TEXAS PARKS & WILDLIFE

WATER SAFETY ACT

SEPTEMBER 2013 through AUGUST 2015

TEXAS GAME WARDENS

Since 1895, Texas Game Wardens have continued to serve the citizens of Texas by providing professional law enforcement, search and rescue, and water safety while working to conserve and protect the natural resource of Texas.

NASBLA BOAT PROGRAM ACCREDITED PARTNER

The Boat Operations and Training (BOAT) Program establishes a U.S. Coast Guard recognized national standard for the training, qualification, credentialing and typing of marine law enforcement and emergency first responders. Implementation by Texas Parks and Wildlife Department (TPWD) Law Enforcement Division program provides a true national standard for maritime interoperability at all government levels. Standardization ensures TPWD can interact together with other maritime agencies and bolster our ability to act as force multiplier nationwide.

TEXAS MARITIME TACTICAL OPERATIONS GROUP

As the "Texas Navy," Texas Game Wardens are tasked with the important role of maintaining the state's maritime security. TPWD staffs a specialized unit comprised of specially trained, equipped and tactically proficient game wardens known as the Maritime Tactical Operations Group (MTOG) for maritime operations. The MTOG exists to enhance the Division's response capabilities during critical waterborne incidents or special maritime details.

GAME WARDEN SCOUT TEAM

TPWD staffs a specialized unit comprised of specially trained, equipped and tactically proficient game wardens known as the Scout Team (ST). The ST exists to enhance the Division's response capabilities during critical incidents or special details. ST missions and objectives include, but are not limited to, support border operations, dignitary protection, interagency assistance and any incidents requiring high-risk law enforcement response coordinated through the Texas Division of Emergency Management.

GAME WARDEN K-9 TEAM

TPWD staffs a specialized unit comprised of specially trained game warden K-9 teams. The K-9 teams exist to enhance the Division's capabilities through resource detection, search and rescue capabilities, narcotics detection and more.

GAME WARDEN SEARCH AND RESCUE (SAR) TEAM

TPWD staffs a specialized unit comprised of specially trained, equipped and technically proficient game wardens known as the Search and Rescue Team (SAR). The SAR team exists to enhance the Division's response capabilities during natural and man-made disasters, swiftwater rescues, and land-based search and rescue missions.

GAME WARDEN MARINE THEFT UNIT

TPWD staffs a specialized unit comprised of specially trained, equipped and technically proficient game wardens who investigate vessel thefts throughout the state. To date, this unit has recovered millions of dollars in stolen vessels and investigated thousands of fraud cases.

GAME WARDEN UNDERWATER SEARCH AND RECOVERY DIVE TEAM

TPWD staffs a specialized unit comprised of specially trained, equipped and technically proficient game wardens who conduct underwater search and recovery missions. This highly skilled team of divers locates and recovers evidence and victims, venturing into varied and uncertain underwater environments throughout the state to bring closure to a case.

GAME WARDEN FORENSICS RECONSTRUCTION AND MAPPING TEAM

TPWD staffs a specialized unit comprised of specially trained, equipped and technically proficient game wardens known as the Forensics Reconstruction and Mapping Team. The team utilizes some of the latest technology with some of the most highly technically trained officers to reconstruct the most heinous and complex of crimes through the use of 3D video reconstruction software.

QUICK REFERENCE CHART

REQUIRED EQUIPMENT		POWERBOATS (Including electric motors)					SAILBOATS (If any type of propulsion				MANUALLY PROPELLED (No motor or sail)
Find the column to the right which applies to your vessel. An "X" in that column indicates the equipment item is required. Numbers beside the X's explain any exceptions to the equipment requirement.		Personal Watercraft	Less than 16' in length (Class A)	16' but less than 26' (Class 1)	26' but less than 40' (Class 2)	40' but less than 65' (Class 3)	Less than 16' in length (Class A)	16' but less than 26' (Class 1)	26' but less than 40' (Class 2)	40' but less than 65' (Class 3)	Canoes, Punts, Rowboats, Sailboats, Rubber Rafts, Racing Shells, Rowing Sculls, Kayaks and Other Paddle Craft
TITLE (31.045)		X	X	X	X	X	X*1	X	X	X	X*1
REGISTRATION NUMBERS (31.021)		X	X	X	X	X	X*1	X	X	X	X*1
PERSONAL FLOTATION DEVICES (31.066 and 33 CFR 175.15)	One Type I, II, III or Type V wearable device for each person on board.	X*2	X*3	X*3	X	X	X*3	X*3	X	X	X*3
	One additional Type IV PFD (throwable device) on board.			X	X	X		X	X	X	
FIRE EXTINGUISHERS (31.067 and 46 CFR 25.30)	One type B-1.	X	X*4	X*4							
	Two type B-1 or one type B-2.				X						
	Three type B-1 or one B-2 plus one B-1.					X					
VISUAL DISTRESS SIGNALS (33 CFR 175.110)	Federal waters and waters under USCG authority.		X*5	X	X	X		X	X	X	X*5
	Inland waters under State authority.										
SOUND PRODUCING DEVICES (31.065 and 33 USC 2033)	Whistle or horn, or some other sound producing device.	X	X	X	X						
	Whistle and a bell.					X					
LIGHTS (31.064 and 33 USC 2020)	Red and green side lights, white masthead light and stern light.					X					
	Red and green side lights and white all-round white light.		X	X	X						
	Red and green side lights and stern light.						X*6	X*6	X	X	X*6
VENTILATION (31.069 and 33 CFR 175.201)		X	X*7	X*7	X*7	X*7					
BACKFIRE FLAME ARRESTOR (31.068 and 46 CFR 25.35)		X	X*8	X*8	X*8	X*8					
EXHAUST WATER MANIFOLD (31.070)		X	X	X	X	X					
ENGINE CUT-OFF SWITCH LANYARD (31.106)		X*9									

Exceptions:

1. Does not apply to: all canoes, kayaks, punts, rowboats, rubber rafts (regardless of length) or other vessels under 14 feet in length when paddled, poled, oared, or windblown.
2. PFDs must be properly worn by all occupants.
3. On vessels less than 26 feet in length: passengers less than 13 years of age must wear a Type I, II, or Type III wearable PFD while underway.
4. EXCEPTION: outboard motorboats less than 26 feet in length, of "open construction" with no permanently mounted gas tanks.
5. EXCEPTION: boats under 16 feet in length, unless operated between sunset and sunrise.
6. If sidelights and stern light are not practical, it must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather.
7. Applies to all vessels, except a vessel of "open construction," using as fuel any liquid of a volatile nature.
8. EXCEPT outboard motors.
9. Cut off switch or lanyard must be attached to operator, operator's clothing, or operator's PFD, if equipped.

MAJOR CHANGES TO THIS ACT

Effective 09/01/2013: HB 115

- Amends Parks and Wildlife Code, Section 31.032 (Exemptions for Required Numbering) to require that the vessel identification number be painted or attached to each side of the forward half of the vessel (formerly near the bow) and that the registration decal (formerly validation decal) be attached in the manner prescribed by the department.

- On a vessel configured where the identification numbers on the hull are not visible, the numbers must be painted or attached to a backing plate that is attached to the forward half of the vessel, so that the numbers are visible on each side of the vessel.

Effective 09/01/2013: HB 1106

- Amends Parks and Wildlife Code, Section 31.003(1) (Definitions) by redefining "boat" to include a boat of not more than 65 feet in length shall be measured from the tip of the bow in a straight line to the stern.

- Amends Parks and Wildlife Code, 31.0341 (Issuance of Numbers: County Tax Assessor-Collector) by deleting the requirement that the department issue numbers to the county tax assessor.

- Amends Parks and Wildlife Code, Section 31.039 (Public Records; Fees) to state that owner identifier as prescribed by 33 C.F.R. Section 174.17 (tax identification number, date of birth, and driver's license number) is not a public record.

- Amends Parks and Wildlife Code, Section 31.040(a) (Vessel Liveries) to require that the owner or operator of a vessel livery who rents or lets for hire a vessel must obtain a certificate of number before a motorboat is rented.

- Amends Parks and Wildlife Code, Section 31.040(b) (Vessel Liveries) to require that the application for certificate of number must state that the applicant is a vessel livery.

- Amends Parks and Wildlife Code, Section 31.047 (Application; Form and Content; Fee) to require that the application for title must also include owner identifiers as prescribed by 33 C.F.R. Section 174.17 (Contents of application for certificate of number) and primary operation purpose, vessel type, propulsion type, engine drive type, fuel type.

- Amends Parks and Wildlife Code, Section 31.049 (Form of Certificate of Title) to require that the original and replacement certificate of title bear an assigned title number and that the previous title number is void when a duplicate number is issued.

- Adds Parks and Wildlife Code, Section 31.074 (Visual Distress Signal) to require a working and unexpired, if expiration is shown, visual distress signal for vessels operating in coastal waters that are: 16 feet or more in length; an uninspected passenger vessel; or a vessel less than 16 feet in length that is operated between sunset and sunrise.

Effective 05/25/2013: HB 1222

- Amends Parks and Wildlife Code, Section 31.126 (Venue) to allow a violation of the Texas Water Safety Act to be filed in the municipal court having jurisdiction where the offense was committed. This does not exempt the court from meeting the requirements in 31.128 (Disposition of Fines).

TABLE OF CONTENTS

CHAPTER 31 PARKS & WILDLIFE CODE

General Provisions and Definitions 1
Numbering 3
Certificates of Title 13
Equipment 21
Boating Regulations 25
Enforcement and Penalties 33
Water Facilities 38
Party Boats 38

TITLE 31 TEXAS ADMINISTRATIVE CODE 42

CHAPTER 12 PARKS & WILDLIFE CODE, Punishments 59

CHAPTER 49 AND 38 PENAL CODE 60

33 USC 34, Inland Navigation Rules 63

33 CFR 175, (Federal) Equipment Requirements 68

46 CFR 25, Fire Extinguisher Requirements 73

ALR Process 77

Marine Theft/Fraud References 78

Effective Dates

SEPTEMBER 2013 through AUGUST 2015

ABBREVIATIONS:
ALR – Administrative License Revocation
BAC – Blood Alcohol Content
BWI – Boating While Intoxicated
CFR – Code of Federal Regulations
DPS – Department of Public Safety
DUI – Driving Under the Influence
DWI – Driving While Intoxicated
GLO – General Land Office
PFD – Personal Flotation Device or Life Jacket
PWC – Parks & Wildlife Code
TCEQ – Texas Commission on Environmental Quality
TCLE – Texas Commission on Law Enforcement
TPWD – Texas Parks and Wildlife Department
USC – United States Code
USCG – United States Coast Guard

ONLINE RESOURCES:

TPWD General Boating Information
www.tpwd.texas.gov/fishboat/

Texas Administrative Code
www.sos.state.tx.us/tac/index.shtml

Texas Penal Code – Chapter 49. Intoxication and Alcoholic Beverage Offenses
www.statutes.legis.state.tx.us/SOTWDocs/PE/htm/PE.49.htm

United States Code Title 31 – Chapter 34. Inland Navigational Rules (33 USC 34)
www.law.cornell.edu/uscode/33/usc_sup_01_33_10_34.html

Code of Federal Regulations, Title 46 Part 25 – Requirements
www.access.gpo.gov/nara/cfr/waisidx_08/46cfr25_08.html

Texas Transportation Code and Texas Code of Criminal Procedure
www.statutes.legis.state.tx.us

U.S. Coast Guard – Boating Safety
www.uscgboating.org

Texas Commission on Environmental Quality –
Vessel Compliance/Boat Sewage Program
www.tceq.texas.gov/field/cleanwatercert/boatsdisposalrule.html

Effective Dates 9/1/13 – 8/31/15

TEXAS PARKS AND WILDLIFE LAWS
PARKS AND WILDLIFE CODE
TITLE 4. WATER SAFETY
CHAPTER 31. WATER SAFETY

SUBCHAPTER A. GENERAL PROVISIONS

§ 31.001. Title

This chapter may be cited as the Water Safety Act.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.002. State Policy

It is the duty of this state to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the state, to promote safety in the operation and equipment of facilities, and to promote uniformity of laws relating to water safety.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.003. Definitions

In this chapter:

(1) "Boat" means a vessel not more than 65 feet in length, measured from the tip of the bow in a straight line to the stern.

(2) "Vessel" means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(3) "Motorboat" means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

(4) "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

(5) "Water of this state" means any public water within the territorial limits of this state.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Dealer" means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year.

(8) "Vessel livery" means a business establishment engaged in renting or hiring out vessels for profit.

(9) Repealed by Acts 1997, 75th Leg., ch. 1363, § 12, eff. Sept. 1, 1997.

(10) "Reasonable time" means 15 days.

(11) "Manufacturer" means a person engaged in the business of manufacturing new and unused vessels and outboard motors for the purpose of sale or trade.

(12) "New" means every vessel or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.

(13) "Outboard motor" means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.

(14) "Personal watercraft" means a type of motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

(15) "Authorized agent" means a dealer who is authorized by the department under Section 31.006 of this code to collect taxes and fees and issue certificates of number.

(16) "Distributor" means a person who offers for sale, sells, or processes for distribution new boats or outboard motors to dealers in this state.

(17) "Coast Guard" means the United States Coast Guard.

*(17) "Abandoned vessel or outboard motor" means a vessel or outboard motor that has remained on private property without the consent of the owner or person in charge of the property for more than seven consecutive days.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1252, ch. 484, § 1(a), (b), eff. Sept. 1, 1977; Acts 1989, 71st Leg., ch. 571, § 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 718, § 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 450, § 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 739, § 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, § 26.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1256, § 21, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1363, § 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1133, § 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 108, § 1, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., ch. 1127, 1, eff. Sept. 1, 2011; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

**** Acts of the 82nd Legislature created two (17) subsections in this section.***

§ 31.004. Application of Chapter

The provisions of this chapter apply to all public water of this state and to all vessels on public water. Privately owned water is not subject to the provisions of this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1997, 75th Leg., ch. 1256, § 22, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1363, § 2, eff. Sept. 1, 1997.

§ 31.005. Contracts With Federal Government

(a) The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program relating to water safety, including:

(1) the acquisition, maintenance and operating costs of facilities;

(2) purchase of equipment and supplies;

(3) personnel salaries; and

(4) other federally approved reimbursable expenses, including personnel training costs, public boat safety and education costs and general administrative and enforcement costs.

(b) The department may contract with the United States in order to comply with all necessary requirements for the receipt of funds made available under any federal legislation.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.006. Appointment of Authorized Agent

(a) The department may authorize a dealer who holds a dealer's or manufacturer's number to act as the agent of the department under Subchapter B of this chapter and under Chapter 160, Tax Code, for the issuance of certificates of number and the collection of fees and taxes for boats sold by that dealer.

(b) An authorized agent must follow the rules of the commission and the rules of the comptroller.

(c) An authorized agent shall send the applications required by Sections 31.024 and 31.047 of this code, the fees required by Sections 31.026 and 31.048 of this code and the tax paid under Chapter 160, Tax Code, to the department not later than 20 days after the date a certificate of number is issued and a fee or tax collected.

(d) An authorized agent shall execute a surety bond in an amount set by the department to insure against loss to the department of fees and taxes. The bond shall be in favor of the department.

(e) The department may cancel the authorization of an agent on 30 days' written notice of the agent's violation of this chapter, a department rule adopted under this chapter, Chapter 160, Tax Code, or a rule adopted by the comptroller under that chapter.

(f) The commission may adopt rules for the creation of a program for the continuing identification and classification of participants in the vessel and outboard motor industries doing business in this state. The commission may set fees to administer this subsection. The department shall use information from the program to appoint agents under this section or for any other purpose required by the commission's rules or this chapter.

Added by Acts 1993, 73rd Leg., ch. 718, § 2, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 968, § 35, eff. Sept. 1, 2001.

SUBCHAPTER B. IDENTIFICATION OF VESSELS; REQUIRED NUMBERING

§ 31.021. Required Numbering

(a) Each vessel on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent federal legislation.

(b) No person may operate or give permission for the operation of any vessel or may dock, moor, or store a vessel owned by the person on the water of this state unless:

(1) the vessel is numbered as required by this chapter;

(2) the certificate of number awarded to the vessel is in full force and effect; and

(3) the identifying number set forth in the certificate is properly displayed on the vessel as required by this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, § 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1256, § 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1363, § 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 200, § 8(c), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 3, eff. Sept. 1, 2003; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

§ 31.022. Exemptions From Required Numbering

(a) A vessel is not required to be numbered under the provisions of this chapter if it is:

(1) operated within this state for a period not exceeding 90 consecutive days and is covered by a number in full force and effect which has been awarded under federal law or a federally approved numbering system of another state;

(2) from a country other than the United States temporarily using the water of this state;

(3) owned by the United States, a state, or a subdivision of a state; or

(4) a ship's lifeboat.

(b) The department may exempt from numbering a class of vessels if it finds that the numbering of the vessels of that class will not materially aid in their identification. The department may also exempt a vessel if it finds that it belongs to a class of vessels that would be exempt from numbering under a numbering system of an agency of the federal government if it were subject to federal law.

(c) All canoes, kayaks, punts, rowboats, rubber rafts or other vessels under 14 feet in length when paddled, poled, oared or windblown are exempt from the numbering provisions of this chapter.

(d) A vessel in use at a water ski tournament, competition or exhibition sanctioned in writing by the governing board of the governmental entity that has jurisdiction over the body of water on which the tournament, competition or exhibition occurs is exempt from the numbering provisions of this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 543, § 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 450, § 4, eff. Sept. 1, 1993.

§ 31.023. Vessels Numbered Under Federal or Other State Law

The owner of any vessel for which a current certificate of number has been awarded under any federal law or a federally approved numbering system of another state shall, if the vessel is operated on the water of this state in excess of 90 consecutive days, make application for a certificate of number in the manner prescribed in this chapter for residents of this state.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, § 5, eff. Sept. 1, 1993.

§ 31.024. Application for Number

(a) The owner of each vessel requiring numbering by this state shall file an application for a number with the department, an authorized agent, or a county tax assessor-collector.

(b) The application shall be signed by the owner of the vessel and shall be accompanied by the fee prescribed in Section 31.026 of this code. If the application is received by a county tax assessor-collector, the application and the portion of the fee not retained by the tax assessor-collector as a collection fee shall be sent to the department. If the application is received by an authorized agent, the application and the fee shall be sent to the department as required by Section 31.006 of this code.

(c) On receipt of the application in approved form, the department shall enter it on the records of its office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner.

(d) The application form, the form of the certificate of number, and the manner of renewal shall be prescribed by the department.

