ACT NO. 6823

BILL NO. 26-0206

TWENTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2006

An Act amending title 25 Virgin Islands Code, to enact the Mandatory Motorboat Education Safety Act

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 25 Virgin Islands Code is amended by adding chapter 15a to read:

"Chapter 15a. Mandatory Motorboat Education and Safety

SECTION ANALYSIS

320. Short title

321. Definitions

322. Boating safety identification card

323. Exemptions

324. Proof of compliance

325. Altered, forged, counterfeit or falsified boating education certificate; penalties

326. Requirements for rental and leasing agents

327. Personal flotation device required

328. Mandatory wear of personal flotation devices by children

329. Enforcement

330. Penalties

§320. Short title

This chapter may be cited as The Mandatory Motorboat Education and Safety Act.

§321. Definitions

As used in this chapter, unless the context clearly requires a different meaning:

(a) "*Commercial Vessel*" means any vessel used or engaged in trade or business, including but not limited to, carrying passengers for hire, charter fishing, bare boat, or any type of charter, maintenance, diving, towing, or any other trade or business wherein the vessel is used in any manner to promote the venture, or is registered or licensed with the Virgin Islands or a state, or documented by the United States Coast Guard for commercial purposes.

(b) "*Commissioner*" means the Commissioner of Planning and Natural Resources.

(c) "*Department*" means the Department of Planning and Natural Resources.

(d) "*Motorboat*" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(e) "*Nonresident*" means a citizen of the United States who has not established residence in this Territory and has not continuously resided in this Territory for one year.

(f) "*Operate*" means to navigate or otherwise use a vessel that is not at anchor or moored, including vessels that are being paddled, are drifting, or are being powered by machinery.

(g) "*Personal flotation device or PFD*" means a U.S. Coast Guard-approved life jacket called a personal flotation devices or PFD. The quality and type depends on the length of the vessel and the number of people onboard or being towed.

(h) "*Waters of the Virgin Islands*" means any waters within the territorial limits of the Virgin Islands of the United States, and the marginal sea adjacent to this territory and the high seas when navigated as a part of the journey or ride to or from the shore of the Virgin Islands.

(i) "*Vessel*" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

§322. Boating safety identification cards

(a) A person eighteen years of age or younger may not operate a motorboat unless the person has in his possession aboard the motorboat photographic identification

and a boater safety identification card issued by the Department which shows that the person has:

(1) successfully completed a Department-approved boater education course that meets the requirements established by the National Association of State Boating Law Administrators;

(2) passed course equivalency examination approved by the Department; or

(3) passed a non-renewable temporary certificate examination developed or approved by the Department.

(b) An identification card issued to a person who has completed a boating safety course or a course equivalency examination is valid for life. A card issued to a person who has passed a temporary certification examination is valid 60 days.

(c) The Commissioner may enter into cooperative agreements with agents to administer the course, course equivalency examination, or temporary certificate examination under guidelines established by the Commissioner.

§323. A person is exempt from section 322 if the person:

(a) is licensed by the United States Coast Guard pursuant to 46 CFR Part 10;

(b) is a person who operates a vessel under supervision of a certified instructor, or supervision of a person who is exempt from section 323 or who holds an identification in compliance with section 322, is 18 years of age or older, and is attendant to the operation of the vessel and is responsible for any violation that occurs during the operation;

(c) is a nonresident who has in his possession proof that he has completed a boating safety course or equivalency examination in a state which meets or exceeds the requirements of section 322; or

(d) is exempted by rule of the Commissioner.

§324. Proof of compliance

(a) A person who is operating a motorboat on any waters of the Virgin Islands and is stopped by a peace officer in the enforcement of this chapter, or the rules adopted under this chapter, shall present to the peace officer proof that he meets the requirements of section 322, or that he is exempt under section 323.

(b) A person's failure to present the boating safety identification card, certificate, license, temporary operating permit, or other proof of compliance authorized by the Commissioner constitutes prima facie evidence of a violation of section 322 of this section.

(c) A person who fails to present the boating safety identification card, certificate, license, temporary operating permit or other proof of compliance authorized by the Commissioner is guilty of a misdemeanor, unless the person presents the required documents in court which prove that except for the absence of the documents, the person was operating the motorboat in compliance with this chapter on the date of the violation.

§325. Altered, forged, counterfeit or falsified boating education certificate

(a) No person may alter, forge, counterfeit or falsify a boating safety identification card, certificate, license, or temporary operating permit or other document required under section 324.

(b) No person may be in possession of a boating safety identification card certificate, license, temporary operating permit or other document required under section 324 which has been altered, forged, counterfeited or falsified.

(c) No person may loan or permit his boating safety identification card certificate, license, temporary operating permit or similar document required under section 324 to be used by another person.

§326. Requirements for Rental and Leasing Agents

(a) A person or his agent or employee engaged in the business of renting or leasing motorboats, not exceeding thirty days, may not rent or lease a motorboat to any person for operation on the waters of the Virgin Islands, unless the person:

(1) meets the provisions of section 322 or section 323 of this chapter; and

(2) is 18 years of age or older.

(b) A person, an agent or employee engaged in the business of renting or leasing motorboats shall list on each rental or lease agreement for a motorboat the name and age of each person who is authorized to operate the motorboat. The person to whom the motorboat is rented or leased shall ensure that only those persons who are listed as authorized operators are allowed to operate motorboat.

