

SECOND REGULAR SESSION

# SENATE BILL NO. 1123

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR STAPLES.

Read 1st time February 7, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4598S.011

## AN ACT

To repeal sections 306.010, 306.016, 306.100, 306.112, 306.114, 306.116, 306.117, 306.119, 306.124, 306.125, 306.126, 306.140, 306.142 and 306.165, RSMo, relating to watercraft regulations, and to enact in lieu thereof fourteen new sections relating to the same subject, with penalty provisions and an emergency clause for a certain section.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 306.010, 306.016, 306.100, 306.112, 306.114, 306.116, 306.117, 306.119, 306.124, 306.125, 306.126, 306.140, 306.142 and 306.165, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 306.010, 306.016, 306.100, 306.112, 306.114, 306.116, 306.117, 306.119, 306.124, 306.125, 306.126, 306.140, 306.142 and 306.165, to read as follows:

306.010. As used in this chapter the following terms mean:

- (1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is a principal source of propulsion;
- (2) "Operate", to navigate or otherwise use a motorboat or a vessel;
- (3) "Operator", the person who operates or has charge of the navigation or use of a vessel;
- (4) "Owner", a person other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest of 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

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

security;

(5) "Parasailing", the towing of any person equipped with a parachute or kite equipment by any watercraft operating on the waters of this state;

(6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length, propelled by machinery which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel;

(7) **"Racing shell", "racing canoes", "racing kayak" and "rowing scull", a manually propelled watercraft that is recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull or paddle, and is not designed to carry and does not carry any equipment not solely for competitive racing;**

(8) **"Skiing", the towing of any person on skis, kneeboards, tubes or similar devices by any watercraft;**

(9) "Vessel", every motorboat and every description of motorized watercraft, and any watercraft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, used or capable of being used as a means of transportation on water, but not any watercraft having as the only means of propulsion a paddle or oars;

[8] (10) "Watercraft", any boat or craft, including a vessel, used or capable of being used as a means of transport on waters;

[9] (11) "Waters of this state", any waters within the territorial limits of this state and lakes constructed or maintained by the United States Army Corps of Engineers except bodies of water owned by a person, corporation, association, partnership, municipality or other political subdivision, public water supply impoundments, and except drainage ditches constructed by a drainage district, but the term does include any body of water which has been leased to or owned by the state department of conservation.

306.016. 1. By January 1, 1995, the owner of any vessel documented by the United States Coast Guard on August 28, 1994, and the new owner of any vessel purchased after August 28, 1994, who upon the sale or transfer of the vessel desires to document the vessel with the United States Coast Guard, shall apply for a vessel certificate of registration and pay a certification fee of seven dollars and fifty cents, an initial registration fee in an amount equal to the amount required for a certificate of number [under] **pursuant to** section 306.030 and all applicable state and local or in lieu watercraft taxes as provided by law in effect on the date the vessel was documented or submit proof that all applicable registration fees have been paid to the department of revenue and all applicable taxes or in lieu watercraft taxes have been paid in this or another state. Such application shall include the county in which such vessel will be normally maintained by the new owner. A certificate of registration and a set of registration decals in a form the director shall prescribe shall be issued for a documented vessel. A Missouri resident

shall make application for a vessel certificate of registration within thirty days of acquiring or bringing the vessel into this state. A nonresident shall make application for a vessel certificate of registration within sixty days after acquiring a vessel in this state or bringing a vessel into this state if the vessel will be kept in this state for a period in excess of sixty consecutive days. A delinquency penalty fee of ten dollars shall be imposed for each thirty days of delinquency, not to exceed a total of thirty dollars. If the director of revenue learns that any person has failed to make application for a vessel certificate of registration in accordance with this section or has sold a vessel documented by the United States Coast Guard without obtaining a certificate of registration as provided in this section, the director shall cancel the registration of all vessels and outboard motors registered in the name of the person, either as sole owner or a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee together with all fees, charges, and payments which the person should have paid in connection with the vessel certificate of registration. **A penalty fee or cancellation may only be imposed as provided in this section upon a person who documented a vessel with the United States Coast Guard prior to August 28, 1994, if that person received at least thirty days notice that registration of such vessel is required with the department of revenue.**

