

The Code of Alabama 1975

Title 33 NAVIGATION AND WATERCOURSES.

Chapter 5 REGISTRATION AND OPERATION OF VESSELS.

Article 1 General Provisions.

Section 33-5-1

Declaration of policy.

It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels used on the waters of this state and to promote uniformity of laws relating thereto.

(Acts 1959, No. 576, p. 1442, §1.)

Section 33-5-2

Applicability of article.

The provisions of this article shall be applicable to all vessels as herein defined, navigating the waters within the jurisdiction of this state, except where inconsistent with any laws or regulations of the United States, in which case such laws or regulations shall prevail.

(Acts 1959, No. 576, p. 1442, §2.)

Section 33-5-3

Definitions.

As used in this article, the following terms shall have the meanings respectively ascribed to them in this section, unless the context clearly requires a different meaning:

(1) VESSEL. Every description of watercraft, other than a seaplane, capable of being used as a means of transportation on the water, but such term shall not include vessels 12 feet in length or less when used solely on farm ponds of less than 50 acres in size.

(2) WATERS OF THIS STATE. Any waters within the territorial limits of this state and the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to and from the shore of this state; provided, however, that "waters of this state" shall not be interpreted to mean any private pond which is not used for boat rentals or the charging of fees for fishing therein.

(3) OWNER. A person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(4) PERSON. An individual, partnership, firm, corporation, association or other entity.

(5) OPERATE. To navigate or otherwise use a vessel.

(6) COMMISSIONER. The commissioner of the State Department of Conservation and Natural Resources.

(7) STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES or DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES. That department created by the laws of this state having supervision over game, fish, forestry, parks, seafoods and such lands of the state and such supervision over public waters of this state as now are constituted by law or any subsequent amendment thereto.

(8) CERTIFICATE. Registration by a vessel owner with the Department of Conservation and Natural Resources, including the issuance of an identifying number awarded each vessel and the issuance of a pocket-size certificate of registration.

(9) LENGTH. Such term means measured from end to end over the deck excluding sheer.

(Acts 1959, No. 576, p. 1442, §3; Acts 1961, No. 878, p. 1377, §1; Acts 1969, No. 1058, p. 1978, §1.)

Section 33-5-4

Division of Marine Police - Generally.

(a) It is hereby expressly made the duty of the commissioner to set up a division within the Department of Conservation and Natural Resources to be known as the "Division of Marine Police" with sufficient personnel to perform the necessary clerical and routine work for the department in issuing, handling and recording vessel registration identifying numbers, including the receiving and accounting of all registration fees and payments of same into the State Treasury, receiving and recording accident reports and making such reports of such accidents to such federal agency as may be required by federal law and such other incidental clerical work connected with the administration of this article.

(b) The law-enforcement officers of the Division of Marine Police of the Department of Conservation and Natural Resources shall be known as marine police officers.

(Acts 1959, No. 576, p. 1442, §4; Acts 1971, No. 905, p. 1669, §1.)

Section 33-5-5

Division of Marine Police - Marine police officers, etc., to have powers of peace officers.

In addition to all other power heretofore granted by law, marine police officers and all other Department of Conservation and Natural Resources enforcement officers shall have the power of peace officers in this state and may exercise such powers anywhere within the state.

(Acts 1971, No. 905, p. 1669, §2.)

Section 33-5-6

Enforcement of article.

This article shall be enforced by the Department of Conservation and Natural Resources, Division of Marine Police, by all law-enforcement officers of the state and by such other agents and employees of the Department of Conservation and Natural Resources as may be designated and required by the commissioner.

(Acts 1959, No. 576, p. 1442, §5.)

Section 33-5-7

Records kept pursuant to article.

All records of the Department of Conservation and Natural Resources, probate judge or license commissioner made or kept pursuant to this article shall be public records, except confidential reports and except accident reports as set out in this article.

(Acts 1959, No. 576, p. 1442, §12.)

Section 33-5-8

Commissioner to supply information to federal agencies.

The Commissioner of Conservation and Natural Resources shall supply to any authorized official or agency of the United States, upon such agency's or official's request and in accordance with any federal law or regulation relative thereto, necessary information pertaining to statistics and reports compiled under the provisions of this article.

(Acts 1959, No. 576, p. 1442, §23.)

Section 33-5-9

Vessels to be registered and numbered.

Every vessel on the waters of this state shall be registered and numbered. No person shall operate or give permission for the operation of any vessel on such waters unless the vessel is registered and numbered with the identifying number set forth in the certificate of registration displayed on each side of the bow of such vessel, or in accordance with applicable federal law or in accordance with a federally approved numbering system of another state, and unless the certificate of number awarded to such vessel is in full force and effect.

(Acts 1959, No. 576, p. 1442, §7.)

Section 33-5-10

Certificates of registration and numbers generally - By whom issued; issuance; fees; disposition of funds.

(a) The Department of Conservation and Natural Resources will issue annual certificates of registration directly and shall authorize all probate judges in the state or any other official in the state who is presently authorized to issue automobile license plates to issue annual certificates of registration and numbers in connection therewith. In conformity with this article and any rules and regulations which may be validly issued by the Department of Conservation and Natural Resources, the Department of Conservation and Natural Resources shall assign to each issuing officer in the county a block of numbers and certificates therefor which upon issue the issuing officer shall be allowed a fee of two dollars (\$2) for each certificate issued by him or her. In counties where the probate judge or issuing officer is on the fee system, the issuing fee shall be retained by the probate judge, and, in counties where the issuing officer or probate judge is on a salary basis, the fee shall be paid to the county treasury. The issuance fee provided for herein shall be in addition to the amount of the boat registration fee.

(b) All registration money, except the two dollar (\$2) fee allowed as aforesaid, shall be remitted monthly to the Department of Conservation and Natural Resources not later than 10 days after the first of each month. The Department of Conservation and Natural Resources shall transmit all money received by it to the State Treasurer, there to be deposited in a fund to be known as the "State Water Safety Fund."

(c) All moneys received out of the sale of licenses under the provisions of this article may be used by the Commissioner of the Department of Conservation and Natural Resources for all purposes reasonably necessary in the cost of administration of this article, including the printing of certificates of registration, postage and transportation charges, clerical, personnel, equipment purchases, salaries, and other expenses for each year; except, that no funds collected under the provisions of this article may be used to supplement or pay the salaries of any enforcement officers other than those hired specifically for the purposes of administering the provisions of this article. The Commissioner of the Department of Conservation and Natural Resources shall expend such moneys as may be appropriated to the Marine Police Division, in such manner as the Commissioner of Conservation and Natural Resources may deem necessary and appropriate; provided, however, that such appropriations may be expended only for the purposes designated by the Legislature and in the amounts provided therefor in the general appropriation bill and shall be budgeted and allotted in accordance with the provisions of Article 4 of Chapter 4 of Title 41. It is the intent of the Legislature that the Department of Conservation and Natural Resources utilize existing personnel and equipment of that department and of the sheriffs of this state to the maximum possible extent in enforcing and administering this article, to the end that there be no costly duplication of services.

(Acts 1959, No. 576, p. 1442, §6; Acts 1961, No. 878, p. 1377, §2; Acts 1969, No. 1059, p. 1979; Acts 1979, No. 79-700, p. 1244, §1; Acts 1984, No. 84-446, p. 1040, §6; Act 2007-420, p. 896, §1.)

Section 33-5-11

Certificates of registration and numbers generally - Application for and issuance of certificate and number; certificate requirements; distinctive identification stickers; replacement stickers; fees; rules.

(a) The owner of each vessel requiring numbering by this state shall file an application for a number with the probate judges' offices, or license commissioner, in the county of residence of the purchaser, or the county in which the vessel is domiciled, or in the county where the vessel is purchased on forms approved by the Alabama State Law Enforcement Agency. The application shall be filed by the owner of the vessel and shall be accompanied by a fee in accordance with Section 33-5-17. Upon receipt of the application and its approval by the authorized issuing official, the official shall enter the same upon the records and issue to the applicant a certificate of registration stating the number awarded to the vessel, the name and address of the owner, and a description of the vessel. The owner shall paint on or attach to each side of the bow of the vessel the annual identification number issued in such manner as may be prescribed by rules of the Alabama State Law Enforcement Agency so that it may be clearly visible and be of such size as required by the Federal Boating Act of 1958 or any subsequent amendment thereto. The number shall be maintained in legible condition. The certificate of registration shall be pocket size and shall be available at all times for inspection on the vessel for which issued whenever the vessel is in operation.

(b) In lieu of painting the vessel identification number on or otherwise attaching the number to a vessel pursuant to subsection (a), the owner of a vessel may purchase a pair of one-year distinctive identification stickers showing support for any organization, college, or university approved for the issuance of distinctive motor vehicle license tags as provided pursuant to Section 32-6-64 or subsection (b) of Section 32-6-150, provided that the sponsoring organization, college, or university has requested that it be included in the distinctive vessel program and a distinctive license plate has been approved by both the Joint Legislative Oversight Committee on License Tags and the sponsoring organization.

Notwithstanding the foregoing, distinctive vessel identification stickers shall not be available if a distinctive license plate may not be personalized pursuant to Section 32-6-69. If there is no sponsoring organization, college, or university associated with a distinctive automobile license plate for which corresponding distinctive vessel identification stickers could otherwise be considered by the Joint Legislative Oversight Committee on License Tags, a taxpayer may obtain authorization for the distinctive vessel identification stickers upon petition to and approval by the Joint Legislative Oversight Committee on License Tags. In no case shall distinctive vessel identification stickers be issued to an applicant unless the applicant would qualify for the corresponding distinctive license plate. The design and use of the distinctive vessel identification stickers shall be approved by the Joint Legislative Oversight Committee on License Tags created pursuant to Section 32-6-67 and the secretary of the agency. Applications for distinctive vessel identification stickers shall be made on forms approved by the Alabama State Law Enforcement Agency. An applicant shall qualify for the corresponding distinctive license plate in order to receive a distinctive vessel identification sticker. The distinctive vessel identification stickers purchased shall include the certificate of registration number issued to the owner in accordance with subsection (a) and shall be affixed to the vessel as prescribed by rules of the Alabama State Law Enforcement Agency.