(e) The department, an authorized agent or a county tax assessor-collector may not issue a certificate of number unless the tax due on the vessel under Chapter 160, Tax Code, is paid.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1352, ch. 607, § 1, eff. Aug. 27, 1979. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, § 7.04, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 450, § 6, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 718, § 3, eff. Sept. 1, 1993.

§ 31.025. Renewal of Certificates of Number

(a) An application for the renewal of each certificate of number shall be prepared by the department and mailed to the owner of the vessel during the period of the last 90 days before the expiration date of the certificate. The same number shall be issued on renewal.

(b) The application for renewal may be returned to the department, to any county tax assessor-collector or if permitted by the department, to an agent of the department.

(c) Applications not received during the 90-day period shall be treated in the same manner as original applications.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, § 2, eff. Aug. 27, 1979.

§ 31.026. Fees

(a) Each application for an original or renewal certificate of number for a vessel shall be accompanied by a two-year fee determined by the following classification schedule or determined in the same classifications by the commission, whichever amount is more:

Class	Description of Vessel	Present Fee
Class A	less than 16 feet in length	$32
Class 1	16 feet or over and less than 26 feet in length	$53
Class 2	26 feet or over and less than 40 feet in length	$110
Class 3	40 feet or more in length	$150

(b) The fee for a vessel less than 16 feet in length owned by a vessel livery and used for rental purposes is $6 for each original and renewal application for a certificate of number or an amount set by the commission ($32), whichever amount is more.

(c) Owners of newly purchased vessels or other vessels not previously operated in this state shall pay the full registration fee.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1326, ch. 277, § 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, § 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, § 7, eff. Sept. 1, 1993.

§ 31.028. Certificate of Number

The certificate of number shall be pocket-size. The certificate or a facsimile of it shall be carried on board the vessel at all times. It does not have to be on the person of the operator if prior to trial the operator can produce for examination a valid certificate of number.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.029. Term of Certificate of Number

Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of two years unless sooner terminated or discontinued in accordance with the provisions of this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.030. Duplicate Certificates and Decals

(a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the vessel for which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of $2 or an amount set by the commission ($11), whichever amount is more.

(b) If a registration decal becomes lost, mutilated, or illegible, the owner of the vessel for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of $2 or an amount set by the commission ($22 – $11 for the decal; $11 for matching certificate of number card), whichever amount is more.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1275, ch. 497, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 1327, ch. 277, § 2, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, § 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, § 7, eff. Sept. 1, 1993.

§ 31.031. Numbering Pattern

(a) The numbering pattern used consists of the prefix "TX" followed by a combination of exactly four numerals and further followed by a suffix of two letters. The group of numerals appearing between the letters shall be separated from the letters by hyphens or equivalent spaces.

(b) All basic numbers of each series shall begin with 1000. TX-1000-AA through TX-9999-AA will be allotted to dealers and manufacturers. TX-1000-AB through TX-9999-ZZ will be allotted to all other vessel owners and livery operators.

(c) The letters “G”, “I”, “O”, and “Q” shall be omitted from all letter sequences.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, § 8, eff. Sept. 1, 1993.

§ 31.032. Numbering Location and Visibility; Exemption; Decal

(a) The owner of a vessel shall paint on or attach to each side of the forward half of the vessel the identification number and a registration decal in the manner prescribed by the department. The number shall read from left to right and shall be of block characters of good proportion of not less than three inches in height. The numbers shall be of a color which will contrast with the hull material of the vessel and so maintained as to be clearly visible and legible.

(1) On a vessel configured so that a number on the hull or superstructure is not easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(b) The owner of a vessel required to be numbered under this subchapter and documented by the United States Coast Guard is not required to attach an identification number as required by Subsection (a).

(c) The commission shall adopt rules for the placement of the registration decal in an alternate location for antique boats. In this subsection, “antique boat” means a boat that:

(1) is used primarily for recreational purposes; and

(2) was manufactured 35 or more years before the date the registration decal is issued.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, § 9, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1133, § 4, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 193, § 1, eff. Sept. 1, 2005; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

§ 31.033. Unauthorized Numbers Prohibited

(a) No person may paint, attach, or otherwise display on the forward half of a vessel a number other than the number awarded to the vessel or granted reciprocity under this chapter.

(b) No person may deface or alter the certificate of number or the number assigned to and appearing on a vessel.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, § 9, eff. Sept. 1, 1993; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

§ 31.034. Issuance of Numbers by Department or Authorized Agent

(a) The department may award a certificate of number.

(b) A certificate of number issued and delivered by an authorized agent in conformity with this chapter and the rules of the commission adopted under this chapter is valid as if awarded by the department directly.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, § 7.05, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 718, § 4, eff. Sept. 1, 1993.

§ 31.0341. Issuance of Numbers: County Tax Assessor-Collector

(a) Each county tax assessor-collector shall award certificates of number under this chapter in the manner prescribed by this chapter and the regulations of the department.

(b) The county tax assessor-collector is entitled to a fee of 10 percent of the amount of the fee for each certificate. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing vessel certificates of number.

Added by Acts 1979, 66th Leg., p. 1353, ch. 607, § 3, eff. Aug. 27, 1979. Amended by Acts 1993, 73rd Leg., ch. 450, § 10, eff. Sept. 1, 1993; 83rd Leg., Ch.___, eff. Sept. 1, 2013..

§ 31.035. Rules and Regulations; Copies

Copies of all rules and regulations formulated under this chapter shall be furnished without cost with each certificate of number issued.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.036. Proof of Ownership

(a) A certificate of title is required as proof of ownership of a vessel for which a certificate of number is sought.

(b) A certified statement of ownership is sufficient proof of ownership for a vessel of a type for which a certificate of title is not required.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(c), eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 450, § 11, eff. Sept. 1, 1993.

§ 31.037. Change in Ownership Interest; Notice to Department

(a) The owner of a vessel numbered in this state shall notify the department within a reasonable time of the transfer of all or any part of his interest in the vessel, other than the creation of a security interest, or of the destruction or abandonment of the vessel. The notice shall be accompanied by a surrender of the certificate of number.

(b) If the vessel is destroyed or abandoned, the department shall cancel the certificate and enter the cancellation in its records.

(c) The purchaser of a vessel shall present evidence of his ownership to the department within a reasonable time along with his name, address, and the number of the vessel and shall at the same time pay to the department a fee of $2 or an amount set by the commission ($11), whichever amount is more. On receipt of the application and fee the department shall transfer the certificate of number issued for the vessel to the new owner. Unless the application is made and fee paid within a reasonable time the vessel is without a certificate of number, and it is unlawful for any person to operate the vessel until the certificate is issued.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1327, ch. 277, § 3, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, § 3, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 450, § 11, eff. Sept. 1, 1993.

§ 31.038. Change of Address; Notice to Department

(a) The holder of a certificate of number shall notify the department within a reasonable time if his address no longer conforms to the address appearing on the certificate and shall inform the department of his new address.

(b) The department may provide in its regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of the outstanding certificate to show the new address of the holder. Changes of address shall be noted on the records of the department.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.039. Public Records; Fees

(a) All ownership records of the department made or kept under this chapter are public records.

(b) The commission may by rule charge a fee for access to ownership records and other records made or kept under this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 2003, 78th Leg., ch. 200, § 8(e), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 5, eff. Sept. 1, 2003.

§ 31.0391. Release of Information

(a) The department or a county may not release the name or address of a person recorded in the department vessel and outboard motor ownership records unless the department or county receives a written request that:

(1) contains the requester's name and address; and

(2) states that the use of the information is for a lawful purpose.

(b) This section does not apply to the release of information to:

(1) a peace officer as defined by Article 2.12, Code of Criminal Procedure, who is acting in an official capacity; or

(2) a state official or an official of a political subdivision of this state who requests the information for tax purposes.

Added by Acts 1995, 74th Leg., ch. 845, § 1, eff. Sept. 1, 1995.

§ 31.040. Vessel Liveries

(a) Before the vessel is rented or let for hire, the owner or operator of a vessel livery shall obtain a certificate of number for a vessel being used as a motorboat prior to being rented.

(b) The application for the certificate of number under Section 31.024 or for a certificate of title under Section 31.046 must state that the applicant is a vessel livery within the meaning of this chapter.

(c) The owner of a vessel livery shall keep a record of the name and address of the persons hiring any vessel operated as a motorboat, the vessel's certificate of number, the time and date of departure, and the expected time of return. The record shall be kept for six months.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 450, § 11, eff. Sept. 1, 1993; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

§ 31.041. Dealer's, Distributor's, and Manufacturer's License

(a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person holds a license issued under this section and enters into a license agreement with the department. A dealer must have a license for each place of business owned and operated by the person.

(b) The commission shall establish the form and manner for display of a license issued under this section.

(c) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this section in the manner provided by Section 31.031(b).

(d) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event. The commission, however, may establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events. Any fees collected by the department under the subsection shall be deposited in the game, fish, and water safety account established under Section 11.032. (1 decal set and card provided at no cost with each license, additional validation decal/card sets – $126)

(e) The application for a license under this section must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. The two-year fee for a dealer's, distributor's, or manufacturer's number is $500. A license may not be issued until the provisions of this section have been satisfied.

(f) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may issue a reasonable temporary facsimile of the number issued under Subsection (c), which may be used by any authorized person. A person purchasing a vessel may use the dealer's number for a period not to exceed 15 days prior to filing an application for a certificate of number. The form of the facsimile and the manner of display of the number shall be prescribed by the department.

(g) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the

vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or manufacturer's business.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1328, ch. 277, § 4, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, § 4, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, § 12, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 587, § 36, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, § 13.01, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 200, § 8(f), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 6, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 108, § 2, eff. Sept. 1, 2005. Acts 2007, Acts 2007, 80th Leg., R.S., ch. 776 § 1, eff. Sept. 1, 2007.

§ 31.0411. Term of License; Transfer

(a) Except as provided by Subsection (b), a license issued under Section 31.041:

(1) is valid for two years from the date of issuance; and

(2) may not be transferred to another person.

(b) A license issued under Section 31.041 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.

(c) A license issued under Section 31.041 may be transferred to a new address if:

(1) a business moves to another location; and

(2) a change of ownership has not occurred.

Added by Acts 2003, 78th Leg., ch. 200, § 8(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 7, eff. Sept. 1, 2003.

§ 31.0412. Licensing Rules

The commission may adopt rules regarding licenses issued under Section 31.041, including rules:

(1) regarding license transfer procedures;

(2) prescribing application and license agreement forms;

(3) regarding application and renewal procedures;

(4) prescribing reporting and recordkeeping requirements for license holders;

(5) setting fees to be charged for:

(A) a transferred license ($11); or

(B) a replacement license ($4);

(6) prescribing license requirements; and

(7) establishing license revocation and suspension procedures.

Added by Acts 2003, 78th Leg., ch. 200, § 8(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 7, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 108, § 3, eff. Sept. 1, 2005.

§ 31.0413. Exemption From Dealer Licensing Requirements

The dealer licensing provisions of this subchapter do not apply to the sale of a canoe, kayak, punt, rowboat, rubber raft, paddleboat, or other vessel that is less than 12 feet in length and has a horsepower rating of five horsepower or less or to the sale of an outboard motor with a manufacturer's rating of five horsepower or less.

Added by Acts 2003, 78th Leg., ch. 200, § 8(g), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 7, eff. Sept. 1, 2003.

§ 31.042. Cancellation of Certificates of Number; Grounds

(a) A certificate of number may be cancelled and the identification number voided by the department even though the action occurs before the expiration date on the certificate and even though the certificate is not surrendered to the department.

(b) Causes for cancellation of certificates and voiding of numbers include:

(1) surrender of the certificate for cancellation;
(2) issuance of a new number for the same vessel;
(3) false or fraudulent certification in an application for number;
(4) failure to pay the prescribed fee; and
(5) dismantling, destruction, or other change in the form or character of the vessel or outboard motor so that it is no longer correctly described in the certificate or it no longer meets the definition of a vessel or outboard motor.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(d), eff. Sept. 1, 1977; Acts 1993, 73rd Leg., ch. 450, § 13, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 200, § 8(h), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 8, eff. Sept. 1, 2003.

§ 31.043. Manufacturer's Identification Number

(a) All vessels manufactured in Texas for sale and all vessels sold, numbered, or titled in Texas shall carry a manufacturer's hull identification number clearly imprinted on the structure of the vessel or displayed on a plate permanently attached to the vessel. Except as required to comply with Section 31.024 or 31.047, this subsection does not apply to a vessel that is not required by the United States Coast Guard to have a hull identification number.

(b) The owner of a vessel that does not have a manufacturer's hull identification number may file an application for a hull identification number with the department on forms approved by it. The application must include a sworn statement describing the vessel, proving legal ownership, and, if known, stating the reason for the lack of hull identification number. The application must be signed by the owner of the vessel and must be accompanied by a fee of $25 and a certificate from a game warden commissioned by the department stating that the vessel has been inspected by the officer and appears to be as applied for. On receipt of the application in approved form, the department shall enter the information on the records of its office and shall issue to the applicant a hull identification number.

(c) No person may intentionally or knowingly destroy, remove, alter, cover, or deface an outboard motor serial number, the manufacturer's hull identification number or plate bearing the hull identification number, or the hull identification number or serial number issued by the department. No person may possess a vessel with a hull identification number or an outboard motor with a serial number that has been altered, defaced, mutilated, or removed.

(c-1) No Person may intentionally sell, offer to sell, or purchase a vessel with a hull identification number, or an outboard motor with a serial

number, that has been altered, defaced, mutilated, or removed.

(d) A person who has a vessel with an altered, defaced, mutilated, or removed hull identification number or an outboard motor with an altered, defaced, mutilated, or removed serial number shall file a sworn statement with the department describing the vessel or outboard motor, proving legal ownership, and, if known, stating the reason for the destruction, removal, or defacement of the number. The statement must be accompanied by a fee of $25 and a certificate from a game warden commissioned by the department that the vessel or outboard motor has been inspected by the officer and appears to be as applied for. On receipt of the statement in approved form, the department shall enter the information on records of its office and shall issue to the applicant a hull identification number or outboard motor serial number.

(e) This section does not apply to vessels with a valid marine document issued by the United States Coast Guard's National Vessel Documentation Center or a federal agency that is a successor to the National Vessel Documentation Center.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1983, 68th Leg., p. 1328, ch. 277, § 5, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, § 5, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, § 14, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1363, § 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1099, § 1, eff. Sept. 1, 1999.

§ 31.044. Inspections

A dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or records relating to the possession, origination, ownership, or transfer of a vessel or outboard motor at a dealership or distributor's or manufacturer's place of business during normal business hours.

Added by Acts 2003, 78th Leg., ch. 200, § 8(i), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 9, eff. Sept. 1, 2003.

SUBCHAPTER B–1. CERTIFICATES OF TITLE FOR VESSELS AND OUTBOARD MOTORS

§ 31.045. Ownership of Vessels and Outboard Motors; Certificates of Title

(a) The ownership of a vessel or of an outboard motor is evidenced by a certificate of title issued by the department, unless the vessel or the outboard motor is new.

(b) The ownership of a new vessel or a new outboard motor is evidenced by a manufacturer's or an importer's certificate executed on a form prescribed by the department.

(c) Separate certificates are required for vessels and for outboard motors.

(d) The ownership of a vessel exempted from numbering under Section 31.022(c) of this code is not required to be evidenced by a certificate of title issued by the department.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 450, § 16, eff. Sept. 1, 1993.

§ 31.046. Application for Certificate of Title

(a) Except as provided in Subsections (b) and (c) of this section, the purchaser of a vessel or an outboard motor shall apply to the department or to a county tax assessor-collector for a certificate of title not later than 20 days after the date of the sale of the vessel or outboard motor.

(b) A manufacturer or a dealer who sells a vessel or an outboard motor to a person other than a manufacturer or a dealer shall apply to the department or to a county tax assessor-collector for a certificate of title for the vessel or outboard motor in the name of the purchaser not later than 20 days after the date of the sale.

(c) A dealer who acquires a vessel or an outboard motor, other than a new vessel or outboard motor, is not required to apply for a certificate of title in the name of the dealer, but on resale of the vessel or outboard motor shall apply for the subsequent purchaser under Subsection (b) of this section and shall submit to the department or to a county tax assessor-collector the endorsed certificate of title acquired by the dealer.

(d) The department or county tax assessor-collector may not issue a certificate of title unless the tax due on the vessel or outboard motor under Chapter 160, Tax Code, is paid.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, § 4, eff. Aug. 27, 1979; Acts 1991, 72nd Leg., 1st C.S., ch. 5, § 7.06, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 450, § 16, eff. Sept. 1, 1993.

§ 31.0465. Appeal Regarding Certificate of Title; Bond; Rules

(a) An applicant for a certificate of title under Section 31.046 may appeal the department's refusal to issue the title by filing a bond with the department as provided by this section.

(b) A bond filed under this section must be:

(1) in the form prescribed by the department;

(2) executed by the applicant;

(3) issued by a person authorized to act as a surety business in this state;

(4) in an amount equal to 1-1/2 times the value of the vessel or outboard motor as determined by the department; and

(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:

(A) the issuance of the certificate of title for the vessel or outboard motor; or

(B) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the vessel or outboard motor.

(c) The department may issue the certificate of title to the person filing the bond if the applicant proves to the satisfaction of the department that:

(1) the vessel or outboard motor is not stolen; and

(2) issuance of a certificate of title would not defraud the owner or a lienholder of the vessel or outboard motor.

(d) A person described by Subsection (b)(5) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (b)(5). The aggregate liability of the surety to all persons may not exceed the amount of the bond.

(e) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(f) On return of a bond under Subsection (e), the department shall issue a certificate of title to the person to whom the bond is returned.

(g) In addition to the situation described by Subsection (c), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.

Added by Acts 2003, 78th Leg., ch. 200, § 8(j), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 10, eff. Sept. 1, 2003.

Sec. 31.0466. Title For Abandoned Vessel; Bond

(a) A person may apply for a certificate of title for an abandoned vessel or outboard motor found on the person's property.