2. A boat or vessel documented by the United States Coast Guard or other agency of the federal government and operated on the waters of this state shall not be liable for the payment of any state or local sales or use tax on the purchase, but shall be liable for the payment of an in lieu watercraft tax, which is hereby imposed. The in lieu watercraft tax shall be collected by the director of revenue and deposited in the state treasury to the credit of general revenue and shall be appropriated for use by the Missouri state water patrol. Watercraft dealers in this state shall report to the director of revenue on forms furnished by the director the sale of each watercraft sold to a resident of this state. If the watercraft is registered and licensed pursuant to the provisions of this chapter and all applicable sales taxes have been paid, the director shall not collect the in lieu tax imposed by this subsection. If the watercraft is registered with the United States Coast Guard or other agency of the federal government and not **[under] pursuant to** the provisions of this chapter the director shall bill the purchaser of the watercraft for the in lieu tax imposed by this subsection. Any person who fails to pay the in lieu tax due **[under] pursuant to** this section, within thirty days after receipt of the bill from the director of revenue, shall be liable to the same penalties imposed by law for failure to pay sales and use taxes due the state. The in lieu tax shall be determined as follows:

PURCHASE PRICE OF WATERCRAFT	TAX DUE
\$50,000 or less	\$ 650.00
\$50,001 to \$100,000	1,250.00
\$100,001 to \$150,000	1,850.00

\$150,001 to \$200,000	2,450.00
\$200,001 and above	3,050.00

3. The registration decals for any vessel documented by the United States Coast Guard shall be in force and effect for a period of three years so long as the vessel is owned or held by the original holder of the certificate of registration and shall be renewed upon application and payment of a registration renewal fee equal to the amount required for a certificate of number [under] **pursuant to** section 306.030. The owner shall attach the registration decals to both sides of the forward half of the bow of the documented vessel in a place that is fully visible.

4. The department of revenue may issue a temporary vessel certificate of registration authorizing the operation of a vessel to be documented by the United States Coast Guard for not more than sixty days. The temporary registration shall be made available by the department of revenue and may be purchased from the department of revenue or from a dealer upon proof of purchase of a vessel. The department shall make temporary certificates of registration available to registered dealers in this state in sets of ten. The fee for the temporary certificates of registration shall be five dollars each. No dealer shall charge more than five dollars for each temporary certificate of registration issued. The temporary registration shall be valid for a period of sixty days from the date of issuance by the department of revenue to the purchaser of the vessel or from the date of sale of the vessel by a dealer from which the purchaser obtains a certificate of registration. The temporary certificate of registration shall be issued on a form prescribed by the department of revenue and issued only for the purchaser's use in the operation of the vessel purchased to enable the purchaser to legally operate the vessel while a certificate of registration is being obtained, and shall be displayed on no other vessel. Temporary certificates of registration issued [under] **pursuant to** this section shall not be transferable or renewable and shall not be valid upon issuance of a proper certificate of registration. The dealer or authorized agent shall insert the date of issuance and expiration date, year, make and the manufacturer's identification number of the vessel on the temporary registration when issued to the purchaser. The dealer shall complete the information on the temporary registration in full. Every dealer that issues a temporary certificate of registration shall keep, for inspection by authorized officers, a correct record of each temporary certificate of registration issued by the dealer by recording the registration number, purchaser's name and address, year, make and manufacturer's identification number of the vessel on which the temporary certificate of registration is to be used and the date of issuance.

5. Upon the sale or transfer of any vessel documented by the United States Coast Guard for which a certificate of registration has been issued, the registration shall be terminated. If the new owner elects to have the vessel documented by the United States Coast Guard, the new owner shall submit, in addition to the properly assigned certificate of registration, proof of release from the documentation provided by the United States Coast Guard and shall comply with the

provisions of this section. If the new owner elects not to document the vessel with the United States Coast Guard, the owner shall comply with the applicable provisions of this chapter.

6. The certificate of registration shall be available at all times for inspection on the vessel for which it is issued, whenever the vessel is in operation.

306.100. 1. For the purpose of this section, vessels shall be divided into four classes as follows:

- (1) Class A, less than sixteen feet in length;
- (2) Class 1, at least sixteen and less than twenty-six feet in length;
- (3) Class 2, at least twenty-six and less than forty feet in length;
- (4) Class 3, forty feet and over.