(c) The additional cost of distinctive identification stickers for a vessel shall be fifty dollars (\$50) plus an additional issuance fee of two dollars (\$2) and any other surcharge or convenience fee authorized by

Section 11-103-1; provided, however, the surcharge or convenience fee may not be in an amount greater than the transaction fee charged by the credit card issuer or processor. The issuance fee and any other surcharge or convenience fee shall be paid to and collected by the issuing official. The issuance fee shall be used at the sole discretion of the issuing official for equipment, maintenance, and any services necessary for the improvement of the office of the licensing official. The surcharge or convenience fee shall be applied toward the payment of any administrative or transaction fee charged by the credit card issuer or processor. The additional fifty dollars (\$50) in proceeds from the sale of the distinctive vessel identification stickers shall be transmitted by the licensing official to the Comptroller, who shall distribute the proceeds in the following manner:

(1) Actual costs of the production and delivery of stickers, not to exceed 14 percent of the proceeds, shall be distributed to the Alabama Correctional Industries Division of the Department of Corrections. The costs shall be established by rule of the Department of Corrections.

(2) Actual costs of the processing of applications and payments for stickers, not to exceed six percent of the proceeds, shall be distributed to the Alabama State Law Enforcement Agency. The costs shall be established by rule of the agency.

(3) One-half of the remainder of the proceeds shall be distributed to the sponsoring organization and one-half shall be distributed to the Department of Conservation and Natural Resources and earmarked for the operation of state parks.

(d) If the Joint Legislative Oversight Committee on License Tags has approved a distinctive design for a motor vehicle license tag that does not currently provide revenue to a sponsoring organization, the fifty dollars (\$50) additional cost of the distinctive vessel identification stickers shall be transmitted by the licensing official to the Comptroller who shall distribute all of the proceeds, less the cost of production and processing as prescribed in subsection (c) to the Department of Conservation and Natural Resources for the operation of the state parks.

(e) The first period for the issuance of distinctive vessel identification stickers after approval by the joint committee shall be for a period corresponding to the end of the current period of registration for the corresponding distinctive motor vehicle license plates. The distinctive identification stickers may then be renewed for one year on the anniversary date for the renewal of the corresponding distinctive motor vehicle license tag for the same sponsoring organization. All distinctive vessel identification stickers shall be redesigned as corresponding motor vehicle license plates are redesigned.

(f) If a distinctive vessel identification sticker is damaged to the extent that the vessel registration number becomes illegible or if a distinctive vessel identification sticker is lost, mutilated, or destroyed, the owner of the vessel shall file with the county licensing official documentation of such as prescribed by rules of the Alabama State Law Enforcement Agency. Upon payment for a replacement sticker in an amount prescribed by rules of the Alabama State Law Enforcement Agency not to exceed fifteen dollars (\$15) per sticker and the surrender of the damaged or mutilated distinctive vessel identification sticker, the licensing official shall issue a replacement sticker. In addition to the cost of a replacement sticker, the licensing official shall charge an issuance fee of two dollars (\$2) and any other surcharge or convenience fee authorized by Section 11-103-1; provided, however, the surcharge or convenience fee may not be in an amount greater than the transaction fee charged by the credit card issuer or processor. The issuance fee

and any other surcharge or convenience fee shall be used for the same purposes prescribed in subsection (c). The proceeds from the purchase of replacement distinctive vessel identification stickers shall be distributed in the same manner as proceeds are distributed in subsection (c). Should a lost vessel identification sticker be recovered or come into the possession of the vessel owner, he or she shall immediately deliver and surrender the sticker to the local licensing official.

(g) On or before the twentieth day of each month, the licensing official shall transmit all proceeds received from the sale of distinctive vessel identification stickers during the then preceding month to the Comptroller. Funds collected and distributed pursuant to this section shall be audited by the Department of Examiners of Public Accounts.

(h) Distinctive vessel identification stickers shall be transferable to a new owner of the vessel subject to rules as may be established by the Alabama State Law Enforcement Agency.

(i) Notwithstanding any other provision of this article to the contrary, the Alabama State Law Enforcement Agency shall have the necessary power, authority, and responsibility to promulgate rules to implement, administer, and enforce this article.

(Acts 1959, No. 576, p. 1442, §8; Acts 1994, No. 94-622, p. 1162, §9; Act 2016-421, §1; Act 2017-379, §1.)

Section 33-5-12

Certificates of registration and numbers generally - Numbering system.

The numbering system employed pursuant to this chapter shall be determined and promulgated by the Commissioner of the Department of Conservation and Natural Resources acting pursuant to the authority conferred on him by Section 33-5-28; provided, that in the event an agency of the United States government shall have in force an overall system of identification numbering for vessels within the United States, any numbering system employed or promulgated pursuant to this article shall conform thereto.

(Acts 1959, No. 576, p. 1442, §11.)

Section 33-5-13

Certificates of registration and numbers generally - Term of certificates and licenses.

(a) Every certificate and license as provided for in this article is to be issued on a yearly basis and said certificate and license shall be valid for one issuing year only.

(b) The registration of vessels shall be on a staggered basis. To implement this article, the registration of vessels may be for periods of less than or greater than 12 months during the conversion year only.

(c) The staggered system for registration of vessels shall be implemented thusly: The first letter of an individual's last name shall determine the month in which a vessel owner shall register his vessel(s), as indicated below:

January	A, D
February	B
March	C, E
April	F, G, N
May	H, O
June	M, I
July	P, L
August	J, K, R
September	Q, S, T
October	U, V, W, X, Y, Z, to include livery boats, dealers, and manufacturers

After the conversion period all owners of vessels shall continue to register their vessels during the month assigned to the first initial of their last name. All registrations issued on a staggered basis shall expire on the last day of the month which precedes the month assigned for the purchase or renewal of registration. All registrations issued to vessels for which registration is due in October and November shall expire on September 30.

(Acts 1959, No. 576, p. 1442, §13; Acts 1988, No. 88-552, p. 868, §1.)

Section 33-5-14

Certificates of registration and numbers generally - Manufacturers' and dealers' vessels.

- (a) The description of the vessel of a manufacturer or dealer shall be omitted from the certificate since the number awarded may be used on different vessels at different times. In lieu of the description, the word "manufacturer" or "dealer," as appropriate, shall be plainly marked on each certificate.
- (b) The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the vessel being demonstrated or tested so long as the display meets the requirements of this article.

(Acts 1959, No. 576, p. 1442, §9.)

Section 33-5-15

Certificates of registration and numbers generally - Foreign vessels; change of ownership.

(a) Any vessel already covered by a number in full force and effect which has been awarded to it pursuant to the operative federal law or federally approved numbering system of another state may be operated on the waters of this state for a period of 90 consecutive days without being licensed under the provisions of this article. Any vessel operating for more than 90 consecutive days must then be registered and licensed in the same manner as other vessels are required to be licensed under this article.

(b) Should the ownership of a vessel change, a new application form with a fee of three dollars (\$3) for change in registration shall be filed with the Department of Conservation and Natural Resources and a new certificate issued transferring the original vessel number to the new owner; provided, however, that the Commissioner of Conservation and Natural Resources may at his or her discretion provide by duly promulgated regulations a system for the issuance of such changes of registration by the probate judges and license commissioners of this state, and, in the event such change of registration certificates are issued by such probate judges and license commissioners, they shall be entitled to a fee therefor of two dollars (\$2).

(c) No citizen or resident of this state may operate his or her vessel on the waters of this state when such vessel is under foreign registry; provided, however, that any such citizen or resident who has previously registered his or her vessel in another state or by federal registry before coming into this state may operate same for a period of 90 consecutive days without being required to register under the provisions of this article.

(Acts 1959, No. 576, p. 1442, §10; Acts 1965, No. 787, p. 1473, §1; Act 2007-420, p. 896, §1.)

Section 33-5-16

Certificates of registration and numbers generally - Transfer of interest or destruction or abandonment of vessel; change of address; duplicate registration certificates.

(a) The owner shall furnish the Department of Conservation and Natural Resources notice of the transfer of all or any part of his or her interest other than the creation of a security interest in a vessel numbered in this state pursuant to this article or of the destruction or abandonment of such vessel within 15 days thereof. Such transfer, destruction, or abandonment shall terminate the certificate for such vessel; except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate.

(b) Any holder of a certificate shall notify the Department of Conservation and Natural Resources within 15 days if his or her address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the Department of Conservation and Natural Resources with his or her new address. The Department of Conservation and Natural Resources may provide in its rules and 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 an outstanding certificate to show the new address of the holder.

(c) Any person who has purchased a registration number for his or her vessel and subsequently loses or misplaces the registration certificate may make application to the Department of Conservation and Natural Resources, accompanied by a fee of three dollars (\$3) for a duplicate registration certificate. Such applications must be made upon forms furnished by the Division of Marine Police of the Department of Conservation and Natural Resources.

(d) The Commissioner of Conservation and Natural Resources is authorized to provide by duly promulgated regulation a system wherein the probate judges and license commissioners in this state may issue duplicate registration certificates, and, in the event such probate judges and license commissioners issue such duplicate registration certificates, they shall be entitled to a fee of two dollars (\$2) for each duplicate certificate.

(Acts 1959, No. 576, p. 1442, §14; Acts 1961, No. 878, p. 1377, §3; Acts 1965, No. 787, p. 1473, §2; Act 2007-420, p. 896, §1.)

Section 33-5-17

Certificates of registration and numbers generally - Classification of vessels and registration fees.

(a) Vessels subject to the provisions of this article shall be classified according to the following schedule and annual fees charged by the Department of Conservation and Natural Resources for registration shall be in the following amounts:

CLASS 1. Less than 16 feet in length, eighteen dollars (\$18) plus a two dollar (\$2) issuance fee.

CLASS 2. Sixteen feet or over and less than 26 feet in length, twenty-three dollars (\$23) plus a two dollar (\$2) issuance fee.

CLASS 3. Twenty-six feet or over and less than 40 feet in length, seventy-three dollars (\$73) plus a two dollar (\$2) issuance fee.

CLASS 4. Forty feet or over in length, ninety-eight dollars (\$98) plus a two dollar (\$2) issuance fee.

The above stated fees shall also apply to livery boats.

CLASS 5. Dealer or manufacturer; temporary license, twenty-three dollars (\$23) plus a two dollar (\$2) issuance fee for each license.

(b) In addition to the foregoing fees, there shall be an inspection fee of twenty-five dollars (\$25) for all homemade boats which require a hull identification number.

(Acts 1959, No. 576, p. 1442, §16; Acts 1961, No. 878, p. 1377, §4; Acts 1971, No. 2081, p. 3352, §1; Acts 1981, No. 81-296, p. 377, §1; Acts 1984, No. 84-446, p. 1040, §6; Acts 1993, No. 93-754, p. 1508, §1; Act 2007-420, p. 896, §1.)

Section 33-5-18

Certificates of registration and numbers generally - Only authorized number to be used.

No number other than the number awarded to the vessel or granted reciprocity pursuant to this article shall be painted, attached or otherwise displayed on either side of the bow of such vessel.

