his] such vessel to a designated area after being requested or
551 signalled to do so by an authorized law enforcement officer. Any
552 person operating a vessel who refuses to stop or refuses to take [his]
553 such vessel to the designated area shall have committed an infraction.
554 Any person, when signalled to stop by an authorized law enforcement
555 officer in a law enforcement vessel using an audible signal device or
556 flashing blue lights, who operates [his] such vessel in disregard of such
557 signal so as to (A) interfere with or endanger the operation of the law
558 enforcement vessel or any other vessel, (B) endanger or cause damage
559 to property or person, or (C) increase speed in an attempt to escape or
560 elude such authorized law enforcement officer shall be fined not less
561 than one hundred dollars nor more than five hundred dollars for a first
562 offense and for any subsequent offense shall be fined not less than five
563 hundred dollars nor more than one thousand dollars. Proof of the
564 registration number of the vessel shall be prima facie evidence in any
565 prosecution that the owner was the operator.

566 (c) The Commissioner of Environmental Protection shall publish an
567 enforcement manual, conduct training and educational sessions, serve
568 as liaison between the enforcement groups and the Superior Court and
569 shall be generally responsible for the overall coordination of
570 enforcement.

571 Sec. 8. Subsection (a) of section 15-140e of the general statutes is
572 repealed and the following is substituted in lieu thereof:

573 (a) On and after the following dates, no resident of the state, person
574 owning real property in the state or person owning a vessel in the state
575 shall operate on the waters of the state a vessel which is required to be

576 registered or numbered pursuant to this chapter unless such person
577 has a valid vessel operator license by the United States Coast Guard or
578 has obtained a safe boating certificate issued by the Commissioner of
579 Environmental Protection: For operators who are less than twenty
580 years of age, June 23, 1993; for operators who are less than twenty-five
581 years of age, October 1, 1993; for operators who are less than thirty
582 years of age, October 1, 1994; for operators who are less than thirty-five
583 years of age, October 1, 1995; for operators who are less than forty
584 years of age, October 1, 1996; and for all operators forty years of age or
585 older, October 1, 1997. Notwithstanding the provisions of this section,
586 the commissioner may issue a certificate to a person who has
587 successfully completed a course in safe boating operation approved by
588 the commissioner before the date such person is required to take the
589 exam under this section. A safe boating certificate [shall be
590 nonrevocable] may be suspended or revoked, pursuant to this act, and
591 shall be valid for the life of the person to whom it is issued unless
592 otherwise suspended or revoked.

593 Sec. 9. Section 15-133c of the general statutes is repealed and the
594 following is substituted in lieu thereof:

595 (a) On or before January 1, 1991, any person convicted of more than
596 one violation of section 15-133 or 15-134 within any two-year period
597 may not operate a motorboat powered by a motor in excess of five
598 horsepower on the waters of the state for recreational purposes
599 without first obtaining a boating safety certificate from the
600 commissioner evidencing successful completion of a course in safe
601 boat handling approved by the commissioner. The commissioner shall
602 adopt regulations in accordance with the provisions of chapter 54
603 establishing requirements for the issuance of boating safety certificates
604 and the content of safe boat handling courses which shall include but
605 not be limited to instruction in boat handling and navigation. The
606 commissioner may designate [as his] an agent for giving such course
607 and issuing such certificates: The United States Coast Guard Auxiliary,
608 the United States Power Squadron, or any other person or organization
609 [he] the commissioner deems qualified to act in such capacity.

610 (b) A certified copy of a conviction for a violation of section 15-133,
611 as amended by this act, [or] 15-134, 15-140l, as amended by this act, or
612 15-140n, as amended by this act, shall be sent within thirty days of
613 conviction to the Commissioner of Environmental Protection without
614 charge by the clerk of the court wherein such conviction has been had.

615 Sec. 10. Subsection (a) of section 14-227f of the general statutes is
616 repealed and the following is substituted in lieu thereof:

617 (a) Any person whose motor vehicle operator's license or
618 nonresident operating privilege is suspended under subsection (h) of
619 section 14-227a for a conviction of a second or subsequent violation of
620 subsection (a) of said section or under section 14-227b for a second or
621 subsequent time shall participate in a treatment program approved by
622 the Commissioner of Motor Vehicles. The commissioner shall not
623 reinstate the operator's license or nonresident operating privilege of
624 any such person until such person submits evidence to the
625 commissioner that [he] such person has satisfactorily completed the
626 treatment program. Any person whose certificate is suspended or
627 revoked pursuant to this act shall participate in such treatment
628 program.