2. All vessels shall display from sunset to sunrise the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Vessels of classes A and 1:

(a) A bright white light aft to show all around the horizon;

(b) A combined light in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points ( $22\frac{1}{2}$  degrees) abaft the beam on their respective sides.

(2) Vessels of classes 2 and 3:

(a) A bright white light in the forepart of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of twenty points (225 degrees) of the compass, so fixed as to throw the light ten points ( $112\frac{1}{2}$  degrees) on each side of the vessel; namely, from right ahead to two points ( $22\frac{1}{2}$  degrees) abaft the beam on either side;

(b) A bright white light aft to show all around the horizon and higher than the white light forward;

(c) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points ( $112\frac{1}{2}$  degrees) of the compass, so fixed as to throw the light from right ahead to two points ( $22\frac{1}{2}$  degrees) abaft the beam on the starboard side; on the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points ( $112\frac{1}{2}$  degrees) of the compass, so fixed as to throw the light from right ahead to two points ( $22\frac{1}{2}$  degrees) abaft the beam on the portside. The side lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow.

(3) Vessels of classes A and 1 when propelled by sail alone shall exhibit the combined light prescribed by this section and a twelve point (135 degree) white light aft. Vessels of classes 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened, prescribed by this section and a twelve point (135 degree) white light aft.

(4) All vessels between the hours of sunset and sunrise that are not under way, moored at permanent dockage or attached to an immovable object on shore so that they do not extend more than fifty feet from the shore shall display one three-hundred-sixty-degree white light visible three hundred sixty degrees around the horizon.

(5) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(6) When propelled by sail and machinery every vessel shall carry the lights required by this section for a motorboat propelled by machinery only.

3. Any watercraft not defined as a vessel shall, from sunset to sunrise, carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

4. Any vessel may carry and exhibit the lights required by the federal regulations for preventing collisions at sea, in lieu of the lights required by subsection 2 of this section.

5. All other watercraft over sixty-five feet in length and those propelled solely by wind effect on the sail shall display lights prescribed by federal regulations.

6. Any watercraft used by a person engaged in the act of sport fishing is not required to display any lights required by this section if no other vessel is within the immediate vicinity of the first vessel, the vessel is using an electric trolling motor and the vessel is within fifty feet of the shore.

7. Every [vessel, except those in class A,] **watercraft sixteen feet or more in length except canoes** shall have on board at least one wearable personal flotation device of type I, II or III for each person on board and each person being towed who is not wearing one. Every such [vessel] **watercraft** shall also have on board at least one type IV throwable personal flotation device. **Every canoe, sixteen feet or more in length, shall have on board at least one type I, II, III or IV personal flotation device for each person on board.**

8. All [class A motorboats and all] watercraft **less than sixteen feet in length** traveling on the waters of this state shall have on board at least one type I, II[, III or IV] **or III** personal flotation device for each person on board and each person being towed who is not wearing one. **The following shall be exempt to the provisions of subsection 7 of this section and this subsection:**

**(1) Kayaks are exempted from the requirements for carriage of the additional type IV personal flotation device;**

**(2) Sailboards, racing shells, racing canoes, racing kayaks and rowing sculls are exempted from the requirements for carriage of any type of personal flotation device;**

**(3) A type V personal flotation device may be carried in lieu of any personal flotation device required in subsection 7 of this section or this subsection; provided that, the device has a United States Coast Guard approval label and that the device is being used in accordance with any requirements on the label or in the owners manual.**

**9. Between October fifteenth and March fifteenth on the Missouri and Mississippi Rivers, Corps of Engineers Lakes, Lake of the Ozarks and Thomas Hill Lake, occupants of any vessel eighteen feet in length or less are required to wear a type I, II, III or V personal flotation device when such vessel is underway with the primary source of power.**

[9.] **10.** All lifesaving devices required by subsections 7 and 8 of this section shall be United States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

[10.] **11.** Every vessel which is carrying or using flammable or toxic fluid in any enclosure for any purpose, and which is not an entirely open vessel, shall have an efficient natural or mechanical ventilation system which must be capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

[11.] **12.** Motorboats shall carry on board at least the following United States Coast Guard approved fire extinguishers:

(1) Every class A and every class 1 motorboat carrying or using gasoline or any other flammable or toxic fluid, one B1 type fire extinguisher;

(2) Every class 2 motorboat, one B2 or two B1 type fire extinguishers;

(3) Every class 3 motorboat:

(a) Three B1 type fire extinguishers; or

(b) One B2 type and one B1 type fire extinguisher; or

(c) A fixed fire extinguishing system and one B2 type fire extinguisher; or

(d) A fixed fire extinguishing system and two B1 type fire extinguishers.