(Acts 1959, No. 576, p. 1442, §15.)

Section 33-5-19

Certificates of registration and numbers generally - Exemption from numbering provisions of article.

A vessel shall not be required to be numbered under this article if it is:

- (1) A vessel operating under valid temporary certificate or number;
- (2) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; provided, that such vessel shall not have been within this state for a period in excess of 90 consecutive days;
- (3) A vessel under registry from a country other than the United States temporarily using the waters of this state;
- (4) A vessel owned by the United States, or a state, county or municipality;
- (5) A ship's lifeboat; or
- (6) A vessel not propelled by machinery, except sail boats and boats for hire.

(Acts 1959, No. 576, p. 1442, §18.)

Section 33-5-20

Special agents to sell boat licenses.

The sheriffs of this state may be designated as special agents to sell boat licenses as provided for herein. The Commissioner of Conservation and Natural Resources is authorized to appoint other special agents to sell boat licenses as provided for herein; provided, however, that the Commissioner of Conservation and Natural Resources may not appoint any special agent until the agent is bonded for not less than five thousand dollars (\$5,000). Such agents shall receive licenses from the Department of Conservation and Natural Resources in the same manner as the probate judges and license commissioners and shall make such reports and be subject to such audits as the Commissioner of Conservation and Natural Resources may specify. Special agents so appointed shall make returns to the Department of Conservation and Natural Resources in the same manner as probate judges and license commissioners. The Commissioner of Conservation and Natural Resources is further authorized to cancel such special agents' authority to sell licenses at any time he or she may so desire. Special agents shall be entitled to an issuance fee of two dollars (\$2). Any special agent selling licenses in excess of the cost of licenses as herein specified shall be

guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars (\$100).

(Acts 1959, No. 576, p. 1442, §32; Act 2007-420, §1.)

Section 33-5-21

Safety provisions relative to boat liveries.

The Department of Conservation and Natural Resources through its agents and employees shall have the right to inspect at any reasonable time all boats owned or controlled by a livery operator for the purpose of ascertaining their seaworthiness and safety. In the event any boat owned or used by the livery operator for rental purposes is determined to be in an unsafe or unseaworthy condition, the Department of Conservation and Natural Resources shall immediately notify the livery operator in writing as to the unsafe or unseaworthy condition of such boat or boats and, after such notification, it shall be unlawful for the boat liveryman to rent or offer to rent any boat found to be in such condition; provided, however, that if such cited boat can be placed in a seaworthy or safe condition by repairs or alterations as so directed by the department, the same may then again be used for rental purposes but only after another inspection of the vessel to ascertain whether or not such repairs or alterations have been duly made.

(Acts 1959, No. 576, p. 1442, §19; Acts 1961, No. 878, p. 1377, §5.)

Section 33-5-22

Safety equipment and lights; flags; capacity plate; flame arrestor, etc., for carburetor.

(a) Every vessel while being operated on the waters of this state shall be equipped with reasonable safety devices and lights as may be required under regulations promulgated by the Commissioner of Conservation and Natural Resources. No person shall operate or give permission for the operation of a vessel which is not equipped as is required by rules and regulations duly promulgated by the commissioner of the Department of Conservation and Natural Resources.

(b) All such safety equipment and safety lights required by this section shall meet such standards as the Commissioner of Conservation and Natural Resources may from time to time establish as minimum equipment, and all such safety equipment and safety lights above the minimum requirements which are required by the rules and regulations of the Department of Conservation and Natural Resources shall conform with specific standards as may be adopted by the Department of Conservation and Natural Resources.

(c) Airboats shall display a flag 10 by 14 inches on a 12 foot mast.

(d) A diver's flag must be displayed on the surface of any water where skin divers are operating as may be stipulated by the Department of Conservation and Natural Resources.

(e) Every vessel less than 26 feet in length designed to carry one or more persons and to be propelled by machinery as its principal source of power or designed to be propelled by oars shall, if manufactured or offered for sale in this state, have affixed permanently thereto by the manufacturer a capacity plate as required by rules and regulations duly promulgated by the Commissioner of the Department of

Conservation and Natural Resources. This subsection shall apply to vessels manufactured after January 1, 1971.

(f) Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors using gasoline as fuel, equipped with such efficient USCG approved flame arrestor, backfire trap or similar device as may be prescribed by the regulations duly promulgated by the Commissioner of the Department of Conservation and Natural Resources.

(Acts 1959, No. 576, p. 1442, §17; Acts 1969, No. 1057, p. 1977, §1.)

Section 33-5-22.1

"Sailboard" defined; hull deemed flotation device.

(a) For the purposes of this section "sailboard" means any sailboat whose unsupported mast is connected by a snivel or a flexible universal joint to a hull similar to the hull of a surfboard.

(b) Any law, rule or regulation to the contrary notwithstanding, the hull of a sailboard shall be deemed to be a flotation device. Any sailboarder or wind surfer is exempt from any additional type of personal flotation device.

(Acts 1986, No. 86-465, p. 850.)

Section 33-5-23

Muffling devices and sirens.

(a) The exhaust of every internal combustion engine used on any vessel shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cutouts is prohibited, except for vessels competing in a regatta or official boat race, and for such vessels while on trial runs.

(b) No person shall use or have on board his vessel a siren of any type while operating on the waters of this state except as may be specifically allowed by the Commissioner of Conservation and Natural Resources for enforcement purposes.

(Acts 1959, No. 576, p. 1442, §20; Acts 1961, No. 878, p. 1377, §6.)

Section 33-5-25

Collisions, accidents, and casualties.

(a) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he or she can do so without serious danger to his or her own vessel, crew, and passengers, if any, to render to other persons affected by the collision, accident, or other casualty assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his or her name, address, and identification of his or her vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(b) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of two thousand dollars (\$2,000), shall within 10 days file with the Department of Conservation and Natural Resources a full description of the collision, accident, or other casualty, including such information as the Department of Conservation and Natural Resources by regulation may require.

(c) All accident reports required by this section made by persons involved in accidents shall be without prejudice to the individuals so reporting and shall be for the confidential use of the Department of Conservation and Natural Resources or other governmental agencies having use of the record; except, that the Department of Conservation and Natural Resources may disclose the identity of a person involved in an accident when the identity is not otherwise known or when the person denies his or her presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident; except, that the Department of Conservation and Natural Resources shall furnish upon demand of any person who has made, or claims to have made, such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department of Conservation and Natural Resources solely to prove a compliance or a failure to comply with the requirements that a report be made to the Department of Conservation and Natural Resources.

(Acts 1959, No. 576, p. 1442, §22; Act 2009-151, p. 306, §1.)

Section 33-5-26

Water skis and aquaplanes.

(a) No person shall operate a vessel on any waters of this state for towing a person or persons, on water skis, or an aquaplane or any other recreational device, unless there is in the vessel a person, in addition to the operator, who is at least 12 years of age and is observing and is capable of communicating to the operator of the vessel the progress and safety of the person or persons being towed, or the vessel is equipped with a wide angle mirror with a viewing surface of at least 78 square inches and a field of vision of at least 170 degrees.

(b) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, aquaplane or any other recreational device, nor shall any person engage in water skiing, aquaplaning, or similar activity, at any time between the hours from one hour after sunset to one hour before sunrise.

(c) Subsections (a) and (b) of this section do not apply to a performer engaged in a professional exhibition or a person or persons participating in an official regatta, motorboat race, marine parade, tournament, or exhibition.

(d) No person except in jump buoys and like objects used normally in competitive and recreational skiing shall operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, aquaplane, or any other recreational device may be affected or controlled in a manner to cause the water skis, aquaplane, or other recreational device, or any person thereon, to collide with or strike against any object or person.

(e) Subsection (a) shall not apply to personal watercraft as defined in Section 33-5-51.

(f) Any person who violates this section shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(Acts 1959, No. 576, p. 1442, §24; Acts 1994, No. 94-652, p. 1243, §23.)

Section 33-5-27

Regattas, races, marine parades, tournaments and exhibitions.

(a) The commissioner shall adopt and may from time to time amend regulations concerning the safety of vessels and persons thereon, either observers of or participants, in any regatta, motorboat or other boat race, marine parade, tournament or exhibition.

(b) Any person or organization sponsoring a regatta, motorboat or other boat race, marine parade, tournament or exhibition shall be responsible for providing adequate protection from marine traffic interference and hazards.

(Acts 1959, No. 576, p. 1442, §25.)

Section 33-5-28

Rules and regulations - Power of commissioner to promulgate.

The Commissioner of the Department of Conservation and Natural Resources shall make, adopt, promulgate, amend and repeal all rules and regulations necessary or convenient for the carrying out of the duties and obligations and powers conferred on the said Commissioner of the Department of Conservation and Natural Resources by this article. Further clarifying the rule-making power of the commissioner, he shall have power and authority to make, adopt, promulgate, amend and repeal all rules and regulations as shall promote safety for persons and property in and connected with the use, operation and equipment of vessels and for the carrying out of duties, obligations and powers conferred upon the Commissioner of the Department of Conservation and Natural Resources by this article, subject to such supervision of the Advisory Board of Conservation and Natural Resources as set out in Section 9-2-15.

(Acts 1959, No. 576, p. 1442, §28.)

Section 33-5-29

Rules and regulations - Filing and publication.

A copy of the regulations adopted pursuant to this article, and of any amendments thereto, shall be filed in the office of the secretary of state, and in the office of the Department of Conservation and Natural Resources. Rules and regulations may be published by the commissioner in a convenient form. The Commissioner of Conservation and Natural Resources shall cause to be publicized, by the issuance of newspaper releases, new or amended or rescinded rules and regulations promulgated by him.

(Acts 1959, No. 576, p. 1442, §27.)

Section 33-5-30

Rules and regulations - Admissibility as evidence.

All rules and regulations duly promulgated under the provisions of this article by the Commissioner of Conservation and Natural Resources shall be admitted as evidence in the courts of this state when accompanied by an affidavit from the Commissioner of Conservation and Natural Resources certifying that the rule or regulation has been lawfully adopted and promulgated and such affidavit shall be prima facie evidence of proper adoption and promulgation of the rule or regulation.

(Acts 1959, No. 576, p. 1442, §29.)

Section 33-5-31

Local regulation.

(a) The provisions of this article and rules and regulations promulgated pursuant thereto, and other general laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this article shall take place thereon, but nothing in this chapter shall be construed to prevent the adoption of any ordinance or local law relating to operation of vessels the provisions of which are identical to the provisions of this article, amendments thereto or regulations issued thereunder; provided, that such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this article, amendments thereto or regulations issued thereunder.

