

[Third Reprint]

ASSEMBLY, No. 2624

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MAY 3, 2004

Sponsored by:

Assemblyman ROBERT J. SMITH
District 4 (Camden and Gloucester)
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

Co-Sponsored by:

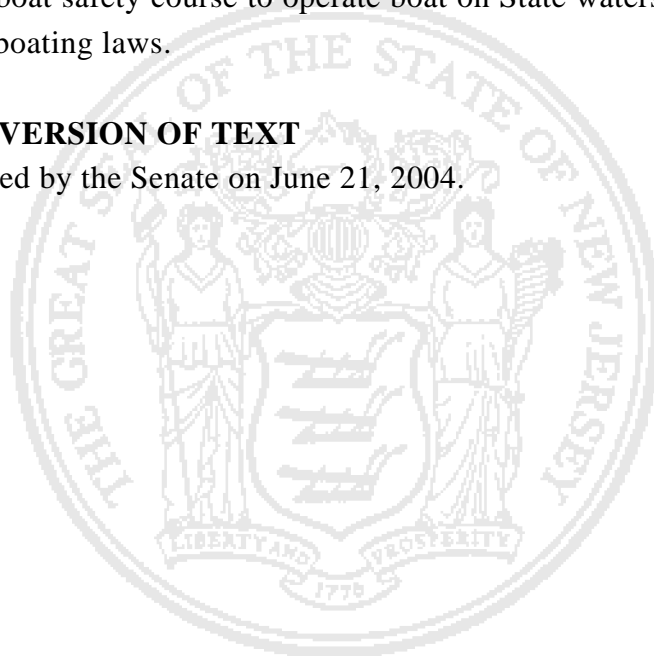
Assemblymen Diegnan, Conners, Chivukula, Senators Ciesla, Karcher and Madden

SYNOPSIS

Requires boat safety course to operate boat on State waters; revises other recreational boating laws.

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2004.



(Sponsorship Updated As Of: 6/25/2004)

1 AN ACT concerning boating safety, amending and supplementing
 2 various parts of the statutory law, ³and³ repealing section 3 of
 3 P.L.1997, c.152 ³[and making an appropriation]³

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 ³[¹1. ²(New section)² a. Notwithstanding any law, or rule or
 9 regulation adopted pursuant thereto, to the contrary, no person may
 10 operate, on or after the first day of June two years after the date of
 11 enactment of P.L. _____, c. _____ (C. _____)(now before the Legislature
 12 as this bill), a sailboat as defined under section 2 of P.L.1995, c.401
 13 (C.12:7-71), or a sailboat that is a power vessel as defined under
 14 section 2 of P.L.1995, c.401 (C.12:7-71), and that is in excess of 12
 15 feet in length, without having successfully completed an approved boat
 16 safety course or the written test provided for under subsection b. of
 17 this section and having in their possession while operating the vessel
 18 a certificate certifying the person has successfully completed the
 19 required boat safety course or has successfully completed the written
 20 test provided for under subsection b. of this section. The
 21 Superintendent of State Police shall determine the boat safety courses
 22 to be approved for persons operating the sailboats provided for under
 23 this subsection, and shall make available to the public a list of the
 24 approved boat safety courses.

25 b. The Superintendent of State Police shall also develop, and the
 26 superintendent, or a designee, shall administer a written test for
 27 experienced boaters that shall be issued in lieu of completing an
 28 approved boat safety course required pursuant to this section. ²For
 29 the purposes of this subsection, "experienced boater" means a boater
 30 who has, in aggregate, owned a registered sailboat for at least seven
 31 years.² To the extent practicable, the superintendent shall consult with
 32 groups concerned with nationwide standardization of such tests. Upon
 33 successful completion of the test, a person shall be given a certificate
 34 as proof of successful completion of the test for the purposes of
 35 complying with the provisions of subsection a. of this section. A
 36 person may only take one test pursuant to this subsection. Any person
 37 who takes the test provided for pursuant to this subsection shall pay
 38 a fee as determined by the superintendent to defray the costs of
 39 developing and administering the test and issuing certificates to
 40 persons who successfully complete the test.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAN committee amendments adopted May 17, 2004.

² Assembly floor amendments adopted June 10, 2004.

³ Senate floor amendments adopted June 21, 2004.

1 c. In addition to all other penalties provided by law, a person who
2 provides false information on an application for a written test issued
3 pursuant to subsection b. of this section shall be subject to a fine of
4 \$100.

5 d. The Superintendent of State Police shall determine the
6 qualifications for an application to take the written test and all other
7 requirements under this section. The superintendent shall be exempt
8 from the provisions of the "Administrative Procedure Act," P.L.1968,
9 410 (C.52:14B-1 et seq.), in performing the requirements of this
10 section.

11 e. Whenever a person who is required by this section or by section
12 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157
13 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57)
14 to have completed a boat safety course operates a sailboat in excess
15 of 12 feet in length on the waters of this State, that person shall have
16 in the person's possession a certificate certifying that person's
17 successful completion of a boat safety course approved by the
18 Superintendent of State Police and shall, when requested to do so,
19 exhibit the certificate to a law enforcement or peace officer of the
20 State. Failure of the person to exhibit the certificate is presumptive
21 evidence that the person has not completed an approved boat safety
22 course.

23 f. A person who violates subsection a. or e. of this section or who
24 exhibits to a law enforcement or peace officer a certificate of
25 completion of an approved boat safety course of another person is
26 subject to a fine of not less than \$100 nor more than \$500.

