

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS15192-LLf-92 (3/2)

Short Title: Amend Boating Safety/Vessel Titling Law. (Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT to make various amendments to the boating safety and vessel titling law.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75A of the General Statutes reads as rewritten:

"Article 1.

"Boating Safety Act.

"§ 75A-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, and to promote uniformity of laws relating thereto.

"§ 75A-2. Definitions.

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

(1) "Abandoned vessel" means a vessel that has been relinquished, left, or given up by the lawful owner without the intention to later resume any right or interest in the vessel. The term does not include a vessel that is left by an owner or agent of the owner with any person or business for the purpose of storage, maintenance, or repair and that is not subsequently reclaimed.

(1a) "Certificate of number" means the certificate and number issued for the purpose of registering a vessel in North Carolina.

(1b) "Commission" means the North Carolina Wildlife Resources Commission, as established by Article 24 of Chapter 143 of the General Statutes and Part 3 of Article 7 of Chapter 143B of the General Statutes.

~~(1)~~(1c) "Motorboat" means any vessel equipped with propulsion machinery of any type, whether or not such machinery is the principal source of

1 propulsion: Provided, that "propulsion machinery" as used in this
2 section shall not include an electric motor when used as the only
3 means of mechanical propulsion of any vessel: ~~Provided further, that~~
4 ~~the term "motorboat" shall not include a vessel which has a valid~~
5 ~~marine document issued by the Bureau of Customs of the United~~
6 ~~States government or any federal agency successor thereto.~~ vessel.

7 (2) "Operate" means to navigate or otherwise use or occupy a motorboat
8 or vessel, and shall be applicable to any motorboat or vessel that is
9 afloat.

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

16 (4) "Person" means an individual, partnership, firm, corporation,
17 association, or other entity.

18 (5) "Vessel" means every description of watercraft or structure, other than
19 a seaplane on the water, used or capable of being used as a means of
20 transportation or habitation on the water.

21 (6) "Waters of this State" means any waters within the territorial limits of
22 this State, and the marginal sea adjacent to this State and the high seas
23 when navigated as a part of a journey or ride to or from the shore of
24 this State, but does not include private ponds as defined in
25 G.S. 113-129.

26 (7) "Electric generating facility" means any plant facilities and equipment
27 for the purposes of producing, generating, transmitting, delivering or
28 furnishing electricity for the production of power.

29 **§ 75A-3. Wildlife Resources Commission to administer Chapter; ~~Motorboat~~**
30 **Vessel Committee; funds for administration.**

31 (a) It shall be the duty and responsibility of the ~~North Carolina Wildlife~~
32 ~~Resources~~ Commission to enforce and administer the provisions of this Chapter.

33 (b) The chairman of the ~~Wildlife Resources~~ Commission shall designate from
34 among the members of the ~~Wildlife Resources~~ Commission three members who shall
35 serve as the ~~Motorboat~~ Vessel Committee of the ~~Wildlife Resources~~ Commission, and
36 who shall, in their activities with the Commission, place special emphasis on the
37 administration and enforcement of this Chapter.

38 (c) The Boating Account is established within the Wildlife Resources Fund
39 created under G.S. 143-250. All moneys collected pursuant to the numbering and titling
40 provisions of this Chapter shall be credited to this Account. Gasoline excise tax revenue
41 is credited to the Account under G.S. 105-449.126. Revenue in the Account shall be
42 used by the ~~Wildlife Resources~~ Commission, subject to the Executive Budget Act and
43 the Personnel Act, for the administration and enforcement of this Chapter; for activities
44 relating to boating and water safety including education and waterway marking and

1 improvement; and for boating access area acquisition, development, and maintenance.
2 At least three dollars (\$3.00) of each one-year ~~vessel registration~~ certificate of number
3 fee and at least nine dollars (\$9.00) of each three-year ~~vessel registration~~ certificate of
4 number fee collected under the numbering provisions of G.S. 75A-5 shall be used for
5 boating access area acquisition, development, and maintenance.

6 **"§ 75A-4. Identification numbers required.**

7 Every vessel on the waters of this State shall be numbered, except those vessels
8 exempted from numbering under G.S. 75A-7. No person shall operate or give
9 permission for the operation of any vessel on such waters unless the vessel is numbered
10 in accordance with this Chapter, or in accordance with applicable federal law, or in
11 accordance with a federally approved numbering system of another state, and unless

12 (1) The certificate of number awarded to such vessel is in full force and
13 effect, and

14 (2) The identifying number set forth in the certificate of number is
15 displayed on each side of the bow of such vessel.

16 **"§ 75A-5. Application for numbers; fee; displaying; certificates of number and**
17 **fees; reciprocity; change of ownership; loss of certificate; presumption**
18 **from possession of certificate; conformity with United States regulations;**
19 **award of certificates; records; award of certificates; renewal of**
20 **certificates; transfer of interest, abandonment, etc.; partial interest;**
21 **destroyed or junked vessels; abandonment; change of address;**
22 **unauthorized numbers. duplicate certificates; display.**

23 (a) Application for Certificates of Number and Fees. – The owner of each vessel
24 requiring numbering by this State shall file an application for number with the ~~Wildlife~~
25 ~~Resources~~ Commission on forms approved by it. The application shall be signed by the
26 owner of the vessel, or his agent, and shall be accompanied by a fee of ten dollars
27 (\$10.00) for a one-year period or by a fee of twenty-five dollars (\$25.00) for a
28 three-year period; provided, however, there shall be no fee charged for vessels owned
29 and operated by nonprofit rescue squads if they are operated exclusively for rescue
30 purposes, including rescue training. The applicant shall have the option of selecting a
31 one-year numbering period or a three-year numbering period. Upon receipt of the
32 application in approved form, the Commission shall have the same entered upon the
33 records of its office and issue to the applicant a certificate of number stating the number
34 awarded to the vessel and the name and address of the owner, and a validation decal
35 indicating the expiration date of the certificate of number. The owner shall paint on or
36 attach to each side of the bow of the vessel the identification number in such manner as
37 may be prescribed by rules of the Commission in order that it may be clearly visible.
38 The number shall be maintained in legible condition. The validation decal shall be
39 displayed on the starboard bow of the vessel immediately following the number. The
40 certificate of number shall be pocket size and shall be available at all times for
41 inspection on the vessel for which issued, whenever such vessel is in operation.
42 Provided, however, any person charged with failing to so carry such certificate of
43 number shall not be convicted if he produces in court a certificate of number theretofore
44 issued to him and valid at the time of his arrest. The application shall be made on forms

1 prescribed and furnished by the Commission and shall contain information as set forth
2 by administrative rules.

3 (b) Reciprocity. – The owner of any vessel already covered by a number in full
4 force and effect which has been awarded to it pursuant to then operative federal law or a
5 federally approved numbering system of another state shall record the number prior to
6 operating the vessel on the waters of this State in excess of the 90-day reciprocity period
7 provided for in G.S. 75A-7(a)(1). Such recordation shall be in the manner and pursuant
8 to the procedure required for the award of a number under subsection (a) of this section,
9 except that no additional or substitute number shall be issued.

10 (c) Change of Ownership. – Should the ownership of a vessel change, a new
11 application form with a fee of ten dollars (\$10.00) for a one-year period or by a fee of
12 twenty-five dollars (\$25.00) for a three-year period shall be filed with the ~~Wildlife~~
13 ~~Resources~~ Commission and a new certificate bearing the same number shall be awarded
14 to the new owner in the same manner as provided for in an original award of number. In
15 ~~case a certificate should become lost, a new certificate bearing the same number shall be~~
16 ~~issued upon payment of a fee of two dollars (\$2.00).~~ Possession of the certificate shall
17 in cases involving prosecution for violation of any provision of this Chapter be prima
18 facie evidence that the person whose name appears therein is the owner of the ~~boat~~
19 vessel referred to therein.

20 (d) Conformity With United States Regulations. – In the event that an agency of
21 the United States government shall have in force an over-all system of identification
22 numbering for vessels within the United States, the numbering system employed
23 pursuant to this Chapter by the ~~Wildlife Resources~~ Commission shall be in conformity
24 therewith.

25 ~~(e) The Wildlife Resources Commission may issue any vessel transaction~~
26 ~~pursuant to the provisions of Article 1 or 4 of this Chapter directly or may authorize any~~
27 ~~person qualified as prescribed in subsection (1) of this section to act as agent for the~~
28 ~~issuance of vessel transactions subject to the requirements set forth in this Chapter.~~
29 ~~Upon acceptance of this authorization, an agent's actions in issuing any vessel~~
30 ~~transaction pursuant to this Chapter shall be valid as if issued directly by the~~
31 ~~Commission. As compensation for services rendered to the Commission and to the~~
32 ~~general public, the agent shall receive the following specified commission from the~~
33 ~~statutory fee for each listed transaction:~~

34 (1) ~~Renewal of vessel registration — \$1.25.~~

35 (2) ~~Transfer of ownership and registration of a vessel — \$3.00.~~

36 (3) ~~Issuance of new certificate of vessel number and registration — \$3.00.~~

37 (4) ~~Issuance of duplicate vessel registration — \$0.50.~~

38 (5) ~~Issuance, transfer, duplication, or lien recordation of vessel title —~~
39 ~~\$3.00.~~

40 ~~It is a Class 1 misdemeanor for any such agent to charge or accept any additional fee,~~
41 ~~remuneration, or other thing of value for such services.~~

42 (f) Records. – All records of the ~~Wildlife Resources~~ Commission made or kept
43 pursuant to this section shall be public records.