(b) Any subdivision of this state may, at any time, but only after public notice, make formal application to the commissioner for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate. The public notice shall be effected by the said subdivision causing a copy of the proposed public rules or regulations to be published one time per week for four consecutive weeks in a newspaper of general circulation within the area that the subdivision is located.

(c) The commissioner is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this state.

(Acts 1959, No. 576, p. 1442, §26.)

Section 33-5-32

Jurisdiction of offenses; disposition of fines.

District courts of any county of the State of Alabama shall have and are hereby given final jurisdiction to try and convict persons, firms or corporations violating any of the provisions of this chapter or the rules and regulations promulgated thereunder, subject to any proper appeal; and they shall remit to the commissioner, on or before the tenth day of each month, all fines and forfeitures collected by them for the violation of such laws, rules and regulations, together with a statement of the name of the person, firm or

corporation convicted of such violation, the time of such conviction, the amount of the fine or penalty, the date of the remittance, and the specific charge for which the defendant was tried.

(Acts 1959, No. 576, p. 1442, §30.)

Section 33-5-33

Fees in certain prosecutions.

In all misdemeanor cases for violations of the provisions of this article and regulations promulgated thereunder, and in all misdemeanor cases for violation of future laws, the enforcement of which is assigned to the Marine Police Division of the State Department of Conservation and Natural Resources, cognizable in district courts or circuit courts, where the defendant pleads guilty and no appeal is taken, no fee shall be taxed or collected in said court for trial tax, district attorney's fee or entering judgment in such cases.

(Acts 1967, No. 288, p. 817.)

Section 33-5-34

Fees of arresting officer.

When an arrest for violation of the provisions of this article or regulations promulgated thereunder is made by a salaried officer not employed by the Department of Conservation and Natural Resources and the defendant is convicted, there shall be taxed as cost the same fee as a sheriff in this state is entitled to for similar services and if collected from the defendant it shall be immediately remitted by the trial court directly to the treasurer of the county in which the offense occurred. When an arrest for violation of the provisions of this article or regulations promulgated thereunder is made by a salaried officer of the Department of Conservation and Natural Resources and the defendant is convicted, there shall be taxed as cost the same fee as a sheriff in this state is entitled to for similar services and if collected from the defendant it shall be immediately remitted by the trial court directly to the Department of Conservation and Natural Resources, which fee shall be deposited to the credit of the Water Safety Fund. If the officer making the arrest be a nonsalaried officer and if said fee is collected from the defendant, said nonsalaried officer shall be entitled to said fee; provided, that no person shall be entitled to receive an informer's fee; and, further provided, that no fee shall be allowed in cases of acquittal. In the event the arrest is made by a county officer, salaried or nonsalaried, 50 percent of the fine shall be remitted to the credit of the county treasury of the county in which the offense was committed, and the remaining 50 percent of the fine shall be remitted to the State Treasury for deposit to the "State Water Safety Fund." In the event the arrest is made by an officer other than a county officer, the fine shall be remitted to the State Treasurer for deposit to the "State Water Safety Fund."

(Acts 1959, No. 576, p. 1442, §31.)

Section 33-5-35

Penalty for violations of chapter generally.

Any person convicted of violating any provision of this article, except as set out in subsection (c) of Section 33-5-24, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10.00 nor more than \$100.00 and costs for each such violation.

(Acts 1959, No. 576, p. 1442, §33.)

Section 33-5-36

Warning citations.

The Commissioner of Conservation and Natural Resources is authorized to provide by duly promulgated regulation a system for issuing warning citations under such conditions as he may deem proper.

(Acts 1959, No. 576, p. 1442, §34.)

Article 2 Boating Safety Reform.

Section 33-5-50

Short title.

This article shall be designated as the "Alabama Boating Safety Reform Act of 1994."

(Acts 1994, No. 94-652, p. 1243, §1.)

Section 33-5-51

Operation of personal watercraft.

(a) As used in this section, "personal watercraft" means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.

(b) A person may not operate a personal watercraft on the waters of this state, as waters are defined in Section 33-5-3, unless each person operating, riding on, or being towed by the vessel is wearing a personal flotation device approved by the United States Coast Guard, in accordance with rules and regulations by the Commissioner of the Department of Conservation and Natural Resources.

(c) A person operating a personal watercraft on the waters of this state that does not have self circling capability, shall have a lanyard type engine cutoff switch and must attach the lanyard to the person, clothing, or personal flotation device as is appropriate.

(d) A personal watercraft shall at all times be operated on the waters of this state in a reasonable and prudent manner. Maneuvers which endanger life, limb, or property, or create a public nuisance, including, but not limited to the following, weaving through congested vessel traffic at high speed, following closely behind within the wake of a vessel towing a person or persons on water skis, surfboard, or other water sport device, jumping the wake of another vessel travelling in the same direction in close proximity to the vessel, cutting between a boat and the person or persons being towed by that boat, or crossing at right angles in close proximity to the stern of another vessel or when visibility around the other vessel is obstructed, or steering a vessel toward any object or person in the water and turning sharply at close range so as to spray the object or person, shall all constitute the reckless operation of a vessel, as provided in subsection (a) of Section 33-5-70. Any person violating this subsection shall be punished upon conviction as provided in Section 33-5-70.

(e) No person under the age of 12 shall operate a personal watercraft on the waters of this state, and persons who are at least 12 and over may only operate personal watercraft on the waters of this state to the extent otherwise permitted by law.

(f) It is unlawful for the owner of any personal watercraft or any person having charge over or control of a personal watercraft to authorize or knowingly permit these to be operated on the waters of this state by a person in violation of this section.

(g) No person shall tow any person by personal watercraft unless the personal watercraft is equipped with a rearview mirror meeting the specifications established by regulation of the Commissioner of the Department of Conservation and Natural Resources.

(h) Any person who violates this section, except as otherwise provided in subsection (d), shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. All persons so convicted shall be fined not less than twenty-five dollars (\$25). All fines collected for violation of this section shall be paid into the State Water Safety Fund.

(i) This section does not apply to a performer engaged in a professional exhibition or a person participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with Section 33-5-27, and any rules and regulations issued by the Commissioner of Conservation and Natural Resources.

(Acts 1994, No. 94-652, p. 1243, §4; Act 2001-695, p. 1477, §3.)

Section 33-5-52

Boater safety certification generally.

(a) Every person, except those specifically exempted by statutory enactment, within five years from April 28, 1994, shall procure a boater safety certification before operating a motorized vessel upon the waters of this state, as defined in Section 33-5-3. This section shall not apply to any sailboat, rowboat, or canoe. Notwithstanding anything to the contrary herein, an Alabama resident 16 years of age and older, who has not been previously issued a boater safety certification, may for a period of thirty (30) days following the

date of sale of the vessel to the person, operate the vessel upon the waters provided the following conditions are met: (1) The vessel has been registered in the name of the person; and (2) a bill of sale for the vessel, indicating that the person is the purchaser and owner of the vessel, is in the possession of the person at all times of operation. In addition, any person while taking test drives of vessels for sale when accompanied by a licensed vessel dealer, shall be exempt during the drive from the certification. Every new resident of the State of Alabama, before operating a motorized vessel, shall procure the certification within 30 days after establishing residence in this state.

(b) Each boater safety certification issued to a person, if issued at the same time the person is issued a valid Alabama motor vehicle driver or learner license, or valid Alabama nondriver identification card, or if issued prior to the expiration date of the driver or learner license or card, shall expire on the expiration date of the person's valid Alabama motor vehicle driver or learner license or card. In all other cases, the expiration date of each boater safety certification shall be four years from the date of issuance.

(c) Every boater safety certification issued under this article may be renewed at the end of the certification period without examination upon application. For the purpose of renewal of a boater safety certification, the Department of Public Safety shall mail renewal notices to each certification holder 30 days after the expiration date if the certification has not been renewed. A grace period of 60 days after the expiration date of certification shall exist for the purpose of certification renewal and the certification shall be valid for this time period. The applicant shall apply for renewal of certification any time during a period beginning 30 days before the expiration date of the then current certification until three years after the expiration date of certification. Failure to make application for renewal within the specified time shall result in the applicant being required to take, and successfully pass, a written or oral examination as administered by the Department of Public Safety. If any person's birthday is February 29, the first day of March following shall be regarded as the birthday for the purposes of this section.

(d) Nonresidents at least 12 years of age who have in their immediate possession a valid boater safety certification or vessel operator's certification issued in their home state or country shall be exempt from the requirements of this section, but under no circumstances shall a person be granted any privileges of operation beyond those granted to an Alabama resident certification holder of the same age.

(e) Nonresidents at least 12 years of age whose home state or country does not require boater safety certification or the licensing of vessel operators shall also be exempt from the requirements of this section for a cumulative operation period of not more than 45 days in any calendar year. Otherwise, any nonresidents shall be examined and certified under the same terms and conditions as Alabama residents. Nonresidents may be examined and obtain certification in any county and the certification shall be entitled "Nonresident Alabama Boater Safety Certification," but under no circumstances shall a person be granted any privileges of operation beyond those granted to an Alabama resident certification holder of the same age.

(f) A person operating a vessel pursuant to a valid and legal commercial activity, shall, during the period of time of that activity only, be exempt from the requirement of boater safety certification. Otherwise, the person shall be subject to the requirement.

(g) A person, while using a rental vessel, shall be exempt from the certification requirements of this section if the following conditions are met:

The person rents a vessel from a boat rental business duly licensed by the municipality or the county if the following three conditions are met:

- a. The rental contract specifies that the lessee has been instructed in the proper and safe operation of the vessel by the lessor or the authorized agent of the lessor, and
- b. The lessor in fact has complied with the terms of rental contract and all parties sign the contract, and
- c. The lessee signs a statement that the lessee is not currently under suspension or revocation of any boater safety certification or vessel operation privilege in this state.

(Acts 1994, No. 94-652, p. 1243, §5; Act 2001-695, p. 1477, §3.)

Section 33-5-53

Boater safety certification; application fee; examinations; exemptions.