27 g. A person who owns or has control or custody of a sailboat in
28 excess of 12 feet in length and allows the sailboat to be operated on
29 the waters of this State by a person who is required pursuant to the
30 provisions of this section to possess a certificate certifying successful
31 completion of a boat safety course or the written test provided for
32 under subsection b. of this section, but who does not possess such
33 certificate is subject to a fine of not more than \$100.¹]³

34
35 ³[¹[1.] 2.¹ Section 2 of P.L.1987, c.453 (C.12:7-61) is amended
36 to read as follows:

37 2. a. A person who is under 16 years of age shall not operate a
38 power vessel on the waters of this State, except that:

39 (1) a person who is under 16 years of age but at least 13 years of
40 age and possesses a certificate certifying that person's successful
41 completion of a boat safety course approved by the Superintendent of
42 State Police in the Department of Law and Public Safety may operate:

43 (a) a power vessel powered solely by [a motor of less than one
44 horsepower or] an electric motor [of 12 volts or less]; or

45 (b) a power vessel which is 12 feet or greater in length and
46 powered by a motor, or combination of motors, of less than 10

1 horsepower;

2 (2) A person who is under 16 years of age and has successfully
3 completed an approved boat safety course prior to July 1, 1996 may
4 operate a power vessel on the tidal waters of this State, provided that
5 the person complies with all other requirements of law, rule and
6 regulation; and

7 (3) A person who is under 16 years of age and was issued an
8 operator's license pursuant to section 7 of P.L.1954, c.236
9 (C.12:7-34.7) before July 1, 1996 may operate a power vessel
10 equipped with an outboard motor until the expiration date of that
11 license.

12 b. [A] Except as otherwise provided in the schedule set forth in
13 section ¹[7] ⁸ of P.L. c. (now pending before the Legislature
14 as this bill), as of June 1, 2008, a person who is 16 years of age or
15 older [and was born after December 31, 1978] ¹and was born after
16 December 31, 1978¹ shall not operate a power vessel on the waters of
17 this State without having completed a boat safety course approved by
18 the Superintendent of State Police in the Department of Law and
19 Public Safety, except that:

20 (1) [a person who is 18 years of age or older, and who has in his
21 possession a valid motor vehicle operator's license issued pursuant to
22 R.S.39:3-10, may operate on the waters of this State, without having
23 completed a boat safety course approved by the Superintendent of
24 State Police in the Department of Law and Public Safety, a power
25 vessel that is (a) powered solely by an electric motor or a motor, or
26 combination of motors, of 10 horsepower or less, and (b) not a
27 personal watercraft;] Deleted by amendment (P.L. c.) (now
28 pending before the Legislature as this bill).

29 (2) an out-of-State resident, or a resident of a foreign country[,
30 who is 18 years of age or older and who will be in this State for less
31 than 90 days] ¹who is 18 years of age or older and who will be in this
32 State for less than 30 days¹ may operate on the waters of this State,
33 without having completed a boat safety course approved by the
34 Superintendent of State Police in the Department of Law and Public
35 Safety, a power vessel that is [(a)] registered in that person's state or
36 country of residence [and (b) not a personal watercraft], provided,
37 however, that the person presents¹:

38 (i)¹ written proof of successful completion of a boat safety course
39 ¹endorsed or approved by another state, the National Association of
40 State Boating Law Administrators or its successor organization, or the
41 United States Coast Guard;

42 (ii) written proof of successful completion of a boat safety course¹
43 substantially similar to the boat safety course required pursuant to this
44 section ¹as determined by the Superintendent of State Police;¹ or

45 ¹(iii)¹ a boat safety certificate issued by the state or country in

1 which the person resides; ¹[and]¹

2 (3) a person who is 18 years of age or older may operate on the
3 waters of this State, without having completed a boat safety course
4 approved by the Superintendent of State Police in the Department of
5 Law and Public Safety, a rented power vessel [that is powered by a
6 motor, or combination of motors, of more than 10 horsepower, and]
7 that is not a personal watercraft, under the following conditions:

8 (a) the person rents the power vessel from a business engaged in
9 renting power vessels for use on the waters of the State;

10 (b) the person has successfully completed a State-approved
11 pre-rental instruction course provided by the owner or lessor of the
12 power vessel prior to operating the power vessel on the waters of the
13 State; and

14 (c) the owner of the power vessel rental business is experienced in
15 the operation of power vessels and has successfully completed a boat
16 safety course approved by the Superintendent of State Police in the
17 Department of Law and Public Safety.

18 ²[The boat safety course required pursuant to this subsection shall
19 be made available through the Internet ¹[.], provided that when the
20 written examination, required pursuant to subsection a. of section 1 of
21 P.L.1987, c.453 (C.12:7-60), is administered, it is administered by an
22 instructor in person and present with the person taking the written
23 examination;]²

24 (4) A person who is 18 years of age or older who purchases for the
25 first time a power vessel that is not a personal watercraft at a boat
26 dealership may operate that power vessel for 60 days without having
27 completed a boat safety course approved by the Superintendent of
28 State Police in the Department of Law and Public Safety provided that
29 the person successfully completes a State-approved pre-first-time-
30 purchase instruction course provided by the owner or operator of the
31 boat dealership prior to operating the power vessel, and the owner or
32 operator of the boat dealership is experienced in the operation of
33 power vessels and has successfully completed a boat safety course
34 approved by the Superintendent of State Police. ²The State-approved
35 pre-first-time-purchase instruction course required by this paragraph
36 shall be a uniform, standardized course developed by the
37 Superintendent of State Police.² The State-approved pre-first-time-
38 purchase instruction course shall not replace the requirement that a
39 person shall successfully complete an approved boat safety course
40 pursuant to the other provisions of P.L. , c. (C.)(now before the
41 Legislature as this bill). The provisions of this ²[subsection]
42 paragraph² shall not apply to a person purchasing a ²[boat] power
43 vessel² for the first time from another private party.¹

44 The Superintendent of State Police shall establish appropriate
45 guidelines to implement the provisions of this subsection.

