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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **WEST VIRGINIA LEGISLATURE**

FIRST REGULAR SESSION, 2001

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**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2804**

(By Delegates Staton, Canterbury, Keener,  
Craig, Stephens, Fox and Swartzmiller)

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Passed April 14, 2001

In Effect Ninety Days from Passage

**FILED**

2001 APR 30 P 4: 42

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COMMITTEE SUBSTITUTE

FOR

**H. B. 2804**

(BY DELEGATES STATON, CANTERBURY, KEENER,  
CRAIG, STEPHENS, FOX AND SWARTZMILLER)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article five, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections eleven, sixteen, eighteen, eighteen-a and eighteen-b, article seven, chapter twenty of said code; and to further amend said article by adding thereto seven new sections, designated sections eighteen-c, eighteen-d, nineteen-a, twenty-a and twenty-two-a, all relating to motorboats and other motorized vessels; providing for certain implied consent regulations to test for alcohol on blood, breath or urine; regulating certain personal watercrafts; restricting the age of operation; requiring certain flotation and safety devices; restricting the hours of use; prohibiting certain reckless activities; setting guidelines for towing certain water skiers and other towables; regulating certain boating and personal watercraft liveries; providing certain exemptions; providing for a duty on

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certain personal watercrafts and motorized vessels to render aid after a collision; restriction of operation of certain personal watercrafts or other motorized vessels under the influence of alcohol, controlled substances or drugs; and providing certain criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

That section four, article five, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections eleven, sixteen, eighteen, eighteen-a and eighteen-b, article seven, chapter twenty, be amended and reenacted, and that said article be further amended by adding thereto seven new sections, designated sections eighteen-c, eighteen-d, nineteen-a, twenty-a and twenty-two-a, all to read as follows:

## **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

### **ARTICLE 5. SERIOUS TRAFFIC OFFENSES.**

#### **§17C-5-4. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.**

1       (a) Any person who drives a motor vehicle in this state is  
2 deemed to have given his or her consent by the operation of the  
3 motor vehicle to a preliminary breath analysis and a secondary  
4 chemical test of either his or her blood, breath or urine for the  
5 purposes of determining the alcoholic content of his or her  
6 blood.

7       (b) A preliminary breath analysis may be administered in  
8 accordance with the provisions of section five of this article  
9 whenever a law-enforcement officer has reasonable cause to  
10 believe a person has committed an offense prohibited by section  
11 two of this article or by an ordinance of a municipality of this

12 state which has the same elements as an offense described in  
13 section two of this article.

14 (c) A secondary test of blood, breath or urine is incidental  
15 to a lawful arrest and is to be administered at the direction of  
16 the arresting law-enforcement officer having reasonable  
17 grounds to believe the person has committed an offense  
18 prohibited by section two of this article or by an ordinance of  
19 a municipality of this state which has the same elements as an  
20 offense described in section two of this article.

21 (d) The law-enforcement agency that employs the  
22 law-enforcement officer shall designate which type of second-  
23 ary test is to be administered: *Provided*, That if the test desig-  
24 nated is a blood test and the person arrested refuses to submit  
25 to the blood test, then the law-enforcement officer making the  
26 arrest shall designate either a breath or urine test to be adminis-  
27 tered. Notwithstanding the provisions of section seven of this  
28 article, the refusal to submit to a blood test only may not result  
29 in the revocation of the arrested person's license to operate a  
30 motor vehicle in this state.

31 (e) Any person to whom a preliminary breath test is  
32 administered who is then arrested shall be given a written  
33 statement advising him or her that his or her refusal to submit  
34 to the secondary chemical test pursuant to subsection (d) of this  
35 section, will result in the revocation of his or her license to  
36 operate a motor vehicle in this state for a period of at least one  
37 year and up to life.