[12.] **13.** All class 1 and 2 motorboats and vessels shall have a sounding device. All class 3 motorboats and vessels shall have at least **[a] one** sounding device and one bell.

[13.] **14.** No person shall operate any watercraft which is not equipped as required by this section.

[14.] **15.** A Missouri state water patrol officer may direct the operator of any watercraft being operated without sufficient personal flotation devices, fire-fighting devices or in an overloaded or other unsafe condition or manner to take whatever immediate and reasonable steps are necessary for the safety of those aboard when, in the judgment of the officer, such operation creates a hazardous condition. The officer may direct the operator to return the watercraft to the nearest safe mooring and to remain there until the situation creating the hazardous condition

is corrected.

[15.] **16.** A Missouri state water patrol officer may remove any unmanned or unattended watercraft from the water when, in the judgment of the officer, the watercraft creates a hazardous condition.

306.112. 1. A person commits the crime of operating a vessel with excessive blood alcohol content if [he] **such person** operates a vessel on the Mississippi River, Missouri River or the lakes of this state with ten-hundredths of one percent or more by weight of alcohol in [his] **such person's** blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis of the person's blood, breath, **urine** or saliva.

3. Any person convicted of operating a vessel with excessive blood alcohol content is guilty of a class B misdemeanor upon conviction for the first violation, guilty of a class A misdemeanor upon conviction for the second violation, and guilty of a class D felony for conviction for the third and subsequent violations.

306.114. 1. No person convicted of or pleading guilty to a violation of section 306.111 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on probation for a minimum of two years and a record of the conviction or plea of guilty is entered into the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol.

2. Chemical tests of a person's blood, breath, **urine** or saliva to be considered valid [under] **pursuant to** the provisions of sections 306.111 to 306.119 shall be performed according to methods and devices approved by the department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the department of health and senior services for this purpose.

3. The department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections 306.111 to 306.119, and shall establish standards as to the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination, suspension or revocation by the department of health and senior services.

4. A licensed physician, registered nurse, or trained medical technician, acting at the request and direction of a law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless the medical personnel, in the exercise of good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test or a **urine or** saliva specimen. In withdrawing blood for the purpose of determining the alcohol content in the blood, only a previously unused and



sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to a venapuncture. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to **[him] such person**.

5. No person who administers any test pursuant to the provisions of sections 306.111 to 306.119 upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any way associated, shall be civilly liable for damages to the person tested, except for negligence in administering of the test or for willful and wanton acts or omissions.

6. Any person who is dead, unconscious or who is otherwise in a condition rendering **[him] such person** incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall be deemed not to have withdrawn the consent provided by section 306.116 and the test or tests may be administered.

306.116. 1. Any person who operates a vessel upon the Mississippi River, Missouri River or the lakes of this state shall be deemed to have given consent to, subject to the provisions of sections 306.111 to 306.119, a chemical test or tests of **[his] such person's** breath, blood, **urine** or saliva for the purpose of determining the alcohol or drug content of **[his] such person's** blood if arrested for any offense arising out of acts which the arresting law enforcement officer had reasonable grounds to believe were committed while the person was operating a vessel upon the Mississippi River, Missouri River or lakes of this state in violation of section 306.111 or 306.112. The test shall be administered at the direction of the arresting law enforcement officer whenever the person has been arrested for the offense.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same arrest, incident, or charge.

3. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of **[his own] such person's** choosing and at **[his] such person's** expense administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

4. Upon the request of the person who is tested, full information concerning the test shall be made available to **[him] such person**.

