

# ASSEMBLY, No. 1045

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman DAVID W. WOLFE**

**District 10 (Monmouth and Ocean)**

**Assemblyman SEAN T. KEAN**

**District 11 (Monmouth)**

**Co-Sponsored by:**

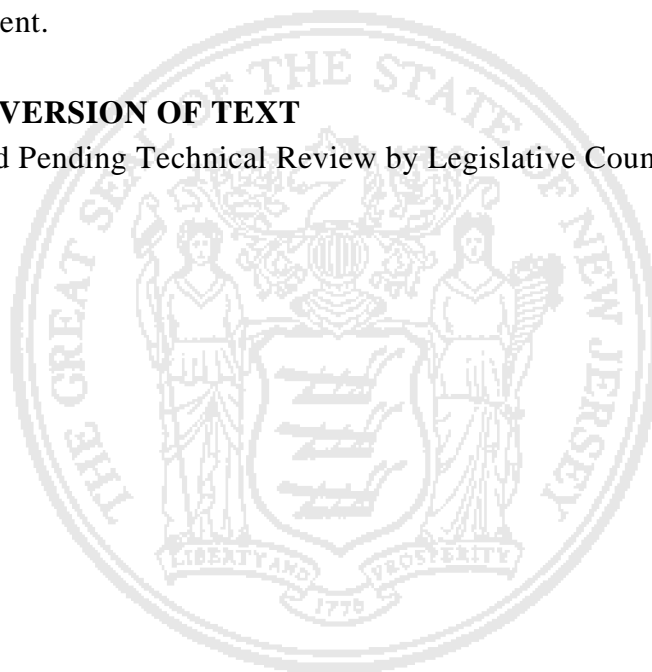
**Assemblymen Diegnan and Wisniewski**

**SYNOPSIS**

Provides four-year phase-in of boat safety course requirement for operating power vessels and personal watercraft; restates age requirements for power vessel operation and exceptions to course requirement; appropriates \$2 million for enforcement.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/6/2004)**

1 AN ACT concerning boat safety courses and the operation of power  
2 vessels and personal watercraft, supplementing P.L.1995, c.401  
3 (C.12:7-70 et seq.), amending P.L.1997, c.152 and P.L.1982, c.77,  
4 repealing sections of statutory law, and making an appropriation.  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. (New section) a. Commencing June 1, 2004, no person under  
10 the age of 35 shall operate a power vessel or a personal watercraft on  
11 the waters of this State, without having successfully completed a boat  
12 safety course approved by the Superintendent of State Police in the  
13 Department of Law and Public Safety pursuant to section 1 of  
14 P.L.1987, c.453 (C.12:7-60) and having in the person's possession a  
15 certificate certifying that person's successful completion of the boat  
16 safety course, except as provided pursuant to section 4 or section 5 of  
17 this act.

18 b. Commencing June 1, 2005, no person under the age of 45 shall  
19 operate a power vessel or a personal watercraft on the waters of this  
20 State, without having successfully completed a boat safety course  
21 approved by the Superintendent of State Police in the Department of  
22 Law and Public Safety pursuant to section 1 of P.L.1987, c.453  
23 (C.12:7-60) and having in the person's possession a certificate  
24 certifying that person's successful completion of the boat safety  
25 course, except as provided pursuant to section 4 or section 5 of this  
26 act.

27 c. Commencing June 1, 2006, no person under the age of 55 shall  
28 operate a power vessel or a personal watercraft on the waters of this  
29 State, without having successfully completed a boat safety course  
30 approved by the Superintendent of State Police in the Department of  
31 Law and Public Safety pursuant to section 1 of P.L.1987, c.453  
32 (C.12:7-60) and having in the person's possession a certificate  
33 certifying that person's successful completion of the boat safety  
34 course, except as provided pursuant to section 4 or section 5 of this  
35 act.