(b) The department may cancel the certificate for the abandoned vessel or outboard motor and issue a new certificate to the applicant if the applicant:

(1) executes and files a bond with the department:

(A) in the form prescribed by the department;

(B) issued by a person authorized to act as a surety business in this state;

(C) in an amount equal to 1-1/2 times the value of the abandoned vessel or outboard motor as determined by the department; and

(D) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the abandoned vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:

(i) the issuance of the certificate of title for the abandoned vessel or outboard motor; or

(ii) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the abandoned vessel or outboard motor;

(2) proves to the satisfaction of the department that:

(A) the abandoned vessel or outboard motor is not stolen;

(B) issuance of a certificate of title would not defraud the owner or a lienholder of the abandoned vessel or outboard motor;

(C) at least 30 days before the applicant applied for the certificate, the applicant contacted the applicant's local law enforcement agency through certified mail to report that the vessel or outboard motor is abandoned;

and

(D) the local law enforcement agency has not taken the abandoned vessel or outboard motor into custody or informed the applicant of the agency's intent to take the abandoned vessel or outboard motor into custody; and

(3) posts notice of the certificate of title application in the manner and for a period of time designated by rule by the department.

(c) A person described by Subsection (b)(1)(D) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (b)(1)(D). The aggregate liability of the surety to all persons may not exceed the amount of the bond.

(d) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(e) On return of a bond under Subsection (d), the department shall issue a certificate of title to the person to whom the bond is returned.

(f) If an abandoned vessel or outboard motor is not claimed before the department issues a certificate of title under this section, the owner or lienholder waives all rights and interests in the abandoned vessel or outboard motor and consents to the cancellation of the certificate for the abandoned vessel or outboard motor.

(g) The applicant for the certificate of title for the abandoned vessel or outboard motor takes title free and clear of all liens and claims of ownership.

(h) In addition to the situation described by Subsection (b)(2), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.

(i) This section does not apply to a vessel or outboard motor that is subject to a contract or lien under Chapter 59 or 70, Property Code.

Acts 2011, 82nd Leg., ch. ___, § ___, eff. Sept. 1, 2011.

§ 31.047. Application; Form and Content; Fee

(a) A person may apply for a certificate of title on a form prescribed by the department.

(b) The form must contain:

(1) the owner's name, address, and owner identifier as prescribed by 33 C.F.R. Section 174.17;

(2) a description of the vessel or outboard motor, including, as appropriate, the manufacturer, make, model, year, length, construction material, manufacturer's or builder's number, hull identification number (HIN), motor number, outdrive number, primary operation purpose, vessel type, propulsion type, engine drive type, fuel, and horsepower;

(3) name and address of purchaser;

(4) date of purchase;

(5) name and address of any security interest owner;

(6) the appropriate affidavit as required by Section 160.042, Tax

Code; and

(7) other information required by the department to show the ownership of the vessel or outboard motor, a security interest in the vessel or outboard motor, or a further description of items listed in the subdivision.

(c) The application must be accompanied by other evidence reasonably required by the department to establish that the applicant or other person is entitled to a certificate of title or a noted security interest. The evidence may include:

(1) a certificate of title issued by another state or jurisdiction;
(2) a manufacturer's or importer's certificate;
(3) a bill of sale, assignment, or contract;
(4) a promissory note;
(5) a security agreement;
(6) an invoice;
(7) a bill of lading;
(8) an affidavit;
(9) a probate or heirship proceeding or information;
(10) a judgment of a court of competent jurisdiction;
(11) evidence of an involuntary transfer as defined in Subdivision (5) of Subsection (a) of Section 31.053, as amended, which may be in affidavit form attaching copies of any pertinent underlying documents; or
(12) other documents.

(d) An application for a certificate of title must be accompanied by the fee required by Section 31.048 of this code.

(e) The department shall be authorized to issue certificates of title on an accelerated basis upon the payment of a fee in addition to the fees provided in Section 31.048 of this code as determined periodically by the department based on regulations the department shall establish.

(f) An application for a certificate of title on a homemade vessel, the origin of which is based on the affidavit of the person building the vessel, proof of materials incorporated into the vessel, and the like, must be accompanied by a certificate from a game warden commissioned by the department that the vessel has been inspected by such officer and appears to be as applied for. The applicant shall pay a fee of $25 to the department for this inspection.

(g) If administration of an estate is not required by law, an affidavit submitted under Subsection (c) must include:

(1) a showing that the administration is not required;
(2) identification of all heirs; and
(3) a statement by the heirs of the name in which to issue the certificate.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 4060, ch. 636, § 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 1013, § 1, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 498, § 1, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, § 2(22), eff. Sept. 6, 1990; Acts 1993, 73rd Leg., ch. 450, § 17, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1099, § 2, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 529, § 1, eff. June 17, 2005; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

§ 31.048. Fee

(a) The fee for the issuance of a certificate of title or for the notation of a security interest, lien, or other encumbrance is $5 or an amount set by the commission ($27), whichever amount is more, and is treated as fees collected under Section 31.026 of this code.

(b) If the fee is collected by a county tax assessor-collector, the tax assessor-collector shall retain 10 percent of the fee collected and send the remainder to the department. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing vessel and outboard motor certificates of title.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1259, ch. 484, § 9, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1353, ch. 607, § 5, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1328, ch. 277, § 6, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 267, art. 2, § 6, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 450, § 18, eff. Sept. 1, 1993.

§ 31.049. Form of Certificate of Title

(a) A certificate of title must be on a form prescribed by the department and must contain:

(1) the name and address of the owner of the vessel or outboard motor;

(2) the name of the owner of a security interest in the vessel or outboard motor; and

(3) a description of the vessel or outboard motor.

(b) If there is no lien on the vessel or outboard motor, the original certificate of title shall be delivered to the owner and a copy retained by the department.

(c) If there is a lien on the vessel or outboard motor, the original certificate of title shall be sent to the first lienholder and a copy shall be retained by the department.

(d) An original certificate of title bears an assigned title number. A replacement certificate of title consists of a new, printed title that bears a new title number. The previous title number is void when the replacement certificate of title is issued.

(e) Title may be transferred by surrender of the original certificate of title properly endorsed to show the transfer, by evidence of an involuntary transfer as defined in Subdivision (5) of Subsection (a) of Section 31.053, or by following the provisions of Subsection (c) of Section 31.053 of this code.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 4061, ch. 636, § 2, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 450, § 19, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 200, § 8(k), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 11, eff. Sept. 1, 2003; 83rd Leg., Ch.___, eff. Sept. 1, 2013.

§ 31.050. Form of Manufacturer's and Importer's Certificate

(a) A manufacturer's certificate or an importer's certificate must include:

(1) a description of the vessel or outboard motor as required by Subdivision (2) of Subsection (b) of Section 31.047 of this code;

(2) the name and place of construction or other origin;

(3) the signature of the manufacturer or an equivalent of the signature of the manufacturer; and

(4) the endorsement of the original and each subsequent transferee, including the applicant for the original certificate of title.

(b) A lien, security interest, or other encumbrance may not be shown on a manufacturer's or importer's certificate.

(c) A security interest in a vessel or outboard motor held as inventory by a person who is in the business of selling or leasing goods of that kind may be perfected only by complying with Chapter 9, Business & Commerce Code.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 668, ch. 152, § 1, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 450, § 20, eff. Sept. 1, 1993.

§ 31.051. Replacement Certificates

The department shall provide by regulation for the replacement of lost, mutilated, or stolen certificates.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977.

§ 31.052. Security Interest Liens

(a) Except as provided in Subsection (c) of Section 31.050 of this code and except for statutory liens, security interests in a vessel or outboard motor shall be noted on the certificate of title of the vessel or outboard motor to which the security interest applies.

(b) In case of any conflict between this code and Chapters 1 through 9 of the Business & Commerce Code, the provisions of the Business & Commerce Code control.

(c) A security interest owner may assign a security interest recorded under this chapter without making any filing or giving any notice under this chapter. The security interest assigned remains valid and perfected and retains its priority, securing the obligation assigned to the assignee, against transferees from and creditors of the debtor, including lien creditors, as defined by Section 9.102, Business & Commerce Code.

(d) An assignee or assignor may, but need not to retain the validity, perfection, and priority of the security interest assigned, as evidence of the assignment of the security interest recorded under this chapter, apply to the department or a county assessor-collector for the assignee to be named as security interest owner on the certificate of title and notify the debtor of the assignment. Failure to make application under this subsection or notify a debtor of an assignment does not create a cause of action against the recorded security interest owner, the assignor, or the assignee or affect the continuation of the perfected status of the assigned security interest in favor of the assignee against transferees from and creditors of the debtor, including lien creditors, as defined by Section 9.102, Business & Commerce Code.

Added by Acts 1977, 65th Leg., p. 1255, ch. 484, Sec. 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 669, ch. 152, Sec. 2, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4062, ch. 636, Sec. 3, eff. Aug. 29, 1983; Acts 1991, 72nd Leg., ch. 16, Sec. 15.01, eff. Aug. 26, 1991;

Acts 1993, 73rd Leg., ch. 450, Sec. 21, eff. Sept. 1, 1993., eff. 81st Leg., R.S., Ch. 814, Sec. 3, eff. June 19, 2009. Acts 2011, 82nd Leg., ch. ___, ___, eff. June 17, 2011.

§ 31.053. Transfers of Vessels and Outboard Motors

(a) No person may sell, assign, transfer, or otherwise dispose of an interest in a vessel or an outboard motor without:

(1) if the transferee is not a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the department a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners;

(2) if the transferee is a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the transferee a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners;

(3) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is a manufacturer or dealer, delivering to the department sufficient evidence of title or other information to permit the issuance of a certificate of title for the vessel or outboard motor in the name of the transferee;

(4) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is not a manufacturer or dealer, delivering to the transferee sufficient evidence of title or other information to permit the transferee to apply for and receive a certificate of title for the vessel or outboard motor in the name of the transferee; or

(5) delivering to the transferee a certificate of title for the vessel or outboard motor in the name of the transferor and properly endorsed to show the transfer or evidence of an involuntary transfer.

(b) For the purposes of Subsection (a)(5) of this section an involuntary transfer shall mean the transfer of ownership pursuant to a contractual or statutory lien which confers the power or right to the transfer. The evidence shall reflect the proper exercise of the right conferred pursuant to the lien.

(c) The transferor shall provide the documents or evidence required by Subsection (a) of this section to the department or the transferee, as appropriate, in sufficient time to allow the transferee to register and obtain a certificate of title for the vessel or outboard motor not later than 20 days after the date of the sale.

(d) Notwithstanding the provisions of Subsection (a) of this section, a buyer of a new vessel or a new outboard motor in the ordinary course of business as provided in Section 9.320(a), Business & Commerce Code, takes the interest free of security interests as provided in that section. A buyer of a vessel or outboard motor that is not new shall be governed by Subsection (a) of this section.

(e) The transferee shall provide the department with sufficient evidence of ownership for transfer of a vessel or outboard motor if the transferee:

(1) failed to obtain the title from the transferor or the title was lost, stolen, or mutilated before the transfer was made; and

(2) has made reasonable efforts to contact the transferor to obtain the required documentation.

(f) A person who is not licensed as a dealer, distributor, or manufacturer under this chapter must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 4063, ch. 636, § 4, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 283, § 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 450, § 22, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 414, § 2.33, eff. July 1, 2001; Acts 2003, 78th Leg., ch. 200, § 8(l), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 12, eff. Sept. 1, 2003.

§ 31.055. Exceptions

This subchapter does not apply to vessels with a valid marine document issued by the United States Coast Guard's National Vessel Documentation Center or a federal agency that is a successor to the National Vessel Documentation Center.

Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 450, § 23, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1099, § 3, eff. Sept. 1, 1999.

§ 31.056. Fee Exemption for Government Vessels and Outboard Motors

A fee imposed by this chapter does not apply to a vessel or outboard motor purchased by, owned by, or used exclusively in the service of this state, a political subdivision of this state, or the federal government.

Added by Acts 2007, 80th Leg., R.S., Ch. 410, Sec. 1, eff. June 15, 2007.

SUBCHAPTER C. REQUIRED EQUIPMENT

§ 31.061. Uniformity of Equipment Regulations; State Policy

It is the policy of the state that all equipment rules and regulations enacted under the authority granted in this chapter be uniform and consistent with the equipment provisions of this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.062. Operation of Vessels Without Required Equipment Prohibited

No person may operate or give permission for the operation of a vessel that is not provided with the equipment required by this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.063. Classes of Motorboats

Motorboats subject to the provisions of this chapter are divided into four classes according to length as follows:

Class A. Less than 16 feet in length.

Class 1. 16 feet or over and less than 26 feet in length.

Class 2. 26 feet or over and less than 40 feet in length.

Class 3. 40 feet in length or over.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.064. Lights

A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by the commandant of the Coast Guard for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 422, § 1, eff. Sept. 1, 1993.

§ 31.065. Sound-Producing Devices

A motorboat must have an efficient whistle or other sound-producing device if one is required by the commandant of the Coast Guard.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 422, § 1, eff. Sept. 1, 1993.

§ 31.066. Life Preserving Devices

(a) A motorboat, including a motorboat carrying passengers for hire, must carry at least one wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.

(b) The operator of a motorboat less than 26 feet in length, while underway, shall require every passenger under 13 years of age to wear a wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

(c) A person may not operate a recreational vessel 16 feet or more in length unless the vessel is equipped with:

(1) the number of wearable personal flotation devices required under Subsection (a); and

(2) additionally, at least one immediately accessible Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(d) A person under 13 years of age on board a vessel described by Section 31.073(a) or (b) must wear a wearable personal flotation device of the sort prescribed by the commandant of the Coast Guard while the vessel is under way.

(e) An adult operator of a vessel described by Section 31.073 may not permit a person under 13 years of age to be on board the vessel while the vessel is under way if the person under 13 years of age is not wearing a wearable personal flotation device required by Subsection (d).

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 543, § 2, eff. June 14, 1989. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

§ 31.067. Fire Extinguishers

(a) A motorboat must have the number, size, and type of fire extinguishers prescribed by the commandant of the Coast Guard.

(b) The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.068. Flame Arrestors; Backfire Traps

A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by the regulations of the commandant of the Coast Guard.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.069. Ventilators

Each motorboat and vessel, except an open boat, using as fuel any liquid of a volatile nature must have the equipment prescribed by the commandant of the Coast Guard designed to ventilate properly and efficiently the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.070. Exhaust Water Manifold; Muffler

A motorboat operating on the water of this state must have an exhaust water manifold or a factory-type muffler installed on the engine.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.071. Rearview Mirrors

(a) A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the water of this state must have a rearview mirror of a size no less than four inches from bottom to top and across from one side to the other. The mirror must be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.

(b) Subsection (a) of this section does not apply to vessels used in water ski tournaments, competitions, or exhibitions, or to a vessel that, in addition to its operator, has on board a person 13 years of age or older observing the progress of the person being towed.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 543, § 3, eff. June 14, 1989.

§ 31.072. Racing Boats; Equipment Exemptions

(a) A motorboat designed and intended solely for racing need not have a whistle or other sound-producing mechanical appliance or a bell as required by Section 31.065 of this code or a fire extinguisher as required by Section 31.067 of this code while competing in a race or while engaged in navigation that is

incidental to tuning up for a race conducted in accordance with the provisions of this chapter.

(b) A racing craft engaged in a race sanctioned by the governing board of any public water of this state need not have an exhaust water manifold or factory-type muffler installed on the engine as required by Section 31.070 of this code if written permission is granted by the governing board of the water body.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.073. Canoes, Punts, Rowboats, Sailboats, Rubber Rafts, Racing Shells, Rowing Sculls, Kayaks, and Other Paddle Craft; Equipment Exemptions

(a) All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements except each vessel must have the following:

(1) one Coast Guard approved wearable personal flotation device for each person aboard; and

(2) the lights prescribed by the commandant of the Coast Guard for vessels and required under Section 31.064.

(a-1) Notwithstanding Subsection (a), a vessel described by that subsection, except a canoe or kayak, that is 16 feet or more in length must be equipped with at least one Type IV personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(b) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the Coast Guard for vessels and required under Section 31.064.

(c) In this section, "racing shell," "rowing scull," or "racing kayak" means a manually propelled boat:

(1) recognized by a national or international racing association for use in competitive racing;

(2) not designed or used to carry equipment serving any purpose other than competitive racing; and

(3) in which each occupant, except a coxswain, rows, sculls, or paddles.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1997, 75th Leg., ch. 236, § 1, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

§ 31.074. Visual Distress Signal

(a) In this section:

(1) "Coastal waters" means the water that lies within nine nautical miles from the coastline of this state.

(2) "Uninspected passenger vessel" has the meaning assigned by 46 C.F.R. Section 24.10-1.

(3) "Visual distress signal" means a device that is approved and required by the commandant of the United States Coast Guard for the purpose of indicating a vessel in distress, including flares, smoke signals, and non-

pyrotechnic signals.

(b) No person may operate on the coastal waters a vessel that is 16 feet or more in length, or any vessel operating as an uninspected passenger vessel, unless the vessel is equipped with readily accessible visual distress signals approved for day and night use in the number required by the commandant of the United States Coast Guard.

(c) Between sunset and sunrise, no person may operate on the coastal waters a vessel less than 16 feet in length unless the vessel is equipped with readily accessible visual distress signals approved for night use in the number required by the commandant of the United States Coast Guard.

(d) No person may operate a vessel on coastal waters unless each visual distress signal required under this section is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired.

Acts 2013, 83rd Leg., p.___, ch.___, eff. Sept. 1, 2013

SUBCHAPTER D. BOATING REGULATIONS

§ 31.091. Uniformity of Boating Regulations

In the interest of uniformity, it is the policy of the State of Texas that the basic authority for the enactment of boating regulations is reserved to the state.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.092. Local Regulations

(a) The governing body of an incorporated city or town, with respect to public water within its corporate limits and all lakes owned by it, may designate by ordinance certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

(b) The commissioners court of a county, with respect to public water within the territorial limits of the county that is outside of the limits of an incorporated city or town or a political subdivision designated in Subsection (c) of this section and that are not lakes owned by an incorporated city or town, may enter an order on its books designating certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of thischapter.

(c) The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems

necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

(d) A copy of all rules and regulations adopted under this section shall be summarily filed with the department.

(e) No city, town, village, special district, or other political subdivision of the state may impose or collect a fee for the registration or inspection of vessels to be used on public water against the owner or operator of a vessel used on public water. This section does not apply to Chapter 321, Tax Code, nor to any launch fees, docking fees, entry fees, or other recreational fees which may be imposed or collected by any political subdivision of the State of Texas for the use of the facilities afforded by any such district to the public.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1274, ch. 496, § 1, eff. Aug. 29, 1977; Acts 1989, 71st Leg., ch. 2, § 14.27(a)(5), eff. Aug. 28, 1989.