1 (g) Award of Certificates. – Each certificate of number awarded pursuant to this
2 Chapter, unless sooner terminated or discontinued in accordance with the provisions of
3 this Chapter, shall continue in full force and effect to and including the last day of the
4 same month during which the same was awarded after the lapse of one year in the case
5 of a one-year certificate or three years in the case of a three-year certificate. ~~In addition~~
6 ~~to the year of expiration, the validation decal required by subsection (a) of this section~~
7 ~~shall indicate the last month during which the certificate is valid.~~ No person shall
8 willfully remove a validation decal from any vessel during the continuance of its
9 validity or alter, counterfeit, or otherwise tamper with a validation decal attached to any
10 vessel for the purpose of changing or obscuring the indicated date of expiration of the
11 certificate of number of such vessel.

12 (h) Renewal of Certificates. – Each certificate of number awarded pursuant to
13 this Chapter must be renewed on or before the first day of the month next succeeding
14 that during which the same expires; otherwise, such certificate shall lapse and be void
15 until such time as it may thereafter be renewed. Application for renewal shall be
16 submitted on a form approved by the ~~Wildlife Resources~~ Commission and shall be
17 accompanied by a fee of ten dollars (\$10.00) for a one-year period or by a fee of
18 twenty-five dollars (\$25.00) for a three-year period; provided, there shall be no fee
19 required for a period of one year for renewal of certificates of number ~~which that~~ have
20 been previously issued to commercial fishing vessels as defined in G.S. 75A-5.1, upon
21 compliance with all of the requirements of that section.

22 (i) Transfer of Partial Interest. – The owner shall furnish the ~~Wildlife Resources~~
23 Commission notice of the transfer of ~~all or~~ any part of his interest other than the creation
24 of a security interest in a vessel numbered in this State pursuant to subsections (a) and
25 (b) of this section ~~or of the destruction or abandonment of such vessel~~, within 15 days
26 thereof. ~~Such transfer, destruction, or abandonment shall terminate the certificate of~~
27 ~~number for such vessel except that, in the case of a transfer of a part interest which does~~
28 transfer shall not affect the owner's right to operate such vessel, nor shall such transfer
29 ~~shall not~~ terminate the certificate of number.

30 (i1) Destroyed or Junked Vessels. – The owner of any destroyed or junked vessel
31 shall furnish the Commission notice of the destruction or junking of that vessel within
32 15 days of its occurrence. Destruction or junking terminates the certificate of number
33 and renders the hull identification number invalid for that vessel.

34 (i2) Abandonment. – A person may acquire ownership of an abandoned vessel by
35 providing proof to the Commission that the vessel has actually been abandoned by the
36 lawful owner. The Commission shall establish rules by which a person seeking to
37 acquire ownership may demonstrate that the vessel is actually abandoned. At a
38 minimum, those rules shall provide for a reasonable attempt to locate the lawful owner
39 and, if the owner is located, notice by the claimant of an intention to claim ownership of
40 the vessel.

41 (j) ~~Any holder of a certificate of number shall notify the Wildlife Resources~~
42 ~~Commission within 15 days if his address no longer conforms to the address appearing~~
43 ~~on the certificate, and shall, as a part of such notification, furnish the Commission his~~
44 ~~new address. The Commission may provide in its rules and regulations for the surrender~~

1 of the certificate bearing the former address and its replacement with a certificate
2 bearing the new address or for the alteration of an outstanding certificate to show the
3 new address of the holder. Change of Address. – Whenever any person, after applying
4 for or obtaining the certificate of number of a vessel, moves from the address shown in
5 the application or upon the certificate of number, that person shall, within 30 days,
6 notify the Commission of the change of address, in a form acceptable to the
7 Commission. A fee of five dollars (\$5.00) shall be imposed upon any person who fails
8 to comply with this section within the time prescribed. No certificate of number shall be
9 renewed or reissued for any vessel that has an address change until notice of the change
10 of address is received by the Commission and the fee, if applicable, is paid.

11 (j2) Duplicate Certificates. – The Commission shall issue a duplicate certificate of
12 number for a vessel upon application by the person entitled to hold the certificate, if the
13 Commission is satisfied that the original certificate of number has been lost, stolen,
14 mutilated, or destroyed, or has become illegible. There shall be a fee of five dollars
15 (\$5.00) imposed for each duplicate certificate.

16 (k) Display. – No number other than the identifying number awarded to a vessel
17 set forth in the certificate of number or granted reciprocity pursuant to this Chapter shall
18 be painted, attached, or otherwise displayed on either side of the bow of such vessel,
19 except the validation decal required by subsection (a) of this section.

20 (4) ~~When certificates of number are to be issued by agents as provided by~~
21 ~~subsection (e) of this section, the Wildlife Resources Commission may establish~~
22 ~~administrative guidelines that prescribe:~~

- 23 (1) ~~The qualifications of agents;~~
- 24 (2) ~~The duties of agents;~~
- 25 (3) ~~Methods and procedures to ensure accountability and security for~~
26 ~~proceeds and unissued certificates of number;~~
- 27 (4) ~~Requirements for security bonds in amounts sufficient to protect the~~
28 ~~State against loss of public funds or documents;~~
- 29 (5) ~~Methods and procedures, including submission of the kinds and~~
30 ~~amounts of evidence deemed sufficient to relieve an agent of~~
31 ~~responsibility for losses due to occurrences beyond the agent's control;~~
32 ~~and~~
- 33 (6) ~~Any other reasonable requirement or condition deemed necessary and~~
34 ~~desirable to expedite and control the issuance of certificates of boat~~
35 ~~number by agents.~~

36 ~~In accordance with administrative guidelines developed pursuant to this section, the~~
37 ~~executive director may:~~

- 38 (1) ~~Select and appoint agents in the areas most convenient to the boating~~
39 ~~public and limit the number of agents in any one area if necessary for~~
40 ~~efficiency of operation;~~
- 41 (2) ~~Require prompt and accurate reporting and remittance of public funds~~
42 ~~or documents by agents;~~
- 43 (3) ~~Conduct periodic and special audits of accounts;~~

1 (4) ~~Terminate the authorization of any agent found to be in noncompliance~~
2 ~~with administrative guidelines or directives of the Commission or~~
3 ~~when State funds or property are reasonably believed to be in~~
4 ~~jeopardy; and~~

5 (5) ~~Demand the immediate surrender of all accounts, forms, certificates,~~
6 ~~decals, records, and State funds and property in the event of the~~
7 ~~termination of an agency.~~

8 ~~A person who is denied the authority to act as an agent for the issuance of certificates of~~
9 ~~number and validation decals or whose authority to do so is revoked may not commence~~
10 ~~a contested case under G.S. 150B-23. If any check or draft of any agent for the issuance~~
11 ~~of certificates of boat number shall be returned by the banking facility upon which the~~
12 ~~same is drawn for lack of funds, such agent shall be liable to the Wildlife Resources~~
13 ~~Commission for a penalty of five percent (5%) of the amount of such check or draft, but~~
14 ~~in no event shall such penalty be less than five dollars (\$5.00) or more than two hundred~~
15 ~~dollars (\$200.00). Agents shall be assessed a penalty of twenty five percent (25%) of~~
16 ~~their issuing fee on all remittances to the Commission after the fifteenth day of the~~
17 ~~month immediately following the month of sale.~~

18 **"§ 75A-5.1. Commercial fishing vessels; renewal of number.**

19 (a) The owner of any commercial fishing vessel that is registered under the
20 provisions of G.S. 113-168.6 may renew the certificate of number of the vessel for a
21 one-year period free of charge when the owner has complied with all of the conditions
22 of this section.

23 (b) As used in this section, "commercial fishing vessel" is a vessel used in a
24 commercial fishing operation, as defined in G.S. 113-168.