38 (f) Any law-enforcement officer who has been properly  
39 trained in the administration of any secondary chemical test  
40 authorized by this article, including, but not limited to, certifi-  
41 cation by the division of health in the operation of any equip-  
42 ment required for the collection and analysis of a breath sample,  
43 may conduct the test at any location in the county wherein the

44 arrest is made: *Provided*, That the law-enforcement officer may  
45 conduct the test at the nearest available properly functioning  
46 secondary chemical testing device located outside the county in  
47 which the arrest was made, if (i) there is no properly function-  
48 ing secondary chemical testing device located within the county  
49 the arrest was made or (ii) there is no magistrate available  
50 within the county the arrest was made for the arraignment of the  
51 person arrested. A law-enforcement officer who is directing that  
52 a secondary chemical test be conducted has the authority to  
53 transport the person arrested to where the secondary chemical  
54 testing device is located.

55 (g) If the arresting officer lacks proper training in the  
56 administration of a secondary chemical test, then any other law-  
57 enforcement officer who has received training in the adminis-  
58 tration of the secondary chemical test to be administered may,  
59 upon the request of the arresting law-enforcement officer and  
60 in his or her presence, conduct the secondary test. The results  
61 of a test conducted pursuant to this subsection may be used in  
62 evidence to the same extent and in the same manner as if the  
63 test had been conducted by the arresting law-enforcement  
64 officer.

65 (h) Only the person actually administering or conducting a  
66 test conducted pursuant to this article is competent to testify as  
67 to the results and the veracity of the test.

68 (i) For the purpose of this article, the term  
69 “law-enforcement officer” or “police officer” means: (1) Any  
70 member of the West Virginia state police; (2) any sheriff and  
71 any deputy sheriff of any county; (3) any member of a police  
72 department in any municipality as defined in section two,  
73 article one, chapter eight of this code; (4) any conservation  
74 officer of the division of natural resources; and (5) any special  
75 police officer appointed by the governor pursuant to the  
76 provisions of section forty-one, article three, chapter sixty-one

77 of this code who has completed the course of instruction at a  
78 law-enforcement training academy as provided for under the  
79 provisions of section nine, article twenty-nine, chapter thirty of  
80 this code.

81 (j) A law-enforcement officer who has reasonable cause to  
82 believe that person has committed an offense prohibited by  
83 section 18 the article seven, chapter twenty of this code, related  
84 the operation of a motorboat, jet ski or other motorized vessel,  
85 shall follow the provisions of this section in administering, or  
86 causing to be administered, a preliminary breath analysis and  
87 the secondary chemical test of the accused person's blood,  
88 breath or urine for the purpose of determining alcohol content  
89 of his or her blood.

## CHAPTER 20. NATURAL RESOURCES

### ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

#### §20-7-11. Motorboats and other terms defined.

1 As used in this section and subsequent sections of this  
2 article, unless the context clearly requires a different meaning:

3 (1) "Vessel" means every description of watercraft, other  
4 than a seaplane on the water, used or capable of being used as  
5 a means of transportation on water;

6 (2) "Motorboat" means any vessel propelled by an electrical,  
7 steam, gas, diesel or other fuel propelled or driven motor,  
8 whether or not the motor is the principal source of propulsion,  
9 but does not include a vessel which has a valid marine document  
10 issued by the bureau of customs of the United States  
11 government or any federal agency successor thereto;

12 (3) "Owner" means a person, other than a lienholder,  
13 having the property in or title to a motorboat. The term includes

14 a person entitled to the use or possession of a motorboat subject  
15 to an interest in another person, reserved or created by agree-  
16 ment and securing payment or performance of an obligation,  
17 but the term excludes a lessee under a lease not intended as  
18 security;

19 (4) "Commissioner" means the commissioner of the  
20 division of motor vehicles;

21 (5) "Director" means the director of the division of natural  
22 resources; and

23 (6) "Personal watercraft" means a small vessel of less than  
24 sixteen feet in length which uses an inboard motor powering a  
25 water jet pump as its primary source of motive power and  
26 which is designed to be operated by a person sitting, standing,  
27 or kneeling on the vessel, rather than the conventional manner  
28 of sitting or standing inside the vessel. For purposes of this  
29 article, the term "personal watercraft" also includes "specialty  
30 prop-crafts" which are vessels similar in appearance and  
31 operation to a personal watercraft but which are powered by an  
32 outboard motor or propeller driven motor.