36 d. Commencing June 1, 2007, no person shall operate a power  
37 vessel or a personal watercraft on the waters of this State, without  
38 having successfully completed a boat safety course approved by the  
39 Superintendent of State Police in the Department of Law and Public  
40 Safety pursuant to section 1 of P.L.1987, c.453 (C.12:7-60) and  
41 having in the person's possession a certificate certifying that person's  
42 successful completion of the boat safety course, except as provided  
43 pursuant to section 4 or section 5 of this act.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       2. (New section) a. The provisions of section 1 of this act to the  
2 contrary notwithstanding, no person under the age of 16 and at least  
3 13 years of age may operate a power vessel on the waters of the State  
4 unless:

5       (1) the person possesses a certificate certifying that person's  
6 successful completion of a boat safety course approved by the  
7 Superintendent of State Police in the Department of Law and Public  
8 Safety pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), or has  
9 satisfied the boat safety education requirement pursuant to section 2  
10 of this act; and

11       (2) the power vessel is:

12       (a) powered solely by a motor of less than one horsepower or an  
13 electric motor of 12 volts or less; or

14       (b) 12 feet or greater in length and powered by a motor, or  
15 combination of motors, of less than 10 horsepower.

16       No person under the age of 13 shall operate a power vessel or a  
17 personal watercraft on the waters of the State.

18       b. The provisions of section 1 and section 14 of this act to the  
19 contrary notwithstanding, any person operating a power vessel or a  
20 personal watercraft on the waters of this State who was required prior  
21 to the effective date of this act to have successfully completed a boat  
22 safety course approved by the Superintendent of State Police in the  
23 Department of Law and Public Safety pursuant to section 1 of  
24 P.L.1987, c.453 (C.12:7-60) and possess a certificate certifying that  
25 person's successful completion of the boat safety course, shall continue  
26 to be required to have successfully completed the boat safety course  
27 and possess a certificate certifying that person's successful completion  
28 of the boat safety course.

29

30       3. (New section) a. The provisions of section 1 of this act to the  
31 contrary notwithstanding:

32       (1) An out-of State resident, or a resident of a foreign country,  
33 who is 18 years of age or older and who will be in this State for less  
34 than 90 days may operate a power vessel on the waters of this State,  
35 without having completed a boat safety course approved by the  
36 Superintendent of State Police in the Department of Law and Public  
37 Safety, provided that the power vessel is registered in that person's  
38 state or country of residence and in that person's name, and is not a  
39 personal watercraft;

40       (2) A person who is 18 years of age or older may operate, without  
41 having completed a boat safety course approved by the Superintendent  
42 of State Police in the Department of Law and Public Safety, a rented  
43 power vessel that is powered by a motor, or combination of motors,  
44 of more than 10 horsepower on the waters of this State provided that:

45       (a) the power vessel is not a personal watercraft;

46       (b) the person renting the power vessel rents the power vessel from

1 a business engaged in renting power vessels for use on the waters of  
2 the State;

3 (c) the person renting the power vessel has successfully completed  
4 a State-approved pre-rental instruction course provided by the owner  
5 or lessor of the power vessel prior to operating the power vessel on  
6 the waters of the State; and

7 (d) the owner of the power vessel rental business is experienced in  
8 the operation of power vessels and has successfully completed a boat  
9 safety course approved by the Superintendent of State Police in the  
10 Department of Law and Public Safety; and;

11 (3) A person who is 18 years of age or older who purchases for the  
12 first time a power vessel that is not a personal watercraft at a boat  
13 dealership may operate that power vessel for 60 days without having  
14 completed a boat safety course approved by the Superintendent of  
15 State Police in the Department of Law and Public Safety provided that  
16 the person successfully completes a State-approved pre-first-time-  
17 purchase instruction course provided by the owner or operator of the  
18 boat dealership prior to operating the power vessel, and the owner or  
19 operator of the boat dealership is experienced in the operation of  
20 power vessels and has successfully completed a boat safety course  
21 approved by the Superintendent of State Police in the Department of  
22 Law and Public Safety. The provisions of this subsection shall not  
23 apply to a person purchasing a boat for the first time from another  
24 private party.

25 b. The Superintendent of State Police shall establish appropriate  
26 guidelines to implement the provisions of this section and shall adopt,  
27 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
28 (C.52:14B-1 et seq.), rules and regulations providing for the pre-rental  
29 instruction course required pursuant to paragraph (2) of subsection a.  
30 of this section and the pre-first-time-purchase instruction course  
31 required pursuant to paragraph (3) of subsection a. of this section, and  
32 the State approval thereof.