629 Sec. 11. Subsection (k) of section 14-227a of the general statutes is
630 repealed and the following is substituted in lieu thereof:

631 (k) In addition to any fine or sentence imposed pursuant to the
632 provisions of subsection (h) of this section, the court may order such
633 person to participate in an alcohol education and treatment program.
634 The court may order any person whose certificate is suspended or
635 revoked, pursuant to this act, to participate in such alcohol education
636 and treatment program.

637 Sec. 12. Subsection (a) of section 54-56g of the general statutes is
638 repealed and the following is substituted in lieu thereof:

639 (a) There shall be a pretrial alcohol education system for persons
640 charged with a violation of section 14-227a and the provisions of this

641 act. Upon application by any such person for participation in such
642 system and payment to the court of an application fee of fifty dollars,
643 the court shall, but only as to the public, order the court file sealed,
644 provided such person states under oath, in open court or before any
645 person designated by the clerk and duly authorized to administer
646 oaths, under penalties of perjury that such person has never had such
647 system invoked in such person's behalf and that such person has not
648 been convicted of a violation of section 53a-56b or 53a-60d, a violation
649 of subsection (a) of section 14-227a before or after October 1, 1981, or a
650 violation of subdivision (1) or (2) of subsection (a) of section 14-227a on
651 or after October 1, 1985, and that such person has not been convicted in
652 any other state at any time of an offense the essential elements of
653 which are substantially the same as section 53a-56b or 53a-60d or
654 subdivision (1) or (2) of subsection (a) of section 14-227a. Unless good
655 cause is shown, a person shall be ineligible for participation in such
656 pretrial alcohol education system if such person's alleged violation of
657 section 14-227a caused the serious physical injury, as defined in section
658 53a-3, of another person. The fee imposed by this subsection shall be
659 credited to the Criminal Injuries Compensation Fund established by
660 section 54-215.

661 Sec. 13. Section 15-129 of the general statutes is repealed and the
662 following is substituted in lieu thereof:

663 (a) The provisions of this section shall apply to vessels operated on
664 state and federal waters. (1) Every vessel shall carry for each person on
665 board, so placed as to be readily accessible, at least one buoyant
666 personal flotation device. The operator or owner of any vessel being
667 used for recreational purposes, other than a vessel required to have a
668 certificate of inspection issued by the Coast Guard, shall require any
669 child under twelve years of age who is aboard such vessel to wear a
670 personal flotation device while such vessel is underway unless the
671 child is below deck or in an enclosed cabin. Sailboards shall be exempt
672 from carrying a personal flotation device if the mast of the sailboard is
673 secured to the hull by a leash or safety line. (2) Every motorboat with
674 enclosed fuel storage space or an enclosed engine compartment shall

675 be equipped with devices for ventilating flammable or explosive gases.
676 (3) Every motorboat with a carbureted inboard engine shall have the
677 carburetor of such engine equipped with a flame arrestor or backfire
678 trap unless such engine is mounted in the aftermost part of the vessel
679 with no provisions for carrying passengers behind the forward edge of
680 the engine and the carburetor of such engine has its intake opening
681 above the gunwale line of the vessel in the open atmosphere and
682 mounted so backfire flames are directed to the rear or vertically away
683 from the vessel and its occupants. (4) Every motorboat shall have its
684 engine equipped with an effective muffling device. (5) All inboard
685 motorboats, all outboard motorboats twenty-six feet or over in length,
686 and all outboard motorboats less than twenty-six feet in length which
687 have a compartment in which gases may accumulate, shall be
688 equipped with a fire extinguisher. (6) Every motorboat sixteen feet or
689 more in length shall be equipped with a whistle or horn-type sound-
690 producing device capable of producing a blast of two seconds or more
691 in duration. On motorboats sixteen feet or more but less than twenty-
692 six feet in length such device shall be mouth, hand or power-operated
693 and audible for at least one-half mile. On motorboats twenty-six feet or
694 more but less than forty feet in length such device shall be hand or
695 power-operated and audible for at least one mile. On motorboats forty
696 feet or more but less than sixty-five feet in length such device shall be
697 power-operated and audible for at least one mile. Every motorboat
698 twenty-six feet or more in length shall be equipped with a bell capable
699 of producing a clear bell-like tone of full round characteristics. (7)
700 Every vessel operated on the waters of Long Island Sound or Fishers
701 Island Sound between sunset and sunrise shall carry visual distress
702 signals suitable for night use. Every vessel sixteen feet or more in
703 length, except manually propelled vessels and open sailboats that are
704 less than twenty-six feet in length, and are not equipped with
705 propulsion machinery, operated on the waters of Long Island Sound or
706 Fishers Island Sound at any time shall carry visual distress signals
707 suitable for day and night use. No person, operator or owner in a
708 vessel shall display or allow the display of a visual distress signal
709 except when assistance is needed because of immediate or potential

710 danger to persons aboard.