306.117. 1. Upon the trial of any person for violation of any of the provisions of section 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, **urine** or saliva is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not

prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of alcohol in a person's blood shall be given the following effect:

(1) If there was five-hundredths of one percent or less by weight of alcohol in **[his] such person's** blood, it shall be presumed that the person was not intoxicated at the time the specimen was obtained;

(2) If there was in excess of five-hundredths of one percent but less than ten-hundredths of one percent by weight of alcohol in **[his] such person's** blood, the fact shall not give rise to any presumption that the person was or was not intoxicated, but the fact may be considered with other competent evidence in determining whether the person was intoxicated;

(3) If there was ten-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood.

3. A chemical analysis of a person's breath, blood, **urine** or saliva, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 306.111 to 306.119 and in accordance with methods and standards approved by the department of health and senior services.

4. The provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated or under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol.

306.119. 1. If an arresting officer requests a person under arrest to submit to a chemical test, such request shall include the reasons of the officer for requesting the person to submit to a test and shall inform the person that he **or she** may refuse such request but that **[his] such** refusal may be used as evidence against him **or her**. If a person refuses a test as provided in this subsection, no test shall be given.

2. If a person refuses to submit to a chemical test of **[his] such person's** breath, blood, **urine** or saliva and that person stands trial for the crimes provided in section 306.111 or 306.112, such refusal may be admissible into evidence at the trial.

306.124. 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(2) "Regulatory markers" means any anchored or fixed markers in or on the water or signs on the shore or on bridges over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep-out areas, and mooring buoys.

2. The Missouri state water patrol after a public hearing pursuant to notice thereof published not less than ten days prior thereto in each county to be affected may provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. The Missouri state water patrol shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard. No city, county, or person shall mark or obstruct the water of this state in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the state water patrol.

3. The operation of any watercraft within prohibited areas that are marked shall be prima facie evidence of negligent operation.

4. It shall be unlawful for any person to operate a watercraft on the waters of this state in a manner other than that prescribed or permitted by regulatory markers.

5. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove, obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to sections 306.010 to 306.126.

**6. The Missouri state water patrol may temporarily close to navigation or use, any waters of the state after it has been determined that such navigation or use presents an unreasonable risk to persons or property. Closure of any waters of the state shall be temporary and in response to a natural or manmade disaster such as, but not limited to, flooding or release of a dangerous substance in the waters of the state. No such temporary closure of waterways shall be enacted without the consent of the director of the department of public safety or the director's designee.**

306.125. 1. Every person shall operate a motorboat, vessel or watercraft in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person and shall exercise the highest degree of care.

2. No person shall operate a motorboat, vessel or watercraft at any time from a half-hour after sunset until an hour before sunrise the following day at a speed exceeding thirty miles per hour. This subsection shall only apply to the waters of the Mississippi River, the waters of the Missouri River, and lakes with an aggregate shoreline in excess of one hundred sixty miles.

3. Vessels shall not be operated within one hundred feet of any **other vessel, person in the water, dock[,] or pier[, occupied anchored boat or buoyed restricted area]** on any lake **and on the waters of the Missouri and Mississippi Rivers** at a speed in excess of slow-no wake speed.

4. Subsection 1 of this section shall not apply to a motorboat or other boat race authorized [under] **pursuant to** section 306.130.

306.126. 1. The operator of a motorboat shall not allow any person to ride or sit on the gunwales, decking over the bow, railing, top of seat back or decking over the back of the

motorboat while under way, unless such person is inboard of adequate guards or railing provided on the motorboat to prevent a passenger from being lost overboard. As used in this section, the term "adequate guards or railing" means guards or railings having a height parameter of at least six inches but not more than eighteen inches. Nothing in this section shall be construed to mean that passengers or other persons aboard a motorboat cannot occupy the decking over the bow of the boat to moor it to a mooring buoy or to cast off from such a buoy, or for any other necessary purpose. The provisions of this section shall not apply to vessels propelled by sail.