**§20-7-16. Boat liveries.**

1 (a) The owner or operator of a boat livery or rental facility  
2 shall cause to be kept a record of the name and address of the  
3 person or persons hiring any vessel including personal water-  
4 crafts which is designed or permitted by him or her to be  
5 operated as a motorboat, identification number thereof, and the  
6 departure date and time, and the expected time of return. The  
7 record shall be preserved for at least six months.

8 (b) Neither the owner or operator of a boat livery or rental  
9 facility, nor his or her agent or employee, shall permit any  
10 motorboat, personal watercraft or any vessel designed or  
11 permitted by him or her to be operated as a motorboat or

12 personal watercraft to depart from his or her premises unless it  
13 shall have been provided, either by owner or renter, with the  
14 equipment required pursuant to section thirteen of this article  
15 and any rules made pursuant thereto.

16 (c) The owner or operator of a boat livery or rental facility,  
17 or his or her agent or employee, shall provide boating safety  
18 orientation for all persons that rent any vessel, including  
19 personal watercrafts, unless that person holds a certificate as  
20 required by section twelve-b, article seven of this chapter. The  
21 owner of a boat livery or rental facility, or his or her agent or  
22 employee, shall also provide to the operator or operators in  
23 print, prior to rental, the operational characteristics of personal  
24 watercrafts.

25 (d) The owner or operator of a boat livery or rental facility,  
26 or his or her agent or employee, may not lease, hire or rent a  
27 personal watercraft to any person under eighteen years of age.

28 (e) The owner or operator of a boat livery or rental facility,  
29 or his or her agent or employee, shall provide to the operator or  
30 operators of rental vessels, boats or personal watercrafts, in  
31 print, all pertinent boating rules including, but not limited to,  
32 those rules that may be peculiar to the area of the rental, such  
33 as no-wake zones, restricted areas, channel markers, water  
34 hazard markers and swimming zones.

35 (f) The owner or operator of a boat livery or rental facility  
36 shall carry liability insurance of at least three-hundred thousand  
37 dollars and possess the license and surety bond as required by  
38 section twenty-three-d, article two of this chapter.

**§20-7-18. Care in handling watercraft; duty to render aid after  
a collision, accident or casualty; accident reports.**

1 (a) No person shall operate a motorboat, jet ski or other  
2 motorized vessel or manipulate any water skis, surfboard or

3 similar device in a reckless or negligent manner so as to  
4 endanger the life, limb or property of any person.

5 (b) No person shall operate any motorboat, jet ski or other  
6 motorized vessel, or manipulate any water skis, surfboard or  
7 similar device while under the influence of alcohol or a  
8 controlled substance or drug, under the combined influence of  
9 alcohol and any controlled substance or any other drug, or while  
10 having an alcohol concentration in his or her blood of ten  
11 hundredths of one percent or more, by weight.

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

23 (d) The operator of a vessel involved in a collision, accident  
24 or other casualty shall file an accident report with the director  
25 if the incident results in a loss of life, in a personal injury that  
26 requires medical treatment beyond first aid or in excess of five  
27 hundred dollars damage to a vessel or other property. The  
28 report shall be made on forms and contain information as  
29 prescribed by the director. Upon a request duly made by an  
30 authorized official or agency of the United States, any informa-  
31 tion compiled or otherwise available to the director pursuant to  
32 this subsection shall be transmitted to the official or agency.

**§20-7-18a. Negligent homicide; penalties.**

1 (a) When the death of any person ensues within one year as  
2 a proximate result of injury received by operating any motor-  
3 boat, jet ski or other motorized vessel anywhere in this state in  
4 reckless disregard of the safety of others, the person so operat-  
5 ing the motorboat, jet ski or other motorized vessel is guilty of  
6 negligent homicide.

7 (b) Any person convicted of negligent homicide shall be  
8 punished by imprisonment in the county or regional jail for not  
9 more than one year or by fine of not less than one hundred  
10 dollars nor more than one thousand dollars, or by both fine and  
11 imprisonment.

12 (c) The director shall suspend the privilege to operate a  
13 motorboat or other motorized vessel in this state for a period of  
14 five years from the date of conviction.