(a) Every person who applies for a boater safety certification under this article, except as otherwise provided in this subsection, shall pay a five dollar (\$5) application fee and be given either a certificate of exemption from examination if applicable, or will be given an examination, either written or oral, before applying to the judge of probate or license commissioner for the issuance of the certification. No person shall be eligible for, or issued, an exemption from examination in the event the person is convicted, on or after April 28, 1994, of violating any crime relating to the operation of a vessel, whether contained in this article or otherwise, for which a person's boater safety certification or vessel operating privileges shall be suspended or revoked pursuant to this article. The person shall first apply to either the officer, state trooper, or duly authorized agent of the Director of Public Safety, designated by the Director of Public Safety to conduct examinations for the county of the applicant's residence, and a minor shall furnish a certified copy of a birth certificate or a certified statement from the county superintendent of education in which the applicant resides or the superintendent of the school which the person attends, to prove age and upon proof shall immediately be examined. Any operator of a boat who is 40 years of age or older, whether a resident or a non-resident, as of April 28, 1994, shall be granted a certificate of exemption only from the certification examination requirements of this article, but shall be subject to all the other requirements of this article. Any operator of a boat or vessel that is a holder of a current valid United States Coast Guard license issued under Section 46, Code of Federal Regulations, Part 10, is exempt from the safety certification requirements of Section 33-5-52, only while performing the duties of the operator, including, but not limited to, the following: Carrying passengers for hire on United States navigable waters; on all towboats greater than 26 feet engaged in towing; on any steam propelled vessel; on any sea-going vessel greater than 200 gross tons; on any vessel engaged in off-shore oil or mineral production; and on all boats or vessels over 200 gross tons. Also exempt from the safety certification requirements of Section 33-5-52, only upon proof of valid documentation and only while performing commercial fishing duties, is an operator of a commercial fishing vessel or boat. A person holding a valid United States Coast Guard motorboat operator's license, and a person submitting a valid certificate of successful completion of any of the following boating courses: (a) United States Power Squadron, (b) United States Coast Guard Auxiliary, or (c) any State of Alabama Marine Police Division approved boating safety course, shall be exempt from the examination requirements, and shall be issued a certificate of exemption from examination, for a boater safety certification, but shall be subject to all other requirements of this article.

(b) A person may be examined in a county other than the county designated by the Director of Public Safety by agreement in writing with the Director of Public Safety.

(c) The Commissioner of Conservation and Natural Resources shall establish from time to time as necessary the kind of examination or test to be given, which shall be of similar length and content as the motor vehicle driver license examination, and the method and manner of giving the test and ascertaining and reporting the results. Reports of all examinations shall be on forms provided by the Director of Public Safety and shall show whether or not the applicant passed the examination. No provision of this subsection shall be construed to require a test of driving skills. The rules and regulations promulgated by the commissioner pursuant to this subsection shall be subject to the Administrative Procedure Act.

(d) If the applicant passes the examination, a certificate to that effect shall be given, on a form provided by the Director of Public Safety by the officer, state trooper, or duly authorized agent of the Director of Public Safety conducting the test. The person shall present the certificate, or the certificate of exemption from examination if applicable, to the judge of probate or license commissioner of the county, together with the application for a boater safety certification, and the judge of probate or license commissioner shall attach the certificate to the application and forward it to the Director of Public Safety along with the application at the time the application is sent.

(e) If any person fails to pass the examination given, no certificate shall be given and no application for a boater safety certification shall be accepted by a judge of probate or license commissioner unless it is accompanied by a certificate showing that the applicant has passed the examination.

(f) The application fees shall be retained by the Department of Public Safety and are appropriated on a continuous basis and shall be utilized and expended for boating safety or law enforcement purposes and shall not revert to the General Fund at the end of the fiscal year.

(Acts 1994, No. 94-652, p. 1243, §6.)

Section 33-5-54

Issuance of boater safety certification.

(a) Unless otherwise provided in this article, upon the installation of a system for the issuance of boater safety certifications with color photographs of holders, all certifications and renewals issued in this state shall be issued in the following manner:

(1) The person shall apply under oath to the judge of probate or license commissioner of the county of residence for the certification or renewal upon a form which shall be provided by the Director of Public Safety.

(2) Subject to the other provisions of this section, the judge of probate or license commissioner shall take a color photograph of the holder, with equipment to be furnished by the Department of Public Safety, to be attached to each application.

(b) It is the legislative intent to implement and maintain a boater safety certification program at the lowest possible cost to the citizens of Alabama. Consistent with this goal, it is the legislative intent to not require payment for boater safety certifications when certifications are obtained at the time of issuance of a valid

Alabama motor vehicle driver or learner license or valid Alabama nondriver identification card, but rather utilize one card for those purposes.

(c) The following requirements shall apply to persons obtaining boater safety certifications other than at the time of issuance of their Alabama motor vehicle driver or learner license or identification card:

For the purpose of defraying the cost of issuing boater safety certifications with color photographs of the holder thereon, the judge of probate or license commissioner shall collect for each certification the sum of twenty dollars (\$20) for a four-year certification, and the judge of probate or license commissioner shall give the applicant a boater safety certification.

(d) Notwithstanding anything to the contrary, in the event the applicant is, at the time of issuance, also issued a valid Alabama motor vehicle driver or learner license or valid Alabama nondriver identification card, then the applicant shall not be required to pay any additional amount for the boater safety certification.

(e) Any person given a citation for failure to have a boater safety certification who had a current, valid boater safety certification at the time of the citation which was not on his or her person at the time the citation was issued, may present the boater safety certification to the court or the court clerk and the citation shall be dismissed without the payment of any costs.

(Acts 1994, No. 94-652, p. 1243, §7; Act 2001-695, p. 1477, §3.)

Section 33-5-55

Reports; disposition of funds.

At the close of business on Monday of each week, when any application has been received, the judge of probate receiving the application shall prepare a report upon a form which shall be provided by the Director of Public Safety. One copy of the report, together with all applications received, shall be forwarded to the Director of Public Safety and one copy shall be retained by the judge of probate. On the tenth day of every month, the judge of probate shall prepare a report showing the number of applications received and the amount of fees received during the previous calendar month; provided, that the report shall be prepared on the twentieth day in October, November, and December. One copy of the report shall be forwarded to the Director of Public Safety, one to the Commissioner of Conservation and Natural Resources, one to the state Comptroller, and one to the State Treasurer, and the judge of probate shall retain a copy. Except as otherwise provided in this article, the judge of probate shall also at that time deliver to the State Treasurer the amount of all the fees collected, less one dollar fifty cents (\$1.50) for each boater safety certification issued, which sum shall be retained by him or her. Except in counties where the judge of probate is compensated by fees, each one dollar fifty cents (\$1.50) retained by the judge of probate shall be paid into the public highway and traffic fund of the county. In counties where the judge of probate is compensated by fees, two-fifths of each one dollar fifty cents (\$1.50) retained by the judge of probate shall be for his or her own use, and no other or further charge shall be made for services rendered in taking or receiving applications or issuing permits. The remaining three-fifths shall be paid into the public highway and traffic fund of the county. This section, providing for the allocation of the one dollar fifty cents (\$1.50) retained by the judge of probate in counties where the judge of probate is compensated by fees, shall not repeal any local statutes or general statutes of local application providing

for a different allocation of the one dollar fifty cents (\$1.50). The funds remitted to the State Treasurer under this section, shall be deposited into the Highway Traffic Safety Fund for the Department of Public Safety within the State Treasury. All money deposited in the State Treasury to the credit of the Highway Traffic Safety Fund for the Department of Public Safety shall be expended for law enforcement purposes and shall be appropriated on a continuous basis and shall not revert to the General Fund of the State Treasury.

(Acts 1994, No. 94-652, p. 1243, §8; Act 2000-800, p. 1901, §1.)

Section 33-5-56

Certification to bear distinguishing number, color photograph, signature, and other identification information; notification on motor vehicle driver or learner license.

Each boater safety certification issued by the Department of Public Safety, except for temporary certifications issued pursuant to Section 33-5-54, or except special circumstances as determined by the Director of the Department of Public Safety, shall bear thereon a distinguishing number assigned to the holder and a color photograph of the holder, the name, birth date, address, and a description of the holder, who, for the purpose of identification and as a condition precedent to the validity of the certification, immediately upon receipt thereof, shall endorse his or her usual or regular signature in ink upon the certification in the space provided, unless a facsimile of the holder's signature appears.

The photo boater safety certification, as provided in Section 33-5-54, shall have a photo core that meets the minimum width and length dimensions specified in ANSI standards X4.13-1971 and ANSI standard CR80, plus or minus 1/4 inch. In addition to all current and existing fees, the Department of Public Safety may charge an additional fee to recover the cost of obtaining boater safety certifications and terminal support equipment from the supplier. The fee may not exceed ten cents (\$.10) over the actual cost of obtaining the necessary material from the supplier. Revenues collected under this section shall be used by the department for the sole purpose of this program and any excess shall revert to the State General Fund at the end of each fiscal year.

Notwithstanding anything to the contrary, in the event a person is issued a valid Alabama motor vehicle driver or learner license, or valid Alabama nondriver identification card at the same time as issuance of the boater safety certification, the certification shall consist of a notification on the driver or learner license or the identification card, at no additional cost for notification, that the person is also the holder of a boater safety certification. No additional fees shall be collected or retained for the issuance of a boater safety certification under these circumstances. Any person may have a duplicate card issued, at the same cost as the original cost, for the convenience of the individual. The duplicate shall be marked "duplicate."

(Acts 1994, No. 94-652, p. 1243, §9.)

Section 33-5-57

Persons to whom boater safety certification shall not be issued.

(a) A boater safety certification may not be issued to the following persons:

(1) Any person less than 12 years of age.

- (2) Any person whose vessel operating right or privilege is suspended.
 - (3) Any person whose vessel operating right or privilege is revoked.
 - (4) Any person who is an habitual abuser of alcohol or drugs.
 - (5) Any person afflicted with or suffering from a physical or mental disability which, in the opinion of the Director of Public Safety or examining officer, will prevent the person from exercising reasonable and ordinary control over a vessel.
 - (6) Any person who is ineligible to receive a driver's license pursuant to Act 2009-713.
- (b) Notwithstanding any other provisions of this chapter, a person 12 years of age, but less than 14 years of age, who does not have a valid boater safety certification on January 1, 2002, may not operate a vessel, including a personal watercraft, unless the person obtains a valid boater safety certification and is under the immediate supervision of a person who is 21 years of age or older having a valid boater safety certification and who is on the vessel and is in a position to take immediate physical control of the vessel if needed. Also, notwithstanding any other provisions of this chapter, Alabama residents 12 years of age, but less than 14 years of age on January 1, 2002, may apply for and obtain a boater safety certification and operate a vessel, including a personal watercraft, to the same extent and under the same conditions as persons 14 years of age.

(Acts 1994, No. 94-652, p. 1243, §10; Act 2001-695, p. 1477, §3; Act 2009-713, p. 2095, §3.)

Section 33-5-58

Persons with physical disabilities or impairments; hearings.

