



House of Representatives

General Assembly

File No. 580

January Session, 2005

Substitute House Bill No. 6760

House of Representatives, April 28, 2005

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING BOATING SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 15-156 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Any person who violates any provision of this part for which a
4 penalty is not provided shall have committed an infraction.

5 (b) No person to whom a safe boating certificate or certificate of
6 personal watercraft operation has been refused, or whose certificate or
7 right to operate a vessel in this state has been suspended or revoked,
8 shall operate any vessel during the period of such refusal, suspension
9 or revocation. No person shall operate or cause to be operated any
10 vessel, the registration of which has been suspended or revoked.

11 (c) Except as provided in subsection (d) of this section, any person
12 who violates any provision of subsection (b) of this section shall be
13 fined not less than one hundred fifty dollars or more than two

14 hundred dollars or imprisoned not more than ninety days, or be both
15 fined and imprisoned for the first offense, and for any subsequent
16 offense shall be fined not less than two hundred dollars or more than
17 six hundred dollars or imprisoned not more than one year, or be both
18 fined and imprisoned.

19 [(b)] (d) (1) Any person who operates any vessel during the period
20 such person's certificate or right to operate a vessel in this state is
21 under suspension or revocation on account of a violation of subsection
22 (d) of section 15-133 or subsection (c) of section 15-154, as amended by
23 this act, shall be fined not less than five hundred dollars or more than
24 one thousand dollars and imprisoned not more than one year. In the
25 absence of any mitigating circumstances, as determined by the court,
26 thirty consecutive days of the sentence imposed may not be suspended
27 or reduced in any manner. The court shall specifically state, in writing,
28 for the record the mitigating circumstances, or the absence thereof.

29 (2) Any person convicted of reckless operation of a vessel in the first
30 or second degree while under the influence of intoxicating liquor or
31 any drug, or both, in violation of section 15-140l or 15-140n, who
32 operates a vessel during the period such person's certificate or right to
33 operate a vessel in this state is under suspension or revocation, in
34 addition to any penalties imposed in accordance with said sections or
35 section 15-140o, shall be fined not less than five hundred dollars or
36 more than one thousand dollars and imprisoned not more than one
37 year. In the absence of any mitigating circumstances as determined by
38 the court, thirty consecutive days of the sentence imposed may not be
39 suspended or reduced in any manner. The court shall specifically state,
40 in writing, for the record any mitigating circumstances, or the absence
41 thereof.

42 (3) A court having jurisdiction of a violation of subdivision (1) or (2)
43 of this subsection may [be prohibited by the court having jurisdiction
44 of such violation] prohibit such person from operating any vessel on
45 any waters of this state for a period of not more than two years. Notice
46 of such suspension shall be transmitted forthwith by the court to the

47 Commissioner of Environmental Protection and the Commissioner of
48 Motor Vehicles. [Any person who operates a vessel in violation of such
49 a prohibition shall be fined two hundred dollars.]

50 (e) Any person who has had a safe boating certificate or certificate of
51 personal watercraft operation suspended or revoked under subsection
52 (d) of section 15-133, section 15-140l or 15-140n or section 15-154, as
53 amended by this act, shall, not later than two business days after the
54 suspension or revocation takes effect, return the certificate to the
55 commissioner. If such person fails to return the certificate to the
56 commissioner, the commissioner shall direct a conservation law
57 enforcement officer to secure possession thereof and to return the
58 certificate to the office of the commissioner. Failure of such person to
59 return the certificate shall be an infraction.