**§20-7-18b. Operating under influence of alcohol, controlled  
substances or drugs; penalties.**

1 (a) Any person who:

2 (1) Operates a motorboat, jet ski or other motorized vessel  
3 in this state while:

4 (A) He or she is under the influence of alcohol; or

5 (B) He or she is under the influence of any controlled  
6 substance; or

7 (C) He or she is under the influence of any other drug; or

8 (D) He or she is under the combined influence of alcohol  
9 and any controlled substance or any other drug; or

10 (E) He or she has an alcohol concentration in his or her  
11 blood of ten hundredths of one percent or more, by weight; and

12 (2) When so operating does any act forbidden by law or  
13 fails to perform any duty imposed by law in the operating of the  
14 motorboat, jet ski or other motorized vessel, which act or  
15 failure proximately causes the death of any person within one  
16 year next following the act or failure; and

17 (3) Commits the act or failure in reckless disregard of the  
18 safety of others, when the influence of alcohol, controlled  
19 substances or drugs is shown to be a contributing cause to the  
20 death, is guilty of a felony and, upon conviction thereof, shall  
21 be imprisoned in the state correctional facility for not less than  
22 one nor more than ten years and shall be fined not less than one  
23 thousand dollars nor more than three thousand dollars.

24 (b) Any person who:

25 (1) Operates a motorboat, jet ski or other motorized vessel  
26 in this state while:

27 (A) He or she is under the influence of alcohol; or

28 (B) He or she is under the influence of any controlled  
29 substance; or

30 (C) He or she is under the influence of any other drug; or

31 (D) He or she is under the combined influence of alcohol  
32 and any controlled substance or any other drug; or

33 (E) He or she has an alcohol concentration in his or her  
34 blood of ten hundredths of one percent or more, by weight; and

35 (2) When so operating does any act forbidden by law or  
36 fails to perform any duty imposed by law in the operating of the  
37 motorboat, jet ski or other motorized vessel, which act or  
38 failure proximately causes the death of any person within one  
39 year next following the act or failure, is guilty of a misde-

40 meanor and, upon conviction thereof, shall be confined in the  
41 county or regional jail for not less than ninety days nor more  
42 than one year and shall be fined not less than five hundred  
43 dollars nor more than one thousand dollars.

44 (c) Any person who:

45 (1) Operates a motorboat, jet ski or other motorized vessel  
46 in this state while:

47 (A) He or she is under the influence of alcohol; or

48 (B) He or she is under the influence of any controlled  
49 substance; or

50 (C) He or she is under the influence of any other drug; or

51 (D) He or she is under the combined influence of alcohol  
52 and any controlled substance or any other drug; or

53 (E) He or she has an alcohol concentration in his or her  
54 blood of ten hundredths of one percent or more, by weight; and

55 (2) When so operating does any act forbidden by law or  
56 fails to perform any duty imposed by law in the operating of the  
57 motorboat, jet ski or other motorized vessel, which act or  
58 failure proximately causes bodily injury to any person other  
59 than himself or herself, is guilty of a misdemeanor and, upon  
60 conviction thereof, shall be confined in the county or regional  
61 jail for not less than one day nor more than one year, which jail  
62 term shall include actual confinement of not less than twenty-  
63 four hours, and shall be fined not less than two hundred dollars  
64 nor more than one thousand dollars.

65 (d) Any person who:

66 (1) Operates a motorboat, jet ski or other motorized vessel  
67 in this state while:

68 (A) He or she is under the influence of alcohol; or

69 (B) He or she is under the influence of any controlled  
70 substance; or

71 (C) He or she is under the influence of any other drug; or

72 (D) He or she is under the combined influence of alcohol  
73 and any controlled substance or any other drug; or

74 (E) He or she has an alcohol concentration in his or her  
75 blood of ten hundredths of one percent or more, by weight;

76 (2) Is guilty of a misdemeanor and, upon conviction  
77 thereof, shall be confined in the county or regional jail for not  
78 less than one day nor more than six months, which jail term  
79 shall include actual confinement of not less than twenty-four  
80 hours, and shall be fined not less than one hundred dollars nor  
81 more than five hundred dollars.