- (a) Any person with physical disabilities, a record of an impairment or regarded as having an impairment, shall be subject to the same laws, rules, and regulations set forth by the Department of Public Safety and the Department of Conservation and Natural Resources relating to the certification of an individual to operate a vessel.
- (b) Notwithstanding any law, rule, or regulation, the Department of Public Safety shall not refuse to issue or renew any certification for the operation of a vessel on the grounds of physical appearance, speculations, or generalizations that the individual's physical impairment would impede that person's ability to operate a vessel in a safe manner without probable cause to believe the person's ability to operate a vessel in a safe manner is in fact impaired.
- (c) If the department refuses to issue a certification or arbitrarily questions the person's abilities, based on physical appearance or speculated inability to operate a vessel in a safe manner, the person shall have a right to an impartial hearing before the Director of Public Safety or his or her designee. At the hearing, the person shall have the right to be represented by counsel and to present witnesses including, but not limited to, a physician of choice. The person may appeal any decision to the circuit court of competent jurisdiction for a trial de novo.

(d) This section shall be interpreted to be consistent with and to further the purposes and policies of Section 504 of the Rehabilitation Act of 1973, as amended, 34 CFR Part 104 and P.L. 101-336, The Americans with Disabilities Act of 1990, together with implementing regulations, and amendments to the laws and regulations.

(Acts 1994, No. 94-652, p. 1243, §11.)

Section 33-5-59

Display of certification required.

Every holder of a boater safety certification shall have the certification in personal possession at all times when operating a motorized vessel and shall display the certificate upon demand of a judge of any court, a peace officer, state marine police officer, or a state trooper. No person charged with violating this section shall be convicted, if the person produces in court or in the office of the arresting officer a boater safety certification issued prior to the arrest and valid at the time of arrest.

(Acts 1994, No. 94-652, p. 1243, §12.)

Section 33-5-60

Reciprocal agreements with other states.

The Director of Public Safety and Commissioner of Conservation and Natural Resources are empowered to enter into reciprocal agreements with other states constituting an exchange of rights or privileges in the use of boater safety certifications, vessel operator's certifications, or vessel operating privileges, within this state by residents of other states. Nothing in this article shall in any way affect the revocation of certifications of another state. The reciprocal agreement can be annulled on notice issued to either party by the other party within 30 days. No agreement shall authorize a person who has been a resident of this state for the past 90 days to operate a motorized vessel in this state without a valid boater safety certification issued by the Director of Public Safety of this state.

(Acts 1994, No. 94-652, p. 1243, §13.)

Section 33-5-61

Restrictions for persons impaired from physical disabilities; special restricted certification; penalty for violation of restrictions.

(a) The Director of Public Safety, upon issuing a boater safety certification, shall have authority whenever the holder is impaired from a physical disability to impose restrictions suitable to the holder's operating ability with respect to the type of or special mechanical control devices required on a vessel which the holder may operate or other restrictions applicable to the holder as the Director of Public Safety or Commissioner of Conservation and Natural Resources may determine to be appropriate to assure the safe operation of a vessel by the holder.

(b) The Director of Public Safety may either issue a special restricted certification or may set forth restrictions upon the usual certification form in the issuance of certification under subsection (a) of this section.

(c) The Commissioner of Conservation and Natural Resources may, upon receiving satisfactory evidence of any violation of the restrictions of certification subject to subsection (a), suspend the certification but the person shall be entitled to a hearing as upon a suspension under Section 33-5-75.

(d) It shall be a Class C misdemeanor for any person to operate a vessel in any manner in violation of the restrictions imposed in a restricted certification. Any fines collected for the violation of this section shall be deposited into the State Water Safety Fund.

(Acts 1994, No. 94-652, p. 1243, §14.)

Section 33-5-62

Rules and regulations; point system for suspension or revocation of certifications.

The Commissioner of Conservation and Natural Resources may establish and promulgate reasonable rules and regulations, not in conflict with the laws of this state, concerning operation of vessels and concerning the enforcement of this article. All fines collected shall be deposited into the State Water Safety Fund. Specifically, but not by way of limitation, the commissioner may establish, by regulation, in addition to all other penalties, a point system by which boater safety certifications may be suspended or revoked, as well as hearing procedures related to the suspension or revocation of certifications. Unless otherwise provided by law, the penalty for the violation of any rules and regulations promulgated under this article shall be a Class C misdemeanor punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. A person so convicted shall be fined not less than fifty dollars (\$50).

(Acts 1994, No. 94-652, p. 1243, §15.)

Section 33-5-63

Filing and indexing applications; filing accident reports and records of convictions.

The Director of Public Safety shall file every application for a boater safety certification received by him and shall maintain suitable indices. The Commissioner of Conservation and Natural Resources shall also file all accident reports and abstracts of court records of convictions received under the laws of this state and, in that connection, maintain convenient records or make suitable notations in order that an individual record of each certification holder showing the convictions of and the accidents in which the holder has been involved. The record shall be readily ascertainable and available for the consideration of the commissioner and director upon any application for renewal of certification and at other suitable times.

(Acts 1994, No. 94-652, p. 1243, §16.)

Section 33-5-64

Duplicates for lost or destroyed certifications; fees.

(a) In the event any boater safety certification issued under this article is lost or destroyed, the person may upon payment of a fee of five dollars (\$5) and upon furnishing proof to the Director of Public Safety that the certificate has been lost or destroyed, secure a duplicate. The second and subsequent duplicates applied for will require the payment of a fee of fifteen dollars (\$15) and, upon furnishing proof to the Director of Public Safety that the previously held certification or duplicate has been lost or destroyed, a duplicate may be secured. Application for the duplicate shall be made to the Director of Public Safety on forms provided by the official. The fee shall be collected by the director, paid into the State Treasury and credited to the Department of Public Safety. The fee shall be retained by the Department of Public Safety and is appropriated on a continuous basis and shall be utilized and expended for boating safety or law enforcement purposes and shall not revert to the General Fund at the end of the fiscal year.

(b) Any person making a false affidavit to the Director of Public Safety for the purpose of obtaining a duplicate certification shall be guilty of a Class C misdemeanor and upon conviction shall be punished as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than fifty dollars (\$50). All fines collected for the violation of this subsection shall be deposited into the State Water Safety Fund.

(c) Notwithstanding anything to the contrary, however, the person shall not be required to pay any additional fees for the reissuance of a lost or destroyed certification as denoted on any reissued lost or destroyed motor vehicle driver license, when the license and a boater safety certification were previously issued at the same time.

(Acts 1994, No. 94-652, p. 1243, §17.)

Section 33-5-65

Reinstatement of certification following cancellation, suspension, or revocation.

Any person whose boater safety certification has been cancelled, suspended, or revoked under any provision of Alabama law, by the Commissioner of Conservation and Natural Resources, or by any court of competent jurisdiction shall, upon application for reinstatement of the certification, pay to the Director of Public Safety a fee of fifty dollars (\$50) for each cancellation, suspension, or revocation action. An additional fifty dollars (\$50) is imposed if the cancelled, suspended, or revoked certification is not voluntarily surrendered within 30 days of a cancellation, suspension, or revocation notice. Upon receipt of the reinstatement fee, clearance for recertification will be provided. The second and any subsequent clearance for recertification for this action will be provided for a fee of five dollars (\$5). Upon reinstatement the holder is required to obtain a duplicate certification with a new photograph and current personal data. Fees collected by the director under this section shall be retained by the Department of Public Safety and shall not be returned to the applicant for reinstatement of certification, notwithstanding what action the Commissioner of Conservation and Natural Resources may take on the person's application for reinstatement of certification.

(Acts 1994, No. 94-652, p. 1243, §18.)

Section 33-5-66

Violations; penalties.

(a) Any person of whom a boater safety certification is required, who operates a motorized vessel on the waters of this state as the terms are defined in Section 33-5-3, without first complying with this article, or the rules and regulations promulgated, shall be guilty of a Class B misdemeanor, and, upon conviction is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than twenty-five dollars (\$25).

(b) Any person who knowingly gives permission to operate a motorized vessel on the waters of this state, as the terms are defined in Section 33-5-3, to another person who is required to have a boater safety certification pursuant to this article and who does not have a boater safety certification in compliance with this article, or to another person required to be accompanied pursuant to this article and who is not accompanied in compliance with this article, shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than twenty-five dollars (\$25).

(c) Any person who willfully makes a false statement under oath in an application or renewal for a boater safety certification, shall be guilty of perjury and upon conviction is punishable as provided by law.

(d) Any person who willfully conceals or withholds a material fact called for in an application for or renewal of a boater safety certification, with intent to obtain certification by fraud, shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than twenty-five dollars (\$25).

(e) Any person who violates any provision of this article for which no fixed punishment is prescribed, or who violates any rule or regulation promulgated as authorized by this article, shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than twenty-five dollars (\$25).

(f) All fines, penalties, or forfeitures imposed and collected under this article shall be forwarded immediately by the officer of the court who collects them to the Commissioner of Conservation and Natural Resources, together with a report giving a list and description of each case in which a fine, penalty, or forfeiture was collected. The reports shall be on forms provided by the commissioner and shall contain information as the commissioner may require. All moneys received by the commissioner shall be covered by him immediately upon receipt into the State Treasury to the credit of the State Water Safety Fund. Any officer of the court who fails to make the reports provided for or who fails to remit any fines, penalties, or forfeitures, as provided by law, and collected under this article in the manner provided shall be guilty of a Class C misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100).

(Acts 1994, No. 94-652, p. 1243, §19; Act 2001-695, p. 1477, §3.)

Section 33-5-67

Operation while certification is cancelled, suspended, or revoked prohibited; penalties.

Any person whose boater safety certification or vessel operator's certification issued in this or another state or whose vessel operating privilege as a nonresident has been cancelled, suspended, or revoked, as provided in this article, and who operates any motorized vessel upon the waters of this state while certification or privilege is cancelled, suspended, or revoked shall be guilty of a Class C misdemeanor and, upon conviction, is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100). Also, at the discretion of the Commissioner of Conservation and Natural Resources, the person's certification or privilege may be revoked for an additional revocation period of six months.

(Acts 1994, No. 94-652, p. 1243, §20.)

Section 33-5-68

Application fee; retention by Department of Public Safety.

(a) Every applicant for an original boater safety certification shall be required to pay an application fee of five dollars (\$5) to the Department of Public Safety upon applying to the officer, state trooper, or duly authorized agent of the Director of Public Safety, or to one of them where there is more than one designated by the Director of Public Safety, to conduct examinations in the county of the applicant's residence. The five dollar (\$5) application fee shall be required prior to the issuance of each certification of examination or exemption from examination.