2. Whenever any person leaves any watercraft, other than a personal watercraft, on the waters of the Mississippi River, the waters of the Missouri River or the lakes of this state [and enters the water between the hours of 11:00 a.m. and sunset,] the operator of such watercraft shall display on the watercraft a red or orange flag measuring not less than twelve inches by twelve inches. The provisions of this subsection shall not apply to watercraft that is moored or anchored. The flag required by this subsection shall be visible for three hundred sixty degrees around the horizon when displayed and shall be displayed only when an occupant of the watercraft has left the confines of the watercraft and entered the water. [The flag required by this subsection shall not be displayed when the watercraft is engaged in towing any person, but shall be displayed when such person has ceased being towed and has reentered the water.] **Displaying of the flag required by this subsection shall be optional when the watercraft is actually in the process of towing a person engaged in water skiing, tubing or similar activity.**

3. No operator shall knowingly operate any watercraft within [fifty yards] **one hundred feet** of a flag required by subsection 2 of this section at a speed in excess of a slow-no wake speed.

306.140. 1. It shall be the duty of the operator of a watercraft involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own watercraft, crew and passengers, 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 name, address, and identification of his watercraft in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

2. In the case of collision, accident, or other casualty involving a watercraft, 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] **five** hundred dollars, shall file with the Missouri state water patrol a full description of the collision, accident, or other casualty, including such information as the patrol may, by regulation, require.

306.142. 1. No person shall operate a personal watercraft unless each person aboard is wearing a type I, type II, type III or type V personal flotation device approved by the United

States Coast Guard.

2. A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach such lanyard to the person's body, clothing, or personal flotation device as appropriate for the specific vessel.

3. No person under fourteen years of age shall operate a personal watercraft on the waters of this state, except that a person under fourteen years of age may operate a personal watercraft if a person at least sixteen years of age is aboard the personal watercraft.

4. Every personal watercraft shall at all times be operated in a reasonable and prudent manner. Maneuvers which unreasonably or unnecessarily endanger life, limb or property, including, but not limited to, weaving through congested vessel traffic, jumping the wake of another vessel when visibility around such vessel is obstructed, becoming airborne or completely leaving the water while crossing the wake of another vessel within one hundred feet of the vessel creating the wake, operating at a speed in excess of a slow-no wake speed within **[fifty] one hundred** feet of any vessel or any person in or on the water, and operating at such a speed and proximity to another vessel so as to require the operator to swerve to avoid collision, shall constitute unsafe or reckless operation of a personal watercraft. No person shall operate a personal watercraft on any waters of this state for towing a person or persons on water skis, or a surfboard, or similar device unless there is a person on the personal watercraft, in addition to the operator, or an approved ski mirror attached to the personal watercraft, in a position to observe the progress of the person or persons being towed.

5. No person who owns a personal watercraft or who has charge over or control of a personal watercraft shall authorize or knowingly permit the personal watercraft to be operated in violation of this section, nor shall a parent or guardian authorize or knowingly permit a child of such parent or guardian to operate a personal watercraft in violation of this section.

6. The provisions of this section shall not apply to a person participating in a regatta, race, marine parade, tournament, or exhibition for which a permit has been issued by the state water patrol.

306.165. Each water patrol officer appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his or her duties, shall take and subscribe an oath of office to perform all duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting all the powers of a peace officer to enforce all laws of this state, upon all of the following:

(1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;

(2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;

- (3) All land within three hundred feet of the areas in subdivision (2) of this section;
- (4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;
- (5) All land adjoining and within six hundred feet of the rivers and streams of this state;
- (6) Any other jurisdictional area, pursuant to the provisions of section 306.167.

Each water patrol officer may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each water patrol officer may arrest on view and without a warrant any person he or she sees violating or who such patrol officer has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his or her jurisdiction as provided in this section. Each water patrol officer shall, within six months after receiving a certificate of appointment, satisfactorily complete a law enforcement training course including six hundred hours of actual instruction conducted by a duly constituted law enforcement agency or any other school approved pursuant to] **comply with the training and certification provisions of chapter 590, RSMo. In addition to the powers previously prescribed in this section, each water patrol officer, while investigating an accident or crime which was originally committed within such patrol officer's jurisdiction as set forth in this section, may arrest any person who he or she has probable cause to believe has committed such crime, even if such person is presently out of the water patrol's jurisdiction.**

Section B. Because immediate action is necessary to protect the public safety, section 306.165 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 306.165 of this act shall be in full force and effect upon its passage and approval.

T

Copy