46 This subsection shall not apply to any person holding a United

1 States Coast Guard ¹[Operator's] operator's¹ license, except as
2 otherwise may be required by State or federal law.

3 c. Except as provided pursuant to section 18 of P.L.1995, c.401
4 (C.12:7-86), a person shall not operate a personal watercraft on the
5 waters of this State [after July 1, 1997,] without having successfully
6 completed a boat safety course approved by the Superintendent of
7 State Police in the Department of Law and Public Safety or a written
8 test pursuant to [section 17 of P.L.1995, c.401] section ¹[7] 9¹ of
9 P.L. , c. (now pending before the Legislature as this bill).

10 d. Whenever a person who is required by this section or by section
11 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157
12 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57)
13 to have completed a boat safety course operates a power vessel or
14 personal watercraft, as appropriate, on the waters of this State, that
15 person shall have in possession a certificate certifying that person's
16 successful completion of a boat safety course approved by the
17 superintendent and shall, when requested to do so, exhibit the
18 certificate to a law enforcement or peace officer of this State. Failure
19 of the person to exhibit the certificate is presumptive evidence that the
20 person has not completed an approved boat safety course.

21 e. A person who violates subsection a., b., c. or d. of this section
22 or who exhibits to a law enforcement or peace officer a certificate of
23 completion of an approved boat safety course of another person is
24 subject to a fine of not less than \$100 nor more than \$500.

25 f. A person who owns or has control or custody of a power vessel
26 and allows the power vessel to be operated on the waters of this State
27 by a person who is required pursuant to the provisions of this section
28 to possess a certificate certifying successful completion of a boat
29 safety course but who does not possess such certificate is subject to
30 a fine of not more than \$100.

31 g. A person making application to the [Director of the Division of
32 Motor Vehicles] Chief Administrator of the New Jersey Motor
33 Vehicle Commission for a power vessel operator's license issued
34 pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required
35 pursuant to the provisions of this section to possess a certificate
36 certifying successful completion of a boat safety course shall submit
37 [the original or a copy of the certificate] proof of successful
38 completion of the course ¹or the written examination for experienced
39 boaters¹ with the application. The ¹[director] chief administrator¹
40 shall not issue a power vessel operator's license to such person who
41 fails to submit [the original or a copy of the certificate] this proof. A
42 permanent State of New Jersey ²[Boating Safety Certificate] boating
43 safety certificate² or a temporary ²[Boating Safety Certificate]
44 boating safety certificate² issued on a Division of State Police
45 ²[Application] application² for ²[Boating Safety Certificate Form]

1 boating safety certificate form² shall satisfy this requirement.

2 (cf: P.L1997, c.152, s.5)]³

3

4 ³1. Section 2 of P.L.1987, c.453 (C.12:7-61) is amended to read
5 as follows:

6 2. a. A person who is under 16 years of age shall not operate a
7 power vessel on the waters of this State, except that:

8 (1) a person who is under 16 years of age but at least 13 years of
9 age and possesses a certificate certifying that person's successful
10 completion of a boat safety course approved by the Superintendent of
11 State Police in the Department of Law and Public Safety may operate:

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

14 (b) a power vessel which is 12 feet or greater in length and
15 powered by a motor, or combination of motors, of less than 10
16 horsepower;

17 (2) A person who is under 16 years of age and has successfully
18 completed an approved boat safety course prior to July 1, 1996 may
19 operate a power vessel on the tidal waters of this State, provided that
20 the person complies with all other requirements of law, rule and
21 regulation; and

22 (3) A person who is under 16 years of age and was issued an
23 operator's license pursuant to section 7 of P.L.1954, c.236
24 (C.12:7-34.7) before July 1, 1996 may operate a power vessel
25 equipped with an outboard motor until the expiration date of that
26 license.

27 b. [A] As provided in the schedule set forth in section 7 of P.L.
28 c. (now pending before the Legislature as this bill), as of June 1,
29 2008, a person who is 16 years of age or older [and was born after
30 December 31, 1978] shall not operate a power vessel ,including a
31 personal watercraft, on the waters of this State without having
32 completed a boat safety course approved by the Superintendent of
33 State Police in the Department of Law and Public Safety, except that:

34 (1) [a person who is 18 years of age or older, and who has in his
35 possession a valid motor vehicle operator's license issued pursuant to
36 R.S.39:3-10, may operate on the waters of this State, without having
37 completed a boat safety course approved by the Superintendent of
38 State Police in the Department of Law and Public Safety, a power
39 vessel that is (a) powered solely by an electric motor or a motor, or
40 combination of motors, of 10 horsepower or less, and (b) not a
41 personal watercraft;] Deleted by amendment (P.L. c.) (now
42 pending before the Legislature as this bill).