82 (e) Any person who, being an habitual user of narcotic  
83 drugs or amphetamine or any derivative thereof, operates a  
84 motorboat, jet ski or other motorized vessel in this state, is  
85 guilty of a misdemeanor and, upon conviction thereof, shall be  
86 confined in the county or regional jail for not less than one day  
87 nor more than six months, which jail term shall include actual  
88 confinement of not less than twenty-four hours, and shall be  
89 fined not less than one hundred dollars nor more than five  
90 hundred dollars.

91 (f) Any person who:

92 (1) Knowingly permits his or her motorboat, jet ski or other  
93 motorized vessel to be operated in this state by any other person  
94 who is:

95 (A) Under the influence of alcohol; or

96 (B) Under the influence of any controlled substance; or

97 (C) Under the influence of any other drug; or

98 (D) Under the combined influence of alcohol and any  
99 controlled substance or any other drug; or

100 (E) Has an alcohol concentration in his or her blood of ten  
101 hundredths of one percent or more, by weight;

102 (2) Is guilty of a misdemeanor and, upon conviction  
103 thereof, shall be confined in the county or regional jail for not  
104 more than six months and shall be fined not less than one  
105 hundred dollars nor more than five hundred dollars.

106 (g) Any person who:

107 Knowingly permits his or her motorboat, jet ski or other  
108 motorized vessel to be operated in this state by any other person  
109 who is an habitual user of narcotic drugs or amphetamine or  
110 any derivative thereof, is guilty of a misdemeanor and, upon  
111 conviction thereof, shall be confined in the county or regional  
112 jail for not more than six months and shall be fined not less than  
113 one hundred dollars nor more than five hundred dollars.

114 (h) Any person under the age of twenty-one years who  
115 operates a motorboat, jet ski or other motorized vessel in this  
116 state while he or she has an alcohol concentration in his or her  
117 blood of two hundredths of one percent or more, by weight, but  
118 less than ten hundredths of one percent, by weight, shall, for a  
119 first offense under this subsection, be guilty of a misdemeanor  
120 and, upon conviction thereof, shall be fined not less than  
121 twenty-five dollars nor more than one hundred dollars. For a  
122 second or subsequent offense under this subsection, the person  
123 is guilty of a misdemeanor and, upon conviction thereof, shall  
124 be confined in the county or regional jail for twenty-four hours,

125 and shall be fined not less than one hundred dollars nor more  
126 than five hundred dollars.

127 A person arrested and charged with an offense under the  
128 provisions of subsection (a), (b), (c), (d), (e), (f), (g) or (i) of  
129 this section may not also be charged with an offense under this  
130 subsection arising out of the same transaction or occurrence.

131 (i) Any person who:

132 (1) Operates a motorboat, jet ski or other motorized vessel  
133 in this state while:

134 (A) He or she is under the influence of alcohol; or

135 (B) He or she is under the influence of any controlled  
136 substance; or

137 (C) He or she is under the influence of any other drug; or

138 (D) He or she is under the combined influence of alcohol  
139 and any controlled substance or any other drug; or

140 (E) He or she has an alcohol concentration in his or her  
141 blood of ten hundredths of one percent or more, by weight; and

142 (2) The person when so operating has on or within the  
143 motorboat, jet ski or other motorized vessel one or more other  
144 persons who are unemancipated minors who have not reached  
145 their sixteenth birthday, shall be guilty of a misdemeanor and,  
146 upon conviction thereof, shall be confined in the county or  
147 regional jail for not less than two days nor more than twelve  
148 months, which jail term shall include actual confinement of not  
149 less than forty-eight hours, and shall be fined not less than two  
150 hundred dollars nor more than one thousand dollars.

151 (j) A person violating any provision of subsection (b), (c),  
152 (d), (e), (f), (g) or (i) of this section, for the second offense

153 under this section, is guilty of a misdemeanor and, upon  
154 conviction thereof, shall be confined in the county or regional  
155 jail for a period of not less than six months nor more than one  
156 year, and the court may, in its discretion, impose a fine of not  
157 less than one thousand dollars nor more than three thousand  
158 dollars.

159 (k) A person violating any provision of subsection (b), (c),  
160 (d), (e), (f), (g) or (i) of this section shall, for the third or any  
161 subsequent offense under this section, be guilty of a felony and,  
162 upon conviction thereof, shall be imprisoned in the state  
163 correctional facility for not less than one nor more than three  
164 years, and the court may, in its discretion, impose a fine of not  
165 less than three thousand dollars nor more than five thousand  
166 dollars.