25 (c) In order to be entitled to renewal of certificate of number under the provisions
26 of this section, the owner of the vessel shall submit, and the ~~Wildlife Resources~~
27 ~~Commission~~ shall require:

28 (1) The regular application for renewal of the certificate of number of the
29 vessel, as provided by G.S. 75A-5; and

30 (2) ~~A statement, on a form to be supplied by the Commission, and signed~~
31 ~~by the applicant, that the vessel for which the application for renewal~~
32 ~~is made is a commercial fishing vessel; and Proof, satisfactory to the~~
33 ~~Commission, that the vessel owner possesses a valid commercial~~
34 ~~fishing vessel registration.~~

35 (3) ~~A receipt, signed by an authorized agent of the Department of~~
36 ~~Environment and Natural Resources, and bearing the number awarded~~
37 ~~to the boat under the provisions of this Chapter, showing that the~~
38 ~~commercial fishing vessel registration fee imposed by G.S. 113-168.6~~
39 ~~has been paid for the vessel for the period during which the application~~
40 ~~for renewal of the certificate of number is submitted.~~

41 (d) Any person who shall willfully give false information upon the application or
42 the statement required by this section or who shall falsify any ~~registration~~ certificate of
43 number fee receipt required by this section shall be guilty of a Class 1 misdemeanor.

44 **"§ 75A-5.2. Vessel agents.**

1 (a) In order to facilitate the convenience of the public, the efficiency of
2 administration, the need to keep statistics and records affecting the conservation of
3 wildlife resources, boating, water safety, and other matters within the jurisdiction of the
4 Commission, and to facilitate the issuance of vessel transactions, the Commission may
5 issue vessel transactions in any particular category through:

- 6 (1) Vessel agents.
- 7 (2) The Wildlife Resources Commission's headquarters.
- 8 (3) Employees of the Wildlife Resources Commission.
- 9 (4) Two or more of those sources simultaneously.

10 The Commission may by rule provide for the appointment of persons as vessel
11 agents to issue vessel transactions that it is authorized to issue by this Subchapter or by
12 other provisions of the law.

13 When there are substantial reasons for differing treatment, the Commission may
14 issue a type of vessel transaction by one method in one locality and by another method
15 in another locality.

16 (b) As compensation for services rendered to the Commission and to the general
17 public, vessel agents shall receive the following specified commission from the
18 statutory fee for each listed transaction:

- 19 (1) Renewal of certificate of number – \$1.25.
- 20 (2) Transfer of ownership and certificate of number – \$3.00.
- 21 (3) Issuance of new certificate of number – \$3.00.
- 22 (4) Issuance of duplicate certificate of title – \$0.50.
- 23 (5) Issuance or transfer of certificate of title – \$3.00.

24 It is a Class 1 misdemeanor for vessel agents to charge or accept any additional fee,
25 remuneration, or other item of value for such services.

26 (c) When certificates of number are to be issued by vessel agents as provided by
27 subsection (a) of this section, the Commission may establish administrative rules that
28 prescribe:

- 29 (1) The qualifications of agents;
- 30 (2) The duties of agents;
- 31 (3) Methods and procedures to ensure accountability and security for
32 proceeds and unissued certificates of number;
- 33 (4) Methods and procedures, including submission of the kinds and
34 amounts of evidence deemed sufficient to relieve an agent of
35 responsibility for losses due to occurrences beyond the agent's control;
36 and
- 37 (5) Any other reasonable requirement or condition deemed necessary and
38 desirable to expedite and control the issuance of certificates of number
39 by agents.

40 (d) In accordance with the administrative rules developed pursuant to this
41 section, the Executive Director may:

- 42 (1) Select and appoint agents in the areas most convenient to the boating
43 public and limit the number of agents in any one area if necessary for
44 efficiency of operation;

- 1 (2) Require prompt and accurate reporting and remittance of public funds
2 or documents by agents;
3 (3) Conduct periodic and special audits of accounts;
4 (4) Suspend or terminate the authorization of any agent found to be
5 noncompliant with the administrative rules of the Commission or
6 when State funds or property are reasonably believed to be in
7 jeopardy; and
8 (5) Demand the immediate surrender of all equipment, forms, supplies,
9 records, State funds, and property issued by the Commission, in the
10 event of the termination of an agent.

11 (e) A person who is denied the authority to act as an agent for the issuance of
12 certificates of number and validation decals or whose authority to do so is revoked may
13 not commence a contested case under G.S. 150B-23. If any check or account draft of
14 any agent for the issuance of certificates of number is returned by the banking facility
15 upon which it is drawn for lack of funds, the agent shall be liable to the Commission for
16 a penalty of five percent (5%) of the amount of the check or draft, but in no event shall
17 the penalty be less than five dollars (\$5.00) or more than two hundred dollars (\$200.00).
18 Agents shall be assessed a penalty of twenty-five percent (25%) of their issuing fee on
19 all remittances to the Commission after the fifteenth day of the month immediately
20 following the month of sale.

21 (f) The Wildlife Resources Commission may make rules in implementing the
22 authority granted in subsection (c) of this section, but it need not set out in its rules
23 details as to forms, records, and accounting procedures, and other reasonable
24 requirements that may be administratively promulgated by employees of the Wildlife
25 Resources Commission in implementing the purposes of this Article in order for those
26 administrative requirements to be deemed validly required. It is a Class 1 misdemeanor
27 for a vessel agent to:

- 28 (1) Withhold or misappropriate funds from the sale of vessel transactions;
29 (2) Falsify records of vessel transactions;
30 (3) Willfully and knowingly assist or allow a person to obtain a certificate
31 of number or certificate of title for which the person is ineligible;
32 (4) Willfully issue a backdated certificate of number or certificate of title;
33 (5) Willfully include false information or omit material information on
34 vessel transactions as to:
35 a. A person's entitlement to a particular certificate of number or
36 certificate of title; or
37 b. The applicability or term of a particular certificate of number.

38 **"§ 75A-6. Classification; rules.**

39 (a) ~~Motorboats~~ Vessels subject to the provisions of this Chapter shall be divided
40 into four classes ~~five categories~~ as follows:

- 41 (1) Class A. Less than 16 feet in length.
42 (2) Class 1. Sixteen feet or over and less than 26 feet in length.
43 (3) Class 2. Twenty-six feet or over and less than 40 feet in length.
44 (4) Class 3. Forty feet or ~~over~~ over and not more than 65 feet in length.

1 (5) Motor vessels more than 65 feet in length.

2 (b) through (e) Repealed by Session Laws 1993, c. 361, s. 2.

3 ~~(f) Every motorboat shall carry at least one life preserver, or life belt, or ring~~
4 ~~buoy, or other device of the sort prescribed by the regulations of the Wildlife Resources~~
5 ~~Commission for each person on board, so placed as to be readily accessible: Provided,~~
6 ~~that every motorboat carrying passengers for hire shall carry so placed as to be readily~~
7 ~~accessible at least one life preserver of the sort prescribed by the regulations of the~~
8 ~~Commission for each person on board.~~

9 ~~(g) Every motorboat shall be provided with such number, size, and type of fire~~
10 ~~extinguishers, capable of promptly and effectually extinguishing burning gasoline, as~~
11 ~~may be prescribed by the regulations of the Wildlife Resources Commission, which fire~~
12 ~~extinguishers shall be at all times kept in condition for immediate and effective use and~~
13 ~~shall be so placed as to be readily accessible.~~

14 ~~(h) The provisions of subsection (g) of this section shall not apply to motorboats~~
15 ~~while competing in any race conducted pursuant to G.S. 75A-14 or, if such boats be~~
16 ~~designed and intended solely for racing, while engaged in such navigation as is~~
17 ~~incidental to the tuning up of the boats and engines for the race.~~

18 ~~(i) Every motorboat shall have the carburetor or carburetors of every engine~~
19 ~~therein (except outboard motors) using gasoline as fuel, equipped with such efficient~~
20 ~~flame arrestor, backfire trap, or other similar device as may be prescribed by the~~
21 ~~regulations of the Wildlife Resources Commission.~~

22 ~~(j) Every such motorboat and every such vessel, except open boats, using as fuel~~
23 ~~any liquid of a volatile nature, shall be provided with such means as may be prescribed~~
24 ~~by the regulations of the Wildlife Resources Commission properly and efficiently~~
25 ~~ventilating the bilges of the engine and fuel tank compartments so as to remove any~~
26 ~~explosive or inflammable gases.~~

27 (k) Repealed by Session Laws 1993, c. 361, s. 2.

28 (l) No person shall operate or give permission for the operation of a vessel which
29 is not equipped as required by this section or modification thereof.

30 ~~(m) In the event that any of the regulations of subsections (a), (f), (g), (h), (i), (j),~~
31 ~~and (l) of this section are in conflict with the equipment regulations of the Federal Boat~~
32 ~~Safety Act of 1971 and the federal regulations adopted pursuant thereto, the Wildlife~~
33 ~~Resources Commission is hereby granted the authority to adopt such regulations as~~
34 ~~are necessary to conform with the Federal Boat Safety Act of 1971 and the federal~~
35 ~~regulations adopted pursuant thereto.~~

36 (n) All ~~boats~~ vessels propelled by machinery of 10 hp or less, which are operated
37 on the public waters of this State, shall carry at least one life preserver, or life belt, or
38 ring buoy, or other device of the sort prescribed by the regulations of the ~~Wildlife~~
39 ~~Resources~~ Commission for each person on board, and from one-half hour after sunset to
40 one-half hour before sunrise shall carry a white light in the stern or shall have on board
41 a hand flashlight in good working condition, which light shall be ready at hand and shall
42 be temporarily displayed in sufficient time to prevent collision.