60 Sec. 2. Section 15-154 of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2005*):

62 (a) Any harbor master, deputy harbor master, conservation officer,
63 special conservation officer or state police officer and any municipal
64 police officer, any special police officer appointed under sections 29-18
65 and 29-19, any town marine officers appointed under section 15-154a
66 and certified by the commissioner for marine police duty and any lake
67 patrolman appointed under section 7-151b may enforce the provisions
68 of this chapter and chapter 446k, except that only peace officers shall
69 enforce the provisions of subsection (d) of section [15-33] 15-133 and
70 sections 15-140l and 15-140n. In the enforcement of this chapter, such
71 officer may arrest, without previous complaint and warrant, any
72 person who fails to comply with the provisions of this chapter. Failure
73 to appear in court pursuant to such arrest, unless excused by the court
74 or the state's attorney or assistant state's attorney, shall constitute
75 sufficient cause for the suspension by the Commissioner of Motor
76 Vehicles of the boat registration of the boat involved for not more than
77 thirty days or until the matter is resolved by the court, whichever is
78 sooner.

79 (b) When engaged in the enforcement of this chapter and chapter

80 446k, such officer shall have the authority to stop and board any vessel
81 which is under way or which is moored on the waters of this state for
82 the purposes of (1) examining decals, certificates and other documents,
83 (2) inspecting safety equipment and waste disposal systems, (3)
84 determining if the operation of such vessel exceeds the noise levels
85 established in subsection (b) of section 15-129, (4) searching when such
86 officer has probable cause to believe that any provision of any law of
87 this state or any rule or regulation of the Department of Environmental
88 Protection relating to boating or water pollution has been violated, (5)
89 determining compliance with sections 15-140l and 15-140n and
90 subsections (d) and (e) of section 15-133, when such authorized officer
91 has probable cause to believe said section or subsection has been
92 violated, and (6) making arrests.

93 (c) No person operating a vessel shall refuse to stop such vessel or,
94 if sea conditions make stopping in that area unsafe, refuse to take such
95 vessel to a designated area after being requested or signalled to do so
96 by such officer. Any person operating a vessel who refuses to stop or
97 refuses to take such vessel to the designated area shall have committed
98 an infraction. Any person, when signalled to stop by such officer in a
99 law enforcement vessel using an audible signal device or flashing blue
100 lights, who operates such vessel in disregard of such signal so as to
101 [(A)] (1) interfere with or endanger the operation of the law
102 enforcement vessel or any other vessel, [(B)] (2) endanger or cause
103 damage to property or person, or [(C)] (3) increase or maintain speed
104 in an attempt to escape or elude such law enforcement officer shall [be
105 fined not less than one hundred dollars or more than five hundred
106 dollars] be guilty of a class A misdemeanor for a first offense, [and for]
107 except that, if such violation causes the death of another person or
108 injury to another person that requires medical attention, such vessel
109 operator shall be guilty of a class D felony, and such operator's safe
110 boating certificate, certificate of personal watercraft operation or right
111 to operate a vessel that requires a certificate shall be suspended for one
112 year. For any subsequent offense such person shall be [fined not less
113 than five hundred dollars or more than one thousand dollars] guilty of
114 a class D felony, except that if such person causes the death of another

115 person or injury to another person that requires medical attention,
116 such person shall be guilty of a class D felony, for which one year of
117 the sentence imposed may not be suspended or reduced by the court,
118 and shall have such person's safe boating certificate, certificate of
119 personal watercraft operation or right to operate a vessel that requires
120 a certificate suspended for not less than eighteen months or more than
121 two years. Proof of the registration number of the vessel shall be prima
122 facie evidence in any prosecution that the owner was the operator.

123 [(c)] (d) The Commissioner of Environmental Protection shall
124 publish an enforcement manual, conduct training and educational
125 sessions, serve as liaison between the enforcement groups and the
126 Superior Court and shall be generally responsible for the overall
127 coordination of enforcement.