(b) The Department of Public Safety shall issue proper receipts for the application fee. The application fees are appropriated on a continuous basis to the Department of Public Safety, and shall be retained by the department and utilized for boating safety or law enforcement purposes and shall not revert to the State General Fund at the end of each fiscal year.

(Acts 1994, No. 94-652, p. 1243, §21.)

Section 33-5-69

Flotation device; exceptions.

(a) All persons under eight years of age on board any vessel or boat of any kind on the waters of this state shall at all times wear a United States Coast Guard approved wearable personal flotation device of proper size for the person, except that no personal flotation device shall be required for any person who is inside of an enclosed cabin or enclosed sleeping space regardless of whether the vessel is in operation.

(b) Any personal flotation devices required in this section shall be strapped, snapped, or zippered securely and maintained in good condition at all times they are required to be worn.

(c) Any person who fails to require or permits any person under their legal custody or control to fail to comply with, the requirements of this section, shall be guilty of a Class B misdemeanor, and upon

conviction is punishable as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(Acts 1994, No. 94-652, p. 1243, §22.)

Section 33-5-70

Reckless operation of vehicle; careless operation; violation of rules and regulations of Marine Police; penalties.

(a) It is unlawful to operate a vessel in a reckless manner upon the waters of this state. A person is guilty of the reckless operation of a vessel who operates any vessel, or manipulates any water skis, aquaplane, or other marine transportation device, upon the waters of this state in willful or wanton disregard for the safety of persons or property at a speed, or in a manner to endanger, or likely to endanger, life, limb, or damage the property of, or injure any person. Any person who violates this subsection is guilty of a Class A misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred fifty dollars (\$150).

(b) Any person operating a vessel upon the waters of this state shall operate the vessel in a reasonable and prudent manner, so as not to endanger the life, limb, or property of any person. The endangerment of life, limb, or property through the negligence, carelessness, or inattention of any person operating a vessel on the waters of this state shall constitute careless operation. Vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, absent negligence, not constitute damage or endangerment to property. Any person who violates this subsection is guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(c) Each person operating a vessel upon the waters of this state shall comply with all of the rules and regulations of the Marine Police Division of the Department of Conservation and Natural Resources.

(1) A person whose violation of the rules and regulations results in a boating accident, but whose violation did not constitute reckless or careless operation of a vessel, is guilty of a Class C misdemeanor punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(2) A person whose violation of the rules and regulations does not result in a boating accident and does not constitute reckless or careless operation of a vessel is guilty of a Class C misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than fifty dollars (\$50).

(d) In addition to all other penalties contained in this section, any person convicted of violating this section shall be subject to the revocation or suspension of their boating safety certification or vessel operator's certification or vessel operating privileges upon the waters of this state, as provided by law and rules and regulations of the Department of Conservation and Natural Resources.

(Acts 1994, No. 94-652, p. 1243, §24.)

Section 33-5-71

Obstruction of operator's view prohibited; penalties.

(a) It shall be unlawful for the operator of a vessel, when the vessel is operated at or above plane speed, to position or allow the positioning of, persons or equipment, including but not limited to, seats, coolers, tackle, ski, and tubing devices, in a manner that would obstruct the operator's view to impair, or would otherwise impair, the safe operation of the vessel while operating on the waters of this state. Sailboats and auxiliary sailboats are exempt from this section.

(b) Any person violating this section shall be guilty of a Class B misdemeanor, and upon conviction shall be punished as provided by Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(Acts 1994, No. 94-652, p. 1243, §25.)

Section 33-5-72

Emergency engine or motor shut-off switch.

(a) It shall be unlawful on the waters of this state for any person to operate, or give permission to another person to operate, any vessel less than 24 feet in length having an open construction and having more than 50 horsepower, unless the vessel is equipped with an emergency engine or motor shut-off switch.

(b) The shut-off switch referred to in subsection (a), shall be a lanyard-type engine cutoff switch and shall be attached to the person, clothing, or personal flotation device of the operator, as is appropriate, and shall be constructed and installed in a manner so that when in use, any removal of the operator from the normal operating station will result in the immediate shut-off of the engine or motor.

(c) For the purpose of this section, "open construction" means any vessel described herein not having a permanently affixed top or cabin.

(d) Any person violating this section shall be guilty of a Class B misdemeanor, and upon conviction shall be punishable as provided by Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(Acts 1994, No. 94-652, p. 1243, §26.)

Section 33-5-73

Operation of vessel in excess of speed zone prohibited.

No person shall under any circumstances operate a vessel on the waters of this state in excess of a speed zone established by regulation of the Commissioner of Conservation and Natural Resources. The commissioner may promulgate rules and regulations establishing speed zones, in areas on the waters of this state as deemed hazardous by the commissioner.

(Acts 1994, No. 94-652, p. 1243, §27.)

Section 33-5-74

Markers, signs, and buoys; mooring or fastening vessel prohibited; damaging, altering, or moving prohibited; penalties.

(a) Except in case of emergency, no person shall moor or fasten a vessel to a lawfully placed aid-to-navigation marker, sign, or buoy, regulatory marker, sign, or buoy, or area boundary marker, sign, or buoy, placed or executed by any governmental agency.

(b) No person shall willfully damage, alter, or move a lawfully placed aid-to-navigation marker, sign, or buoy, regulatory marker, sign, or buoy, or area boundary marker, sign, or buoy.

(c) Any person violating this section shall be guilty of a Class B misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(Acts 1994, No. 94-652, p. 1243, §28.)

Section 33-5-75

Authority of Commissioner of Conservation and Natural Resources to cancel certification or to suspend or revoke privilege of operating vessel; procedures.

(a) The Commissioner of Conservation and Natural Resources may cancel any boater safety certification upon determining that the holder of the certification was not entitled to the issuance or that the holder failed to give the correct or required information in the application for certification. Upon cancellation the holder shall surrender the certification cancelled and any duplicate. A holder who refuses to surrender the certification and any duplicate shall be guilty of a Class C misdemeanor, punishable upon conviction as provided in Sections 13A-5-7 and 13A-5-12.

(b) The privilege of operating a vessel on the waters of this state, as defined in Section 33-5-3, shall be subject to suspension or revocation by the commissioner in like manner and for like cause as a boater safety certification may be suspended or revoked.

(c) The commissioner may, upon receiving a record of the conviction in this state of a nonresident operator of a vessel of any offense, forward a certified copy of the record to the boater safety administrator in the state where the person was convicted is a resident.

(d) When a nonresident's operating privilege or Alabama boater safety certification is suspended or revoked, the commissioner may forward a certified copy of the record of the action to the boater safety administrator in the state where the person resides.

(e) The commissioner may suspend or revoke the boater safety certification of any person in this state or the privilege of any person to operate a vessel on the waters of this state upon receiving notice of the conviction of the person in another state of any offense therein which, if committed in this state, would be grounds for the suspension or revocation of the boater safety certification or vessel operating privilege of a vessel operator.

(f) The commissioner may give effect to conduct of a resident in another state as is provided by the laws of this state had the conduct occurred in this state.

(g) Whenever any person is convicted of any offense for which this article makes mandatory the revocation of the certification of the person, the court in which the conviction is had shall require the surrender of the certification documents and duplicates of any boater safety certification then held by the person convicted and the court shall thereupon forward the proof of certification surrendered together with a record of the conviction to the commissioner.

(h) Every court with jurisdiction over offenses committed under this article, or any other law of this state, or municipal ordinance adopted by a local authority, regulating the operation of vessels on the waters, shall forward to the commissioner, within 10 days of a record of the conviction of any person in the court for a violation of any laws for which the person is subject to boater safety certification or vessel operating privilege suspension or revocation, and the court may recommend the suspension of the certification or vessel operating privilege of the person so convicted.

(i) For the purposes of this section, the term "conviction" shall mean a final conviction. Also, for the purposes of this section, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by the court, the payment of a fine, a plea of guilty or a finding of guilt of a boating or vessel operation violation charge, shall be equivalent to a conviction regardless of whether the penalty is rebated, suspended, or probated.

(j) The commissioner shall forthwith revoke the certification or vessel operating privilege of any person upon receiving a record of the person's conviction of any of the following offenses:

(1) Manslaughter or homicide by vehicle or vessel resulting from the operation of a vessel.

(2) Any violation of Section 32-5A-191.3 which requires revocation.

(3) Any offense of any law or regulation for which mandatory revocation is required upon conviction.

(4) Any felony in the commission of which a vessel is used.

(5) Failure to stop, render aid, or identify the person as required under the laws of this state in the event of a boating accident resulting in the death or personal injury of another.

(6) Perjury or the making of a false affidavit or statement under oath to the Director of Public Safety or Commissioner of Conservation and Natural Resources under this article or under any other law or regulation relating to the ownership or operation of vessels.

(7) Conviction upon three charges of reckless or careless operation of a vessel committed within a period of 12 months.

(8) Unauthorized use of a vessel belonging to another, which act does not amount to a felony.

(k) The Commissioner of Conservation and Natural Resources may suspend the certification or operating privilege of a vessel operator without preliminary hearing upon a showing by its records or other sufficient evidence that the operator did the following:

- (1) Has committed an offense for which mandatory revocation is required upon conviction.
- (2) Has been convicted of any offense under Section 32-5A-191.3 which provides for suspension.
- (3) Has been convicted of any offense of any law or regulation which provides for suspension.
- (4) Has been convicted with frequency of serious offenses against boating or vessel operation laws or regulations governing the movement of vessels as to indicate a disrespect for boating or vessel operation laws and a disregard for the safety of other persons on the waters of this state.
- (5) Is an habitually reckless, careless, or negligent operator of a vessel, established by a record of accidents, or by other evidence.
- (6) Is incompetent to operate a vessel.
- (7) Has permitted an unlawful or fraudulent use of certification.
- (8) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.
- (9) Has been convicted of fleeing or attempting to elude a marine police officer.
- (10) Has violated a restricted boater safety certification pursuant to Section 33-5-61.

(l) Upon suspending the certification or operating privilege of any person, the Commissioner of Conservation and Natural Resources shall immediately notify the person in writing and upon request shall afford the person an opportunity for a hearing as early as practicable, not to exceed 30 days after receipt of the request, in the county where the person resides or in Montgomery County in the case of a nonresident, unless the Commissioner of Conservation and Natural Resources and the person agree that the hearing may be held in some other county. The hearing shall be before the Commissioner of Conservation and Natural Resources or a duly authorized agent. At the hearing the Commissioner of Conservation and Natural Resources, or duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the person. At the hearing, the Commissioner of Conservation and Natural Resources, or duly authorized agent, shall either rescind its order of suspension or, upon good cause shown, may continue, modify, or extend the suspension or revoke the certification or operating privilege of the person. If the certification or operating privilege has been suspended as a result of the person's operation while under the influence of alcohol, the commissioner or agent conducting the hearing shall take into account, among other relevant factors, the person's successful completion of any duly established waterway intoxication seminar, "DUI counterattack course," or similar educational program designed for problem drinking operators. If the hearing is conducted by a duly authorized agent instead of by the Commissioner of Conservation and Natural Resources, the action of the agent shall first be approved by the Commissioner of Conservation and Natural Resources prior to implementation.