43 (o) The Commission for Health Services shall adopt rules establishing standards
44 for the approval of sewage treatment devices and holding tanks for marine toilets

1 installed in ~~boats~~ vessels operating on the inland fishing waters of the State as
2 designated by the ~~Wildlife Resources~~ Commission and the inland lake waters of the
3 State. No vessel operating on the inland fishing waters of the State as designated by the
4 ~~Wildlife Resources~~ Commission and the inland lake waters of this State that is equipped
5 with a marine toilet shall be registered by the ~~Wildlife Resources~~ Commission unless
6 such vessel is provided with a sewage treatment device or holding tank approved by the
7 Commission for Health Services. All vessels operating on the inland fishing waters of
8 the State as designated by the ~~Wildlife Resources~~ Commission and the inland lake
9 waters of the State that are equipped with a marine toilet shall be required to provide a
10 sewage treatment device or holding tank approved by the Commission for Health
11 Services. The protectors of the ~~Wildlife Resources~~ Commission shall inspect vessels on
12 the inland fishing waters of the State as designated by the ~~Wildlife Resources~~
13 Commission and the inland lake waters to determine if approved treatment devices or
14 holding tanks are properly installed and if they are operating in a satisfactory manner. A
15 vessel registered, documented or otherwise licensed in another state and equipped with
16 a marine toilet not prohibited in such state may be operated on the inland fishing waters
17 of the State as designated by the ~~Wildlife Resources~~ Commission, without regard to the
18 provisions of this subsection while making an interstate trip.

19 **"§ 75A-6.1. Navigation rules.**

20 (a) Every vessel operated on the waters of this State that is required to obtain an
21 identification number pursuant to this ~~Chapter~~ Chapter, has a valid marine document
22 issued by the federal Bureau of Customs or any federal agency successor to it, or
23 pursuant to a federally approved numbering system of another state shall comply with
24 the navigation rules, including requirements for navigational lights, sound-signaling
25 devices, and other equipment, contained in the Inland Navigational Rules Act of 1980,
26 codified as amended at 33 U.S.C. §§ 2001-2038, 2071-2073 (1993) and rules adopted
27 pursuant thereto, see 33 C.F.R. Part 84 (1992).

28 (b) The ~~Wildlife Resources~~ Commission is responsible for the enforcement of the
29 rules specified in subsection (a) of this section. The rules specified in subsection (a) of
30 this section are also enforceable by all peace officers with general subject matter
31 jurisdiction.

32 (c) Violation of the navigation rules specified in subsection (a) of this section
33 shall constitute a Class 3 misdemeanor and is punishable only by a fine not to exceed
34 one hundred dollars (\$100.00).

35 **"§ 75A-7. Exemption from numbering requirements.**

36 (a) A vessel shall not be required to be numbered under this Chapter if it is:

37 (1) A vessel which is required to be awarded a number pursuant to federal
38 law or a federally approved numbering system of another state, and for
39 which a number has been so awarded: Provided, that any such ~~boat~~
40 vessel shall not have been within this State for a period in excess of 90
41 consecutive days.

42 (2) A vessel from a country other than the United States temporarily using
43 the waters of this State.

- 1 (3) A vessel whose owner is the United States, a state or a subdivision
2 thereof.
- 3 (4) A ship's lifeboat.
- 4 (5) A vessel which has a valid marine document issued by the Bureau of
5 Customs of the United States government or any federal agency
6 successor thereto.
- 7 (6) A sailboat of not more than 14 feet on the load water line (LWL).
- 8 (7) A vessel with no means of propulsion other than drifting or manual
9 paddling, poling, or rowing.

10 (b) The ~~Wildlife Resources~~ Commission is hereby empowered to permit the
11 voluntary numbering of vessels owned by the United States, a state or a subdivision
12 thereof.

13 (c) Those vessels owned by the United States, a state or a subdivision thereof and
14 those owned by nonprofit rescue squads may be assigned a certificate of number
15 bearing no expiration date but which shall be stamped with the word "permanent" and
16 shall not be renewable so long as the vessel remains the property of the governmental
17 entity or nonprofit rescue squad. If the ownership of any such ~~boat~~ vessel is transferred
18 from one governmental entity to another or to a nonprofit rescue squad or if a ~~boat~~
19 vessel owned by a nonprofit rescue squad is transferred to another nonprofit rescue
20 squad or governmental entity, a new permanent ~~certificate may~~ certificate, displaying
21 the same certificate of number, shall be issued without charge to the successor entity.
22 When any such ~~boat~~ vessel is sold to a private owner or is otherwise transferred to
23 private ownership, the applicable certificate of number shall be deemed to have expired
24 immediately prior to such transfer. Prior to further use on the waters of this State, the
25 new owner shall obtain ~~either a temporary certificate of number or a regular~~ a certificate
26 of number pursuant to the provisions of this Chapter. The provisions of this subsection
27 applicable to ~~motorboats~~ vessels owned by nonprofit rescue squads apply only to those
28 operated exclusively for rescue purposes, including rescue training.

29 **"§ 75A-8. Boat Vessel liveries.**

30 It shall be unlawful for the owner of a ~~boat~~ vessel livery to rent a vessel to any
31 person unless the provisions of this Chapter have been complied with. It shall be the
32 duty of owners of ~~boat~~ vessel liveries to equip all vessels rented as required by this
33 Chapter.'

34 **"§ 75A-9. Muffling devices.**

35 The exhaust of every internal combustion engine used on any motorboat shall be
36 effectively muffled by equipment so constructed and used to muffle the noise of the
37 exhaust in a reasonable manner. The use of cutouts is prohibited, except for motorboats
38 competing in a regatta or boat race approved as provided in G.S. 75A-14, and for such
39 motorboats while on trial runs, during a period not to exceed 48 hours immediately
40 preceding such regatta or race and for such motorboats while competing in official trials
41 for speed records during a period not to exceed 48 hours immediately following such
42 regatta or race.

43 **"§ 75A-9.1. Muffling devices – Motorboats.**

1 Every internal combustion engine with an open-air exhaust which is used on any
2 motorboat and which has a capacity of operating at more than 4000 revolutions per
3 minute shall have effective muffling equipment installed on each exhaust manifold
4 stack except for motorboats competing in a regatta or boat race approved as provided in
5 G.S. 75A-14, and for such motorboats while on trial runs, during a period not to exceed
6 48 hours immediately preceding such regatta or race and for such motorboats while
7 competing in official trials for speed records during a period not to exceed 48 hours
8 immediately following such regatta or race. This Article shall not apply to licensed
9 commercial fishing ~~boats~~ vessels.

10 **"§ 75A-10. Operating ~~boat~~ vessel or manipulating water skis, etc., in reckless**
11 **manner; operating, etc., while intoxicated, etc.; depositing or discharging**
12 **litter, etc.**

13 (a) No person shall operate any motorboat or vessel, or manipulate any water
14 skis, surfboard, or similar device on the waters of this State in a reckless or negligent
15 manner so as to endanger the life, limb, or property of any person.

16 (b) No person shall manipulate any water skis, surfboard, nonmotorized vessel,
17 or similar device on the waters of this State while under the influence of an impairing
18 substance.

19 (b1) No person shall operate any ~~motorboat or motor~~ vessel while underway on
20 the waters of this State:

21 (1) While under the influence of an impairing substance, or

22 (2) After having consumed sufficient alcohol that he has, at any relevant
23 time after the boating, an alcohol concentration of 0.08 or more.

24 The fact that a person charged with violating this subsection is or has been legally
25 entitled to use alcohol or a drug is not a defense to a charge under this subsection or
26 subsection (b) above.

27 The relevant definitions contained in G.S. 20-4.01 shall apply to this subsection and
28 subsection (b) above.

29 (c) No person shall place, throw, deposit, or discharge or cause to be placed,
30 thrown, deposited, or discharged on the waters of this State or into the inland lake
31 waters of this State, any litter, raw sewage, bottles, cans, papers, or other liquid or solid
32 materials which render the waters unsightly, noxious, or otherwise unwholesome so as
33 to be detrimental to the public health or welfare or to the enjoyment and safety of the
34 water for recreational purposes.

35 (d) No person shall place, throw, deposit, or discharge or cause to be placed,
36 thrown, deposited, or discharged on the waters of this State or into the inland lake
37 waters of this State any medical waste as defined by G.S. 130A-290 which renders the
38 waters unsightly, noxious, or otherwise unwholesome so as to be detrimental to the
39 public health or welfare or to the enjoyment and safety of the water for recreational
40 purposes.