33  
34 4. (New section) a. The Superintendent of State Police shall  
35 develop, and the superintendent, or the designee thereof, shall  
36 administer, a written test for experienced boaters which shall be issued  
37 in lieu of completing the boat safety course required pursuant to  
38 section 1 of this act. Upon successful completion of the test, the  
39 person shall be given a certificate which shall fulfill the certificate  
40 requirement under section 1 of this act and shall be required to be in  
41 the person's possession as provided in that section.

42 b. A person who takes a test pursuant to subsection a. of this  
43 section shall pay a fee as determined by the superintendent to defray  
44 the costs of developing and administering the test and issuing  
45 certificates to persons who successfully complete the test.

46 c. In addition to all other penalties provided by law, a person who

1 provides false information on an application for a written test issued  
2 pursuant to subsection a. of this section shall be subject to a fine of  
3 \$100.

4 d. The superintendent shall determine the qualifications for  
5 application and all other requirements under this section.

6 e. The superintendent shall be exempt from the provisions of the  
7 "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et  
8 seq.), in performing the requirements of this section.

9  
10 5. (New section) No provision of this act shall be construed to  
11 require any person who has successfully completed boat safety  
12 education, other than a boat safety course approved by the  
13 Superintendent of State Police in the Department of Law and Public  
14 Safety pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), to  
15 complete an additional boat safety course, provided that the  
16 superintendent determines the boat safety education to be satisfactory  
17 for the purposes of meeting the requirements of this act. The  
18 superintendent shall adopt, pursuant to the "Administrative Procedure  
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
20 providing for such determinations to be made, such persons to receive  
21 a certificate fulfilling the requirements of this act, and any other  
22 provisions necessary for the implementation of this act. Any  
23 certificate issued pursuant to this section shall fulfill the certificate  
24 requirement under section 1 of this act and shall be required to be in  
25 the person's possession as provided pursuant to that section.

26  
27 6. (New section) Whenever a person who is required by this act  
28 or by section 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of  
29 P.L.1952, c.157 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986,  
30 c.39 (C.12:7-57) to have completed a boat safety course operates a  
31 power vessel or personal watercraft, as appropriate, on the waters of  
32 this State, that person shall have in the person's possession a certificate  
33 certifying that person's successful completion of a boat safety course  
34 approved by the Superintendent of State Police in the Department of  
35 Law and Public Safety pursuant to section 1 of P.L.1987, c.453  
36 (C.12:7-60). The person shall, when requested to do so, exhibit the  
37 certificate to a law enforcement or peace officer of this State. Failure  
38 of the person to exhibit the certificate is presumptive evidence that the  
39 person has not completed an approved boat safety course.

40  
41 7. (New section) a. A person who violates sections 1, 2, or 3 of  
42 this act or who exhibits to a law enforcement or peace officer a  
43 certificate of completion of an approved boat safety course of another  
44 person is subject to a fine of not less than \$100 nor more than \$500.

45 b. A person who owns or has control or custody of a power vessel  
46 and allows the power vessel to be operated on the waters of this State

1 by a person who is required pursuant to the provisions of this section  
2 to possess a certificate certifying successful completion of a boat  
3 safety course but who does not possess such certificate is subject to  
4 a fine of not more than \$100.

5 c. A person making application to the Director of the Division of  
6 Motor Vehicles for a power vessel operator's license issued pursuant  
7 to section 3 of P.L.1995, c.401 (C.12:7-72) who is required pursuant  
8 to the provisions of this act to possess a certificate certifying  
9 successful completion of a boat safety course shall submit the original  
10 or a copy of the certificate with the application. The director shall not  
11 issue a power vessel operator's license to such person who fails to  
12 submit the original or a copy of the certificate.

13  
14 8. (New section) Notwithstanding any provisions of the "Power  
15 Vessel Noise Control Act," P.L.1987, c.269 (C.12:7-23.1 et seq.) or  
16 any other law, or any rule or regulation adopted pursuant thereto, to  
17 the contrary, any municipality in which a power vessel or personal  
18 watercraft is operated may enforce the State noise rules and  
19 regulations against a person operating a power vessel or personal  
20 watercraft within the jurisdiction of the municipality at decibel levels  
21 exceeding the limits established pursuant to rules and regulations as  
22 measured by a noise meter operated by a trained police officer.