§ 31.093. Rules of the Road

The United States Coast Guard Inland Rules apply to all public water of this state to the extent they are applicable.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.094. Reckless or Negligent Operation

No person may operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a wilfully or wantonly reckless or negligent manner that endangers the life, limb, or property of any person.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.095. Excessive Speed

(a) No person may operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

(b) The commission may provide for the standardization of speed limits for moving vessels. No political subdivision or state agency may impose a speed limit not in conformity with the commission's standards.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 313, § 1, eff. Sept. 1, 1989.

§ 31.096. Reckless Operation and Excessive Speed (Class B P&W Misdemeanor)

No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water of this state in wilful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, § 10, eff. Sept. 1, 1985.

§ 31.098. Hazardous Wake or Wash

No person may operate a motorboat so as to create a hazardous wake or wash.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.099. Prohibition on Circular Course Around Individuals Engaged in Water Activities

(a) No person may operate a motorboat in a circular course around:

(1) any other boat or personal watercraft any occupant of which is engaged in fishing, waterskiing, or a similar activity; or

(2) any person swimming.

(a-1) Subsection (a) does not apply to a person operating a motorboat in a circular course to retrieve a downed or fallen water-skier or other person engaged in a similar activity.

(b) No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within and enclosed area.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Acts 2011, 82nd Leg., ch. 236, § 2,3, eff. June 17, 2011.

§ 31.100. Interference With Markers or Ramps

(a) No person may moor or attach a boat to a buoy, beacon, light marker, stake, flag, or other aid to safe operation placed upon the public water of this state by or under the authority of the United States or the State of Texas. No person may move, remove, displace, tamper with, damage, or destroy the markers or aids to safe operation.

(b) No person may moor or attach a vessel to a state-owned boat launching ramp except in connection with the launching or retrieving of a boat from the water.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.101. Obstructing Passage

(a) No person may anchor a boat in the traveled portion of a river or channel so as to prevent, impede, or interfere with the safe passage of any other boat through the same area.

(b) No person may anchor a vessel near a state-owned boat ramp so as to prevent, impede, or interfere with the use of the boat ramp.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.102. Operating Boats in Restricted Areas

No person may operate a boat within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area by the department or by a political subdivision of the state. This section does not apply to a patrol or rescue craft or in the case of an emergency.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.1021. Operating Vessels in Scuba Diving or Snorkeling Areas

(a) No person may operate a vessel within 50 feet of a buoy or of another vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(b) No person may operate a vessel at a speed greater than the minimum speed necessary to maintain steerageway and headway while the vessel is within 150 feet of a buoy or a vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(c) To be entitled to the protections of this section, a scuba diver or snorkeler must prominently display a "diver down" flag from a buoy or vessel.

(d) This section does not apply:

(1) to a person who is operating a patrol or rescue craft; or

(2) in an emergency.

(e) Subsection (a) of this section does not apply:

(1) to a person who is already operating a vessel in an area when another person displays a "diver down" flag within 150 feet of that vessel;

(2) to a person who is operating a vessel in a waterway that is less than 300 feet wide; or

(3) to a person who has permission to enter the area from the person who placed the buoy or the person who is operating the vessel displaying the "diver down" flag.

(f) In this section, "'diver down' flag" means a square or rectangular red flag, at least 15 inches by 15 inches, that has a diagonal white stripe.

Added by Acts 1989, 71st Leg., ch. 1146, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 226, § 1, eff. Sept. 1, 1991.

§ 31.103. Water Skis, Aquaplanes, etc.: Time and Manner of Operation

(a) No person may operate a vessel on any water of this state towing a person or persons on water skis, surfboards, or similar devices and no person while being towed may engage in water-skiing, surfboarding or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise. This subsection does not apply to motorboats or vessels used in water ski tournaments, competitions, or exhibitions or trials therefor if adequate lighting is provided.

(b) All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplanes, or similar contrivances shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

(c) A person being towed on water skis, aquaplanes, or similar devices by a vessel is considered an occupant of the vessel.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 421, § 1, eff. Sept. 1, 1993.

§ 31.104. Accidents: Duty of Operators (See 31.127(d) – Penalties)

The operator of a vessel involved in a collision, accident, or casualty shall:

(1) render to other persons affected such assistance as may be

practicable and necessary in order to save them from or minimize any danger insofar as he can do so without serious danger to his own vessel, crew, and passengers; and

(2) give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.105. Accident Reports

(a) The operator of a vessel involved in a collision, accident, or other casualty that results in death or injury to a person or damage to property in excess of an amount set by the commission of not less than $2,000 shall report to the department on or before the expiration of 30 days after the incident a full description of the collision, accident, or casualty in accordance with regulations established by the department.

(b) The accident reports are confidential and are inadmissible in court as evidence.

(c) On request made by an authorized official or agency of the United States, any information available to the department under Subsection (a) of this section shall be sent to the official or agency.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 835, ch. 311, § 1, eff. May 30, 1977; Acts 1989, 71st Leg., ch. 543, § 4, eff. June 14, 1989. Acts 2011, 82nd Leg., ch. ___, § ___, eff. Sept. 1, 2011.

§ 31.106. Personal Watercraft

(a) No person shall operate a personal watercraft in the following manner or under the following circumstances:

(1) unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V personal flotation device;

(2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing, or personal flotation device of the operator as appropriate for the vessel involved;

(3) during the period between sunset and sunrise;

(4) within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed;

(5) if the operator is under 13 years of age unless the operator is supervised by another person who:

(A) is at least 18 years of age;

(B) can lawfully operate the watercraft; and

(C) is on board the watercraft when under way.

(6) if the personal watercraft is a motorboat, within any area prohibited for operation of a motorboat by state law or local rule or regulation;

(7) while towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the towing vessel is designed to carry on board a minimum of two persons;

(8) by jumping the wake of another vessel recklessly or unnecessarily close to that vessel; or

(9) in a manner that requires the operator to swerve at the last possible moment to avoid collision.

(b) The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament, or exhibition.

(c) Subsection (a)(4) of this section does not prohibit the operation of personal watercraft on bodies of water less than 100 feet in width.

(d) An owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a manner prohibited by this section may be notified of the violation.

(e) For the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.

Added by Acts 1989, 71st Leg., ch. 571, § 2, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 739, § 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1363, § 5, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

§ 31.107. Operation of Motorboat

No person may operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of this state unless the person is at least 13 years of age or is supervised by another person who:

(1) is at least 18 years of age;

(2) can lawfully operate the motorboat; and

(3) is on board the motorboat when under way.

Added by Acts 1989, 71st Leg., ch. 1006, § 1, eff. Sept. 1, 1989. Renumbered from § 31.106 by Acts 1990, 71st Leg., 6th C.S., ch. 12, § 2(23), eff. Sept. 6, 1990. Amended by Acts 1997, 75th Leg., ch. 1363, § 6, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

§ 31.108. Boater Education Program

(a) The commission shall adopt rules to:

(1) administer a boater education program that is designed to educate persons about the safe operation of vessels;

(2) approve boater education courses that meet or exceed the minimum instruction requirement, as the requirement exists on January 1, 1997, established by the National Association of State Boating Law Administrators;

(3) create an equivalency examination that may be taken, as the commission determines is consistent with promoting public safety in the operation of vessels, instead of the boater education course; and

(4) ensure that boater education courses and examinations are available in each county.

(b) The commission by rule may create exemptions from boater education requirements imposed by statute to the extent the exemptions are consistent with promoting public safety in the operation of vessels.

(c) The commission by rule shall create a standard form for a boater identification card to be issued to a person who successfully completes a boater

education course or course equivalency examination.

(d) The department may appoint agents to:

(1) administer a boater education course or course equivalency examination; and

(2) issue boater identification cards under guidelines established by the commission.

(e) An officer or employee of the department shall collect a $5 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered.

(f) An agent acting under authority of Subsection (d):

(1) shall collect a $10 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered; and

(2) may collect and keep a $3 service fee, or an amount set by the commission, whichever is greater.

Added by Acts 1997, 75th Leg., ch. 1363, § 7, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. Sept. 1, 2011.

§ 31.109. Boater Education Course Required for Certain Persons

(a) This section applies only to a person who is:

(1) born on or after September 1, 1993; and

(2) operating on the public water of this state:

(A) a vessel powered by a motor with a manufacturer's rating of more than 15 horsepower; or

(B) a windblown vessel over 14 feet in length.

(b) A person subject to this section must have in the person's possession a photographic identification card and either:

(1) a boater identification card issued by the department; or

(2) proof of completion of the requirements to obtain a vessel operator's license issued by the United States Coast Guard.

(c) The department shall issue a boater identification card to a person who has successfully completed:

(1) a boater education course approved by the department; or

(2) a course equivalency examination approved by the department.

(d) A boater identification card issued to a person who has successfully completed a boater education course or course equivalency examination does not expire.

(e) If, on or before the trial of a person charged with an offense for failing to possess a document required under Subsection (b), the person produces for the court or the prosecuting attorney a document required by Subsection (b) that was issued to the person and was valid at the time of the offense, the court shall dismiss the charge.

(f) A person charged with a Class C Parks and Wildlife Code misdemeanor for failing to possess a document required under Subsection (b) may make to the court not later than the 10th day after the date of the

alleged offense an oral or written motion requesting permission to take a boater education course approved by the department or a vessel operator's licensing course provided by the United States Coast Guard. The court shall defer the proceedings brought against a person who makes a motion described by this subsection and allow the person 90 days to present written evidence that the person has successfully completed the course approved by the department or provided by the United States Coast Guard. If the person successfully completes the course and the court accepts the presented evidence, the court shall dismiss the charge.

Added by Acts 1997, 75th Leg., ch. 1363, § 7, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

§ 31.110. Exemption From Boater Education Course Requirement; Deferral Program

(a) A person is not required to comply with Section 31.109 if the person:

(1) holds a master's, mate's, or operator's license issued by the United States Coast Guard;

(2) is supervised by a person who is at least 18 years of age and who is otherwise exempt from the requirements of Section 31.109 or possesses a boater identification card as required by Section 31.109;

(3) is not a resident of this state and has proof that the person has successfully completed a boater education course or equivalency examination in another state that is approved by the department;

(4) is exempt by rule of the commission as a customer of a business engaged in renting, showing, demonstrating, or testing boats; or

(5) is exempt by rule of the commission.

(b) For purposes of this section, to be considered to be supervising the operator of a watercraft, the person must be on board the watercraft when under way.

(c) The commission by rule shall establish a boater education deferral program. The deferral program must be available at no cost to boat dealers, manufacturers, and distributors.

Added by Acts 1997, 75th Leg., ch. 1363, § 7, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

§ 31.111. Operating Vessel Livery

(a) A vessel livery must purchase liability insurance from an insurer licensed to do business in this state.

(b) Before releasing possession of a rented vessel, a vessel livery shall provide each operator of the rented vessel instruction relating to:

(1) the provisions of this chapter;

(2) operational characteristics of the rented vessel; and

(3) boating regulations that apply in the area of operation of the vessel.

(c) After providing the instruction required by Subsection (b) and before releasing possession of the rented vessel, the vessel livery shall require each operator to sign an acknowledgment form indicating that the operator has received the required instruction. The vessel livery shall retain the form for at least six months.

Added by Acts 1997, 75th Leg., ch. 1363, § 7, eff. Sept. 1, 1997.

SUBCHAPTER E. ENFORCEMENT AND PENALTIES

§ 31.121. Enforcement Officers

(a) In this section:

(1) "Game warden" means a person who is commissioned as a game warden by the commission.

(2) "State military forces" has the meaning assigned by Section 431.001, Government Code.

(a-1) All peace officers of this state and game wardens must be certified as marine safety enforcement officers by the department to enforce the provisions of this chapter by arresting and taking into custody any person who commits any act or offense prohibited by this chapter or who violates any provision of this chapter.

*(a-1) Game wardens commissioned by the commission are the primary enforcement officers responsible for enforcing the provisions of this chapter related to water safety.

(b) The commission by rule shall establish standards for training and certifying marine safety enforcement officers under this section.

(c) The commission by rule may create exemptions for peace officers from marine safety enforcement officer training and certification requirements imposed by statute.

(d) The commission by rule shall establish and collect a fee to recover the administrative costs associated with the certification of marine safety enforcement officers. The commission shall require the applicant for certification or the applicant's employer to pay the fee required under this section.

(e) State military forces may assist game wardens in the search for and rescue of victims of water-oriented accidents.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1997, 75th Leg., ch. 1363, § 8, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. June 17, 2011.

**** The Acts of the 82nd Legislature created two (a-1) subcategories for this section.***

§ 31.1211. Jurisdiction of Municipal Peace Officers

(a) Notwithstanding any other law limiting the enforcement jurisdiction of a peace officer, a peace officer of a municipality who is certified as a marine safety enforcement officer under Section 31.121 may enforce the provisions of this chapter within an area of a lake that is outside the enforcement jurisdiction of the peace officer if:

(1) any portion of the lake is contained in the corporate limits or extraterritorial jurisdiction of the municipality; and

(2) the municipality has entered into a memorandum of understanding with the governmental entity having enforcement jurisdiction in that area granting the peace officer enforcement jurisdiction in the area.

(b) The memorandum of understanding under Subsection (a)(2) must:

(1) designate the jurisdiction that has the authority to conduct any prosecution or ongoing investigation of a violation resulting from an enforcement action under this section; and

(2) be approved by the Parks and Wildlife Department.

Added by Acts 2007, 80th Leg., R.S., Ch. 975, § 1, eff. June 15, 2007.

§ 31.122. Water Safety Vessels: Lights

Only the department and police water safety vessels may use rotating or flashing blue beacon lights.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 543, § 5, eff. June 14, 1989.

§ 31.123. Required Response to Police Water Safety Vessel

The operator of a vessel underway, on sighting a rotating or flashing blue beacon light, shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1989, 71st Leg., ch. 543, § 6, eff. June 14, 1989.

§ 31.124. Inspection of Vessels

(a) In order to enforce the provisions of this chapter, an enforcement officer may stop and board any vessel subject to this chapter and may inspect the boat to determine compliance with applicable provisions.

(b) An officer boarding a vessel shall first identify himself by presenting proper credentials.

(c) The operator of a vessel required by this chapter to hold a certificate of number aboard the vessel shall show the certificate to the officer on demand, and failure to do so constitutes a violation of this chapter.

(d) No person operating a boat on the water of this state may refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this chapter.

(e) The safety of the vessel shall always be the paramount consideration of an arresting officer.

(f) If an enforcement officer determines that a vessel and its associated equipment is being used in violation of this chapter or of any regulation or standard issued thereunder so as to create an especially hazardous condition, he may direct the operator to return to mooring, and the vessel may not be used until the condition creating the violation is corrected.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.125. Violations; Notice to Appear

(a) An enforcement officer who arrests a person for a violation of this chapter may deliver to the alleged violator a written notice to appear within 15 days after the date of the violation before the justice court having jurisdiction of the offense.

(b) The person arrested shall sign the notice to appear promising to make his appearance in accordance with the requirements set forth in the notice. After signing the notice the person may be released. Failure to appear before the

court in the county having jurisdiction constitutes a violation of the chapter. A warrant for the arrest of the person failing to appear may be issued.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.

§ 31.126. Venue

(a) Venue for an alleged violation or offense under the provisions of this chapter is in the justice court, county court, or municipal court having jurisdiction where the violation or offense was committed.

(b) For an offense under the provisions of this chapter, there is a presumption that the offense was committed in the justice precinct and county where the dam containing the body of water is located.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975; 83rd Leg., p.___ eff. May 15, 2013.

§ 31.127. Penalties

(a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 31.043(c) or 31.096 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) Except as provided by Subsection (f), a person who operates a vessel in violation of Section 31.021(b) or 31.095 commits an offense punishable by a fine of not less than $100 or more than $500.

(d) The operator of a vessel who is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person and fails to comply with Section 31.104 commits an offense that is a Parks and Wildlife Code felony.

(e) Except as provided by Subsection (d), the operator of a vessel who is involved in a collision, accident, or other casualty and fails to comply with Section 31.104 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(f) A court may dismiss a charge of operating a vessel with an expired certificate of number under Section 31.021 if:

(1) the defendant remedies the defect not later than the 10th working day after the date of the offense and pays an administrative fee not to exceed $10; and

(2) the certificate of number has not been expired for more than 60 days.
Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, § 12, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 185, § 2, eff. July 1, 1989; Acts 1997, 75th Leg., ch. 1363, § 9, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 200, § 8(m), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1133, § 13, eff. Sept. 1, 2003. Acts 2007, 80th Leg., R.S., Ch. 1027, Sec. 12, eff. September 1, 2007.

§ 31.128. Disposition of Fines

(a) A justice of the peace, or a clerk of any court, or any other officer of this state receiving any fine imposed by a court for a violation of this chapter shall send the fine to the department within 10 days after receipt and shall note the docket number of the case, the name of the person fined, and the section or article of the law under which the conviction was secured.

(b) In justice court cases filed as the result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account shall be 85 percent of the fine. In county court cases filed as the result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account shall be 80 percent of the fine. All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.

(c) In court cases filed as the result of an arrest by a marine safety enforcement officer other than a game warden, the amount to be remitted to the game, fish, and water safety account shall be 60 percent of the fine. All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.

(d) Not less than 50 percent of the amount remitted to the game, fish, and water safety account under Subsection (c) must be used for the administration and enforcement of this chapter.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 679, § 39, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1363, § 10, eff. Sept.1, 1997.

§ 31.129. Violation of Sewage Disposal Regulations

(a) A person who violates or fails to comply with a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor. A separate offense is committed each day a violation continues.

(b) The enforcement provisions of this subchapter apply to violations punishable by this section.

(c) A game warden or peace officer who is certified as a marine safety enforcement officer under Section 31.121 may enforce a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats.

(d) A marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited may, if the owner or operator is aboard, board the boat for the purpose of inspecting the marine sanitation device for proper operation and testing the sanitation and holding devices, including placing a dye tablet in the holding tank.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, § 13, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1256, § 24, eff. Sept. 1, 1997.

*** Texas Commission on Environmental Quality (TCEQ)***
Effective November 11, 2010, any boat with a permanently installed marine sanitation device (MSD) is required to obtain a MSD certification and display a certification decal if the boat is operated on any waters in Texas, including coastal waters up to three nautical miles. For certification and decal information contact: www.tceq.texas.gov or (512)239-0400.

§ 31.130. Boater Education Course Permitted in Lieu of Fine

(a) Except as provided by Section 31.131, this section applies to a person who violates for the first time a provision of this chapter relating to the operation of a vessel.