43 (2) an out-of-State resident, or a resident of a foreign country[,]
44 who is [18] 16 years of age or older and who will be in this State for
45 less than 90 days may operate a power vessel on the waters of this
46 State, without having completed a boat safety course approved by the

1 Superintendent of State Police in the Department of Law and Public
2 Safety [, a power vessel that is (a)registered in that person's state or
3 country of residence and (b) not a personal watercraft and] if the
4 person presents:

5 (i) written proof of successful completion of a boat safety course
6 endorsed or approved by another state, the National Association of
7 State Boating Law Administrators or its successor organization, or the
8 United States Coast Guard;

9 (ii) written proof of successful completion of a boat safety course
10 substantially similar to the boat safety course required pursuant to this
11 section as determined by the Superintendent of State Police; or

12 (iii) a boat safety certificate issued by the state or country in which
13 the person resides;

14 (3) a person who is 18 years of age or older may operate on the
15 waters of this State, without having completed a boat safety course
16 approved by the Superintendent of State Police in the Department of
17 Law and Public Safety, a rented power vessel [that is powered by a
18 motor, or combination of motors, of more than 10 horsepower, and]
19 that is not a personal watercraft, under the following conditions:

20 (a) the person rents the power vessel from a business engaged in
21 renting power vessels for use on the waters of the State;

22 (b) the person has successfully completed a State-approved
23 pre-rental instruction course provided by the owner or lessor of the
24 power vessel prior to operating the power vessel on the waters of the
25 State; and

26 (c) the owner of the power vessel rental business is experienced in
27 the operation of power vessels and has successfully completed a boat
28 safety course approved by the Superintendent of State Police in the
29 Department of Law and Public Safety.

30 (4) A person required to take the boat safety course pursuant to this
31 section and section 7 of P.L. c. (now pending before the
32 Legislature as this bill) who purchases a power vessel that is not a
33 personal watercraft at a boat dealership may operate that power vessel
34 for 30 days without having completed a boat safety course approved
35 by the Superintendent of State Police in the Department of Law and
36 Public Safety provided that the person successfully completes a State-
37 approved pre-purchase instruction course provided by the owner or
38 operator of the boat dealership prior to operating the power vessel,
39 and the owner or operator of the boat dealership is experienced in the
40 operation of power vessels and has successfully completed a boat
41 safety course approved by the Superintendent of State Police. The
42 State-approved pre-purchase instruction course required by this
43 paragraph shall be a uniform, standardized course developed by the
44 Superintendent of State Police. The State-approved pre-purchase
45 instruction course shall not replace the requirement that a person shall
46 successfully complete an approved boat safety course pursuant to the

1 other provisions of P.L. , c. (C.) (now before the Legislature as
2 this bill). The provisions of this paragraph shall not apply to a person
3 purchasing a power vessel from another private party.

4 (5) A person holding a United States Coast Guard operator's
5 license may operate a power vessel on the waters of this State without
6 having completed a boat safety course approved by the Superintendent
7 of State Police in the Department of Law and Public Safety.

8 The Superintendent of State Police shall establish appropriate
9 guidelines to implement the provisions of this subsection.

10 c. Except as provided pursuant to section 18 of P.L.1995, c.401
11 (C.12:7-86), a person shall not operate a personal watercraft on the
12 waters of this State [after July 1, 1997,] without having successfully
13 completed a boat safety course approved by the Superintendent of
14 State Police in the Department of Law and Public Safety or a written
15 test pursuant to [section 17 of P.L.1995, c.401] section 8 of P.L.
16 c. (now pending before the Legislature as this bill).

17 d. Whenever a person who is required by this section or by section
18 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157
19 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57)
20 to have completed a boat safety course operates a power vessel or
21 personal watercraft, as appropriate, on the waters of this State, that
22 person shall have in possession a certificate certifying that person's
23 successful completion of a boat safety course approved by the
24 superintendent and shall, when requested to do so, exhibit the
25 certificate to a law enforcement or peace officer of this State. Failure
26 of the person to exhibit the certificate is presumptive evidence that the
27 person has not completed an approved boat safety course.

28 e. A person who violates subsection a., b., c. or d. of this section
29 or who exhibits to a law enforcement or peace officer a certificate of
30 completion of an approved boat safety course of another person is
31 subject to a fine of not less than \$100 nor more than \$500.

32 f. A person who owns or has control or custody of a power vessel
33 and allows the power vessel to be operated on the waters of this State
34 by a person who is required pursuant to the provisions of this section
35 to possess a certificate certifying successful completion of a boat
36 safety course but who does not possess such certificate is subject to
37 a fine of not more than \$100.

38 g. A person making application to the [Director of the Division of
39 Motor Vehicles] Chief Administrator of the New Jersey Motor
40 Vehicle Commission for a power vessel operator's license issued
41 pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required
42 pursuant to the provisions of this section to possess a certificate
43 certifying successful completion of a boat safety course shall submit
44 [the original or a copy of the certificate] proof of successful
45 completion of the course or the written examination for experienced
46 boaters with the application. The [director] chief administrator shall

1 not issue a power vessel operator's license to such person who fails to
2 submit [the original or a copy of the certificate] this proof. A
3 permanent State of New Jersey boating safety certificate or a
4 temporary boating safety certificate issued on a Division of State
5 Police application for boating safety certificate form shall satisfy this
6 requirement.³

7 (cf: P.L.1997, c.152, s.5)

8

9 ¹[2.] ³[3. ¹] 2.³ Section 2 of P.L.1987, c.269 (C.12:7-23.2) is
10 amended to read as follows:

11 2. Every power vessel used on the waters of this State shall at all
12 times be equipped with a muffler or muffler system in good working
13 order and in constant operation. A person shall not use a muffler or
14 muffler system cutout, bypass or similar method or device designed to
15 prevent or diminish the operational capacity of a muffler or muffler
16 system installed on a power vessel used on the waters of this State.
17 Decibel levels exceeding the limits established pursuant to rules and
18 regulations as measured by a noise meter operated by a trained Marine
19 Police officer or municipal law enforcement officer shall be evidence
20 of a violation of [this act] P.L.1987, c.269 (C.12:7-23.2 et seq.). For
21 the purposes of [this act] P.L.1987, c.269 (C.12:7-23.2 et seq.),
22 muffler means a sound dissipative device or system which abates the
23 sound of gases which are emitted from an internal combustion engine
24 and which prevents excessive or unusual noise.