23  
24 9. Section 4 of P.L.1997, c.152 (C.12:7-74.1) is amended to read  
25 as follows:

26 4. In addition to all other remedies permitted and duties required  
27 by law, the owner of a personal watercraft shall be jointly liable for  
28 damage incurred by another person operating the owner's personal  
29 watercraft if the owner knowingly allows the person to operate the  
30 owner's personal watercraft[,] and the operator has not successfully  
31 completed a boat safety course required pursuant to [subsection c. of  
32 section 2 of P.L.1987, c.453 (C.12:7-61) or] section 1 of P.L. , c.  
33 (C. ) (now pending before the Legislature as this bill), a written  
34 test administered pursuant to section 17 of P.L.1995, c.401 [and the  
35 operator is not exempt from the boat safety certificate requirement  
36 pursuant to subsection a. or c. of section 18 of P.L.1995, c.401  
37 (C.12:7-86)] or section 4 of P.L. , c. (C. ) (now pending before  
38 the Legislature as this bill), or has otherwise met the boat safety  
39 education requirement pursuant to section 5 of this act.

40 (cf: P.L.1997,c.152,s.4.)

41  
42 10. Section 4 of P.L.1982, c.77 (C.2A:4A-23) is amended to read  
43 as follows:

44 4. Definition of delinquency. As used in this act, "delinquency"  
45 means the commission of an act by a juvenile which if committed by  
46 an adult would constitute:

- 1 a. A crime;  
2 b. A disorderly persons offense or petty disorderly persons offense;  
3 or  
4 c. A violation of any other penal statute, ordinance or regulation.

5 But, the commission of (1) an act which constitutes a violation of  
6 chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of  
7 any age; (2) an act relating to the ownership or operation of a  
8 motorized bicycle which constitutes a violation of chapter 3 or 4 of  
9 Title 39 of the Revised Statutes by a juvenile of any age; (3) an act  
10 which constitutes a violation of article 3 or 6 of chapter 4 of Title 39  
11 of the Revised Statutes pertaining to pedestrians and bicycles, by a  
12 juvenile of any age; (4) the commission of an act which constitutes a  
13 violation of P.L.1981, c.318 (C.26:3D-1 et seq.), P.L.1981, c.319  
14 (C.26:3D-7 et seq.), P.L.1981, c.320 (C.26:3D-15 et seq.), P.L.1985,  
15 c.185 (C.26:3E-7 et seq.), P.L.1985, c.186 (C.26:3D-32 et seq.),  
16 N.J.S.2C:33-13, P.L.1985, c.318 (C.26:3D-38 et seq.), P.L.1985,  
17 c.381 (C.26:3D-46 et seq.), or of any amendment or supplement  
18 thereof, by a juvenile of any age; (5) an act which constitutes a  
19 violation of chapter 7 of Title 12 of the Revised Statutes relating to  
20 the regulation and registration of power vessels, by a juvenile of any  
21 age or [section 2 of P.L.1987, c.453 (C.12:7-61)] any provision of  
22 P.L. , c. (C. )(now pending before the Legislature as this bill);  
23 or (6) an act which constitutes a violation of a municipal ordinance  
24 enacted pursuant to section 2 of P.L.1992, c.132 (C.40:48-2.52)  
25 pertaining to curfew ordinances shall not constitute delinquency as  
26 defined in this act. The municipal court having jurisdiction over a case  
27 involving a violation by a juvenile of a section of Title 26 listed in this  
28 subsection, Title 40 listed in this subsection or N.J.S.2C:33-13, shall  
29 forward a copy of the record of conviction in that case to the Family  
30 Part intake service of the county where the municipal court is located.  
31 If a municipal court orders detention or imposes a term of  
32 imprisonment on a juvenile in connection with a violation of Title 39  
33 of the Revised Statutes, chapter 7 of Title 12 of the Revised Statutes,  
34 Title 40 of the Revised Statutes or N.J.S.2C:33-13, that detention or  
35 term of imprisonment shall be served at a suitable juvenile institution  
36 and not at a county jail or county workhouse.  
37 (cf: P.L.1997, c.383, s.1)

38  
39 11. (New section) The requirements of this act shall not apply to  
40 any person holding a commercial fishing license or a Coast Guard  
41 license, except as may be otherwise required by State or federal law.  
42