167 (l) For purposes of subsections (j) and (k) of this section  
168 relating to second, third and subsequent offenses, the following  
169 types of convictions shall be regarded as convictions under this  
170 section:

171 (1) Any conviction under the provisions of subsection (a),  
172 (b), (c), (d), (e) or (f) of this section for an offense which  
173 occurred on or after the effective date of this section;

174 (2) Any conviction under the provisions of subsection (a)  
175 or (b) of this section for an offense which occurred within a  
176 period of five years immediately preceding the date of the  
177 offense; and

178 (3) Any conviction under a municipal ordinance of this  
179 state or any other state or a statute of the United States or of any  
180 other state of an offense which has the same elements as an  
181 offense described in subsection (a), (b), (c), (d), (e), (f) or (g) of  
182 this section, which offense occurred after the effective date of  
183 this section.

184 (m) A person may be charged in a warrant or indictment or  
185 information for a second or subsequent offense under this  
186 section if the person has been previously arrested for or charged  
187 with a violation of this section which is alleged to have oc-  
188 curred within the applicable time periods for prior offenses,  
189 notwithstanding the fact that there has not been a final adjudica-  
190 tion of the charges for the alleged previous offense. The warrant  
191 or indictment or information shall set forth the date, location  
192 and particulars of the previous offense or offenses. No person  
193 may be convicted of a second or subsequent offense under this  
194 section unless the conviction for the previous offense has  
195 become final.

196 (n) The fact that any person charged with a violation of  
197 subsection (a), (b), (c), (d) or (e) of this section, or any person  
198 permitted to operate as described under subsection (f) or (g) of  
199 this section, is or has been legally entitled to use alcohol, a  
200 controlled substance or a drug shall not constitute a defense  
201 against any charge of violating subsection (a), (b), (c), (d), (e),  
202 (f) or (g) of this section.

203 (o) For purposes of this section, the term “controlled  
204 substance” shall have the meaning ascribed to it in chapter  
205 sixty-a of this code.

206 (p) The sentences provided herein upon conviction for a  
207 violation of this article are mandatory and may not be subject  
208 to suspension or probation: *Provided*, That the court may apply  
209 the provisions of article eleven-a, chapter sixty-two of this code  
210 to a person sentenced or committed to a term of one year or  
211 less. An order for home detention by the court pursuant to the  
212 provisions of article eleven-b, chapter sixty-two of this code  
213 may be used as an alternative sentence to any period of incar-  
214 ceration required by this section.

**§20-7-18c. Implied consent to test; administration at direction of law-enforcement officer.**

1 Any person who operates a motorboat, jet ski or other  
2 motorized vessel in this state shall be deemed to have given his  
3 or her consent by the operation thereof, to a preliminary breath  
4 analysis and a secondary chemical test of either his or her  
5 blood, breath or urine for the purposes of determining the  
6 alcoholic content of his or her blood. A preliminary breath test  
7 and the secondary chemical test of blood, breath or urine and  
8 the results of the tests may be designated, administered,  
9 processed, interpreted and used in the same manner as tests  
10 designated and administered in accordance with the provisions  
11 of article five, chapter seventeen-c of this code.

**§20-7-18d. Operation of Personal Watercrafts.**

1 (a) No person under the age of fifteen may operate a  
2 personal watercraft on the waters of this state; *Provided*, That  
3 a person that has attained the age of twelve may operate a  
4 personal watercraft if a person eighteen years or older is aboard  
5 the personal watercraft.

6 (b) A person may not operate a personal watercraft unless  
7 each person on board or being towed behind is wearing a type  
8 I, type II, type III, or type V personal flotation device approved  
9 by the United States Coast Guard. Inflatable personal flotation  
10 devices do not meet the requirements of this section.

11 (c) A person operating a personal watercraft equipped by  
12 the manufacturer with a lanyard-type engine cutoff switch must  
13 attach the lanyard to his or her person, clothing, or personal  
14 flotation device as a appropriate for the specific vessel.