25 (cf: P.L.1987, c.269, s.2)

26

27 ¹[3.] ³[4. ¹] 3.³ Section 11 of P.L.1962, c.73 (C.12:7-34.46) is
28 amended to read as follows:

29 11. (a) Whenever any vessel upon the waters of this State is
30 involved in an accident, it shall be the duty of the operator, so far as
31 he can do so without serious danger to his own passengers, guests,
32 crew, himself or his vessel, to render to all other persons affected by
33 the accident such assistance as may be necessary in order to save them
34 from or to minimize any danger caused by the accident. He shall also
35 give his name, address, and identifying information regarding his vessel
36 to any person injured and to the owner of any property damaged in the
37 accident.

38 (b) Whenever an accident involves any vessel subject to this act
39 and results in the death, disappearance, or injury of any person, or in
40 property damage in excess of **[\$500]** the federal standard for filing an
41 accident report as established pursuant to 33 C.F.R. s.173.55, the
42 operator or operators thereof shall file, with the Division of State
43 Police, a full description of the accident, including such information as
44 that division may, by regulation, require within the times specified in
45 subsection (c) of this section. The Superintendent of State Police shall
46 notify operators, in a manner deemed appropriate, of a change in the

1 federal standard for filing an accident report.

2 (c) A boating accident that occurs on the waters of this State shall
3 be reported to the Division of State Police by the quickest means of
4 communication possible, if the accident has caused the death or the
5 disappearance of any person; any other reportable boating accident
6 that may result in personal injury or property damage shall be reported
7 within 10 days to the Division of State Police.

8 (d) The report of a boating accident herein required to be made ¹by
9 the operator of the vessel involved in the boating accident¹ shall not,
10 during any judicial proceeding, be referred to in any way; it shall not
11 be subject to subpoena nor admissible as evidence in any proceeding.
12 Subject to these restrictions, information contained in a boating
13 accident report and any statistical information based thereon will be
14 made available upon request for official purposes to the United States
15 Coast Guard or any federal agency successor thereto.
16 (cf: P.L.1995, c.401, s.26)

17
18 ¹[4.] ³[5.] ¹ 4.³ Section 14 of P.L.1962, c.73 (C.12:7-34.49) is
19 amended to read as follows:

20 14. (a) There is established within the department a seven-member
21 Boat Regulation Commission which shall consist of the Attorney
22 General as ex officio member and six public members. The public
23 members shall be appointed by the Governor with the advice and
24 consent of the Senate for four-year terms commencing on April 1 of
25 the year of the appointment, except that of those first appointed, two
26 shall be appointed for a term of one year, two for a term of two years,
27 one for a term of three years and one for a term of four years. As far
28 as possible the public members shall be experienced boaters and shall
29 represent the various geographical sections and boating interests of the
30 State. At least one of the public members shall be actively employed
31 in the marine industry.

32 The chairman shall be designated by the Governor. Each member
33 of the commission shall serve at the pleasure of the Governor during
34 his term and until the successor of the commission member has been
35 appointed and has qualified. Vacancies shall be filled only for the
36 unexpired term.

37 (b) The members of the commission shall serve without
38 compensation except for the actual expenses incurred while engaged
39 in their duties as members of the commission.

40 (c) The commission will promulgate rules and regulations, subject
41 to the approval of the Attorney General, not inconsistent with the
42 provisions of this act and including, but not limited to the inspection,
43 operation, equipping, anchorage, racing and safety of vessels upon the
44 waters of this State.

45 These rules and regulations shall be such as are reasonably
46 necessary for the protection of the health, safety and welfare of the

1 public and for the free and proper use of said waters by any persons or
2 vessels in, on or about such waters. These regulations shall not be
3 inconsistent with regulations issued by the agency or agencies of the
4 United States having jurisdiction with respect to power vessels upon
5 the waters of this State.

6 The commission shall meet monthly or at the call of the Attorney
7 General or the chairman of the commission or when requested by any
8 three members of the commission. The Attorney General shall
9 designate a staff from the department to handle administrative matters
10 for the commission. The commission shall maintain minutes of its
11 meetings and, within five working days following the commission's
12 approval of the minutes, submit them to the: Governor; President of
13 the Senate; Minority Leader of the Senate; Speaker of the General
14 Assembly and Minority Leader of the General Assembly.

15 (cf: P.L.1995, c.401, s.34)

16

17 ¹[5.] ³[6.¹ Section 1 of P.L.1987, c.453 (C.12:7-60) is amended
18 to read as follows:

19 1. a. The Superintendent of State Police in the Department of Law
20 and Public Safety shall establish a list of approved boat safety courses
21 ¹.¹ offered by public or private persons or agencies for profit or
22 otherwise ¹and taught by approved boat safety instructors¹. Approved
23 courses shall provide formal instruction in power vessel handling and
24 safety. The superintendent may approve a boat safety course upon
25 ¹[his own] the¹ initiative ¹of the superintendent¹ or by application on
26 a form to be created by the superintendent.