(b) A justice may defer imposition of a fine and place a defendant on probation for a period not to exceed 60 days if the defendant:

(1) pleads guilty or nolo contendere or is found guilty; and

(2) requests permission from the court to attend a boater education course.

(c) The justice shall require the defendant to successfully complete a boater education course approved by the department during the probation period.

(d) If the defendant presents satisfactory evidence that the defendant has successfully completed the boater education course, the justice shall waive imposition of a fine. If the defendant fails to successfully complete the boater education course, the justice shall impose a fine for the violation.

Added by Acts 1997, 75th Leg., ch. 1363, § 11, eff. Sept. 1, 1997.

§ 31.131. Boater Education Course Required for Certain Violations

(a) A justice shall require a person who is adjudged guilty of an offense resulting from the violation of a provision of Sections 31.094–31.103 or 31.106 to:

(1) pay any fine imposed for the violation; and

(2) successfully complete a boater education course approved by the department not later than the 90th day after the date the person is adjudged guilty.

(b) If the person fails to successfully complete the boater education course, the person commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Added by Acts 1997, 75th Leg., ch. 1363, § 11, eff. Sept. 1, 1997.

§ 31.132. Reporting Procedures for Enforcement Officers

A marine safety enforcement officer shall provide to the department on a form prescribed by the department a report of any incident the officer investigates that involves a boating accident, water fatality, or person who allegedly operates a boat while intoxicated. The officer shall provide the report not later than the 15th day after the date the officer initially became aware of the incident.

Added by Acts 1997, 75th Leg., ch. 1363, § 11, eff. Sept. 1, 1997. Acts 2011, 82nd Leg., ch. ___, § ___, eff. Sept. 1, 2011.

SUBCHAPTER F. WATER FACILITIES

§ 31.141. Boat Ramps

(a) The department may construct and maintain boat ramps and access roads by the use of existing or additional services or facilities of the department.

(b) On the completion of the work, the department shall prepare and send vouchers to the comptroller of public accounts payable to the department or to any person, firm, or corporation for reimbursement for the work, and the comptroller shall issue warrants on the game, fish, and water safety account to reimburse the department or any person, firm, or corporation for the work performed.

(c) The department may remove sand, silt, and other materials from state-owned submerged land and may contract for the removal of sand, silt, and other materials from state-owned submerged land to provide access to boat ramps.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1069, ch. 499, § 1, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 679, § 40, eff. Sept. 1, 1993.

§ 31.142. Buoys and Markers

The department may provide for a standardized buoy-marking program for the inland water of the state. The department may purchase and provide the controlling agency of the water bodies with buoys and markers.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1993, 73rd Leg., ch. 679, § 41, eff. Sept. 1, 1993.

SUBCHAPTER G. PARTY BOATS

§ 31.171. Definitions

In this subchapter:

(1) "Licensed party boat operator" means a person issued a license by the department under this subchapter.

(2) "Party boat" means a vessel:

(A) operated by the owner of the vessel or an employee of the owner; and

(B) rented or leased by the owner for a group recreational event for more than six passengers.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.172. Applicability; Exception

(a) This subchapter applies only to a party boat that operates on the inland waters of this state.

(b) This subchapter does not apply to a boat that is less than 30 feet in length or to a sailboat.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.173. Party Boat Operator and Staff

(a) Except as provided by Subsection (c), the party boat owner shall provide staff members, including a licensed party boat operator, who:

(1) operate and staff the party boat for the duration of a rental or lease for a group recreational event as follows:

(A) for a boat with not more than 25 passengers, one staff member who is an operator;

(B) for a boat with at least 26 but not more than 50 passengers, two staff members, including one operator; and

(C) for a boat with more than 50 passengers, three staff members, including one operator; and

(2) have each successfully completed a boater safety course approved under this chapter.

(b) At least one staff member on the boat must be certified to conduct cardiopulmonary resuscitation.

(c) This section does not apply to a party boat rented or leased for an overnight or longer period for which the owner, or the owner's staff, does not intend to remain in constant possession, command, and control of the party boat.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.174. Boat Requirements

A party boat:

(1) may not carry more than the maximum number of passengers the boat may safely accommodate as determined by the department on inspection;

(2) must have a direct and reliable communication connection to the land-based office of the owner and law enforcement and emergency services by cellular telephone or very high frequency radio; and

(3) must pass an annual water safety inspection conducted by the department or a person under contract with the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.175. Passenger Safety Information; Insurance

(a) The owner of a party boat shall provide each passenger with written and verbal safety information and require each passenger to sign a form acknowledging that the passenger reviewed and understands the information.

(b) The verbal and written safety information must disclose that no lifeguard is present on the party boat if there is not at least one staff member on the boat who is certified as a lifeguard by the American Red Cross, the American Lifeguard Association, or another comparable nationally recognized organization.

(c) The owner of a party boat must obtain at least a minimum amount of liability insurance from an insurer licensed to do business in this state. The commission shall set the amount.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.176. Party Boat Operator License

(a) The commission by rule shall establish, as necessary to protect the public health and safety, the requirements and procedures for the issuance and renewal of a party boat operator license under this subchapter.

(b) Except as provided by Subsection (c), the rules for obtaining a license as a party boat operator must require at a minimum that the applicant:

(1) be at least 21 years of age;

(2) observe for at least four hours a licensed party boat operator operating a party boat on open water;

(3) operate for at least four hours a party boat on open water while being supervised and observed by a licensed party boat operator; and

(4) pass a written examination covering onboard safety procedures and the applicable provisions of this chapter.

(c) An applicant is not required to comply with Subsections (b)(2) and (3) if the applicant has:

(1) at least 25 hours of experience operating a party boat as shown by appropriate documentation; and

(2) no record of boating violations.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.177. Fees

(a) The commission by rule shall establish and collect a reasonable fee for:

(1) the issuance of a party boat operator license ($132) under this subchapter; and

(2) the annual water safety inspection of a party boat ($132) required by this subchapter.

(b) A fee collected by the department under this subchapter and any interest that accrues on the fee shall be deposited to the credit of the game, fish, and water safety account established under Section 11.032.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.178. Drug and Alcohol Testing

If a party boat is involved in an accident causing serious personal injury or death, each staff member on board is subject to mandatory drug and alcohol testing.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.179. Enforcement

(a) In addition to a game warden, any peace officer of a municipality or other political subdivision of this state who is certified as a marine safety enforcement officer under Section 31.121 may enforce this subchapter:

(1) in the area of a navigable body of water that is in the jurisdiction of the municipality or other political subdivision; or

(2) in any part of a lake that is partly or wholly inside the boundaries of:

(A) the municipality or its extraterritorial jurisdiction; or

(B) the political subdivision.

(b) A party boat is subject to enforcement inspections conducted under Section 31.124.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

§ 31.180. Rules

The commission shall adopt and enforce rules necessary to implement this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 19A(a), eff. June 15, 2007.

TITLE 31. TEXAS ADMINISTRATIVE CODE

§51.81 Mandatory Boater Education

(a) All courses approved for certification and equivalency exam processes must be approved by the department using minimum national standards as means of approval.

(b) Courses and equivalency exams shall consist of the following subjects:

(1) Boats—boat uses, capacities, trailers, equipment, numbering, titling;

(2) Boating safety—accident causes, prevention and emergency procedures;

(3) Boating operation—preparation, float plans, navigation rules, navigation aids, local hazards and weather; and

(4) State laws—Texas Water Safety Act, Boating While Intoxicated (BWI) Laws, violation prevention and basic boating responsibilities.

(c) The course is successfully completed when the student:

(1) attends at least six hours of training;

(2) is evaluated by the instructor as acceptable in attitude, knowledge and skill; and

(3) scores a minimum of 70% on a course exam prescribed by the department.

(d) In lieu of a course, a person may complete an equivalency exam process consisting of a multiple-choice exam proctored by an agent appointed by the department or accessed through a department-sponsored web site.

(1) Home study and equivalency exam passage shall be set at a minimum 80 percent passing score.

(2) A person who fails the exam may retake it one time at least 24 hours after the time of first completion.

(e) The minimum age for certification is 12 years of age.

(f) The department shall:

(1) train and certify boater education instructors upon completion of an application, game warden interview and proof of student and instructor course completion;

(2) administer all records of certifications; and

(3) approve the standard form for a boater education identification to be issued to a person who successfully completes a boater education course or equivalency exam.

(g) In addition to those exemptions established in Parks and Wildlife Code, §31.110, and authorized in §31.108(b), persons who have successfully completed a "voluntary boater education course" previously administered or approved by the department are exempt from the requirements established in this subchapter.

(h) A person 18 years of age or older may obtain a one-time deferral from the boater-education requirements of Parks and Wildlife Code, §31.109, after paying the fee established in §53.50 of this title (relating to Training and Certification Fees) to the department.

(1) A deferral under this subsection does not authorize any person to supervise the operation of a vessel by any other person.

(2) A boater education deferral is valid for 15 consecutive days beginning on the date of purchase and ending at midnight of the 15th day following purchase.
(i) A person engaged in showing, testing, or demonstrating boats under Parks and Wildlife Code, §31.041(d), is exempt from the boater education course requirement while showing, testing, or demonstrating a boat.
The provisions of this §51.81 adopted to be effective January 3, 2005, 29 TexReg 12225; amended to be effective January 2, 2013, 37 TexReg 10225.

§ 53.16. Vessel, Motor, and Marine Licensing Fees
(a) Registration fees:
(1) livery vessel-Class A–$32;
(2) vessel-Class A–$32;
(3) vessel-Class 1–$53;
(4) vessel-Class 2–$110;
(5) vessel-Class 3–$150;
(b) Titling fees:
(1) certificate of title–$27;
(2) administrative surcharge for expedited title to a vessel (in addition to applicable fee)–$37;
(3) administrative surcharge for expedited title to a motor (in addition to applicable fee)–$37; and
(4) bonded certificate of title–$37.
(c) Duplicate/transfer fees:
(1) vessel-transfer of ownership–$11;
(2) vessel-duplicate certificate of number–$11;
(3) vessel-duplicate decals–$11.
(d) Marine dealer/distributor/manufacturer fees:
(1) marine dealer, distributor or manufacturer license (includes licensee validation card (with decal) for recreational purposes or participation in contests or events)–$500;
(2) marine dealer, distributor or manufacturer ownership transfer of license–$500;
(3) marine dealer, distributor or manufacturer location transfer–$11;
(4) marine dealer, distributor or manufacturer information update/license correction–$4;
(5) additional marine dealer, manufacturer, or distributor's licensee validation card (with decal) for recreational purposes or participation in contests or events–$126; and
(6) replacement card marine dealer, manufacturer, or distributor's licensee validation card (with decal)–$11.
(e) Report fees:
(1) certified history report of ownership for vessel or outboard motor–$11;
(2) accident/water fatality report up to five pages in length–$5; and
(3) accident/water fatality report over five pages in length–$10.
(f) Party boat fees:
(1) annual party boat inspection–$132 (if the inspection is performed by a

department-approved entity, $60 may be retained by the inspecting entity);

(2) initial application for party boat operator license–$132;

(3) party boat operator license renewal application–$53;

(4) replacement party boat operator license to for lost, damaged, destroyed, or stolen license–$53.

Adopted to be effective July 7, 2004, 29 TexReg 6309; amended to be effective August 1, 2007, 32 TexReg 2664; amended to be effective January 1, 2008, 32 TexReg 10011.

§ 53.50. Training and Certification Fees

(a) Marine safety enforcement training and certification fees.

(1) The fee for certification as a marine safety enforcement officer is $25.

(2) The fee for certification as a marine safety enforcement officer instructor is $25.

(b) Hunter education fees.

(1) The registration fee for a hunter education course is $15, of which $10 may be directly retained by a volunteer instructor.

(2) The fee for a deferred hunter education option is $10; however, at the time a person who has used a deferred hunter education option chooses to enroll in a hunter education course, that person shall pay a $5 registration fee to be directly retained by the volunteer instructor.

(c) Boater education fees.

(1) As used in this subsection, an "agent" is a person or entity (approved in accordance with department guidelines) acting on behalf of the department in the administration of a boater education course or course equivalency examination in accordance with department guidelines.

(2) Except as provided in paragraph (4) of this subsection, an agent shall collect a $10 per person examination or course fee and forward that fee to the department within 30 days after the examination or course is administered.

(3) In addition to the examination or course fee described in paragraph (2) of this subsection, an agent may charge and keep a service fee in an amount established in a fee schedule approved by the director, which shall not exceed $25.

(4) An agent providing an Internet-based boater education course and examination is exempt from the requirement to collect and forward to the department the $10 examination or course fee.

(5) The fees established in this subsection apply only to course content necessary to satisfy the minimum requirements for boater education certification in Texas. Nothing in this subsection shall be construed to prohibit an agent from providing and charging a fee for enhanced content.

(6) The fee for obtaining a boater education deferral is $10.

The provisions of this §53.50 adopted to be effective July 7, 2004, 29 TexReg 6309; amended to be effective April 6, 2006, 31 TexReg 2861; amended to be effective January 4, 2012, 36 TexReg 9334; amended to be effective January 2, 2013, 37 TexReg 10229.

§ 53.90. Display Of Registration Validation Sticker

(a) Documented vessels are required to display the registration validation sticker on both sides of the bow and maintain current documentation through the United

States Coast Guard or display the state-assigned TX numbering series with the decal. Commercial vessels used in coastal shipping and vessels exceeding 115 feet in length are exempt from registration requirements.
(b) Vessels registered as antique boats are permitted to display the registration validation sticker on the left portion of the windshield. In the absence of a windshield, the registration validation sticker must be attached to the certificate of number and made available for inspection when the boat is operated on public water.
Adopted to be effective July 7, 2004, 29 TexReg 6309.

§ 53.91 Documented Vessels
(a) New vessels that have applied for documentation may acquire a certificate of number and validation decal at any TPWD boat registration office. At the time of application, applicants must present:
(1) a properly completed registration application on a form supplied by the department;
(2) a copy of:
(A) the current documentation from the U. S. Coast Guard National Vessel Documentation Center (USCGNVDC) or their website in the applicant's name; or
(B) the application for initial documentation with the USCGNVDC in the applicant's name;
(3) payment of any tax required under Tax Code, Chapter 160, or verification of payment; and
(4) payment of the appropriate registration fee as required by Parks and Wildlife Code, §31.026, and §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees).
(b) Used or previously documented vessels may acquire a certificate of number and validation decal at any TPWD boat registration office. At the time of application, applicants must present:
(1) a properly completed registration application on a form supplied by the department;
(2) a copy of:
(A) the current documentation from the U. S. Coast Guard National Vessel Documentation Center (USCGNVDC) or their website in the previous owner's name, or the applicant's name; or
(B) the lapsed documentation from the USCGNVDC or their website in the previous owner's name and the application for current documentation with the USCGNVDC in the applicant's name;
(3) payment of any tax required under Tax Code, Chapter 160, or verification of payment; and
(4) payment of the appropriate registration fee as required by Parks and Wildlife Code, §31.026, and §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees).
(c) Renewal of certificate of number and validation decal for a documented vessel may be acquired at any TPWD boat registration office. At the time of application,

applicants must present:

(1) a properly completed registration application or renewal notice on a form supplied by the department, or a hand written request;

(2) a copy of the current documentation from the U.S. Coast Guard National Vessel Documentation Center (USCGNVDC) or their website in the current owner's name;

(3) for vessels greater than 65 feet in length for the first registration renewal, verification of payment under Tax Code, Chapter 151, or verification from the TPWD boat system; and

(4) payment of the appropriate registration fee as required by §53.16 of this title (relating to Vessel, Motor, and Marine Licensing Fees).

(d) A vessel used as a tender for direct transportation between a mother ship and the shore is not required to display a validation decal, provided:

(1) the vessel is equipped with propulsion machinery of less than 10 horsepower;

(2) is owned by the owner of a vessel for which a valid certificate of number has been issued and displays the registration number of that vessel followed by the suffix "1" (i.e. TX-1234-AB-1) in the manner specified by Parks and Wildlife Code, §31.031; and

(3) is used for no purpose other than direct transportation between a mother ship and the shore.

Adopted to be effective February 19, 2006, 31 TexReg 851.

§ 53.100. Bonded Title—Acceptable Situations

(a) A bonded title situation exists when complete documentation cannot be provided or obtained by an applicant requesting title, registration or ownership transfer of a vessel or outboard motor. The applicant may appeal the department's refusal to issue a certificate of title by applying for consideration of a bonded title. The department will accept applications for bonded title as provided in Parks and Wildlife Code, §31.0465.

(b) Bonded titles may be used in situations where the applicant is unable to produce complete documentation required by the department in order to title or transfer ownership of a vessel or outboard motor. Acceptable situations regarding the filing and award of a bonded title situation will apply where a complete history of ownership for a vessel or outboard motor cannot be produced by the applicant and the department has determined that the customer is unable to provide the history. Missing ownership documentation may consist of a certificate of title, bill of sale, invoice, or tax affidavit signed by the owner of record, or authority to handle a deceased person's estate. The inability to obtain the required documentation from the previous owner(s) or applicable lien holders must be evidenced by one of the following:

(1) notice of verified mail, as defined in Property Code, §59.043(c), as mail considered delivered when the notice, properly addressed with postage prepaid, is deposited with the United States Postal Service or a common carrier;

(2) proof of returned certified mail; or

(3) the lack of any known addresses for a previous owner.

(c) The department shall not under any circumstances issue a bonded title if the applicant does not have any proof of payment, ownership transfer or other related documentation to support a claim of ownership, unless the vessel or outboard motor is determined to be abandoned, as defined by Parks and Wildlife Code, §31.003(17).

(d) For a bonded title situation involving an abandoned vessel or outboard motor, the requirements of this subsection apply, in addition to any other requirements of this section or Parks and Wildlife Code, Chapter 31, Subchapters B and B-1.

(1) The applicant shall send notice via certified mail to the law enforcement agency in whose jurisdiction the property on which the abandoned vessel or outboard motor is located. The notice shall be on a form provided or prescribed by the department. The applicant shall provide a copy of the completed form and evidence of certified mailing to the department at the time the application for bonded title is submitted. The agency receiving the notification shall notify the applicant within 30 days of receipt of the notice of any intent to remove the vessel or outboard motor under the provisions of Transportation Code, §683.011.

(2) The department shall publish public notice of a qualified application for title to an abandoned vessel or outboard motor for a period of six consecutive months on the department's website. The publication shall take place within 10 days of receipt of the application by the department.

(A) If there is a documented claim of interest by a recorded owner or lien holder adverse to the applicant, the department shall not issue a title until the issue is resolved. The parties may apply to a court of competent jurisdiction for resolution.