128 Sec. 3. Section 15-149a of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective October 1, 2005*):

130 (a) Any person operating a vessel upon the waters of this state
131 which vessel is in any manner involved in an accident in which any
132 person dies, is injured so as to require medical attention, or disappears,
133 shall immediately notify the nearest law enforcement agency having
134 jurisdiction over such accident and, [within] not later than forty-eight
135 hours after such accident, report the matter in writing to the
136 Commissioner of Environmental Protection. The report shall be on a
137 form prescribed by the commissioner and shall state as accurately as
138 possible the time, place and cause of such accident, the injuries
139 occasioned by the accident and any other facts the commissioner
140 deems necessary. If such operator is physically incapable of notifying
141 the nearest law enforcement agency or of making such report and
142 there is another participant or passenger in the accident not
143 incapacitated, such participant or passenger shall immediately notify
144 the nearest law enforcement agency having jurisdiction over such
145 accident and make the report to the commissioner [within] not later
146 than forty-eight hours after such accident. Any person operating a
147 vessel upon the waters of this state which is in any manner involved in

148 an accident in which the total damages to all property affected by such
149 accident, including property of such operator, is in excess of five
150 hundred dollars, such person shall, [within] not later than five days
151 after such accident, report the matter in writing to the commissioner
152 on such forms as said commissioner may prescribe. If there is no
153 person other than the owner capable of making such report or if the
154 report has not been submitted and the owner of such vessel is not
155 incapacitated, such owner shall, [within] not later than five days after
156 learning of the facts of such accident, report the matter to the
157 commissioner, on such forms as said commissioner may prescribe.
158 Any such operator of a vessel, or surviving participant or passenger in
159 any such accident, or the owner of the vessel involved in any such
160 accident, shall provide any other information or additional report as
161 the commissioner shall require. Failure of any person to comply with
162 any provision of this subsection shall be an infraction.

163 (b) Except in an emergency, no vessel towboat operator who for a
164 fee or other compensation conducts vessel towing services for
165 recreational boaters shall take under tow any vessel which has been
166 involved in a boating accident or has been abandoned without first
167 notifying federal, state or municipal law enforcement authorities and
168 the owner of the vessel. In the event circumstances are such that the
169 vessel should be immediately towed to safety to prevent loss of the
170 vessel or injury to passengers, the towboat operator shall immediately
171 notify such authorities upon reaching safe harbor. Failure to notify law
172 enforcement authorities and the vessel owner as required by the
173 provisions of this subsection shall be an infraction.

174 Sec. 4. Section 15-143 of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective October 1, 2005*):

176 (a) Vessels of the following classes are not required to be numbered
177 or display a Connecticut registration decal by this state: (1) Motorboats
178 which have a valid marine document issued by the United States Coast
179 Guard, provided the owner of any such vessel used upon the waters of
180 this state for more than sixty days in any calendar year shall be

181 required to comply with the registration requirements in section 15-
182 144; (2) vessels owned in countries other than the United States
183 temporarily using the waters of the state; (3) vessels owned by the
184 United States, a state or a political subdivision of a state which are
185 used in the performance of governmental functions; (4) vessels used
186 exclusively as ships' lifeboats; (5) vessels belonging to any class which
187 the Commissioner of Environmental Protection exempts upon finding
188 that the numbering of such vessels does not materially aid in their
189 identification; provided, the commissioner shall not exempt any such
190 class of vessels which is subject to the provisions of the federal Boat
191 Safety Act of 1971 and which has not been exempted therefrom under
192 the provisions of Subsection (b) of Section 19 of said act; (6) vessels
193 principally used in another state for which valid, effective certificates
194 of number were awarded by the United States or by such other state
195 pursuant to the provisions of the federal Boat Safety Act of 1971;
196 provided, the owner of a vessel used upon the waters of this state for
197 more than sixty days in any calendar year shall be required to comply
198 with the registration requirements in section 15-144. The following are
199 prima facie evidence that a vessel will be operated on the waters of this
200 state for more than sixty days in any calendar year and must be
201 registered pursuant to section 15-144: (A) The rental or lease for more
202 than sixty days of a mooring facility for the vessel when such facility is
203 located on the waters of this state; (B) the purchase of a mooring
204 facility for the vessel when such facility is located on the waters of this
205 state; or (C) any other contractual agreement for a duration of more
206 than sixty days that allows the use of a mooring facility for the vessel
207 when such facility is located on the waters of this state; and (7) any
208 vessel less than nineteen and one-half feet in length which is not a
209 motorboat as defined in section 15-141, as amended by this act, and
210 any vessel propelled solely by oar or paddle.