27 ¹For the purposes of this section, "approved boat safety course"
28 means a boat safety course that is approved by the Superintendent of
29 State Police, in consultation with the Attorney General, and provides
30 at least eight hours of instruction, with a minimum of six hours of
31 classroom instruction, or, if provided via the Internet, provides at least
32 the equivalent of eight hours of instruction, and, whether provided in
33 a classroom or via the Internet, concludes with a closed-book written
34 examination, the time for which would be in addition to the instruction
35 time provided ², and which is administered by an instructor in person
36 and present with the person taking the written examination²; and
37 "approved boat safety instructor" means an individual who is trained
38 and experienced in the art and science of navigation and seamanship
39 and who holds ¹a ²[current]² United States Coast Guard operator's
40 license, or¹ ²a ²[current]² certification as an instructor as provided by
41 the United States Coast Guard Auxiliary, the United States Power
42 Squadron, the National Safe Boating Council or other ²[national]²
43 certification program that is determined to be acceptable by the
44 Superintendent of State Police.¹

45 The superintendent shall, pursuant to the "Administrative Procedure
46 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and

1 regulations to implement this section. ¹While developing these rules
2 and regulations, the Superintendent of State Police shall consult with
3 the National Association of State Boating Law Administrators, or its
4 successor organization, concerning the provisions of the rules and
5 regulations being adopted pursuant to this subsection.¹

6 b. A public or private entity authorized to offer a boat safety
7 course pursuant to subsection a. of this section shall not employ an
8 instructor who:

9 (1) does not possess a valid boat safety certificate required by
10 section 2 of P.L.1987, c.453 (C.12:7-61) ¹and section 1 of P.L. _____,
11 c. _____ (C. _____)(now before the Legislature as this bill)¹; or

12 (2) has been convicted of any of the following crimes and offenses
13 as evidenced by a criminal history record background check:

14 (a) In New Jersey, any crime or disorderly persons offense:

15 (i) involving danger to the person, meaning those crimes and
16 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
17 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or
18 N.J.S.2C:15-1 et seq.;

19 (ii) against the family, children or incompetents, meaning those
20 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
21 seq.;

22 (iii) involving theft as set forth in chapter 20 of Title 2C of the
23 New Jersey Statutes;

24 (iv) involving any controlled dangerous substance or controlled
25 substance analog as set forth in chapter 35 of Title 2C of the New
26 Jersey Statutes except paragraph (4) of subsection a. of
27 N.J.S.2C:35-10;

28 (v) involving weapons or firearms, meaning those crimes and
29 disorderly persons offenses set forth in chapters 39 and 58 ²of Title
30 2C² of the New Jersey Statutes;

31 (vi) involving falsification of records under N.J.S.2C:21-4 or
32 tampering with public records or information under N.J.S.2C:28-7.

33 (b) In any other state or jurisdiction, conduct which, if committed
34 in New Jersey, would constitute any of the crimes or disorderly
35 persons offenses described in subparagraph a. of this paragraph.

36 The Marine Services Bureau in the Division of State Police shall
37 obtain the instructor's name, address, fingerprints and written consent
38 for a criminal history record background check to be performed
39 pursuant to this paragraph. The Marine Services Bureau is authorized
40 to receive criminal history record information from the State Bureau
41 of Identification in the Division of State Police and the Federal Bureau
42 of Investigation consistent with applicable State and federal laws, rules
43 and regulations. The Marine Services Bureau shall determine whether
44 the person is disqualified from employment as an instructor based on
45 the person's criminal history record background check and render the
46 decision to the public or private entity.

1 The instructor shall bear the cost for the criminal history record
2 background check, including all costs of administering and processing
3 the check, but a volunteer instructor shall be afforded a fee reduction
4 as authorized by applicable ²[by]² State and federal law, rule and
5 regulation.

6 (cf: P.L.1987, c.453, s.1)]³

7
8 ³5. Section 1 of P.L.1987, c.453 (C.12:7-60) is amended to read
9 as follows:

10 1. a. The Superintendent of State Police in the Department of Law
11 and Public Safety shall establish a list of approved boat safety courses,
12 offered by public or private persons or agencies for profit or otherwise
13 and taught by approved boat safety instructors. Approved courses
14 shall provide formal instruction in power vessel handling and safety.
15 The superintendent may approve a boat safety course upon [his own]
16 the initiative of the superintendent or by application on a form to be
17 created by the superintendent.

18 For the purposes of this section, "approved boat safety course"
19 means a boat safety course that meets qualifications set forth in
20 regulations promulgated by the Superintendent of State Police, in
21 consultation with the Attorney General; if a provider offers a boat
22 safety course via the Internet, that course shall meet the same
23 qualifications as a boat safety course offered in a classroom; whether
24 offered in a classroom or via the Internet, the boat safety course shall
25 conclude with a closed-book written examination administered by an
26 instructor in person and present with the person taking the written
27 examination.

28 For the purposes of this section, an "approved boat safety
29 instructor" means an individual who is trained and experienced in the
30 art and science of navigation and seamanship and who holds a United
31 States Coast Guard operator's license, or a certification as an
32 instructor as provided by the United States Coast Guard Auxiliary, the
33 United States Power Squadron, the National Safe Boating Council or
34 other certification program that is determined to be acceptable by the
35 Superintendent of State Police. A public or private entity which offers
36 a course that was approved by the superintendent prior to the effective
37 date of this act may continue to offer that course until that approval
38 has expired.

39 The superintendent shall, pursuant to the "Administrative Procedure
40 Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and
41 regulations to implement this section. While developing these rules
42 and regulations, the Superintendent of State Police shall consult with
43 the National Association of State Boating Law Administrators, or its
44 successor organization, concerning the provisions of the rules and
45 regulations being adopted pursuant to this subsection.