(B) If there is no claim of interest, the applicant may proceed with consideration of the bonded title upon expiration of the six-month posting period.

(3) The department may employ the department's Boat Registration Information and Titling System (BRITS) and the Vessel Identification System (VIS) operated by the United States Coast Guard to determine the most recent owner of record of a vessel or outboard motor.

§53.110 Marine Dealer, Distributors, and Manufacturers

(a) The following words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

Consignment—The sale or offer for sale by a person other than the owner under terms of a verbal or written authorization from the owner.

(b) Any person or entity, including a person or entity purporting to be a broker or brokerage house, who acts as an intermediary or assists in the sale, sale on consignment, display for sale, purchase, trade, or transfer of a vessel, motorboat, or outboard motor in exchange for a fee, commission, or other consideration is considered to be engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging a vessel for the purposes of this subchapter. Any person or entity, including a person or entity purporting to be a

broker or brokerage house, engaged in any activity described above is subject to the provisions of this subchapter.

(c) A person shall apply for a license as a dealer by submitting a properly completed, department-approved application form, accompanied by the following:

(1) the fee prescribed by law for each license requested;

(2) photographs clearly showing:

(A) the permanent sign at the location designated in the application as the applicant's permanent place of business, clearly indicating the name of the business;

(B) the front of the business with public access; and

(C) space sufficient for office, service area (not applicable to floating inventory or listings), and display of vessels, motorboats, or outboard motors (not applicable to floating inventory or listings);

(3) a copy of the Tax Permit issued by the Comptroller under Chapter 151, Tax Code;

(4) verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;

(5) a photocopy of the current driver's license or Department of Public Safety identification of the owner, president or managing partner of the business; and

(6) a list of dealer agreements; and

(7) if the applicant is to maintain floating inventory or listings at a location other than that designated as the applicant's permanent place of business, a record of at least five marinas where floating inventory or listings are expected to be displayed. If the applicant contemplates using less than five marinas, then the application shall include an explanatory statement. The record must identify, at a minimum, the name, physical address, and telephone for each marina.

(d) A person shall apply for a license as a distributor or manufacturer by submitting a properly completed, department-approved application form accompanied by the following:

(1) the fee prescribed by law for each license requested;

(2) verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;

(3) a complete list of manufacturers represented by a distributorship; and

(4) a complete list of distributors, dealers, and manufacturers.

(e) The department may issue a license under this subchapter if:

(1) the applicant submits a complete application form and required attachments; and

(2) the applicant signs a department-provided license agreement stating that the applicant agrees to comply with all applicable state laws, including Occupation Code, Chapter 2352, concerning Franchise Agreements, when required.

(f) A license holder shall notify the department in writing within 10 days if there is any change of:

(1) ownership;

(2) business name;

(3) physical location;

(4) dealer agreement;

(5) distributors, dealers, or representatives; or

(6) address or phone information.

(g) The licenses issued under this subchapter to dealers must be publicly displayed at all times in the place of business for which the license is issued.

(h) A license holder must keep a complete record available for inspection in the place of business relating to all vessels, motorboats, and outboard motors purchased, sold, or displayed for sale for a minimum of 24 months. Content of records must include the:

(1) date of purchase;

(2) date of sale;

(3) hull identification number and/or motor identification number;

(4) name and address of person selling to the dealer;

(5) name and address of person purchasing from the dealer;

(6) name and address of selling dealer or individual if vessel and/or outboard motor is offered for sale by consignment;

(7) a copy of the vessel/outboard motor title/registration receipt;

(8) copies of any and all documents, forms, and agreements applicable to a particular sale, consignment, listing, transfer of ownership, titling, titling and registration, or documentation through the U.S. Coast Guard, including, but not limited to title applications, work-up sheets, Manufacturer's Certificates of Origin, titles or photocopies of the front and back of titles, factory invoices, sales contracts, retail installment agreements, buyer's orders, bills of sale, waivers, or other agreements between the seller and purchaser; and

(9) copies of written consignment agreements or power of attorney for vessels, motorboats, or outboard motors.

(i) The department may suspend or revoke a license under this subchapter if:

(1) the licensee has been finally convicted or received deferred adjudication for a violation of Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;

(2) the licensee has violated Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;

(3) the licensee made a false or misleading statement in connection with the original or renewal application for the license, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;

(4) the licensee is indebted to the state for taxes, fees, or payment of penalties imposed by Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;

(5) the applicant or licensee was previously the holder of a license issued under this subchapter that was revoked for cause and never reissued by the department, or that was suspended for cause and the terms of the suspension have not been fulfilled;

(6) the applicant or licensee was previously a partner, stockholder, director, or officer controlling or managing a partnership, corporation, or store location whose license issued under this subsection was revoked for cause and never reissued, or was suspended for cause and the terms of the suspension have not

been fulfilled;

(7) the business does not intend to be open to all members of the public nor during normal business hours;

(8) the licensee or an employee of the licensee has obtained, or attempted to obtain, any money, commission, fee, barter, exchange or other compensation by fraud, deception or misrepresentation; or

(9) the licensee or an employee of the licensee is finally convicted or receives deferred adjudication for a violation of any federal or state law relating to the sale, distribution, financing, registration, taxing, or insuring of a vessel.

(j) Provisions governing the revocation or suspension of a license are as follows.

(1) Before suspending or revoking a license under this subchapter, the staff of the executive director of the department (executive director) shall provide notice by certified mail to the licensee's last known address of the department's intent to revoke or suspend the license. Within 30 days of the date of the letter, the licensee may request an administrative hearing. The hearing request must be in writing and addressed to: Manager of Boat Titling, Registration, and Marine Licensing, Texas Parks and Wildlife Department, 4200 Smith School Rd., Austin, TX 78744. For a hearing request to be valid, the department must receive the hearing request within 30 days of the date of the letter notifying the licensee of the department's intent to revoke or suspend the license. If no hearing request is received within this time frame, the executive director shall make a final decision whether to revoke or suspend the license.

(2) Timely hearing requests shall be referred by the department to the State Office of Administrative Hearings (SOAH) for adjudication.

(3) The department shall provide notice of the hearing date to the licensee by certified mail at the licensee's last known address at least ten days prior to the hearing date.

(4) The licensee shall be responsible for all hearing costs to SOAH, including but not limited to transcript and court reporting costs incurred by the department. Prior to the beginning of the hearing, at the request of department, the SOAH judge shall require the licensee to post a bond in an amount set by the SOAH judge, payable to the department and conditioned on prompt payment of hearing costs. Failure to post the requested bond prior to the start of the hearing shall result in default by the licensee.

(5) The failure of the licensee to appear at the hearing shall entitle the department's staff to request issuance of a default proposal for decision or order by the judge.

(6) At the conclusion of the hearing, SOAH shall prepare a proposal for decision in accordance with SOAH rules. The proposal for decision shall be submitted to the department's deputy executive director for administration, who will make the final decision on whether to revoke or suspend the license.

The provisions of this §53.110 adopted to be effective July 7, 2004, 29 TexReg 6309; amended to be effective February 19, 2006, 31 TexReg 851.

§ 55.130. Show, Test, or Demonstration of Vessel

(a) A licensed dealer, distributor, or manufacturer (hereinafter "licensee") may use the licensee's number to show, demonstrate, or test a vessel on the water of this state without acquiring a certificate of number and registration decals. The licensee's number shall be attached, affixed, or inscribed on both sides of the vessel in an easily visible location. The use of removable signs which can be temporarily but firmly attached to the vessel is permissible.

(b) A licensee may not use the licensee's number for the use of a vessel on the water of this state for recreational purposes or for participation in contests or events, except as permitted in this subchapter.

(c) On a limited and temporary basis, a licensee, or person or persons authorized by the licensee, may use a vessel for recreational purposes or participation in contests or events only if:

(1) the licensee's number is either temporarily or permanently attached, affixed, or inscribed on both sides of the vessel in an easily visible location;

(2) a department-issued validation decal is either temporarily or permanently prominently displayed on both sides of the vessel in an easily visible location;

(3) a department-issued validation card is aboard the vessel; and

(4) the temporary use does not occur on more than six consecutive days, and does not occur on more than twelve days in any calendar month.

(d) A validation card must immediately be made available for inspection upon the request of any peace officer, marine safety officer, or department employee acting within the scope of their official duties.

(e) A dealer, distributor, or manufacturer license shall include one validation card and two validation decals, which shall be issued at the time the license is issued. Additional validation cards may be purchased separately upon payment of the fee ($126) specified in §53.18 of this title (relating to Other Fees). Each additional validation card includes two validation decals. Validation decals may not be purchased separately.

(f) A licensee shall maintain at the licensee's place of business a current daily log accounting for each use of each validation card issued to the licensee. The log shall be retained for a period of two years and must immediately be made available for inspection during normal business hours at the request of any peace officer, marine safety officer, or department employee acting within the scope of their official duties. The log shall indicate, for each use of a validation card:

(1) the date and location of the use;

(2) the hull identification number of the vessel;

(3) the specific business purpose of the recreational use, contest, or event;

(4) the name, address, and driver's license number or state-issued identification card number of the person or persons authorized by the licensee to operate the vessel; and

(5) the name of licensee's agent authorizing use of the validation card.

(g) A validation card is not valid if the corresponding license is not valid. A validation card and corresponding validation decals expire on the last day of the last month that a dealer, distributor, or manufacturer license is valid.

(h) Nothing in this subchapter authorizes the use of a licensee's number or a validation card and validation decals for purposes not related to the legitimate business activities of the licensee. "Legitimate business activities" means the sale, transfer, exchange, service, or transportation of a vessel or outboard motor.
The provisions of this 55.130 adopted to be effective October 9, 2007, 32 TexReg 7075.

BOAT SPEED LIMIT AND BUOY STANDARDS PROCLAMATION

§ 55.301. Application
These sections apply to all public waters in the State of Texas.

§ 55.302. Definitions
The following words and terms, when used in this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Department—Texas Parks and Wildlife Department.

(2) Governing board—The governing board of an incorporated city or town, a commissioners court of a county, or the governing board of a political subdivision of the state created pursuant to the Texas Constitution, Article XVI, §59, as identified in the Parks and Wildlife Code, §31.092(c).

(3) Headway speed—Slow, idle speed, or speed only fast enough to maintain steerage on course.

(4) Regulated area—Any area on public water designated and posted "Slow, No Wake" area by the governing board.

(5) Slow, no wake—Headway speed without creating a swell or wake.

(6) Uniform state waterway buoy marking system—Information and Regulatory Marking System contained in Federal Regulation 33 Code of Federal Regulations §62.33.

§ 55.303. General Rules
The following rules shall govern the speed limits of moving vessels on all public waters of this state.

(1) Governing boards may establish regulated areas under procedures and rules set out in Parks and Wildlife Code, §31.092, when these rules are determined to be necessary for public safety.

(A) Regulated areas shall be designated and posted as "Slow, No Wake" areas.

(B) Numerical speed limits, such as miles per hour, shall not be used on public waters.

(C) Boat speeds outside of regulated areas shall be governed by the Parks and Wildlife Code, §31.095(a).

(D) The governing board shall post and maintain regulated areas with buoys or pilings consistent with the uniform state waterway buoy marking system authorized by these rules.

(2) Regulations governing water events and regattas administered by the United States Coast Guard are exempt from these rules to the extent of conflict.

§ 55.304. System of Markers
(a) The Uniform State Waterway Buoy Marking System contained in 33 Code of Federal Regulations §62.33 is hereby adopted for all public waters in this state.
(b) This federal regulation describes the meanings associated with various markers.
(c) This federal regulation is published in the Code of Federal Regulations. It may be obtained from any United States Depository Library or by writing the department.

§ 55.305. Penalties
The penalties for violation of this subchapter are prescribed by the Texas Parks and Wildlife Code, §31.127.

§ 55.301 – § 55. 305 adopted to be effective March 9, 1990, 15 TexReg 1069.

PARTY BOATS

§ 55.401. Definitions
The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Livery vessel—a vessel rented out for profit under a written contract by a vessel livery, as defined by Parks and Wildlife Code, §31.003(8), where all responsibility and liability for operating and provisioning the vessel is assumed by the party renting the vessel.

(2) Inland waters—all public waters of this state on the landward side of the coastal waters boundary as defined in §65.3(15) of this title (relating to Definitions).

(3) Party boat—a vessel meeting the definition of "party boat" established in Parks and Wildlife Code, § 31.171(2).

(4) Passenger—a person carried on board a party boat, but does not include:

(A) the vessel owner or the owner's agent;

(B) the vessel's operator or crew members, if they have not provided a consideration for their transportation before, during, or after the voyage; or

(C) a person being trained for the purposes of acquiring a party boat operator's license.

§ 55.402. Applicability and Exceptions
(a) This subchapter applies to a party boat that operates on inland waters of this state.
(b) The annual water safety inspection required by §55.405(a) of this title (relating to Employer/Owner Responsibilities) is not required for a vessel that:

(1) is carrying passengers for hire; and

(2) carries a valid and current certificate of inspection issued pursuant to federal law.

(c) A person is not required to obtain a party boat operator's license if that person possesses:

(1) a valid and current federal pilot's or captain's license issued by the United States Coast Guard or other federal agency; or

(2) a valid license, issued by a state that shares a body of water with Texas, that is substantively similar in effect and scope to the party boat operator license required by this subchapter, provided:

(A) the issuing state allows Texas vessels to operate in the shared waters under the same conditions; and

(B) the party boat is operated only in waters shared by the issuing state and the state of Texas.

(d) This subchapter does not apply to:

(1) a boat that is less than 30 feet in length;

(2) a sailboat;

(3) a livery vessel; or

(4) any vessel used for training or instructional purposes while it is not being used as a party boat.

§ 55.403. License Required

(a) A person may not operate a party boat unless the person:

(1) has in the person's immediate possession a party boat operator's license issued by the department;

(2) is learning to operate the party boat for the purpose of acquiring a party boat operator's license and:

(A) is an employee of the owner of the party boat or the owner's agent; and

(B) is accompanied by a holder of a party boat operator's license issued by the department and the license holder occupies a space beside the unlicensed operator for the purpose of giving instruction on operating the party boat.

(b) It is a defense to prosecution under subsection (a)(1) of this section that the person charged produces in court:

(1) a party boat operator's license that was issued to the person and was valid when the offense was committed; or

(2) a valid license, issued by a state that shares a body of water with Texas, that is substantively similar in effect and scope to the party boat operator license required by this subchapter, provided:

(A) the issuing state allows Texas vessels to operate in the shared waters under the same conditions; and

(B) the party boat is operated only in waters shared by the issuing state and the state of Texas.

§ 55.404. Party Boat Operator License–General Provisions

(a) Application.

(1) A person may apply for a party boat operator license by submitting a completed department-supplied application to the department, accompanied by the fee specified ($132) by Chapter 53, Subchapter A of this title (relating to Fees).

(2) The department will not issue a party boat operator license to any person who has not passed a department-approved written examination on safe party boat operation.

(b) Period of validity. A party boat operator license is valid for two years from the date of issuance.

(c) Renewal.

(1) A party boat operator license may be renewed by submitting a completed department-supplied renewal application to the department within 60 days of the expiration date of the license, accompanied by the fee ($53) specified by Chapter 53, Subchapter A of this title (relating to Fees).

(2) If a party boat operator license has not been renewed by the 60th day following the expiration date of the license, it cannot be renewed and an application for a new party boat operator license must be completed and submitted.

(d) Replacement license.

(1) The holder of a party boat operator license who changes name or mailing address shall submit a completed department-supplied application for a replacement license, accompanied by the fee ($53) specified in Chapter 53, Subchapter A of this title, by not later than the 30th day after the date of the change.

(2) The department shall replace a damaged, destroyed, lost, or stolen party boat operator license upon payment of the fee ($53) specified in Chapter 53, Subchapter A of this title.

(e) Denial of license issuance.

(1) The department will not issue a party boat operator license to any person who has, within the five-year period preceding an application for a party boat operator license, been convicted of:

(A) a violation of Penal Code, Chapter 49 involving the operation of a motorboat; or

(B) a violation of Parks and Wildlife Code, Chapter 31, involving reckless or negligent behavior, or behavior that placed passengers in peril.

(2) The department will not issue a party boat operator license to a person who is prohibited from holding an equivalent license in another state.

§ 55.405. Employer/Owner Responsibilities

(a) The owner of a party boat may not operate or allow the operation of a boat as a party boat unless it has passed an annual water safety inspection conducted or authorized by the department within the previous 12 months.

(b) The owner of a party boat must maintain at least a minimum of $300,000 of liability insurance from an insurer licensed to do business in this state.

(c) The owner of a party boat may not knowingly:

(1) permit a person to operate a party boat at any time that the person is prohibited under the provisions of this subchapter from operating a party boat; or

(2) train a person to operate a party boat for purposes of obtaining a party boat operator's license unless the person is employed by the owner and has completed a boating safety course approved by the department. This paragraph

does not apply if six or fewer passengers are aboard at the time a person is being trained.

(d) The owner of a party boat shall ensure that a list of emergency procedures is posted in a conspicuous location on a party boat at all times that paying passengers are aboard the vessel. The list shall set forth, at a minimum, procedures or instructions for the following:

(1) use of radio-telephone, if the vessel is equipped with a radio-telephone;
(2) man overboard;
(3) fire or explosion;
(4) leaks or damage control;
(5) location of personal flotation devices;
(6) location of escape hatches and escape routes;
(7) abandoning ship; and
(8) location of first-aid kit.

(e) On vessels that do not have or are not required to have a vessel capacity plate, the passenger capacity may be determined from the application of any one of the following formulae to the vessel:

(1) one passenger per 30 inches of rail space available to passengers at the vessel's sides and across the transom;

(2) one passenger per 10 square feet of deck area available for passenger use, not including concession stands, toilets, washrooms, companionways, or stairways; and

(3) one passenger per 18 inches of width of fixed seating area provided.

§ 55.406. Violations and Penalties

A violation of any provision of this subchapter is punishable as prescribed by Parks and Wildlife Code, §31.127.

MARINE SAFETY ENFORCEMENT – TRAINING AND CERTIFICATION STANDARDS

§ 55.801. Application

This subchapter shall apply to any peace officer, as defined by Article 2.12, Texas Code of Criminal Procedure, who enforces any provision of Parks and Wildlife Code, Chapter 31, or enforces any provision, regulation, resolution, ordinance, order adopted pursuant to Parks and Wildlife Code, § 31.092.

§ 55.802. Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, except where the context clearly indicates otherwise.