211 (b) Vessels, the sale or transfer of which is subject to the provisions
212 of Section 37 of the Shipping Act, 1916, shall be numbered by this state
213 only when such sale or transfer is approved by the United States
214 Maritime Administration.

215 Sec. 5. Section 15-141 of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2005*):

217 As used in this part, unless the context otherwise requires:
218 "Commissioner" means the Commissioner of Environmental
219 Protection; "vessel" means every description of watercraft, other than a
220 seaplane on water, used or capable of being used as a means of
221 transportation on water, exclusive of any such watercraft used
222 primarily for purposes of transporting commercial cargo; "motorboat"
223 means any watercraft fitted with propulsion machinery, whether or
224 not such machinery is the principal source of propulsion; "horsepower"
225 means the rated brake horsepower of an engine at maximum operating
226 revolutions per minute; "operate" means to navigate or otherwise use a
227 vessel; "person" means any individual, partnership, firm, association,
228 limited liability company, corporation or other entity; "owner" means a
229 person, other than a lien holder, having property in or title to a vessel.
230 The term includes a person entitled to use or possession of a vessel
231 subject to an interest in another person reserved or created by
232 agreement and securing payment or performance of an obligation, but
233 the term excludes a lessee under a lease not intended as security;
234 "mooring facility" means a structure that includes, but is not limited to,
235 slips, docks, or permanently or seasonally anchored mooring buoys
236 designed to make fast a vessel by chains or lines; "marine dealer"
237 means a person engaged in the business of manufacturing, selling or
238 repairing new or used vessels having an established place of business
239 for the sale, trade, display or repair of motorboats; "marine engine
240 manufacturer" means a person engaged in the business of
241 manufacturing, selling or repairing marine engines having an
242 established place of business for the sale, trade, display or repair of
243 marine engines; "marine engine" means an engine manufactured for
244 use or used in vessels; "federal Boat Safety Act of 1971" means an Act
245 of Congress approved August 10, 1971, Public Law 92-75.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	15-156
Sec. 2	<i>October 1, 2005</i>	15-154
Sec. 3	<i>October 1, 2005</i>	15-149a
Sec. 4	<i>October 1, 2005</i>	15-143
Sec. 5	<i>October 1, 2005</i>	15-141

ENV *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Dept. (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Department of Environmental Protection	SF/GF - None	None	None

Note: GF=General Fund; SF=Special Fund (Non-appropriated)

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	None	None	None

Explanation

The bill increases fines and makes certain actions related to boat operation crimes. Any revenue gain from the fines is expected to be minimal. There is a potential cost to incarcerate individuals under the bill's expanded criminal penalties, including mandatory minimum sentences of thirty days for operating a vessel while a person's certificate or right to operate it has been suspended or revoked and potential imprisonment for attempting to elude a law enforcement officer.¹ As there are few such violations under current law, any potential cost is anticipated to be minimal.

It is anticipated that changes in the enforcement procedures, boating penalties and fines will have no fiscal or workload impacts to the Department of Environmental Protection or municipal officers.

¹ On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

OLR Bill Analysis

sHB 6760

AN ACT CONCERNING BOATING SAFETY

SUMMARY:

This bill makes criminal the penalties (1) for operating a vessel on state waters when an operator's required certificate has been revoked, suspended, or refused and (2) for refusing to stop certain vessels for a law enforcement officer. The bill expands the circumstances under which the court can suspend certain violators' rights to operate a vessel on state waters. It outlines circumstances that are legally sufficient to establish the fact that a vessel will be in the state for 60 days and must therefore be registered, and makes other changes to boating law.

The bill increases fines and adds prison time for operating a vessel on state waters when the operator's safe boating certificate or certificate of personal watercraft operation has been (1) refused, suspended, or revoked; (2) suspended or revoked for operating under the influence of drugs or alcohol, or with an elevated blood alcohol content; and (3) suspended or revoked for reckless operation in the first or second degree while under the influence. In the latter two situations, minimum prison time cannot be waived without mitigating circumstances.