(m) At the end of the period of suspension, a certification surrendered to the Commissioner of Conservation and Natural Resources under subsection (n) shall be returned to the person.

(n) The Commissioner of Conservation and Natural Resources upon cancelling, suspending, or revoking a certification shall require that proof of certification and any duplicates be surrendered to and be retained by the Commissioner of Conservation and Natural Resources. Any person whose certification has been cancelled, suspended, or revoked shall immediately return the certification and any duplicates to the Commissioner of Conservation and Natural Resources. If the person refuses to surrender the certification, the person shall be guilty of a Class C misdemeanor punishable as provided by law.

(o) Any resident or nonresident whose certification or privilege to operate a vessel in this state has been suspended or revoked, as provided in this section, shall not operate a vessel in this state under a certification, or other approved valid document issued by any other jurisdiction or otherwise during the suspension or after revocation until a new Alabama certification or privilege is obtained as permitted under this article.

(p) Any person denied a certification or whose certification or operating privilege has been cancelled, suspended, or revoked by the Commissioner of Conservation and Natural Resources, except where cancellation, suspension, or revocation is mandatory under this article, shall have the right to file a petition within 30 days for a hearing in the matter in the circuit court in the county wherein the person resides, or in the case of cancellation, suspension, or revocation of a nonresident's certification or operating privilege in the county in which the main office of the Commissioner of Conservation and Natural Resources is located, and the circuit court is vested with jurisdiction for hearing the petitions for certification or operating privilege. The circuit court shall set the matter for hearing upon 30 days' written notice to the Commissioner of Conservation and Natural Resources and take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a certification or operating privilege under this section or is subject to suspension, cancellation, or revocation.

(Acts 1994, No. 94-652, p. 1243, §29.)

Section 33-5-76

Authority to arrest at scene of boating accident.

A uniformed police officer, state trooper, state law enforcement officer, state marine police officer, county sheriff, a deputy, or a member of a municipal police force, may arrest, at the scene of a boating accident, any operator of a boat or vessel involved in the accident if upon personal investigation, including information from eyewitnesses, the officer has reasonable grounds to believe that the person, by violating Section 32-5A-191.3, contributed to the accident. The law enforcement officer may arrest the person without a warrant although the officer did not personally see the violation.

(Acts 1994, No. 94-652, p. 1243, §30.)

Section 33-5-77

Violation of federal laws or rules regulating engine horsepower; penalties; effective date.

(a) It shall be unlawful in this state for any person to violate the federal laws or rules regulating the horsepower of the engines of the vessels operating on the waters of this state.

(b) Any person violating this section shall be guilty of a Class C misdemeanor that is punishable, upon conviction, as provided by Sections 13A-5-7 and 13A-5-12. Any person so convicted shall be fined not less than one hundred dollars (\$100).

(c) The effective date of only this section shall be five years from April 28, 1994.

(Acts 1994, No. 94-652, p. 1243, §31.)

Section 33-5-78

"Vessel" defined.

For the purposes of this article, the term "vessel" shall be as defined by Section 33-5-3.

(Acts 1994, No. 94-652, p. 1243, §32.)

Section 33-5-79

Rules and regulations.

The Commissioner of Conservation and Natural Resources may implement and enforce reasonable and necessary rules and regulations to enforce this article.

(Acts 1994, No. 94-652, p. 1243, §33.)

Section 33-5-80

Exemption for law enforcement officers while performing their duties.

Law enforcement officers while performing their duties shall be exempt from this article while enforcing the speeding and regulatory laws pursuant to this article. No law enforcement officer shall be personally exempt from Section 32-5A-191.3.

(Acts 1994, No. 94-652, p. 1243, §34.)

Section 33-5-81

Boating safety as part of driver education curricula.

The State Department of Education shall require a segment of the approved driver education curricula to include boating safety in Alabama, beginning with the 1994-95 school year. The boating safety curricula shall be approved in writing by the Commissioner of Conservation and Natural Resources and the State Superintendent of Education.

(Acts 1994, No. 94-652, p. 1243, §35.)

Article 3 Alteration or Removal of Identifying Information.

Section 33-5-100

Unauthorized alteration or removal of identification number or registration information; forfeiture.

(a) As used in this section, the following words have the following meanings:

(1) **FALSIFY.** The term includes alter and forge.

(2) **IDENTIFIABLE COMPONENT PART.** The term includes any part of a vessel or outboard motor that has an identifying number stamped, molded, engraved, cast, or placed on it by the manufacturer or any part that can be identified by other means as being a part of a particular vessel or outboard motor.

(3) **IDENTIFICATION NUMBER.** The term includes an identifying number, engine number, outboard motor number, or other distinguishing number or mark placed on a vessel, outboard motor, vessel trailer, or the engine, transmission, or other component part of a vessel, by its manufacturer or by authority of the Department of Conservation and Natural Resources or in accordance with the laws of another state or country.

(4) **REMOVE.** The term includes deface, cover, and destroy.

(5) **VESSEL.** As defined by Section 33-5-3, manufactured and sold after 1985.

(b) A person who willfully removes or falsifies an identification number of a vessel, outboard motor, vessel trailer, or the engine, transmission, or other identifiable component part of a vessel is guilty of a Class A misdemeanor and shall be punished as required by law.

(c) A person who, willfully and with intent to conceal or misrepresent the identity of a vessel, outboard motor, vessel trailer, or the engine, transmission, or other identifiable component part of a vessel, removes or falsifies an identification number of the same, or possesses any part, such as a boat identification plate or powerhead serial number plug, of a vessel, outboard motor, or the engine, transmission, or other identifiable component part of a vessel which has an identification number on it that has been removed from another vessel, outboard motor, or the engine, transmission, or other identifiable component part of a vessel, is guilty of a Class A misdemeanor and shall be punished as required by law.

(d) A person who buys, receives, possesses, sells, or disposes of a vessel, outboard motor, vessel trailer, or an engine, transmission, or other identifiable component part of a vessel, knowing that an identification number of the same has been removed or falsified, is guilty of a Class A misdemeanor and shall be punished as required by law. Notwithstanding the foregoing, this subsection shall not apply to a vessel, vessel trailer, or a component part of a vessel lawfully recovered by the owner or an insurance company after theft with an identification number removed or falsified if, prior to any sale or other disposition of the vessel or part, a correct identification number, as provided for in subsection (g), is placed on the

vessel, vessel trailer, or part and any incorrect number is removed. Any sale or other disposition in violation of this requirement shall be a Class A misdemeanor and shall be punished as required by law.

(e) A person who buys, receives, possesses, sells, or disposes of a vessel, outboard motor, vessel trailer, or the engine, transmission, or other identifiable component part of a vessel, with knowledge that an identification number of same has been removed or falsified and with intent to conceal or misrepresent the identity of same is guilty of a Class A misdemeanor and shall be punished as required by law.

(f) A person who removes a registration number or decal from a vessel or affixes to a vessel a registration number or decal not authorized by law for use on it, in either case with intent to conceal or misrepresent the identity of a vessel or its owner, is guilty of a Class A misdemeanor and shall be punished as required by law.

(g) An identification number may be placed on a vessel, outboard motor, vessel trailer, or the engine, transmission, or other identifiable component part of a vessel, by its manufacturer in the regular course of business or placed or restored on same by authority of the Department of Conservation and Natural Resources without violating this section. An identification number so placed or restored is not falsified.

(h) Any vessel, outboard motor, vessel trailer, or the engine, transmission, or other identifiable component part, wherein the identification number or numbers appear to be altered, or removed may be seized and detained by law enforcement officials for a period of time not to exceed 72 hours for determination of the true identity of the vessel, outboard motor, or the engine, transmission, or other component parts. The law enforcement officials shall inform in writing the person from whom the property was seized as to the disposition of the case within two days after the 72-hour time frame ends. Any item seized by law enforcement officials, wherein ownership cannot be determined shall be contraband and subject to forfeiture. The law enforcement officials who seized an item shall use reasonable efforts to determine the existence of any lien or other security interest in that item. If it is determined that a security interest exists in the item, the law enforcement officials shall inform in writing the holder of the security interest regarding the seized item, and any action taken by the law enforcement officials with respect to the item shall be subject to the rights of the holder of the security interest.

(i) Any seized item taken or retained under this section shall not be subject to replevin, but is deemed to be in the custody of the state, county, or municipal law enforcement agency subject only to the orders and judgment of the court having jurisdiction over the forfeiture proceedings.

(j) Any vessel, vessel trailer, or outboard motor which has been reported stolen and subsequently recovered by law enforcement officials may be returned to the person claiming ownership upon proper ownership documentation. Proper ownership documentation may include the identification number or other means of identification such as photographs, purchase documents, or registration papers along with a stolen property report showing ownership and theft. Any recovered vessel, outboard motor, or other property where ownership is in question shall be returned subject only to the orders of a circuit court having jurisdiction of the matter.

(k) No civil liability shall attach to any governmental agency or law enforcement official acting in good faith under this section.

(l) When property is forfeited under this section, the state, county, or municipal law enforcement agency, with approval of a court of competent jurisdiction, may do any of the following:

(1) Retain it for official use.

(2) Have it destroyed.

(3) Repair the vessel or other property or sell it to the highest bidder with the proceeds deposited into the general fund of the state, county, or municipal governing body earmarked for law enforcement purposes, or both.

(m) Any proceeds from the sale of any vessel or other property forfeited under this section to any division of the Department of Conservation and Natural Resources shall be deposited to the credit of the respective fund out of which the division's law enforcement activities are primarily funded, and used for law enforcement purposes. No money shall be withdrawn or expended from these funds for any purpose unless the money has been allotted and budgeted in accordance with Article 4, commencing with Section 41-4-80, of Chapter 4 of Title 41, and only in the amounts and for the purposes provided by the Legislature in the general appropriations act or other appropriation acts.

(n) Any vessel, outboard motor, or other property which is retained for official use under this section shall be destroyed upon its becoming unserviceable.

(o) This section shall not be interpreted to require any boat or vessel to obtain a title.

(p) This section does not apply to components that do not have a cast, engraved, molded, or stamped identification number.

(Act 2011-294, p. 540, §§1, 2.)