(1) Active duty peace officer–A peace officer holding a valid peace officer license from the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and a valid peace officer commission issued by an authorized governmental entity of the State of Texas.

(2) Commission–The Texas Parks and Wildlife Commission.

(3) Department–The Texas Parks and Wildlife Department.

§ 55.803. General Rules

(a) To be eligible for certification as a marine safety enforcement officer, a person must:

(1) be an active duty peace officer;

(2) hold a Texas boater education certificate; and

(3) successfully complete the marine safety enforcement officer training course and marine safety enforcement officer examination.

(b) To retain certification, a marine safety enforcement officer must comply with all reporting requirements as set forth in § 55.806 of this title (relating to Reporting Requirements).

(c) To instruct the marine safety enforcement officer training course, a person must:

(1) be a certified marine safety enforcement officer;

(2) hold a TCLEOSE Instructor license; and

(3) successfully complete the marine safety enforcement officer instructor course and marine safety enforcement officer instructor examination.

(d) A person who is a graduate of the TPWD Game Warden Academy and who is also an active commissioned game warden is eligible for certification as a marine safety enforcement officer. A person who is a graduate of the TPWD Game Warden Academy, who is also an active commissioned game warden, and who holds a TCLEOSE Instructors License is eligible for certification as a marine safety enforcement officer course instructor.

§ 55.804. Marine Safety Enforcement Officer Course Standards

(a) The marine safety enforcement officer course shall consist of the following instruction topics:

(1) provisions of the Texas Water Safety Act, Parks and Wildlife Code, Chapter 31;

(2) navigation rules;

(3) United States Coast Guard rules applicable to state waters;

(4) boater education requirements; and

(5) the reporting requirements of § 55.806 of this title (relating to Reporting Requirements).

(b) The marine safety enforcement officer course is successfully completed when a peace officer has:

(1) attended a minimum of eight hours of prescribed instruction by a department certified marine safety enforcement officer instructor; and

(2) passed the department approved marine safety enforcement officer examination.

(c) Upon completion of a course, the instructor shall submit to the department a signed affidavit specifying for each student:

(1) the date(s) of instruction;

(2) the topics of instruction;

(3) the hours of instruction in each topic; and

(4) test score.

§ 55.805. Marine Safety Enforcement Officer Instructor Course Standards

(a) The marine safety enforcement officer instructor course shall consist of the following instruction topics:

(1) provisions of the Texas Water Safety Act, Parks and Wildlife Code, Chapter 31;

(2) navigation rules;

(3) United States Coast Guard rules applicable to state waters;

(4) boater education requirements; and

(5) the reporting requirements of § 55.806 of this title (relating to Reporting Requirements).

(b) The marine safety enforcement officer instructor course is successfully completed when a marine safety enforcement officer has:

(1) attended a minimum of 16 hours of instruction prescribed by the Game Warden Training Academy; and

(2) successfully completed the marine safety enforcement officer instructor examination prescribed by the Game Warden Training Academy.

(c) Upon completion of an instructor certification course, the course instructor shall submit to the department a signed affidavit specifying for each student:

(1) the date(s) of instruction;

(2) the topics of instruction;

(3) the hours of instruction in each topic; and

(4) test score.

§ 55.806. Reporting Requirements

(a) Marine safety enforcement officers shall report all investigations as required by Parks and Wildlife Code, § 31.132, by completing and submitting to the department a Water Safety Incident Report(s).

(b) The department may summarily suspend the certification of a marine safety enforcement officer who fails to submit, fails to complete, or falsifies a report required under subsection (a) of this section.

§ 55.807. Fees

All applications shall be accompanied by the fees specified in Chapter 53 of this title (relating to Finance). All payments shall be in the form of a check, money order, or warrant made payable to the department. All fees are nonrefundable; however, an entity may substitute a qualified peace officer in place of a person named on an application.

The provisions of this §55.801-807 adopted to be effective May 28, 1998, 23 TexReg 5440.

PARKS AND WILDLIFE CODE
CHAPTER 12. POWERS AND DUTIES CONCERNING WILDLIFE

SUBCHAPTER E. PUNISHMENTS

§ 12.404. Class A Parks and Wildlife Code Misdemeanor

An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $500 nor more than $4,000;
(2) confinement in jail for a term not to exceed one year; or
(3) both such fine and confinement.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, § 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, § 11, eff. Sept. 1, 1997.

§ 12.405. Class B Parks and Wildlife Code Misdemeanor

An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

(1) a fine of not less than $200 nor more than $2,000;
(2) confinement in jail for a term not to exceed 180 days; or
(3) both such fine and confinement.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, § 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, § 12, eff. Sept. 1, 1997.

§ 12.406. Class C Parks and Wildlife Code Misdemeanor

An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than $25 nor more than $500.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, § 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 535, § 1, eff. Sept. 1, 1987.

§ 12.407. Parks and Wildlife Code Felony

(a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by confinement in the institutional division of the Texas Department of Criminal Justice for any term of not more than 10 years or less than two years.

(b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than $2,000 nor more than $10,000.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, § 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1256, § 13, eff. Sept. 1, 1997.

The following are excerpts from state and federal laws that apply to water and boating safety enforcement. Refer to applicable sources for updates.

TEXAS PENAL CODE

CHAPTER 49. INTOXICATION AND ALCOHOLIC BEVERAGE OFFENSES
(Includes sections applicable to BWI or watercraft operation only)

§ 49.01. Definitions

In this chapter:

(1) "Alcohol concentration" means the number of grams of alcohol per:

(A) 210 liters of breath;

(B) 100 milliliters of blood; or

(C) 67 milliliters of urine.

(2) "Intoxicated" means:

(A) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or

(B) having an alcohol concentration of 0.08 or more.

(3) "Motor vehicle" has the meaning assigned by Section 32.34(a). *(Does not apply to watercraft)*

(4) "Watercraft" means a vessel, one or more water skis, an aquaplane, or another device used for transporting or carrying a person on water, other than a device propelled only by the current of water.

(5) "Amusement ride" has the meaning assigned by Section 2151.002, Occupations Code. *(Does not apply to watercraft)*

(6) "Mobile amusement ride" has the meaning assigned by Section 2151.002, Occupations Code. *(Does not apply to watercraft)*

Added by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 234, § 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1364, § 8, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1420, § 14.707, eff. Sept. 1, 2001.

§ 49.02. Public Intoxication

(a) A person commits an offense if the person appears in a public place while intoxicated to the degree that the person may endanger the person or another.

(b) It is a defense to prosecution under this section that the alcohol or other substance was administered for therapeutic purposes and as a part of the person's professional medical treatment by a licensed physician.

(c) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(d) An offense under this section is not a lesser included offense under Section 49.04.

(e) An offense under this section committed by a person younger than 21 years of age is punishable in the same manner as if the minor committed an offense to which Section 106.071, Alcoholic Beverage Code, applies.

Added by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994. Amended by Acts 1997, 75th Leg., ch. 1013, § 12, eff. Sept. 1, 1997.

§ 49.06. Boating While Intoxicated

(a) A person commits an offense if the person is intoxicated while operating a watercraft.

(b) Except as provided by Section 49.09, an offense under this section is a Class B misdemeanor, with a minimum term of confinement of 72 hours.

Added by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 49.07. Intoxication Assault

(a) A person commits an offense if the person, by accident or mistake:

(1) while operating an aircraft, watercraft, or amusement ride while intoxicated, or while operating a motor vehicle in a public place while intoxicated, by reason of that intoxication causes serious bodily injury to another; or

(2) as a result of assembling a mobile amusement ride while intoxicated causes serious bodily injury to another.

(b) In this section, "serious bodily injury" means injury that creates a substantial risk of death or that causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(c) An offense under this section is a felony of the third degree.

Added by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 1364, § 10, eff. Jan. 1, 2000.

§ 49.08. Intoxication Manslaughter

(a) A person commits an offense if the person:

(1) operates a motor vehicle in a public place, operates an aircraft, a watercraft, or an amusement ride, or assembles a mobile amusement ride; and

(2) is intoxicated and by reason of that intoxication causes the death of another by accident or mistake.

(b) An offense under this section is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 1364, § 11, eff. Jan. 1, 2000.

CHAPTER 38 EVADING ARREST OR DETENTION
(Includes the section applicable to watercraft)

§ 38.04. Evading Arrest or Detention

(a) A person commits an offense if he intentionally flees from a person he knows is a peace officer attempting lawfully to arrest or detain him.

(b) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if:

(A) the actor has been previously convicted under this section; or

(B) the actor uses a vehicle or watercraft while the actor is in flight and the actor has not been previously convicted under this section;

(2) a felony of the third degree if:

(A) the actor uses a vehicle or watercraft while the actor is in flight and the actor has been previously convicted under this section; or

(B) another suffers serious bodily injury as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or

(3) a felony of the second degree if another suffers death as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight.

(c) In this section:

(1) "Vehicle" [, "vehicle"] has the meaning assigned by Section 541.201, Transportation Code.

(2) "Watercraft" has the meaning assigned by Section 49.01.

(d) A person who is subject to prosecution under both this section and another law may be prosecuted under either or both this section and the other law.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 504, Sec. 1, eff. Sept. 1, 1987. Acts 1989, 71st Leg., ch. 126, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 708, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.240, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1334, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1480, Sec. 1, eff. Sept. 1, 2001. Acts 2009, 81st Leg., R.S., Ch. 1400, Sec. 4, eff. September 1, 2009. Acts 2011, 82nd Leg., ch. ___, ___, eff. Sept. 1, 2011.

EXCERPTS FROM FEDERAL LAWS

UNITED STATES CODE, TITLE 33

Navigation And Navigable Waters
Chapter 34 – Inland Navigational Rules (33 USC 34)

SUBCHAPTER 1 – RULES

PART A – GENERAL

§ 2003. Definitions (Rule 3)

For the purpose of these Rules:

(h) The word "underway" means that a vessel is not at anchor, or made fast to the shore, or aground; ...

PART C – LIGHTS AND SHAPES

§ 2020. Application (Rule 20)

(a) Rules in this Part shall be complied with in all weathers.

(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The Rules concerning shapes shall be complied with by day.

(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I of these Rules.

§ 2021. Definitions (Rule 21)

(a) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(b) "Sidelights" mean a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this Rule.

(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

(g) "Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

§ 2022. Visibility of Lights (Rule 22)

The lights prescribed in these Rules shall have an intensity as specified in Annex I to these Rules, so as to be visible at the following minimum ranges:

(a) Vessels of 50 meters or more in length:

a masthead light, 6 miles;
a sidelight, 3 miles;
a sternlight, 3 miles;
a towing light, 3 miles;
a white, red, green or yellow all-round light, 3 miles; and
a special flashing light, 2 miles.

(b) Vessels of 12 meters or more but less than 50 meters in length:

a masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;
a sidelight, 2 miles;
a sternlight, 2 miles;
a towing light, 2 miles;
a white, red, green or yellow all-round light, 2 miles; and
a special flashing light, 2 miles.

(c) Vessels of less than 12 meters in length:

a masthead light, 2 miles;
a sidelight, 1 mile;
a sternlight, 2 miles;
a towing light, 2 miles;
a white, red, green or yellow all-round light, 2 miles; and
a special flashing light, 2 miles.

(d) Inconspicuous, partly submerged vessels or objects being towed:

a white all-round light, 3 miles.

§ 2023. Power-driven vessels underway (Rule 23)

(a) A power-driven vessel underway shall exhibit:

(i) a masthead light forward;

(ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;

(iii) sidelights; and

(iv) a sternlight.

(b) Air-cushion vessels when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

(c) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

§ 2025. Sailing vessels underway and vessels under oars (Rule 25)

(a) Sailing vessels underway shall exhibit:

(i) sidelights; and

(ii) a sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(c) Additional lights. A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.

(d) Sailing vessels of less than 7 meters in length; vessels under oars

(i) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision. (* See State law-P&W Code 31.064)

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

§ 2026. Fishing vessels (Rule 26)

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.

(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other;

(ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(c) A vessel engaged in fishing, other than trawling, shall exhibit:

(i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other;

(ii) when there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing.

(e) Vessels when not engaged in fishing not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

§ 2030. Anchored vessels and vessels aground (Rule 30)

(a) Vessels at anchor shall exhibit where it can best be seen:

(i) in the fore part, an all-round white light or one ball; and

(ii) at or near the stern and at a lower level than the light prescribed in subparagraph (i), an all-round white light.

(b) Vessels of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) Illumination of decks: A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) Vessels aground: A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, if practicable, where they can best be seen:

(i) two all-round red lights in a vertical line; and

(ii) three balls in a vertical line.

(e) Vessels of less than 7 meters in length when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

(f) Vessels of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in subparagraphs (d)(i) and (ii) of this Rule.

(g) Vessels of less than 20 meters in length while at anchor in a special anchorage area designated by the Secretary, shall not be required to exhibit the anchor lights and shapes required by this Rule.

§ 2031. Seaplanes (Rule 31)

Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

PART D – SOUND AND LIGHT SIGNALS

§ 2032. Definitions (Rule 32)

(a) The word "whistle" means any sound signaling appliance capable of producing the prescribed blasts and which complies with specifications in Annex III to these Rules.

(b) The term "short blast" means a blast of about 1 second's duration.

(c) The term "prolonged blast" means a blast of from 4 to 6 seconds' duration.

§ 2033. Equipment for sound signals (Rule 33)

(a) Vessels of 12 meters or more in length shall be provided with a whistle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Rules. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) Vessels of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

SUBPART B – PERSONAL FLOTATION DEVICES

§ 175.15 Personal flotation devices required

Except as provided in Sec. 175.17 and Sec. 175.25:

(a) No person may use a recreational vessel unless at least one PFD of the following types is on board for each person:

(1) Type I PFD;
(2) Type II PFD; or
(3) Type III PFD.

(b) No person may use a recreational vessel 16 feet or more in length unless one Type IV PFD is on board in addition to the total number of PFDs required in paragraph (a) of this section.

(c) No person may operate a recreational vessel under way with any child under 13 years old aboard unless each such child is either:

(1) Wearing an appropriate PFD approved by the Coast Guard; or
(2) Below decks or in an enclosed cabin.

[CGD 81-023, 55 FR 32034, Aug. 6, 1990, as amended by CGD 92-045, 58 FR 41608, Aug. 4, 1993] paragraph (c), effective Dec. 23, 2002

§ 175.17 Exemptions

(a) A Type V PFD may be carried in lieu of any PFD required under Sec. 175.15, provided:

(1) The approval label on the Type V PFD indicates that the device is approved:

(i) For the activity in which the vessel is being used; or
(ii) As a substitute for a PFD of the Type required on the vessel in use;

(2) The PFD is used in accordance with any requirements on the approval label; and

(3) The PFD is used in accordance with requirements in its owner's manual, if the approval label makes reference to such a manual.

(b) Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional Type IV PFD required under § 175.15(b).

(c) Racing shells, rowing sculls, racing canoes and racing kayaks are exempted from the requirements for carriage of any Type PFD required under § 175.15.

(d) Sailboards are exempted from the requirements for carriage of any Type PFD required under § 175.15.

(e) Vessels of the United States used by foreign competitors while practicing for or racing in competition are exempted from the carriage of any PFD required under § 175.15, provided the vessel carries one of the sponsoring foreign country's acceptable flotation devices for each foreign competitor on board.

[CGD 92-045, 58 FR 41608, Aug. 4, 1993; 58 FR 51576, Oct. 4, 1993, as amended by CGD 97-023, 62 FR 33365, June 19, 1997; USCG-1998-3799, 63 FR 35533, June 30, 1998]

§ 175.19 Stowage

(a) No person may use a recreational boat unless each Type I, II, or III PFD required by § 175.15 of this part, or equivalent type allowed by § 175.17 of this part, is readily accessible.

(b) No person may use a recreational boat unless each Type IV PFD required by § 175.15 of this part, or equivalent type allowed by § 175.17 of this part, is immediately available.

[CGD 81-023, 55 FR 32034, Aug. 6, 1990]

§ 175.21 Condition; size and fit; approval marking

No person may use a recreational boat unless each PFD required by § 175.15 of this part or allowed by § 175.17 of this part is:

(a) In serviceable condition as provided in § 175.23;

(b) Of an appropriate size and fit for the intended wearer, as marked on the approval label; and

(c) Legibly marked with its approval number, as specified in 46 CFR part 160.

[CGD 81-023, 55 FR 32034, Aug. 6, 1990, as amended by CGD93-055, 61 FR 13926, Mar. 28, 1996]

§ 175.23 Serviceable condition

A PFD is considered to be in serviceable condition for purposes of § 175.21(a) only if the following conditions are met:

(a) No PFD may exhibit deterioration that could diminish the performance of the PFD, including

(1) Metal or plastic hardware used to secure the PFD on the wearer that is broken, deformed, or weakened by corrosion;

(2) Webbings or straps used to secure the PFD on the wearer that are ripped, torn, or which have become separated from an attachment point on the PFD; or

(3) Any other rotted or deteriorated structural component that fails when tugged.

(b) In addition to meeting the requirements of paragraph (a) of this section, no inherently buoyant PFD, including the inherently buoyant components of a hybrid inflatable PFD, may exhibit

(1) Rips, tears, or open seams in fabric or coatings, that are large enough to allow the loss of buoyant material;

(2) Buoyant material that has become hardened, non-resilient, permanently compressed, waterlogged, oil-soaked, or which shows evidence of fungus or mildew; or

(3) Loss of buoyant material or buoyant material that is not securely held in position.

(c) In addition to meeting the requirements of paragraph (a) of this section, an inflatable PFD, including the inflatable components of a hybrid inflatable PFD, must be equipped with

(1) Except as provided in paragraph (d) of this section, a properly armed inflation mechanism, complete with a full inflation medium cartridge and all status indicators showing that the inflation mechanism is properly armed;

(2) Inflatable chambers that are all capable of holding air;

(3) Oral inflation tubes that are not blocked, detached, or broken;

(4) A manual inflation lanyard or lever that is not inaccessible, broken, or missing; and

(5) Inflator status indicators that are not broken or otherwise non-functional.

(d) The inflation system of an inflatable PFD need not be armed when the PFD is worn inflated and otherwise meets the requirements of paragraphs (a) and (c) of this section.

[CGD 93-055, 61 FR 13926, Mar. 28, 1996]

§ 175.25 Adoption of states' requirements for children to wear personal flotation devices

On waters within the geographical boundaries of any State that has established by statute or rule a requirement under which each child must wear an appropriate PFD approved by the Coast Guard while aboard a recreational vessel, no person may use such a vessel in violation of that statute or rule.