The bill makes refusal to stop a vessel for an officer a (1) class A misdemeanor for a first offense and (2) class D felony for repeat offenses or if someone is injured or killed while trying to elude such an officer.

Under current law, the court may suspend for up to two years the right of anyone to operate any vessel on state waters who is convicted of reckless boating in the first or second degree while under the influence. The bill expands the court's suspension ability to those convicted of boating while under the influence or who refuse to stop for a law enforcement officer.

The bill also requires anyone whose certificate was suspended or revoked for (1) boating under the influence, (2) reckless boating in the

first or second degree while under the influence, or (3) refusing to stop for an officer to return their certificate to the Department of Environmental Protection (DEP) commissioner no later than two business days after the suspension or revocation takes effect. If the violator fails to do this, the commissioner must direct a conservation law enforcement officer to secure possession of the certificate and return it to her office. The bill makes failing to return the certificate an infraction.

It specifies that anyone in a boating accident must notify the law enforcement agency having jurisdiction and makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2005

OPERATING VESSEL WITHOUT A VALID CERTIFICATE OR REGISTRATION

Suspended, Revoked, or Refused Certificate

By law, to operate certain vessels on state waters, owners must have a safe boating certificate and hold a valid (1) certificate of number from Connecticut, another state, or the United States government that is displayed on each side of the vessel or (2) marine document issued by the U.S. Coast Guard. Anyone operating a personal watercraft, such as a Jet-Ski, must carry a certificate of personal watercraft operation. By law, anyone violating safe boating certificate requirements is fined between \$60 and \$250 for each violation.

The bill expressly prohibits anyone (1) to whom DEP refused to issue a safe boating certificate or certificate of personal watercraft operation or (2) whose certificate or right to operate a vessel in the state has been suspended or revoked from operating any vessel during the period they do not have the required, valid certificate. Under the bill, violators are fined between \$150 and \$250 or imprisoned up to 90 days, or both for the first offense. For any subsequent offense, violators are fined between \$200 and \$600, or imprisoned up to one year, or both.

Suspended or Revoked Registration

Connecticut law requires that all boats with motors, regardless of size, and sailboats 19.5 feet or longer (powered only by sail), be registered with the Department of Motor Vehicles and numbered before

launching.

The bill expressly prohibits anyone from operating any vessel on state waters when his registration has been suspended or revoked. Under the bill, violators are fined between \$150 and \$250, imprisoned up to 90 days, or both for the first offense. For any subsequent offense, violators are fined between \$200 and \$600, imprisoned up to one year, or both. By law, operating a vessel without number and registration carries a \$120 fine for a first offense; penalties increase and the vessel is subject to seizure pending proof of payment of numbering or registration fees for subsequent violations (CGS § 15-144(h)).

OPERATING WHILE CERTIFICATE IS SUSPENDED OR REVOKED

Suspension or Revocation for Operating Under the Influence or Refusing to Stop

Under the bill, anyone who operates any vessel while his certificate or right to operate a vessel in Connecticut is suspended or revoked for (1) boating while under the influence of drugs or alcohol or both, or with an elevated blood alcohol content or (2) for refusing to stop for an authorized officer, must be fined between \$500 and \$1,000 and imprisoned up to a year. If the court does not find any mitigating circumstances, 30 consecutive days of the sentence may not be suspended or reduced in any manner. The court must specifically state in writing the mitigating circumstances, or lack of them.

Suspension or Revocation for Reckless Operation Under the Influence

Under the bill, anyone convicted of reckless operation of a vessel in the first or second degree while under the influence of alcohol or drugs, or both, who operates a vessel while his certificate or right to operate a vessel in Connecticut is suspended or revoked, in addition to subjecting the vessel to impoundment, must be fined between \$500 and \$1,000 and imprisoned up to one year. If the court does not find any mitigating circumstances, 30 consecutive days of the sentence imposed may not be suspended or reduced in any manner. The court must specifically state in writing any mitigating circumstances, or the absence of them.