(c) A person, an agent or employee engaged in the business of renting or leasing motorboats shall provide to each authorized operator of a motorboat a summary of the statutes and regulations governing the operation of a motorboat and instructions regarding the safe operation of the motorboat. Each person listed as an authorized operator of the motorboat shall review the summary of the statutes, regulations and instructions before the motorboat departs from the rental or leasing office.

(d) The Commissioner may adopt pursuant to title 3 Virgin Islands Code chapter 35 such supplementary rules as he considers necessary. The rules may include the following:

(1) procedures for issuance of certificates, duplicate certificates, record keeping, name and address changes;

(2) establishment of reasonable fees for boating safety courses, examinations, issuance of boating safety certificates and other fees to cover the administration of this chapter; and

(3) contents for boating education courses.

(e) standards for approving boating education courses;

(f) criteria for exemptions under section 323 (d); and

(g) such other provisions that the Commissioner considers necessary to carry out the purpose of this chapter.

§327. Personal Flotation Device required

All vessels must be equipped with U.S. Coast Guard-approved personal flotation device. Each PFD must be in good condition, the proper size for the intended wearer, and must be readily accessible. Readily accessible means an individual must be able to put the PFD on in a reasonable amount of time in an emergency. A vessel operator shall require everyone on his vessel to wear a PFD whenever on the water.

(a) No person may operate a recreational vessel on the waters of the Virgin Islands unless at least one of the following types of personal flotation devices approved by the United States Coast Guard is on board for each individual aboard the vessel.

(1) Type I PFD (Offshore Life Jackets);

(2) Type II PFD (Near-Shore Vests); or

(3) Type III PFD (Flotation Aids).

(b) No person may operate a recreational vessel on the waters of the Virgin Islands unless one Type IV PFD, a throwable device, is on board in addition to the total number of PFDs required in subsection (a) of this section.

§328. Mandatory Wear of Personal Flotation Devices (PFD) by Children

No person may operate a recreational vessel on the waters of the Virgin Islands with any child under the age of seventeen years, unless each child is wearing an appropriate Type I or Type II Personal Flotation Device as outlined in section 327 of this chapter.

§329. Enforcement

Every peace officer in the Virgin Islands and such officers and employees of the Department of Planning and Natural Resources, as may be designated by the Commissioner, may enforce the provisions of this chapter, and in the exercise this enforcement authority may stop and board any vessel subject to this chapter.

§330. Penalties

(a) Any person who violates any provision of sections 324, 325, 326 or 327, of this chapter is guilty of a misdemeanor and is subject to a fine of $500 for each violation.

(b) Any person who violates any provision of section 327 of this title is guilty of a misdemeanor and is subject to a fine of $1,000.

(c) In any proceeding for a violation of this chapter, the court may suspend all or part of the fine, if the defendant completes the boating education course approved by this chapter within the time limit imposed by the court.

(d) A court may prohibit a person who violates any of the provisions of this chapter from operating a motorboat upon the waters of the Virgin Islands until the person successfully completes a course on safe boating approved the National Association of State Boating Law Administrators.

SECTION 2. Title 25 Virgin Islands Code, chapter 15, section 304 is amended by adding subsection (e) to read as follows:

"(e) Any person who violates section 297 or 297a

(1) if the infraction resulted in a reportable boating accident pursuant to section 298 (b), and

(2) any person convicted of two infractions under this chapter within a 12-month period, shall in addition to the penalties imposed in sections 297 and 297a

(A) enroll in, attend, and successfully complete, at his own expense, a boating safety course that meets minimum standards established by the Commissioner;

(B) file with the Department within 90 days proof of successful completion of the course; and

(C) refrain from operating a vessel until he has filed the proof of successful completion of the course with the Department.

(3) Any person who has successfully completed an approved boating course shall be exempt from these provisions upon showing proof to the commission as specified in paragraph (b).

(4) For the purposes of this section, "conviction" means a finding of guilt, or the acceptance of a plea of guilty or nolo contendere, regardless of whether or not adjudication was withheld or whether imposition of sentence was withheld, deferred, or suspended.

(5) The Commissioner shall print on the reverse side of the defendant's copy of the boating citation a notice of the provisions of this section. Upon conviction, the clerk of the court shall notify the defendant that it is unlawful for him to operate any vessel until he or she has complied with this section, but failure of the clerk of the court to provide such a notice shall not be a defense to a charge of unlawful operation of a vessel under subsection."

SECTION 3. Title 12 Virgin Islands Code, chapter 1, section 98, subsection (1), paragraph (a) is amended in the following instances:

(1) strike "17° 45' 39" N, 64° 40' 5" W" and insert in lieu thereof "17.76103049, -64.6682224"

(2) strike "17° 71' 35" N 66' 57" W" and insert in lieu thereof "17.71424314, -64.66470456".

SECTION 4. This Act takes effect 180 days after enactment.

Thus passed by the Legislature of the Virgin Islands on March 9, 2006.

Witness our Hands and the Seal of the Legislature of the Virgin Islands this 9th Day of March, A.D., 2006.

Lorraine L. Berry
President

Juan Figueroa-Serville
Legislative Secretary



The above bill is hereby approved.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 24th day of March, A.D., 2006.

Charles W. Turnbull
Governor