46 b. A public or private entity authorized to offer a boat safety

1 course pursuant to subsection a. of this section shall not employ an
2 instructor who:

3 (1) does not possess a valid boat safety certificate required by
4 section 2 of P.L.1987, c.453 (C.12:7-61); or

5 (2) has been convicted of any of the following crimes and offenses
6 as evidenced by a criminal history record background check:

7 (a) In New Jersey, any crime or disorderly persons offense:

8 (i) involving danger to the person, meaning those crimes and
9 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
10 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or
11 N.J.S.2C:15-1 et seq.;

12 (ii) against the family, children or incompetents, meaning those
13 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
14 seq.;

15 (iii) involving theft as set forth in chapter 20 of Title 2C of the
16 New Jersey Statutes;

17 (iv) involving any controlled dangerous substance or controlled
18 substance analog as set forth in chapter 35 of Title 2C of the New
19 Jersey Statutes except paragraph (4) of subsection a. of
20 N.J.S.2C:35-10;

21 (v) involving weapons or firearms, meaning those crimes and
22 disorderly persons offenses set forth in chapters 39 and 58 of Title 2C
23 of the New Jersey Statutes;

24 (vi) involving falsification of records under N.J.S.2C:21-4 or
25 tampering with public records or information under N.J.S.2C:28-7.

26 (b) In any other state or jurisdiction, conduct which, if committed
27 in New Jersey, would constitute any of the crimes or disorderly
28 persons offenses described in subparagraph a. of this paragraph.

29 The Marine Services Bureau in the Division of State Police shall
30 obtain the instructor's name, address, fingerprints and written consent
31 for a criminal history record background check to be performed
32 pursuant to this paragraph. The Marine Services Bureau is authorized
33 to receive criminal history record information from the State Bureau
34 of Identification in the Division of State Police and the Federal Bureau
35 of Investigation consistent with applicable State and federal laws, rules
36 and regulations. The Marine Services Bureau shall determine whether
37 the person is disqualified from employment as an instructor based on
38 the person's criminal history record background check and render the
39 decision to the public or private entity.

40 The instructor shall bear the cost for the criminal history record
41 background check, including all costs of administering and processing
42 the check, but a volunteer instructor shall be afforded a fee reduction
43 as authorized by applicable State and federal law, rule and regulation.³

44 (cf: P.L.1987, c.453, s.1)

45

46 ¹[6.] ³[7.1] 6.³ Section 18 of P.L.1995, c.401 (C.12:7-86) is

1 amended to read as follows:

2 18. A person who is 16 years of age or older may operate a
3 personal watercraft without having completed a boat safety course
4 required pursuant to subsection c. of section 2 of P.L.1987, c.453
5 (C.12:7-61) [or a written test administered pursuant to section 17 of
6 P.L.1995, c.401,] under the following conditions:

7 a. (1) the person operates the personal watercraft within the
8 boundaries of an area designated solely for the operation of personal
9 watercraft by a business engaged in renting personal watercraft for use
10 on the waters of the State;

11 (2) the area designated for such operation is supervised by a person
12 who is experienced in the operation of personal watercraft and who
13 has successfully completed a boat safety course approved pursuant to
14 section 1 of P.L.1987, c.453 (C.12:7-60); and

15 (3) the person has successfully completed an instruction course
16 provided by the owner or lessee of the personal watercraft prior to
17 operating the personal watercraft within the designated area.

18 b. [For the first 21 days following the purchase of a personal
19 watercraft, provided that:

20 (1) the operator of the personal watercraft is the person who
21 purchased the personal watercraft or a member of that person's
22 immediate family;

23 (2) the operator of the personal watercraft is at least 16 years of
24 age;

25 (3) the personal watercraft that has been purchased is the only
26 personal watercraft being operated pursuant to this subsection;

27 (4) the seller of the personal watercraft has provided educational
28 materials regarding the safe operation of the personal watercraft at the
29 time of sale; and

30 (5) the purchaser and the seller of the personal watercraft have
31 signed a certificate acknowledging that the information required
32 pursuant to paragraph 4 of this subsection has been provided by the
33 seller and received by the purchaser at the time of purchase of the
34 personal watercraft.] Deleted by amendment (P.L. c.) (now
35 pending before the Legislature as this bill).

36 c. [The person has written proof, while operating the personal
37 watercraft, of successful completion of a boat safety course
38 substantially similar to the boat safety course required pursuant to the
39 boat safety course administered pursuant to section 1 of P.L.1987,
40 c.453 (C.12:7-60).] ¹[Deleted by amendment (P.L. c.) (now
41 pending before the Legislature as this bill).] The person has written
42 proof, while operating the personal watercraft, of successful
43 completion of a boat safety course substantially similar to ²[the] an
44 approved ²boat safety course ²[required pursuant to the boat safety
45 course administered] as established ²pursuant to section 1 of

1 P.L.1987, c.453 (C.12:7-60).¹

2 d. [(1) The person does not own a personal watercraft and the
3 owner of the personal watercraft possesses a certificate showing the
4 successful completion of a boat safety course required pursuant to
5 subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) or a written
6 test administered pursuant to section 17 of P.L.1995, c.401;

7 (2) the owner of the personal watercraft instructs the owner in the
8 proper operation of the personal watercraft;

9 (3) the person is accompanied by the owner of the personal
10 watercraft and they remain within 150 feet and in sight of each other;

11 (4) the cumulative number of days of operation by a person under
12 this subsection does not exceed five days during a calendar year; and

13 (5) the person has not violated any provision of chapter 7 of this
14 title.] ¹[Deleted by amendment (P.L. c.) (now pending before
15 the Legislature as this bill).