41 **"§ 75A-10.1. Family purpose doctrine applicable.**

42 The family purpose doctrine, as applicable in this State to tort cases arising from the
43 operation of motor vehicles, shall apply to tort cases arising from the operation of
44 motorboats and vessels as those terms are defined in this Chapter.

1 **"§ 75A-10.2. Proof of ownership of ~~motorboat~~ vessel.**

2 (a) In all actions to recover damages for injury to the person or to property or for
3 the death of a person, arising out of an accident or collision involving ~~motorboats or~~
4 vessels as said terms are described in G.S. 75A-2, proof of ownership of such ~~motorboat~~
5 ~~or vessel~~ at the time of such accident or collision shall be prima facie evidence that said
6 ~~motorboat or~~ vessel was being operated and used with the authority, consent and
7 knowledge of the owner in the very transaction out of which said injury or cause of
8 action arose.

9 (b) Proof of the certificate of number stating the number awarded to the
10 ~~motorboat or~~ vessel in the name of any person, firm or corporation as required by this
11 Chapter, or proof of the licensing, registration, or documentation of ~~said motorboat or~~
12 the vessel as required by other state or federal law in the name of any person, firm or
13 corporation, shall for the purpose of any such action, be prima facie evidence of
14 ownership and that said ~~motorboat or~~ vessel was then being operated by and under the
15 control of a person for whose conduct the owner was legally responsible, for the owner's
16 benefit, and within the course and scope of his employment.

17 **"§ 75A-11. Duty of operator involved in collision, accident or other casualty.**

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

26 (b) In the case of collision, accident, or other ~~casualty occurrence~~ involving a
27 vessel, ~~the operator thereof~~, if the collision, accident, or other ~~casualty occurrence~~
28 results in ~~death~~ death, disappearance indicating death or injury, or injury to a person or
29 damage to ~~property in excess of five hundred dollars (\$500.00)~~, ~~shall, within 10 days,~~
30 vessels and other property of two thousand dollars (\$2,000) or more, or if there is
31 complete loss of any vessel, the operator of the vessel shall file with the Wildlife
32 Resources Commission a full description of the collision, accident, or other ~~casualty,~~
33 occurrence, including such information as ~~said~~ the agency may, by regulation, require.
34 In cases of death, disappearance, or injury, the report shall be filed within 48 hours. In
35 cases of vessel or property damage, or complete loss of any vessel, the report shall be
36 filed within 10 days. When the operator of the vessel cannot submit the report, the
37 owner of the vessel shall submit the report. Such report shall not be admissible as
38 evidence.

39 (c) When, as a result of an occurrence that involves a vessel or its equipment, a
40 person dies or disappears from a vessel, the operator of the vessel shall, without delay,
41 by the quickest means available, notify the nearest law enforcement agency of:

- 42 (1) The date, time, and exact location of the occurrence;
43 (2) The name of each person who died or disappeared;
44 (3) The certificate of number and name of the vessel; and

1 (4) The name and address of the vessel owner or owners and the vessel
2 operator.

3 When the operator of the vessel cannot give notice required by this section, each
4 person on board the vessel shall notify the law enforcement agency or determine that
5 notice has been given. Upon receiving notice under this section, a law enforcement
6 agency shall immediately provide the Commission and the Coast Guard with the
7 information required by this subsection.

8 **"§ 75A-12. Furnishing information to agency of United States.**

9 In accordance with any request duly made by an authorized official or agency of the
10 United States, any information compiled or otherwise available to the ~~Wildlife~~
11 ~~Resources~~ Commission pursuant to G.S. 75A-11(b) shall be transmitted to said official
12 or agency of the United States.

13 **"§ 75A-13. Water skis, surfboards, etc.**

14 (a) No person shall operate a vessel on any water of this State for towing a
15 person or persons on water skis, or a surfboard, or similar device unless there is in such
16 a vessel a person, in addition to the operator, in a position to observe the progress of the
17 person or persons being towed or unless the skiers wear a life preserver or unless the
18 ~~boat~~ vessel is equipped with a rear view mirror.

19 (b) No person shall operate a vessel on any water of this State towing a person or
20 persons on water skis, a surfboard, or similar device, nor shall any person engage in
21 water skiing, surfboarding, or similar activity at any time between the hours from one
22 hour after sunset to one hour before sunrise.

23 (c) The provisions of subsections (a) and (b) of this section do not apply to a
24 performer engaged in a professional exhibition or a person or persons engaged in an
25 activity authorized under G.S. 75A-14.

26 (d) No person shall operate or manipulate any vessel, tow rope, or other device
27 by which the direction or location of water skis, a surfboard, or similar device may be
28 affected or controlled in such a way as to cause the water skis, surfboard, or similar
29 device, or any person thereon to collide with any object or person.

30 **"§ 75A-13.1. Skin and scuba divers.**

31 (a) No person shall engage in skin diving or scuba diving in the waters of this
32 State which are open to boating, or assist in such diving, without displaying a diver's
33 flag from a mast, buoy, or other structure at the place of diving; and no person shall
34 display such flag except when diving operations are under way or in preparation.

35 (b) The diver's flag shall be square, not less than 12 inches on a side, and shall
36 be of red background with a diagonal white stripe, of a width equal to one fifth of the
37 flag's height, running from the upper corner adjacent to the mast downward to the
38 opposite outside corner.

39 (c) No operator of a vessel under way in the waters of this State shall permit such
40 vessel to approach closer than 50 feet to any structure from which a diver's flag is then
41 being displayed, except where such flag is so positioned as to constitute an unreasonable
42 obstruction to navigation; and no person shall engage in skin diving or scuba diving or
43 display a diver's flag in any locality at which the same will unreasonably obstruct
44 vessels from making legitimate navigational use of the water.

1 "§ 75A-13.2: Repealed by Session Laws 1999-447, s. 3.

2 "§ 75A-13.3. Personal watercraft.

3 (a) No person shall operate a personal watercraft on the waters of this State at
4 any time between sunset and sunrise. For purposes of this section, "personal watercraft"
5 means a small vessel which uses an outboard or propeller-driven motor, or an inboard
6 motor powering a water jet pump, as its primary source of motive power and which is
7 designed to be operated by a person sitting, standing, or kneeling on, or being towed
8 behind the vessel, rather than in the conventional manner of sitting or standing inside
9 the vessel.

10 (a1) No person shall operate a personal watercraft on the waters of this State at
11 greater than no-wake speed within 100 feet of an anchored or moored vessel, a dock,
12 pier, swim float, marked swimming area, swimmers, surfers, persons engaged in
13 angling, or any manually operated propelled vessel, unless the personal watercraft is
14 operating in a narrow channel. No person shall operate a personal watercraft in a narrow
15 channel at greater than no-wake speed within 50 feet of an anchored or moored vessel, a
16 dock, pier, swim float, marked swimming area, swimmers, surfers, persons engaged in
17 angling, or any manually operated propelled vessel.

18 (b) Except as otherwise provided in this subsection, no person under 16 years of
19 age shall operate a personal watercraft on the waters of this State, and it is unlawful for
20 the owner of a personal watercraft or a person who has temporary or permanent
21 responsibility for a person under the age of 16 to knowingly allow that person to operate
22 a personal watercraft. A person of at least 12 years of age but under 16 years of age may
23 operate a personal watercraft on the waters of this State if:

24 (1) The person is accompanied by a person of at least 18 years of age who
25 physically occupies the watercraft; or

26 (2) The person (i) possesses on his or her person while operating the
27 watercraft, identification showing proof of age and a boater safety
28 certification card issued by the ~~Wildlife Resources~~ Commission or
29 proof of other satisfactory completion of a boating safety education
30 course approved by the National Association of State Boating Law
31 Administrators (NASBLA); and (ii) produces that identification and
32 certification card upon the request of an officer of the ~~Wildlife~~
33 ~~Resources~~ Commission or local law enforcement agency.

34 (c) No livery shall lease, hire, or rent a personal watercraft to or for operation by
35 a person under 16 years of age, except as provided in subsection (b) of this section.

36 (c1) It shall be unlawful for any person, firm, or corporation to engage in the
37 business of renting personal watercraft to the public for operation by the rentee unless
38 such person, firm, or corporation has secured insurance for his own liability and that of
39 his rentee, in such an amount as is hereinafter provided, from an insurance company
40 duly authorized to sell liability insurance in this State. Each such personal watercraft
41 rented must be covered by a policy of liability insurance insuring the owner and rentee
42 and their agents and employees while in the performance of their duties against loss
43 from any liability imposed by law for damages including damages for care and loss of
44 services because of bodily injury to or death of any person and injury to or destruction

1 of property caused by accident arising out of the operation of such personal watercraft,
2 subject to the following minimum limits: three hundred thousand dollars (\$300,000) per
3 occurrence.