The bill eliminates the current \$200 fine for anyone who operates a vessel after losing operating privileges for reckless boating in the first

or second degree while under the influence.

By law, a court having jurisdiction over a violation for reckless boating in the first or second degree while under the influence may prohibit the violator from operating any vessel on any state waters for up to two years. The bill expands the court's ability to prohibit operation for up to two years to those who operate a vessel while their certificate is revoked or suspended for boating under the influence or for refusing to stop. The court must immediately transmit notice of a suspension to the environmental protection and motor vehicle commissioners.

REFUSING TO STOP

By law, anyone operating a vessel must stop it after an officer requests or signals him to do so. Under current law, anyone who refuses to stop when signaled to do so by a law enforcement officer commits an infraction. If an officer in a law enforcement vessel uses an audible signal device or flashing blue lights to signal the vessel operator to stop, and the operator maneuvers his vessel in disregard of the signal so as to (1) interfere with or endanger the operation of the law enforcement vessel or any other vessel, (2) endanger or cause damage to property or person, or (3) increase speed in an attempt to escape or elude the officer, the fine is between \$100 and \$500 for a first offense and between \$500 and \$1,000 for subsequent offenses.

Under the bill, anyone who operates his vessel in disregard of an officer's signal so as to (1) interfere with or endanger the operation of the law enforcement vessel or any other vessel, (2) endanger or cause damage to property or person, or (3) increase or maintain speed in an attempt to escape or elude the officer, is guilty of a class A misdemeanor, punishable by up to one year in prison, a \$2,000 fine, or both, for a first offense. But when such a violation causes (1) another person's death or (2) injury to another person that requires medical attention, the vessel operator is guilty of a class D felony, punishable by up to five years in prison, a \$5,000 fine, or both, and his operator's safe boating certificate, certificate of personal watercraft operation, or right to operate a vessel must be suspended for one year.

Any subsequent offense is also a class D felony, except that if the operator causes the death of another person or injury to another person that requires medical attention, (1) he must serve one year of his sentence and (2) his safe boating certificate, certificate of personal

watercraft operation, or right to operate a vessel that requires a certificate must be suspended for between 18 and 24 months.

By law, proof of the registration number of the vessel is legally sufficient to establish a fact or a case in any prosecution that the owner was the operator. The DEP commissioner is generally responsible for overall enforcement coordination.

OPERATING ON STATE WATERS FOR MORE THAN 60 DAYS

By law, with several exceptions, anyone who uses a vessel on state waters for more than 60 days in a calendar year must register it. The bill specifies that the following circumstances are legally sufficient to establish the fact that a vessel will be operated on the waters of this state for more than 60 days in a calendar year:

1. the purchase, rental, or lease for more than 60 days of a mooring facility for the vessel that is located on state waters or
2. any other contractual agreement for a duration of more than 60 days that allows the use of a mooring facility located on the state waters for the vessel.

Under the bill, “mooring facility” means a structure that includes slips, docks, or permanently or seasonally anchored mooring buoys designed to make a vessel fast by chains or lines.

ACCIDENT NOTIFICATION

By law, anyone operating a vessel on state waters that is involved in an accident, or if the operator is physically incapacitated, a passenger who is not incapacitated must immediately notify the nearest law enforcement agency if anyone (1) dies, (2) is injured and requires medical attention, or (3) disappears. The bill specifies that the law enforcement agency is the nearest one having jurisdiction over the accident.

BACKGROUND

Blood Alcohol Content (BAC)

By law, an elevated BAC is (1) .02% if the person is under 21 and (2) .08% for anyone else. A boater is considered to have implicitly

consented to tests to determine his BAC when operating in state and federal waters. The law requires an officer who arrests a person for boating while under the influence or related crimes to revoke temporarily that person's authority to engage in boating if he (1) refuses to submit to the test or (2) has an elevated BAC.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 26 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 40 Nay 0