[USCG-2000-8589, 67 FR 42493, June 24, 2002] Effective Date Note: By USCG-2000-8589, 67 FR 42493, June 24, 2002, Sec. 175.25 was added, effective Dec. 23, 2002.

SUBPART C – VISUAL DISTRESS SIGNALS

§ 175.101 Applicability

Source: CGD 76-183, 44 FR 73024, Dec. 17, 1979, unless otherwise noted.

This subpart applies to boats on the coastal waters of the United States and on the high seas beyond the territorial seas for boats owned in the United States.

[CGD 76-183, 44 FR 73024, Dec. 17, 1979, as amended by USCG-1998-3799, 63 FR 35534, June 30, 1998]

§ 175.110 Visual distress signals required

(a) No person may use a boat 16 feet or more in length or any boat carrying six or less passengers unless visual distress signals selected from the list in § 175.130 or the alternatives in § 175.135, in the number required, are on board. Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use, must be carried.

(b) Between sunset and sunrise, no person may use a boat less than 16 feet in length unless visual distress signals suitable for night use, selected from the list in § 175.130 or § 175.135, in the number required, are on board.

§ 175.115 Exceptions

The following persons need not comply with § 175.110; however, each must carry on board visual distress signals suitable for night use, selected from the list in § 175.130 or § 175.135, in the number required, between sunset and sunrise:

(a) A person competing in any organized marine parade, regatta, race, or similar event;

(b) A person using a manually propelled boat; or

(c) A person using a sailboat of completely open construction, not equipped with propulsion machinery, under 26 feet in length.

§ 175.140 Prohibited use

No person in a boat shall display a visual distress signal on waters to which this subpart applies under any circumstance except a situation where assistance is needed because of immediate or potential danger to the persons on board.

SUBPART D – VENTILATION

§ 175.201 Ventilation

No person may operate a boat built after July 31, 1980, that has a gasoline engine for electrical generation, mechanical power, or propulsion unless it is equipped with an operable ventilation system that meets the requirements of 33 CFR 183.610 (a), (b), (d), (e), and (f) and 183.620(a).

[CGD 76-082, 44 FR 73027, Dec. 17, 1979]

SUBPART K – VENTILATION

§ 183.610 Powered ventilation system

(a) Each compartment in a boat that has a permanently installed gasoline engine with a cranking motor must:

(1) Be open to the atmosphere, or

(2) Be ventilated by an exhaust blower system.

(b) [contains AMCA standards]

(c) [contains AMCA standards]

(d) Each intake duct for an exhaust blower must be in the lower one-third of the compartment and above the normal level of accumulated bilge water.

(e) More than one exhaust blower may be used in combination to meet the requirements of this section.

(f) Each boat that is required to have an exhaust blower must have a label that:

(1) Is located as close as practicable to each ignition switch;

(2) Is in plain view of the operator; and

(3) Has at least the following information:

WARNING — GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE OPERATE BLOWER FOR 4 MINUTES AND CHECK ENGINE COMPARTMENT BILGE FOR GASOLINE VAPORS.

§ 183.620 Natural ventilation system

(a) Except for compartments open to the atmosphere, a natural ventilation system that meets the requirements of § 183.630 must be provided for each compartment in a boat that:

(1) Contains a permanently installed gasoline engine

(2) Has openings between it and a compartment that requires ventilation ...;

(3) Contains a permanently installed fuel tank and an electrical component that is not ignition protected ...;

(4) Contains a fuel tank that vents into that compartment; or

(5) Contains a non-metallic fuel tank: ...

(b) Each supply opening required in § 183.630 must be located on the exterior surface of the boat.

(c) An accommodation compartment above a compartment requiring ventilation that is separated from the compartment requiring ventilation by a deck or other structure is excepted from paragraph (a)(2) of this section.

[CGD 76-082, 44 FR 73027, Dec. 17, 1979, as amended by CGD 76-082(a), 46 FR 27645, May 21, 1981; CGD 85-059, 51 FR 37577, Oct. 23, 1986; USCG-1999-5832, 64 FR 34716, June 29, 1999; USCG-1999-5151, 64 FR 67176, Dec. 1, 1999]

§ 183.630 Standards for natural ventilation

(a) For the purpose of Sec. 183.620, "natural ventilation" means an airflow in a compartment in a boat achieved by having:

(1) A supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere; and

(2) An exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere.

(b) Each exhaust opening or exhaust duct must originate in the lower third of the compartment.

(c) Each supply opening or supply duct and each exhaust opening or exhaust duct in a compartment must be above the normal accumulation of bilge water.

(d) ...

(e) The minimum internal cross-sectional area of each supply opening or duct and exhaust opening or duct must exceed 3.0 square inches.

(f) ...

[CGD 76-082, 44 FR 73027, Dec. 17, 1979; 45 FR 7544, Feb. 4, 1980]

CODE OF FEDERAL REGULATIONS, TITLE 46
Part 25 – Requirements (46 CFR 25)

SUBPART 25.30 – FIRE EXTINGUISHING EQUIPMENT
§ 25.30-10 Hand portable fire extinguishers and semiportable fire extinguishing systems

(a) Hand portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol. The letter indicating the type of fire which the unit could be expected to extinguish, and the number indicating the relative size of the unit.

(b) For the purpose of this subchapter, all required hand portable fire extinguishers and semiportable fire extinguishing systems are of the "B" type; i.e., suitable for extinguishing fires involving flammable liquids, greases, etc.

(c) The number designations for size will start with "I" for the smallest to "V" for the largest. For the purpose of this subchapter, only sizes I through III will be considered. Sizes I and II are considered hand portable fire extinguishers and sizes III, IV, and V are considered semiportable fire extinguishing systems which shall be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered.

(d), (e), (f), (g), (h),

[CGFR 65-50, 30 FR 16653, Dec. 30, 1965, as amended by CGFR 68-32, 33 FR 5711, Apr. 12, 1968; CGFR 69-18, 34 FR 5723, Mar. 27, 1969]

§ 25.30-15 Fixed fire extinguishing systems

(a) When a fixed fire extinguishing system is installed, it shall be of an approved carbon dioxide type, designed and installed in agreement with the applicable provisions of subpart 76.15 of subchapter H (Passenger Vessels) of this chapter.

§ 25.30-20 Fire extinguishing equipment required

(a) Motorboats.

(1) All motorboats shall carry at least the minimum number of hand portable fire extinguishers set forth in Table 25.30-20(a)(1), except that motorboats less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry such portable fire extinguishers if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.

Table 25.30-20(a)(1)

Minimum number of B-1 hand portable fire extinguishers required.

Class of motorboat	Length Length in feet	No fixed fire ext. system in machinery space	Fixed fire ext. system in machinery space
A	Under 16 feet	1	0
1	16 ft. and over, but under 26 ft.	1	0
2	26 ft. and over, but under 40 ft.	2	1
3	40 ft. and over, but not over 65 ft.	3	2

One B-11 hand portable fire extinguisher may be substituted for two B-I hand portable fire extinguishers.

(2) The intent of this regulation is illustrated in Figure 25.30-20(a1) where fire extinguishers are required if any one or more of the specified conditions exist, and in Figure 25.30-20(a2) where specified conditions do not, in themselves, require that fire extinguishers be carried.

Figure 25.30-20(a1)

Fire extinguishers are required if any one or more of the following conditions exist (numbers identifying conditions are the same as those placed in Figure 25.30-20 (a1)):

1. Closed compartment under thwarts and seats wherein portable fuel tanks may be stored.
2. Double bottoms not sealed to the hull or which are not completely filled with flotation material.
3. Close living spaces.
4. Closed stowage compartments in which combustible or flammable materials are stowed.
5. Permanently installed fuel tanks.

Figure 25.30-20(a2).

The following conditions do not, in themselves, require that fire extinguishers be carried (numbers identifying conditions are the same as those placed in Figure 25.30-20(a2):

1. Bait wells.
2. Glove compartments.
3. Buoyant flotation material.
4. Open slatted flooring.
5. Ice chests.

(b) Motor vessels.

(1) All motor vessels shall carry at least the minimum number of hand portable fire extinguishers set forth in Table 25.30-20(b) (1)

Table 25.30-20(b)(1)

Gross tonnage: Over	Not over	Minimum number of B-II hand portable fire extinguishers
	50	1
50	100	2
100	500	3
500	1,000	6
1,000		8

(2) In addition to the hand portable fire extinguishers required by paragraph (b)(1) of this section, the following fire-extinguishing equipment shall be fitted in the machinery space:

(i) One Type B-II hand portable fire extinguisher shall be carried for each 1,000 B.H.P. of the main engines or fraction thereof. However, not more than 6 such extinguishers need be carried.

(ii) On motor vessels of over 300 gross tons, either one Type B-III Semiportable fire-extinguishing system shall be fitted, or alternatively, a fixed fire-extinguishing system shall be fitted in the machinery space.

(3) The frame or support of each Type B-III fire extinguisher required by paragraph (b)(2)(ii) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

(4) If an approved semiportable fire extinguisher has wheels and is not required by this section, it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

(c) Barges carrying passengers.

(1) Every barge of 65 feet in length or less while carrying passengers when towed or pushed by a motorboat, motor vessel, or steam vessel shall be fitted with hand portable fire extinguishers as required by Table 25.30-20(a)(1), depending upon the length of the barge.

(2) Every barge of over 65 feet in length while carrying passengers when towed or pushed by a motorboat, motor vessel, or steam vessel shall be fitted with hand portable fire extinguishers as required by Table 25.30-20(b)(1), depending upon the gross tonnage of the barge.

[CGFR 65-50, 30 FR 16653, Dec. 30, 1965, as amended by CGD 77-039, 44 FR 34132, June 14, 1979; CGD 97-057, 62 FR 51042, Sept. 30, 1997]

SUBPART 25.35 – BACKFIRE FLAME CONTROL

§ 25.35-1 Requirements

(a) Every gasoline engine installed in a motorboat or motor vessel after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control.

(b) Installations made before November 19, 1952, need not meet the detailed requirements of this subpart and may be continued in use as long as they are serviceable and in good condition. Replacements shall meet the applicable conditions in this section.

(c) Installations consisting of backfire flame arresters bearing basic Approval Nos. 162.015 or 162.041 or engine air and fuel induction systems bearing basic Approval Nos. 162.015 or 162.042 may be continued in use as long as they are serviceable and in good condition. New installations or replacements must meet applicable requirements of subpart 58.10 of this chapter.

[CGFR 65-50, 30 FR 16653, Dec. 30, 1965, as amended by CGD 88-032, 56 FR 35820, July 29, 1991]

* SPECIAL NOTE: ALR PROCESS

Administrative (Driver's) License Revocation (ALR):

- There is Automatic DL suspension for a person who is arrested for BWI, Intoxication Assault (Watercraft), Intoxication Manslaughter (Watercraft) or DWI With Child Passenger and who provides a breath or blood sample with a BAC of .08 or higher.
- Minor who is operating a watercraft while having any detectable amount of alcohol in the minor's system may be cited and released (Class C Offense and Automatic DL suspension).
- There is still no DL suspension for refusal to provide a breath/blood sample in BWI cases unless the watercraft is powered by an engine having a manufacturer's rating of 50 hp or more.
- An arrestee is required to provide a mandatory breath/blood sample if:
  - Another person is seriously injured and transported to a medical facility for treatment;
  - The offense is DWI With Child Passenger;
  - The arresting officer has reliable information from a credible source that the arrestee has a prior conviction for Intoxication Assault, Intoxication Manslaughter, or DWI With Child Passenger; or
  - The arresting officer has reliable information from a credible source that the arrestee has two or more prior convictions for intoxication offenses, including DWI and/or BWI.
- Any magistrate who is a licensed attorney may issue a search warrant to collect blood from a person who is arrested for an intoxication offense and refuses the officer's request for a breath or blood sample.

ALR provisions and required forms:

For all BWI arrests for operating a watercraft powered with an engine having a manufacturer's rating of 50 horsepower or above:
Complete form DIC-23 Peace Officer's Sworn Report; and
Complete form DIC-24-B Statutory Warning
Complete a DIC-25 Notice of Suspension/Temporary Driving Permit.
Forward forms DIC-23, DIC 24-B, DIC-25, and subject's driver's license to DPS.

For BWI arrests for operating a watercraft powered with an engine having a manufacturer's rating of less than 50 horsepower (ALR does not apply):
Complete a TPW form PWD 168 Peace Officer BWI Statutory Warning-Watercraft Less than 50 Horsepower (no forms are forwarded to DPS for ALR purposes).

Marine Theft/Fraud References: Texas laws routinely used in prosecuting boat (and PWC), outboard motor, and boat trailer, theft or fraudulent transactions.

www.statutes.legis.state.tx.us

Texas Penal Code
Section 31.11. Tampering with Identification Numbers

Texas Transportation Code
Section 501.151 Placement of serial number with intent to change identity

Section 501.158 Seizure of stolen vehicle or vehicle with altered serial number

Texas Code of Criminal Procedure
Chapter 47 Disposition of Stolen Property
(includes) Article 47.01, Article 47.01A, Article 47.02, Article 47.03, Article 47.04, Article 47.09, Article 47.12

Texas Tax Code
Section 160.061. Operation; Penalty

(a) A person commits an offense if the person knowingly operates a taxable boat or motor in this state and the person knows that a tax imposed by this chapter on the boat or motor has not been paid and is delinquent.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Section 160.062. Penalty For Signing False Affidavits

(a) A person commits an offense if the person signs a joint affidavit required by Section 160.042 and knows that it is false in any material fact.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed $500.

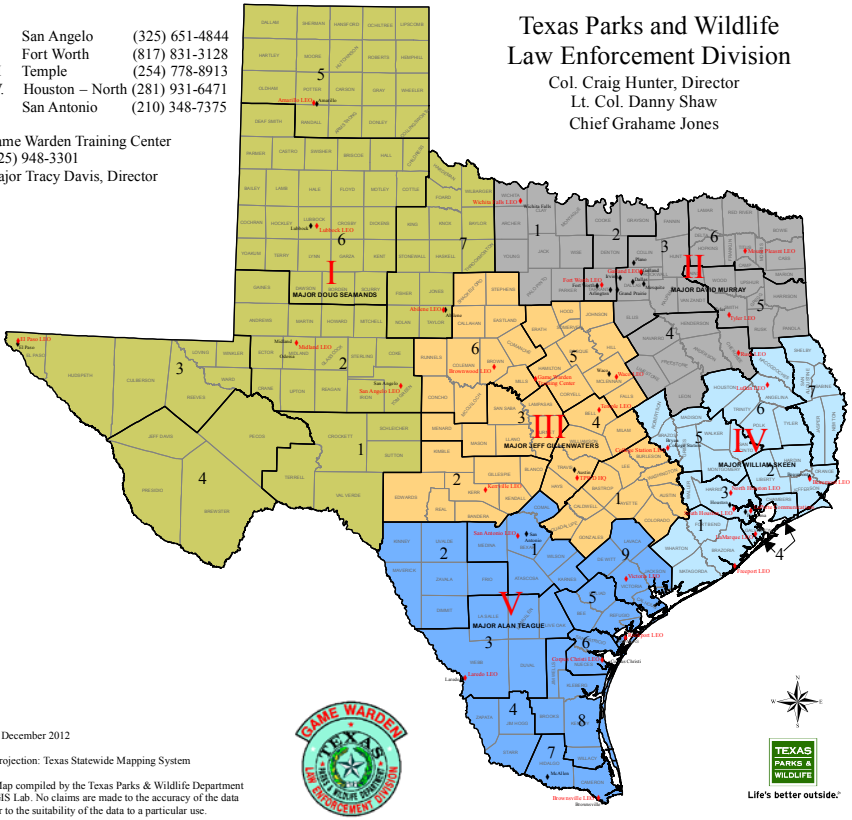
Added by Acts 1993, 73rd Leg., ch. 587, Sec. 32, eff. Oct. 1, 1993.

LAW ENFORCEMENT REGIONS AND DISTRICTS

I.	San Angelo	(325) 651-4844
II.	Fort Worth	(817) 831-3128
III	Temple	(254) 778-8913
IV.	Houston – North	(281) 931-6471
V.	San Antonio	(210) 348-7375

Game Warden Training Center
(325) 948-3301
Major Tracy Davis, Director

Texas Parks and Wildlife
Law Enforcement Division
Col. Craig Hunter, Director
Lt. Col. Danny Shaw
Chief Grahame Jones



5 December 2012

Projection: Texas Statewide Mapping System

Map compiled by the Texas Parks & Wildlife Department GIS Lab. No claims are made to the accuracy of the data or to the suitability of the data to a particular use.

Life's better outside.®

CONVERSION TABLE

Conversion of metric to U.S. Customary/Imperialo Units

Metric		*US (ft)*	
50	Meters	164.0 ft.	
25	Meters	82.0 ft.	
20	Meters	65.6 ft.	
12.19	**Meters**	**40 ft.**	**(Class 3 vessel: 40>ft.)**
12	Meters	39.4 ft.	
10	Meters	32.8 ft.	
8	Meters	26.2 ft.	
7.9	**Meters**	**26 ft.**	**(Class 2 vessel: 26 ft. < 40 ft.)**
7	Meters	23.0 ft.	
6	Meters	19.7 ft.	
5	Meters	16.4 ft.	
4.88	**Meters**	**16 ft.**	**(Class 1 vessel: 16> ft.)**
2.0	Meters	6.56 ft	(Class A vessel is less than 16 ft.)
1.0	Meter	3.28 ft.	

Game Warden Michael Hummert

2012 Texas Marine Officer of the Year

Game Warden Kevin Glass

2013 Texas Marine Officer of the Year

Ranger Chatt Cottle

Lower Colorado River Authority

2012 Marine Safety Enforcement Officer of the Year

Equal opportunity to participate and benefit from the Texas Parks and Wildlife's recreational boating safety program is available to all individuals regardless of race, color, national origin, sex, age or disability. Discrimination inquiries or complaints should be sent to General Counsel, Texas Parks and Wildlife, 4200 Smith School Road, Austin,Texas 78744 or the Office of Civil Rights, U.S. Coast Guard (G-HPE), Washington, D.C. 20593-0001.

TEXAS PARKS & WILDLIFE

Life's better outside.®

4200 Smith School Road
Austin, Texas 78744
www.tpwd.state.tx.us

© 2013 Texas Parks and Wildlife Department PWD BK L2000-014 (8/13)
Dispersal of this publication conforms with Texas State Documents Depository Law, and it is available at Texas State Publications Clearinghouse and/or Texas Depository Libraries.

Printed on recycled paper.