4 (d) No person shall operate a personal watercraft on the waters of this State, nor
5 shall the owner of a personal watercraft knowingly allow another person to operate that
6 personal watercraft on the waters of this State, unless:

7 (1) Each person riding on or being towed behind such vessel is wearing a
8 type I, type II, type III, or type V personal flotation device approved
9 by the United States Coast Guard. Inflatable personal flotation devices
10 do not satisfy this requirement; and

11 (2) In the case of a personal watercraft equipped by the manufacturer with
12 a lanyard-type engine cut-off switch, the lanyard is securely attached
13 to the person, clothing, or flotation device of the operator at all times
14 while the personal watercraft is being operated in such a manner to
15 turn off the engine if the operator dismounts while the watercraft is in
16 operation.

17 (d1) No person shall operate a personal watercraft towing another person on water
18 skis or other devices unless:

19 (1) The personal watercraft has on board, in addition to the operator, an
20 observer who shall monitor the progress of the person or persons being
21 towed, or the personal watercraft is equipped with a rearview mirror;
22 and

23 (2) The total number of persons operating, observing, and being towed
24 does not exceed the number of passengers identified by the
25 manufacturer as the maximum safe load for the vessel.

26 (e) A personal watercraft must at all times be operated in a reasonable and
27 prudent manner. Maneuvers that endanger life, limb, or property shall constitute
28 reckless operation of a vessel as provided in G.S. 75A-10, and include:

29 (1) Unreasonably or unnecessarily weaving through congested vessel
30 traffic;

31 (2) Jumping the wake of another vessel within 100 feet of such other
32 vessel or when visibility around such other vessel is obstructed;

33 (3) Intentionally approaching another vessel in order to swerve at the last
34 possible moment to avoid collision;

35 (4) Repealed by Session Laws 2000-52, s. 2.

36 (5) Operating contrary to the "rules of the road" or following too closely
37 to another vessel, including another personal watercraft. For purposes
38 of this subdivision, "following too closely" means proceeding in the
39 same direction and operating at a speed in excess of 10 miles per hour
40 when approaching within 100 feet to the rear or 50 feet to the side of
41 another vessel that is underway unless that vessel is operating in a
42 narrow channel, in which case a personal watercraft may operate at the
43 speed and flow of other vessel traffic.

1 (f) The provisions of this section do not apply to a performer engaged in a
2 professional exhibition, a person or persons engaged in an activity authorized under
3 G.S. 75A-14, or a person attempting to rescue another person who is in danger of losing
4 life or limb.

5 (f1) For purposes of this section, "narrow channel" means a segment of the waters
6 of the State 300 feet or less in width.

7 (g) Repealed by Session Laws 1999-447, s. 1.

8 (h) Nothing in this section prohibits units of local government, marine
9 commissions, or local lake authorities from regulating personal watercraft pursuant to
10 the provisions of G.S. 160A-176.2 or any other law authorizing such regulation,
11 provided that the regulations are more restrictive than the provisions of this section or
12 regulate aspects of personal watercraft operation that are not covered by this section.
13 Whenever a unit of local government, marine commission, or local lake authority
14 regulates personal watercraft pursuant to this subsection, it shall conspicuously post
15 signs that are reasonably calculated to provide notice to personal watercraft users of the
16 stricter regulations.

17 **"§ 75A-14: Repealed by Session Laws 1999-248, s. 4.**

18 **"§ 75A-14.1. Lake Norman No-Wake Zone.**

19 It is unlawful to operate a vessel at greater than no-wake speed within 50 yards of a
20 ~~boat~~ vessel launching area, bridge, dock, pier, marina, ~~boat~~ vessel storage structure, or
21 ~~boat~~ vessel service area on the waters of Lake Norman. No-wake speed is idle speed or
22 slow speed creating no appreciable wake.

23 **"§ 75A-15. Rules on water safety; adoption of the Uniform Waterway Marking
24 System.**

25 (a) In accordance with subsection (b) of this section, the ~~Wildlife Resources~~
26 Commission is empowered to make rules, for the local water in question, as to:

- 27 (1) Operation of vessels, including restrictions concerning speed zones,
28 and type of activity conducted.
- 29 (2) Promotion of boating and water safety generally by occupants of
30 vessels, swimmers, fishermen, and others using the water.
- 31 (3) Placement and maintenance of navigation aids and markers, in
32 conformity with governing provisions of law.

33 Prior to making any rules, the Commission shall investigate the water recreation and
34 safety needs of the local water in question. In making such investigation, the
35 Commission in its discretion may hold public hearings on the rules proposed and the
36 general needs of the local water in question. After such investigation and application of
37 standards, the Commission may in its discretion pass the rules requested, pass them in
38 an amended form, or refuse to pass them. After passage, the Commission may amend or
39 repeal the rules after first holding a public hearing.

40 (b) Any subdivision of this State may, but only after public notice, make formal
41 application to the ~~Wildlife Resources~~ Commission for rules on waters within the
42 subdivision's territorial limits as to the matters listed in subsection (a) of this section.
43 The ~~Wildlife Resources~~ Commission may, adopt rules applicable to local areas of water
44 defined by the Commission that are found to be heavily used for water recreation

1 purposes by persons from other areas of the State and as to which there is not
2 coordinated local interest in regulation.

3 The ~~Wildlife Resources~~ Commission may adopt rules prohibiting entry of vessels
4 into public swimming areas and establishing speed zones at public ~~boat~~ vessel launching
5 ramps, marinas, or ~~boat~~ vessel service areas and on other congested water areas where
6 there are demonstrated water safety hazards. Enforcement of such rules shall be
7 dependent upon placement and maintenance of regulatory markers in accordance with
8 the Uniform State Waterway Marking System by such agency or agencies as may be
9 designated by the ~~Wildlife Resources~~ Commission.

10 (c) The Uniform State Waterway Marking System as approved by the Advisory
11 Panel of State Officials to the Merchant Marine Council, United States Coast Guard, in
12 October 1961 is hereby adopted for use on the waters of North Carolina. The ~~Wildlife~~
13 ~~Resources~~ Commission is authorized to pass rules implementing the marking system
14 and may:

- 15 (1) Modify provisions as necessary to meet the special water recreational
16 and safety needs of this State, provided that such modifications do not
17 depart in any essential manner from the uniform standards being
18 adopted in other states.
- 19 (2) Modify provisions as necessary to conform with amendments to the
20 marking system that may be proposed for adoption by the states.
- 21 (3) Enact supplementary standards regarding design, construction,
22 placement, and maintenance of markers.
- 23 (4) Enact clarifying rules as to matters not covered with precision in the
24 report of the Advisory Panel of State Officials.
- 25 (5) Enact implementing rules as to matters left to State discretion in the
26 report of the Advisory Panel of State Officials.
- 27 (6) Enact rules forbidding or restricting the placement of markers either
28 throughout the State or in certain classes or areas of waters without
29 prior permission having been obtained from the Commission or some
30 agency or official designated by the Commission.

31 It is unlawful to place or maintain any marker of the sort covered by the marking system
32 in the waters of North Carolina that does not conform to or is in violation of the
33 marking system and the implementing rules of the Commission.

34 (d) Rules enacted under the authority of subsections (a) and (b) of this section
35 shall supersede all local rules in conflict or incompatible with such rules. As used in this
36 subsection, "local rules" shall include provisions relating to boating, water safety, or
37 other recreational use of local waters in special local, or private acts, in ordinances or
38 rules of local governing bodies, or in ordinances or rules of local water authorities.
39 Except as may be authorized in subsections (a) and (b) of this section, no local rules
40 may be made respecting the Uniform Waterway Marking System and its
41 implementation or respecting supplemental safety equipment on vessels.

42 (e) The ~~Wildlife Resources~~ Commission may adopt rules prohibiting entry or use
43 by vessels or swimmers of waters of the State immediately surrounding impoundment
44 structures and powerhouses associated with electric generating facilities that are found

1 to pose a hazard to water safety. This subsection shall not apply to the Person-Caswell
2 Lake Authority, Carolina Power and Light Company Lake (Hyco).

3 **"§ 75A-16. Repealed by Session Laws 1979, c. 830, s. 9, effective July 1, 1980.**

4 **"§ 75A-16.1. Boating safety course.**

5 (a) The Commission shall institute and coordinate a statewide course of
6 instruction in boating safety, and in so doing may cooperate with any political
7 subdivision of the State or with any reputable organization having as one of its
8 objectives the promotion of boating safety.

9 (b) The Commission shall designate those persons or agencies authorized to give
10 the course of instruction, and this designation shall be valid until revoked by the
11 Commission. Those designated persons or agencies shall submit to the Commission
12 validated listings naming all persons who have successfully completed the course of
13 instruction.

14 (c) The Commission may conduct the course in boating safety using Commission
15 personnel or other persons at times or in areas in which competent agencies are unable
16 or unwilling to meet the demand for instruction.

