

CHAPTER 109**(SB 66)**

AN ACT relating to boating law enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 235.310 is amended to read as follows:

- (1) The commissioner of the Department of Fish and Wildlife Resources shall designate officers and employees of the department to enforce the provisions of this chapter, and these officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter, these officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, ~~but~~ *and* shall **only** have the right to *stop or* enter upon ~~all~~ boats on such waters *if the officer has a reasonable and articulable suspicion based upon specific and articulable facts which, taken together with rational inferences from those facts, demonstrate that a violation of the Kentucky Revised Statutes or an administrative regulation promulgated under this chapter has occurred, with any subsequent search of the boat or persons on it being authorized only if supported by probable cause. The provisions of this section shall not apply to license inspections under KRS 150.090(5), but only as to those licenses and items specified in that section* ~~for the purpose of examining their registration documents and inspect their marine sanitation device to determine if it is the proper kind for the water body where the boat is kept or operated and that the device is properly operating. To conduct the marine sanitation device inspection the department officers and employees may require a motorboat owner to flush a dye through the marine toilet in the presence of the department officers or employees or use other appropriate measures to inspect the device~~. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.
- (2) The officers designated in subsection (1) of this section shall be authorized to possess and use radio communication equipment capable of receiving and transmitting on state police radio frequency. The Department of Kentucky State Police shall cooperate with the department for the purpose of radio communication of these officers when any assistance is necessary.
- (3) *The department may conduct periodic inspections of marine sanitation devices according to a regular inspection schedule to be determined by the department. To conduct the marine sanitation device inspection the department officers and employees may require a motorboat owner to flush a dye through the marine toilet in the presence of the department officers or employees or use other appropriate measures to inspect the device.*

➔Section 2. KRS 235.285 is amended to read as follows:

- (1) A personal watercraft may be used to tow individuals engaged in waterskiing or similar activities if it has adequate seating capacity and an observer on board to monitor the progress of the person being towed, or if it is equipped with a rearview mirror with a minimum field of vision of one hundred sixty (160) degrees mounted so that the operator can observe the activities of the person being towed.
- (2) A person shall not operate a personal watercraft on public waters unless every individual operating or riding on the personal watercraft is wearing a personal flotation device that is approved by the United States Coast Guard under 46 C.F.R. sec. 160, *as it may be amended or renumbered*.
- (3) A personal watercraft that does not have self-circling capability shall not be operated on public waters unless:
 - (a) The personal watercraft is equipped with a lanyard-type engine cutoff switch; and
 - (b) The lanyard is attached to the person, clothing, or personal flotation device of the operator.
- (4) A ~~vessel~~ *personal watercraft or motorboat* operated on public waters shall be operated at all times according to the *provisions of this chapter and the administrative regulations promulgated hereunder* ~~["Rules of the Road" in the Inland Navigation Rules, 33 C.F.R. pt. 83]. A vessel~~ *personal watercraft or motorboat* shall be operated at all times in a reasonable and prudent manner so as not to endanger human life, human physical

safety, or property. A person shall not do any of the following while operating a ~~vessel~~~~personal watercraft or motorboat~~ on public waters:

- (a) Weave through congested watercraft traffic in a way that endangers human life, human physical safety, or property;
 - (b) Follow a watercraft that is towing an individual on water skis, a surfboard, or a water sport device in a way that endangers human life, human physical safety, or property;
 - (c) Jump the wake of another watercraft in a way that endangers human life, human physical safety, or property;
 - (d) Cut between a boat and the individual or individuals being towed by the boat;
 - (e) Cross paths with another watercraft when visibility around the other watercraft is so obstructed as to endanger human life, human physical safety, or property; or
 - (f) Steer a personal watercraft or motorboat toward an object or individual in the water and turn sharply at close range in a way that endangers human life, human physical safety, or property.
- (5) A person shall not operate a personal watercraft on public waters at any time between sunset and the following sunrise.
 - (6) A person shall not operate a ~~vessel~~~~motorboat or personal watercraft~~ within fifty (50) feet of a commercial motor vessel and its tow which is in operation on a waterway, except if the operator of the commercial motor vessel has given his or her consent.
 - (7)
 - (a) A person under twelve (12) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth.
 - (b) Effective January 1, 1999, a person twelve (12) years of age through seventeen (17) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth unless the person is in possession of a safe boating certificate or is accompanied, on board, by a person eighteen (18) years of age or older or in possession of a safe boating certificate.
 - (c) While operating a motorboat or a personal watercraft over ten (10) horsepower on the public waters of the Commonwealth, nonresidents twelve (12) years of age through seventeen (17) years of age shall have in their possession a Kentucky safe boating certificate or a recognized and equivalent boat operator licensing or safe boating certificate from another state or country.
 - (8) Subsections (1) to (6) of this section shall not apply to:
 - (a) A performer engaged in a professional exhibition; or
 - (b) A person participating in a regatta, a race, a marine parade, a tournament, or an exhibit that is held in compliance with administrative regulations adopted by the department.
 - (9) The parent, legal guardian, or other adult who has direct supervision over a minor under the age of eighteen (18) shall not knowingly authorize or permit the minor to operate a motorboat or personal watercraft in violation of this section.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

On or before October 31 of each year, the Department of Fish and Wildlife Resources shall submit a report to the Legislative Research Commission, for referral to the appropriate interim joint committee, detailing the continued training measures that the department has undertaken during the past year for law enforcement officers in the areas of enforcement policy and professionalism training to enhance the public's experience in interacting with the department's officers and in enjoying outdoor activities while maintaining a safe and lawful environment. The report shall also include any changes that the department implemented during the past year regarding its law enforcement practices and interactions with the public.

➔Section 4. This Act shall be known and may be cited as the Boater Freedom Act.

Signed by Governor April 10, 2014.