711 (b) No person shall operate or give permission for the operation of
712 any motorboat on the waters of this state unless such motorboat is at
713 all times equipped with a muffler which enables such motorboat to be
714 operated in compliance with subsections (c) and (d) of this section.
715 [and such muffler is in use.] For purposes of this section "muffler"
716 means a sound suppression device or system designed and installed to
717 abate the sound of exhaust gases emitted from an internal combustion
718 engine.

719 (c) No person shall operate or give permission for the operation of
720 any motorboat on the waters of this state in such a manner as to exceed
721 the following noise levels: (1) For engines manufactured before
722 January 1, 1993, a noise level of 90 dB(A) when subjected to a
723 stationary sound level test as prescribed by Society of Automotive
724 Engineers Specification Number J2005; (2) for engines manufactured
725 on or after January 1, 1993, a noise level of 88 dB(A) when subjected to
726 a stationary sound level test as prescribed by Society of Automotive
727 Engineers Specification Number J2005. If a motorboat is equipped with
728 more than one engine, the said noise levels shall apply when all such
729 engines are simultaneously in operation.

730 (d) No person shall operate or give permission for the operation of
731 any motorboat on the waters of this state in such a manner as to exceed
732 a noise level of 75 dB(A) measured as specified by Society of
733 Automotive Engineers Specification Number J1970.

734 (e) Any officer authorized to enforce the provisions of this chapter
735 who has reason to believe that a motorboat is being operated in excess
736 of the noise levels established in subsection (c) or (d) of this section
737 may request the operator of such motorboat to submit the motorboat
738 to an on-site test to measure noise levels, with the officer on board
739 such motorboat if such officer chooses, and the operator shall comply
740 with such request. If such motorboat exceeds the noise levels
741 established in subsection (c) or (d) of this section, the officer may direct

742 the operator to take immediate and reasonable measures to correct the
743 violation, including returning the motorboat to a mooring and keeping
744 the motorboat at such mooring until the violation is corrected or
745 ceases.

746 (f) Any officer who conducts a motorboat sound level test as
747 provided in this section shall be qualified in motorboat noise testing by
748 the Department of Environmental Protection. Such qualification shall
749 include, without limitation, instruction in selection of the measurement
750 site and in the calibration and use of noise testing equipment.

751 [(g) No person shall operate or give permission for the operation of
752 any motorboat on the waters of this state that is equipped with a
753 muffler cutout, bypass or similar device which prevents the proper
754 operation of or diminishes the operating capacity of the muffler.]

755 [(h)] (g) No person shall remove a muffler from a motorboat or alter
756 a muffler on a motorboat so as to prevent the operation of such
757 motorboat in compliance with subsections (c) and (d) of this section.

758 [(i)] (h) No person shall sell or offer for sale any motorboat which is
759 not equipped with a muffler which enables such motorboat to be
760 operated in compliance with subsections (c) and (d) of this section.
761 This subsection shall not apply to the sale or offer for sale of a
762 motorboat which will be operated solely for the purpose of competing
763 in marine races or regattas, provided upon the sale of a motorboat
764 which is not equipped with such a muffler, the seller shall provide to
765 the purchaser, and the purchaser shall date and sign, the following
766 statement: "I understand that this motorboat may not be operated for
767 any purposes other than competing in a marine race or regatta
768 authorized under section 15-140b of the Connecticut general statutes".
769 Such statement shall include the hull identification number of the
770 motorboat being purchased. Not later than five days after the sale, the
771 seller shall submit to the commissioner a copy of such signed and
772 dated statement. The seller and purchaser shall each retain a copy of
773 the statement.

774 ~~[(j)]~~ (i) The provisions of subsections (c) and (d) of this section shall
775 not apply to the operation of a motorboat participating in a marine
776 race or regatta authorized by the commissioner under section 15-140b.

777 ~~[(k)]~~ (j) All devices and equipment required by this section shall be
778 of a type and carried in the quantity and location approved by the
779 commissioner or by the United States Coast Guard.

780 ~~[(l)]~~ (k) Sirens shall not be used on any vessel except that law
781 enforcement vessels of the United States, this state or a political
782 subdivision of this state may use sirens when engaged in law
783 enforcement activities or when identification is necessary for safety
784 reasons. Any vessel may be equipped with a theft alarm signal device
785 if such device is so designed that it cannot be used as an ordinary
786 warning signal.

787 ~~[(m)]~~ (l) Any person who violates any provision of subsection (a) of
788 this section shall have committed an infraction. Any person who
789 violates the provisions of any other subsection of this section or who
790 fails to comply with a request or direction of an officer made pursuant
791 to subsection (e) of this section shall be fined not less than one hundred
792 dollars nor more than five hundred dollars."