17 (d) The Commission shall issue a certificate of competency and safety to each
18 person who successfully completes the course of instruction.

19 (e) The Commission shall adopt rules to provide for the course of instruction and
20 the issuance of the certificates consistent with the purposes of this section.

21 (f) Any person who presents a fictitious certificate of competency or who
22 attempts to obtain a certificate of competency through fraud is guilty of a Class 2
23 misdemeanor.

24 **"§ 75A-17. Enforcement of Chapter.**

25 (a) Every wildlife protector and every other law-enforcement officer of this State
26 and its subdivisions shall have the authority to enforce the provisions of this Chapter
27 and in the exercise thereof shall have authority to stop any vessel subject to this
28 Chapter; and, after having identified himself in his official capacity, shall have authority
29 to board and inspect any vessel subject to this Chapter.

30 (b) In order to secure broader enforcement of the provisions of this Chapter, the
31 ~~Wildlife Resources~~ Commission is authorized to enter into an agreement with the
32 Department of Environment and Natural Resources whereby the enforcement personnel
33 of the Department shall assume responsibility for enforcing the provisions of this
34 Chapter in the territory and area normally policed by such enforcement personnel and
35 whereby the ~~Wildlife Resources~~ Commission shall contribute a share of the expense of
36 such personnel according to a ratio of time and effort expended by them in enforcing the
37 provisions of this Chapter, when such ratio has been agreed upon by both of the
38 contracting agencies. Such agreement may be modified from time to time as conditions
39 may warrant.

40 **"§ 75A-18. Penalties.**

41 (a) Except as otherwise provided, any person who violates any provision of this
42 Article or who violates any rule or regulation adopted under authority of this Chapter
43 shall be guilty of a Class 3 misdemeanor and shall only be subject to a fine not to
44 exceed two hundred and fifty dollars (\$250.00) for each such violation. The limitation

1 prescribed by the preceding sentence shall not apply in any case where a more severe
2 penalty may be prescribed in any of said sections.

3 (b) Any person who violates any provision of G.S. 75A-10(a), (b), or (b1) shall
4 be guilty of a Class 2 misdemeanor.

5 (c) Any person who violates any provision of G.S. 75A-13.1 shall be guilty of a
6 Class 3 misdemeanor and upon conviction thereof shall only be fined no more than
7 twenty-five dollars (\$25.00).

8 (c1) Any ~~boat~~ vessel livery that fails to carry liability insurance in violation of
9 G.S. 75A-13.3(c1) shall be guilty of a Class 2 misdemeanor and shall only be subject to
10 a fine not to exceed one thousand dollars (\$1,000).

11 (d) A person who:

12 (1) Willfully violates G.S. 75A-10(d) is guilty of a Class 1 misdemeanor.

13 (2) Willfully violates G.S. 75A-10(d) and in so doing releases medical
14 waste that creates a substantial risk of physical injury to any person
15 who is not a participant in the offense is guilty of a Class F felony
16 which may include a fine not to exceed fifty thousand dollars
17 (\$50,000) per day of violation.

18 (e) A person under 16 years of age who operates a personal watercraft in
19 violation of the provisions of G.S. 75A-13.3 is guilty of an infraction as provided in
20 G.S. 14-3.1.

21 **"§ 75A-19. Operation of watercraft vessels by manufacturers, dealers, etc.**

22 Notwithstanding any other provisions of this Chapter, the ~~Wildlife Resources~~
23 Commission may promulgate such rules and regulations regarding the operation of
24 ~~watercraft vessels~~ by manufacturers, distributors, dealers, and demonstrators as the
25 Commission may deem necessary and proper."

26 **SECTION 2.** Article 3 of Chapter 75A of the General Statutes reads as
27 rewritten:

28 "Article 4.

29 "~~Watercraft Vessel~~ Titling Act.

30 **"§ 75A-32. Short title.**

31 This Article shall be known as the ~~Watercraft Vessel~~ Titling Act.

32 **"§ 75A-33. Definitions.**

33 ~~As used in this Article, unless the context clearly requires a different meaning:~~

34 (1) "~~Commission~~" means the North Carolina Wildlife Resources
35 ~~Commission.~~

36 (2) "~~Watercraft~~" means every description of watercraft, other than a
37 seaplane on the water, used or capable of being used as a means of
38 transportation on water.

39 The definitions set forth in G.S. 75A-2 also apply to this Article, unless the context
40 clearly requires a different meaning.

41 **"§ 75A-34. Who may apply for certificate of title; authority of employees of**
42 **Commission.**

43 (a) Any owner of ~~any watercraft in this State, which is not titled elsewhere,~~ may
44 a motorized vessel or sailboat 14 feet or longer or any personal watercraft, as defined in

1 G.S. 75A-13.3(a), that is being registered for the first time in this State pursuant to
2 G.S. 75A-5(a), and any new owner of a motorized vessel or sailboat 14 feet or longer or
3 any personal watercraft to whom ownership is being transferred under G.S. 75A-5(c)
4 shall apply to the Commission for a certificate of title: title for that vessel. Any other
5 vessel may be titled in this State at the owner's option. A vessel may not be titled in this
6 State if it is titled in another state, unless the current title is surrendered along with the
7 application for a new North Carolina title. The Commission shall issue a certificate of
8 title upon reasonable evidence of ownership, which may be established by affidavits,
9 bills of sale, or other similar documents: affidavit, bill of sale, manufacturer's statement
10 of origin, North Carolina title, certificate of number from another state, or other
11 document satisfactory to the Commission. Only one title may be issued for any vessel in
12 this State. A vessel may not be titled in this State if it is documented with the United
13 States Coast Guard. The Commission shall issue a certificate of title upon receiving a
14 completed application, along with the appropriate fee and reasonable evidence of
15 ownership. The manufacturer's statement of origin shall be required for all new vessels
16 being registered and titled for the first time. For vessels being transferred, a pencil
17 tracing of the hull identification number (serial number) shall be provided upon request
18 of the Commission, in order to positively identify the vessel before a certificate will be
19 issued for that vessel.

20 (b) Employees of the Commission are vested with the power to administer oaths
21 and to take acknowledgements and affidavits incidental to the administration and
22 enforcement of this section. They shall receive no compensation for these services.

23 **"§ 75A-35. Form and contents of application.**

24 (a) Every application for a certificate of title for a vessel shall be made by the
25 owner or his duly authorized attorney-in-fact, and shall contain the name, residence, and
26 mailing address of the owner, the county where the vessel is taxed, a statement of the
27 applicant's title and proof of ownership and of all liens or encumbrances upon the
28 watercraft vessel in the order of their priority, and the priority. It shall also contain the
29 names and addresses of all persons having any interest in the watercraft and the nature
30 of the interest: vessel.

31 (b) Every application for a certificate of title for a vessel shall contain a brief
32 description of the watercraft vessel to be registered, titled, including the name of the
33 manufacturer, State identification certificate of number, hull identification number,
34 length, type, and principal material of construction, model year, date of purchase,
35 identification of the motor (including manufacturer's name and serial number, except on
36 motors of 25 horsepower or less), and the name and address of the person from whom
37 the watercraft was purchased. and purchase information. It shall also include the name
38 and address of the previous owner or owners from whom the vessel was obtained. If the
39 vessel has an outboard motor of greater than 25 horsepower, the application shall also
40 contain identification of the motor, including the serial number and manufacturer.

41 The application shall be made on forms prescribed and furnished by the Commission
42 and shall contain other information as may be required by the Commission.

43 **"§ 75A-36. Notice by owner of change of address.**

1 Whenever any person, after applying for or obtaining the certificate of title of a
2 ~~watercraft, vessel,~~ moves from the address shown in the application or upon the
3 certificate of title, that person shall, within 30 days, notify the ~~Commission in writing of~~
4 his Commission, in a form acceptable to the Commission, of the person's change of
5 address.

6 A fee of ten dollars (\$10.00) shall be imposed upon anyone failing to comply with
7 this section within the time prescribed. A title will not be reissued for any vessel that
8 has an address change until notice of the change of address is received by the
9 Commission and the fee, if applicable, has been paid.

10 **"§ 75A-37. Certificate of title as evidence; duration; transfer of title.**

11 (a) A certificate of title is prima facie evidence of the ownership of a ~~watercraft-~~
12 vessel. A certificate of title shall be in force for the life of the ~~watercraft so long as the~~
13 ~~certificate is owned or held by the legal holder.~~ vessel.