43 12. (New section) Notwithstanding the repeal of section 2 of  
44 P.L.1987, c.453 (C.12:7-61) and section 12 of P.L.1995, c.401  
45 (C.12:7-86) pursuant to section 14 of this act, any action pending for  
46 violations under section 2 of P.L.1987, c.453 (C.12:7-61) or section

1 12 of P.L.1995, c.401 (C.12:7-86) committed before the effective date  
2 of this act shall continue under section 2 of P.L.1987, c.453 (C.12:7-  
3 61) or section 12 of P.L.1995, c.401 (C.12:7-86) as applicable, and  
4 the jurisdiction set forth in P.L.1982, c.77 (C.2A:4A-23) shall not be  
5 affected.

6  
7 13. There is appropriated from the General Fund to the  
8 Department of Law and Public Safety a sum in the amount of  
9 \$2,000,000 for increasing the patrolling of the waters of the State by  
10 marine police for the purposes of enforcing this act.

11  
12 14. Section 2 of P.L.1987, c.463 (C.12:7-61) and section 12 of  
13 P.L.1995, c.401 (C.12:7-86) are hereby repealed.

14  
15 15. This act shall take effect immediately.

16  
17  
18 STATEMENT

19  
20 This bill phases in over a four-year period a prohibition against any  
21 person operating a power vessel or a personal watercraft on the waters  
22 of the State, without having successfully completed a boat safety  
23 course approved by the Superintendent of State Police in the  
24 Department of Law and Public Safety and having in the person's  
25 possession a certificate certifying that person's successful completion  
26 of a boat safety course approved by the Superintendent of State Police  
27 in the Department of Law and Public Safety, with certain exceptions.

28 Section 4 of the bill provides for a written test for experienced  
29 boaters to replace the course requirement, and further provides for the  
30 issue of the required certificate. Section 5 of the bill provides for the  
31 Superintendent of the State Police to issue the required certificate to  
32 persons who have completed other boat safety education that the  
33 superintendent determines to fulfill the requirements of this act. In  
34 addition, persons holding a commercial fishing license or a Coast  
35 guard license are exempted, except as may be otherwise required by  
36 State or federal law. Persons from out-of-State staying less than 90  
37 days and operating their own boat, persons renting a boat who have  
38 taken pre-rental safety course, and first time boat owners for the first  
39 60 days of ownership are also exempted.

40 The phase-in applies to anyone under the age of 35 on June 1,  
41 2004; anyone under the age of 45 on June 1, 2005; anyone under the  
42 age of 55 on June 1, 2006; and anyone operating a power vessel or  
43 personal watercraft on June 1, 2007.

44 Furthermore, the bill repeals sections of statutory law that conflict  
45 with the bill's requirements, and provides for pending actions for  
46 violations committed before the effective date of this act to continue

1 under the repealed sections of law. The bill also restates several  
2 provisions of the existing law. It restates the current penalties for  
3 violations and the requirement to submit a copy of the certificate  
4 certifying successful completion of the boat safety course when  
5 applying for a power vessel operator's license. The bill clarifies that  
6 no person under the age of 13 may operate a power vessel or a  
7 personal watercraft on the waters of the State. The bill restates the  
8 current prohibition against any person under the age of 16 and at least  
9 13 years of age operating a power vessel on the waters of the State  
10 unless the person possesses a certificate certifying that person's  
11 successful completion of a boat safety course approved by the  
12 Superintendent of State Police in the Department of Law and Public  
13 Safety, and unless the power vessel is:

14 (1) powered solely by a motor of less than one horsepower or an  
15 electric motor of 12 volts or less; or

16 (2) 12 feet or greater in length and powered by a motor, or  
17 combination of motors, of less than 10 horsepower.

18 The bill also clarifies that any municipality in which a power vessel  
19 or personal watercraft is operated may enforce the State noise  
20 regulations and requirements against the person operating a power  
21 vessel or personal watercraft within the jurisdiction of the municipality  
22 at decibel levels exceeding the limits established pursuant to rules and  
23 regulations as measured by a noise meter operated by a trained police  
24 officer.

25 Finally, the bill appropriates \$2 million for increased patrolling by  
26 marine police for the purposes of enforcing the act.