15 (d) A person may not operate a personal watercraft at  
16 anytime between the hours of sunset and sunrise. However, an  
17 agent or employee of a fire rescue, emergency rescue unit, or

18 law enforcement division is exempt from this subsection while  
19 performing his or her official duties.

20 (e) A personal watercraft must at all times be operated in a  
21 reasonable and prudent manner. Maneuvers which unreasonably  
22 or unnecessarily endanger life, limb, or property constitutes  
23 reckless operation of a vessel and includes, but is not limited to:

24 (1) Weaving through congested traffic;

25 (2) Jumping the wake of another vessel unreasonably or  
26 unnecessarily close to the other vessel or when visibility around  
27 the other vessel is obstructed or restricted;

28 (3) Becoming airborne or completely leaving the water  
29 while crossing the wake of another vessel within one-hundred  
30 feet of the vessel creating the wake;

31 (4) Operating at a greater than slow or no-wake speed  
32 within one-hundred feet of an anchored or moored vessel,  
33 shoreline, dock, pier, swim float, marked swim areas, swim-  
34 mers, surfers, persons engaged in angling, or any manually  
35 powered vessel;

36 (5) Operating contrary to navigation rules including  
37 following too closely to another vessel, including another  
38 personal watercraft. For the purpose of this subdivision,  
39 "following too closely" is construed as a proceeding in the same  
40 direction and operating at a speed in excess of ten miles per  
41 hour within one-hundred feet to the rear or fifty feet to the side  
42 of another vessel which is underway, unless said vessels are  
43 operating in a narrow channel, in which case the personal  
44 watercraft may operate at the speed and flow of the other vessel  
45 traffic within the channel.

**§20-7-19a. Towing water skiers and towables.**

1 (a) No person may operate a personal watercraft towing  
2 another person on water skis or other towables unless the  
3 personal watercraft has, on board, in addition to the operator, a  
4 rear-facing observer, who monitors the progress of the person  
5 or persons being towed. This rear-facing observer must be at  
6 least twelve years of age.

7 (b) No person may operate a personal watercraft towing  
8 another person on water skis or other towables unless the total  
9 number of persons operating, observing and being towed does  
10 not exceed the specified number of passengers as identified by  
11 the manufacturer as the maximum safe load for the vessel.

**§20-7-20a. Personal watercraft operation and towing exemptions.**

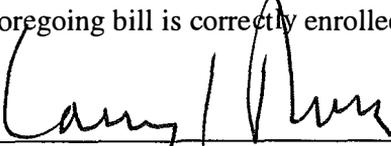
1 (a) The provisions of sections eighteen-f and nineteen-a do  
2 not apply to a performer engaged in a professional exhibition or  
3 a person engaging in an officially sanctioned regatta, race,  
4 marine parade, tournament, exhibition, or water safety demon-  
5 stration.

6 (b) The provisions of sections eighteen-f and nineteen-a do  
7 not apply to a person who holds a valid master's, mate's, or  
8 operator's license issued by the United States Coast Guard  
9 while performing his or her official duties.

**§20-7-22a. Agency rulemaking for personal watercrafts.**

1 The director of the division of natural resources shall  
2 propose rules, including the personal watercraft safety orienta-  
3 tion requirements for livery owners and operators, for legisla-  
4 tive approval in accordance with the provisions of subdivision  
5 thirty, section seven, article one of this chapter and section one,  
6 article one, chapter twenty-nine-a of this code which effectuate  
7 the contents of sections eleven, sixteen, eighteen-f, nineteen-a  
8 and twenty-a of this article.

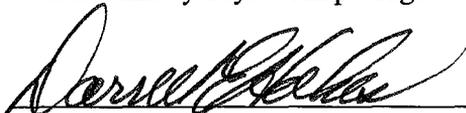
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

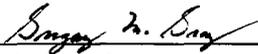
  
\_\_\_\_\_  
Chairman Senate Committee

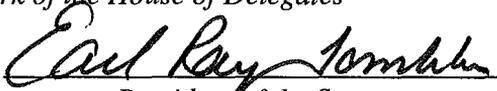
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 30<sup>th</sup>  
day of April, 2001.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/26/01

Time 5:30 pm