16 A person who violates this subsection shall be subject to a penalty
17 of not less than \$200 and not more than \$500 for each violation.]
18 Deleted by amendment (P.L. , c.)(now before the Legislature as
19 this bill).

20 e.¹ Pursuant to the provisions of the "Administrative Procedure
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Superintendent of
22 State Police shall adopt any rules or regulations necessary to
23 implement the provisions of this section.

24 (cf: P.L.1997, c.152, s.2)

25

26 ¹[7.] ³[8.¹ (New section) The mandatory boat safety course
27 required by section 2 of P.L.1987, c.453 (C.12:7-61) shall be
28 successfully completed ¹[by]¹:

29 a. ¹before June 1, 2005, by¹ persons born ¹on or¹ after December
30 31, 1968 ¹[before June 1, 2005] and on or before December 31,
31 1978, and persons born on or after December 31, 1948 who have
32 purchased a power vessel that is not a personal watercraft for the first
33 time and have completed only the State-approved pre-first-time-
34 purchase instruction course required pursuant to paragraph (4) of
35 subsection b. of P.L.1987, c.453 (C.12:7-61)¹;

36 b. ¹before June 1, 2006, by¹ persons born ¹on or¹ after December
37 31, 1958 ¹[before June 1, 2006]¹;

38 c. ¹before June 1, 2007, by¹ persons born ¹on or¹ after December
39 31, 1948 ¹[before June 1, 2007] except as provided under subsection
40 a. of this section¹; and

41 d. ¹[all other persons]¹ before June 1, 2008 ¹by all other
42 persons¹.]³

43

44 ³7. (New section) Before operating a power vessel, including a
45 personal watercraft, on the waterways of this State, the mandatory

- 1 boat safety course required by section 2 of P.L.1987, c.453
2 (C.12:7-61) shall be successfully completed as follows:
3 a. by persons born after December 31, 1978;
4 b. before June 1, 2005, by persons born after December 31, 1968
5 and on or before December 31, 1978;
6 c. before June 1, 2006, by persons born after December 31, 1958
7 and on or before December 31, 1968;
8 d. before June 1, 2007, by persons born after December 31, 1948
9 and on or before December 31, 1958; and
10 e. before June 1, 2008 by all other persons.³

11
12 ¹[8.] ³[9.¹ (New section) a. The Superintendent of State Police
13 shall develop, and the superintendent, or a designee, shall administer,
14 a written test for experienced boaters which shall be issued in lieu of
15 completing the boat safety course required pursuant to section 2 of
16 P.L.1987, c.453 (C.12:7-61). ²For the purposes of this subsection,
17 "experienced boater" means a boater who has, in aggregate, owned a
18 registered power vessel for at least seven years.² When developing the
19 written test, the superintendent shall consult with groups concerned
20 with the nationwide standardization of such tests. Upon successful
21 completion of the test, the person shall be given a certificate which
22 shall fulfill the certificate requirement under subsection d. of section
23 2 of P.L.1987, c.453 (C.12:7-61) and shall be required to be in the
24 person's possession as provided in that section. A person may only
25 take one test pursuant to this subsection.

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

30 c. In addition to all other penalties provided by law, a person who
31 provides false information on an application for a written test issued
32 pursuant to subsection a. of this section shall be subject to a fine of
33 \$100.

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

36 e. The superintendent shall be exempt from the provisions of the
37 "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), in performing the requirements of this section.]³

39
40 ¹[9. There is appropriated from the Maritime Industry Fund,
41 established pursuant to section 8 of P.L.2001, c.429 (C.27:1A-82), to
42 the Department of Law and Public Safety a sum in the amount of
43 \$500,000 for increasing the patrolling of State waters by the State
44 Police Marine Services Bureau and for related boating safety
45 administrative expenses.]¹

1 ³8. (New section) a. The Superintendent of State Police shall
2 develop, and the superintendent, or a designee, shall administer, a
3 written test for experienced boaters which shall be issued in lieu of
4 completing the boat safety course required pursuant to section 2 of
5 P.L.1987, c.453 (C.12:7-61). The superintendent shall determine the
6 criteria that shall be met for a person to qualify as an "experienced
7 boater" pursuant to subsection d. of this section. When developing the
8 written test, the superintendent shall consult with groups concerned
9 with the nationwide standardization of such tests. Upon successful
10 completion of the test, the person shall be given a certificate which
11 shall fulfill the certificate requirement under subsection d. of section
12 2 of P.L.1987, c.453 (C.12:7-61) and shall be required to be in the
13 person's possession as provided in that section. A person may only
14 take one test pursuant to this subsection.

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

19 c. In addition to all other penalties provided by law, a person who
20 provides false information on an application for a written test issued
21 pursuant to subsection a. of this section shall be subject to a fine of
22 \$100.

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

25 e. The superintendent shall be exempt from the provisions of the
26 "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), in performing the requirements of this section.³

28
29 ³[10.] 9.³ Section 3 of P.L.1997, c.152 (C.12:7-61) is hereby
30 repealed.

31
32 ³[11. This act shall take effect on the first day of the sixth month
33 following enactment except sections ¹[7 and 8] 8 and 9¹ shall take
34 effect immediately and expire on June 1, 2008.]³

35
36 ³10. This act shall take effect on the first day of the sixth month
37 following enactment except sections 7 and 8 shall take effect
38 immediately and expire on June 1, 2008.³