14 (b) Upon the sale, assignment, or transfer of a ~~watercraft which has been issued a~~
15 ~~certificate of title under this Article by the legal holder of the certificate, the certificate~~
16 ~~of title may, at the option of the purchaser or transferee, be delivered to the purchaser or~~
17 ~~transferee with an assignment on the certificate showing title in the purchaser or~~
18 ~~transferee. Otherwise, the certificate shall be returned to the Commission for~~
19 ~~cancellation.~~ vessel for which a certificate of title has been issued under this Article, the
20 legal holder of the certificate of title shall deliver it to the purchaser or transferee. The
21 assignment on the certificate must be completed showing transfer of ownership to the
22 purchaser or transferee and settlement of all outstanding liens and encumbrances. The
23 new owner shall submit the assigned certificate of title to the Commission, accompanied
24 by evidence satisfactory to the Commission that all outstanding liens have been
25 released, with the application for transfer of title. The application shall contain all the
26 information required by the Commission for the transfer in order to identify the vessel
27 and the new owner. The application shall show any and all new liens and encumbrances
28 on the vessel, in order of priority, incurred by the owner. The nature of the new liens
29 and encumbrances shall also be given, along with the name and address of all secured
30 parties.

31 **"§ 75A-38. Commission's records; fees.**

32 (a) The Commission shall maintain a record of any title it issues.

33 (b) The Commission shall charge a fee of twenty dollars (\$20.00) ~~for to~~ issue of
34 ~~each certificate of title, and new and transfer certificates of title. A fee of ten dollars~~
35 ~~(\$10.00) will be charged for each transfer of title, duplicate title, or duplicate title it~~
36 ~~issues and for the recording of a supplemental lien.~~

37 **"§ 75A-39. Duplicate certificate of title.**

38 The Commission may issue a duplicate certificate of title plainly marked "duplicate"
39 across its face upon application by the person entitled to hold the certificate if the
40 Commission is satisfied that the original certificate has been lost, stolen, mutilated,
41 destroyed, or has become illegible. Mutilated or illegible certificates shall be returned to
42 the Commission with the application for a duplicate. If a duplicate certificate of title has
43 been issued and the lost or stolen original is recovered, the original shall be promptly
44 surrendered to the ~~Commission for cancellation.~~ Commission. A duplicate certificate of

1 title, not bearing the word "duplicate" across its face, will be issued for anyone having
2 an address change or name change so long as the original title is surrendered and the
3 appropriate fees paid as provided in G.S. 75A-38(b). If the original certificate of title is
4 not surrendered to the Commission, the duplicate title will be plainly marked
5 "duplicate" across its face.

6 **"§ 75A-40. Certificate to show security interests.**

7 The Commission, after receiving an application for a certificate of title to a
8 ~~watercraft~~, for a vessel, shall, upon issuing the certificate of title to the owner, show
9 upon the face of the certificate of title all security interests in the order of their priority
10 as shown in the application.

11 **"§ 75A-41. Security interests subsequently created.**

12 Except for security interests in watercraft that are inventory held for sale, security
13 interests created in ~~watercraft~~ vessels by the voluntary act of the owner after the original
14 issue of title to the owner must be shown on the certificate of title. In such cases, the
15 owner shall file an application with the Commission on a ~~blank form~~ furnished for that
16 purpose, setting forth ~~the~~ all security interests and other information as the Commission
17 requires. The Commission, if satisfied that it is proper that the same be ~~recorded and~~
18 recorded, shall upon surrender of the certificate of title covering the ~~watercraft~~, shall
19 ~~thereupon vessel~~, issue a new certificate of title showing ~~their~~ any security interests in
20 the order of the priority according to the date of the filing of the application. For the
21 purpose of recording the subsequent security interest, the Commission may require any
22 secured party to deliver the certificate of title to the Commission. The newly issued
23 certificate shall be sent or delivered to the secured party ~~from whom the prior certificate~~
24 was obtained. of first priority listed on the certificate of title.

25 **"§ 75A-42. Certificate as notice of security interest.**

26 A certificate of title, when issued by the Commission showing a security interest,
27 shall be deemed adequate notice to the State, creditors, and purchasers that a security
28 interest in the ~~watercraft exists and the~~ vessel exists. No other recording or filing of the
29 creation or reservation of a security interest in the county or city wherein the purchaser
30 or debtor resides or elsewhere is ~~not~~ necessary and shall not be required. ~~Watercraft,~~
31 Vessels, other than those that are inventory held for sale, for which a certificate of title
32 is currently in ~~effect~~ effect, shall be exempt from the provisions of G.S. 25-9-309,
33 25-9-310, 25-9-312, 25-9-320, 25-9-322, 25-9-323, 25-9-324, 25-9-331, 25-9-404,
34 25-9-405, 25-9-406, and 25-9-501 to 25-9-526 for so long as the certificate of title
35 remains in effect.

36 **"§ 75A-43. Security interest may be filed within 30 days after purchase.**

37 If application for the recordation of a security interest to be placed upon a ~~watercraft~~
38 vessel is filed in the principal office of the Commission within 30 days from the date of
39 the applicant's purchase of the ~~watercraft~~, vessel, it shall be valid to all persons,
40 including the State, as if the recordation had been done on the day the security interest
41 was acquired.

42 **"§ 75A-44. Priority of security interests shown on certificates.**

43 Except for security interests in ~~watercraft~~ vessels that are inventory held for sale,
44 security interests shown upon the certificates of title issued by the Commission pursuant

1 to applications for certificates shall have priority over any other liens or security
2 interests against the watercraft however created and recorded, except for a mechanics
3 lien for repairs, provided that the mechanic furnishes the holder of any recorded lien
4 who may request it with an itemized sworn statement of the work done and materials
5 supplied for which the lien is claimed.

6 **"§ 75A-45. Legal holder of certificate of title subject to security interest.**

7 The certificate of title of a ~~watercraft~~ vessel shall be delivered to the person holding
8 the security interest having first priority upon the ~~watercraft~~ vessel and retained by that
9 person until the entire amount of the security interest is fully paid by the owner of the
10 ~~watercraft~~ vessel. The certificate of title shall then be delivered to the secured party
11 next in order of priority and so on, or, if none, then to the owner of the ~~watercraft~~ vessel.
12 vessel.

13 **"§ 75A-46. Release of security interest shown on certificate of title.**

14 An owner, upon securing the release of any security interest upon a ~~watercraft~~
15 vessel shown upon the certificate of title issued for the ~~watercraft~~ vessel, may exhibit
16 the documents evidencing the release, signed by the person or persons making the
17 release, and the certificate of title to the Commission. When it is impossible to secure
18 the release from the secured party, the owner may exhibit to the Commission any
19 available evidence showing that the debt secured has been satisfied, together with a
20 statement by the owner under oath that the debt has been paid. When the Commission is
21 satisfied ~~as to the genuineness and regularity of the satisfied debt, and has determined~~
22 that the secured debt has been satisfied in full, the Commission shall issue to the owner
23 either a new certificate of title in proper form or an endorsement or rider showing the
24 release of the security interest which the Commission shall attach to the outstanding
25 certificate of title.

26 **"§ 75A-47. Surrender of certificate required when security interest paid.**

27 It is unlawful and constitutes a Class 1 misdemeanor for a secured party who holds a
28 certificate of title as provided in this Article to refuse or fail to surrender the certificate
29 of title to the person legally entitled to it within 10 days after his security interest has
30 been paid and satisfied.

31 **"§ 75A-48. Levy of execution, etc.**

32 A levy made by virtue of an execution or other proper court order, upon a ~~watercraft~~
33 vessel for which a certificate of title has been issued by the Commission, shall constitute
34 a lien, subsequent to security interests previously recorded by the Commission and
35 subsequent to security interests in inventory held for sale and perfected as otherwise
36 permitted by law, if and when the officer making the levy reports to the Commission at
37 its principal office, on forms provided by the Commission, that the levy has been made
38 and that the ~~watercraft~~ vessel levied upon has been seized by and is in the custody of the
39 officer. Should the lien thereafter be satisfied or should the ~~watercraft~~ vessel levied
40 upon and seized thereafter be released by the officer, he shall immediately report that
41 fact to the Commission at its principal office. ~~Any owner who, after~~ After a levy and
42 seizure by an officer and before the officer reports the levy and seizure to the
43 Commission, any person who fraudulently assigns or ~~transfers his title to or interest in~~
44 ~~the watercraft, or causes the certificate of title to be assigned or transferred, or causes a~~

1 security interest to be shown upon such the certificate of title, is guilty of a Class 1
2 misdemeanor.

3 **"§ 75A-49. Registration prima facie evidence of ownership; rebuttal.**

4 ~~Issuance of registration under the provisions of this Chapter shall be prima facie~~
5 ~~evidence of ownership of a watercraft and entitlement to a certificate of title under the~~
6 ~~provisions of this Article, but the registration and certificate of title shall be subject to~~
7 ~~rebuttal.~~ A valid certificate of number issued under the provisions of this Chapter, or
8 any similar document issued under the jurisdiction of any other state or country, shall be
9 prima facie evidence of ownership of a vessel and entitlement to a certificate of title
10 under the provisions of this Article, but ownership established by such documents shall
11 be subject to rebuttal."

12 **SECTION 3.** This act becomes effective January 1, 2005, and applies to acts
13 occurring on or after that date.