AMENDMENTS
TO THE CALIFORNIA BOATING LAW

(Effective January 1, 2003)

This insert contains changes to California boating law that became effective January 1, 2003.

Affected codes are:

HARBORS AND NAVIGATION CODE

Sections 71.4, 655.7, 658.3, 660, 660.1, 668.1

PENAL CODE

Section 191.5

VEHICLE CODE

Section 9872.1

AMENDMENTS TO THE HARBORS AND NAVIGATION CODE

Section 71.4 of the Harbors and Navigation Code is amended to read:

71.4. Harbor loans, requirements, rates. (a) The department, subject to the approval of the Legislature in accordance with Section 85.2, may make loans to cities, counties, or districts having power to acquire, construct, and operate small craft harbors, for the planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection therewith, and connecting waterways, if the department finds that the project is feasible.

(b) The department shall establish, by rules and regulations, policies and standards to be followed in making loans pursuant to this section so as to further the proper development and maintenance of a statewide system of small craft harbors and connecting waterways. To the greatest extent possible, the department shall adhere to customary commercial practices to ensure that loans made pursuant to this section are adequately secured and that the loans are repaid consistent with the terms of the loan agreement. Any rules and regulations shall include policies and standards for restrooms, vessel pumpout facilities, oil recycling facilities, and receptacles for the purpose of separating, reusing, or recycling all solid waste materials.

(c) The department shall develop weighing and ranking criteria to qualify and prioritize the public loans.

(d) Any loan under this section shall be repaid as provided in Section 70.

(e) Rates to be charged for the use of the boating facilities shall be established by the city, county, or district, subject to the approval of the department, in every loan contract. The department shall concern itself with the rates charged only as prescribed in Section 71.8. The rates set shall be based on a monthly berthing charge, and the department shall monitor these rates to ensure that the berthing charges are reasonable and not exorbitant.

(f) The department shall submit any project for which it recommends any loan be made to the Governor for inclusion in the Budget Bill.

(g) No loans shall be made to cities, counties, or districts pursuant to this article from funds appropriated in the Budget Act of 1999 for the purposes of this section until the practices and criteria described in subdivisions (b) and (c) have been reviewed and approved by the Department of Finance. Any subsequent changes to those practices and criteria shall also be approved by the Department of Finance.

Section 655.7 of the Harbors and Navigation Code is amended to read:

655.7. Operation of personal watercraft. (a) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to his or her person, clothing, or personal flotation device, as appropriate for the specific vessel.

(b) No person shall operate a personal watercraft equipped by the manufacturer with a self-circling device if the self-circling device or engine throttle has been altered in any way that would impede or prevent the self-circling device from operating in its intended manner.

(c) Every personal watercraft shall, at all times, be operated in a reasonable and prudent manner. Maneuvers that unreasonably or unnecessarily endanger life, limb, or property, including, but not limited to, jumping or attempting to jump the wake of another vessel within 100 feet of that other vessel, operating the personal watercraft toward any person or vessel in the water and turning sharply at close range so as to spray the vessel or person, or operating at a rate of speed and proximity to another vessel so that either operator is required to swerve at the last minute to avoid collision, is unsafe or reckless operation of a vessel.

(d) No person shall operate a personal watercraft at any time between the hours from sunset to sunrise.

(e) This section does not apply to a performer who is engaged in a professional exhibition or to a person who is participating in a regatta, race, marine parade, tournament, exhibition, or other event sanctioned by the United States Coast Guard or authorized by a permit issued by the local entity having jurisdiction over the area where the event is held.

(f) Any violation of this section is an infraction.

Section 658.3 of the Harbors and Navigation Code is amended to read:

658.3. Life jacket requirements. (a) No person shall operate a motorboat, sailboat, or vessel that is 26 feet or less in length, unless every person on board who is 11 years of age or less is wearing a type I, II, III, or V Coast Guard-approved personal flotation device while that motorboat, sailboat, or vessel is underway.

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is 11 years of age or less is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is 11 years of age or less is in an enclosed cabin.

(c) Any person on board a personal watercraft or any person being towed behind a vessel on water skis, an aquaplane, or similar device, except for any underwater maneuvering device intended for use by a submerged swimmer, shall wear a type I, II, III, or V Coast Guard-approved personal flotation device. An underwater maneuvering device is any towed or self-powered apparatus that a person can pilot through diving, turning, and surfacing maneuvers that is designed for underwater use.

(1) This subdivision does not apply to a person aboard a personal watercraft or a person being towed behind a vessel on water skis, if that

person is a performer engaged in a professional exhibition, or preparing to participate or participating in an official regatta, marine parade, tournament, or exhibition.

(2) In lieu of wearing a Coast Guard-approved personal flotation device of a type described in this subdivision, any person engaged in slalom skiing on a marked course or any person engaged in barefoot, jump, or trick waterskiing may elect to wear a wetsuit designed for the activity and labeled by the manufacturer as a water ski wetsuit. A Coast Guard-approved personal flotation device of a type described in this subdivision shall be carried in the tow vessel for each skier electing to wear a water ski wetsuit pursuant to this paragraph.

(d) The requirements set forth in subdivisions (a) and (c) do not apply to a person operating a motorboat, sailboat, or vessel if the operator is reacting to an emergency rescue situation.

(e) The following definitions govern the construction of this section:

(1) ''Enclosed cabin'' means a space on board a vessel that is surrounded by bulkheads and covered by a roof.

(2) ''Operate a motorboat, sailboat, or vessel'' means to be in control or in charge of a motorboat, sailboat, or vessel while it is underway.

(3) ''Underway'' means all times except when the motorboat, sailboat, or vessel is anchored, moored, or aground.

(f) A violation of this section is an infraction punishable as provided in subdivision (a) of Section 668.

Section 660 of the Harbors and Navigation Code is amended to read:

660. Local and state boating regulations. (a) Any ordinance, law, regulation, or rule relating to vessels, which is adopted pursuant to provisions of law other than this chapter by any entity other than the department, including but not limited to any county, city, port authority, district, or any state agency other than the department, shall, notwithstanding any other provision of law, pertain only to time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control, and the measure shall not conflict with this chapter or the regulations adopted by the department. Except as provided in subdivision (d), any measure relating to boats or vessels adopted by any governmental entity other than the department shall be submitted to the department prior to adoption and at least 30 days prior to the effective date thereof.

(b) Upon request of the Director of Fish and Game, or his or her designee, the department shall restrict or prohibit, based on the request, recreational vessel activity in Agua Hedionda Lagoon in San Diego County if that vessel activity would hinder or jeopardize the efforts of the Department of Fish and Game to control or eradicate Caulerpa taxifolia. Notice of the restriction or prohibition shall be posted conspicuously, and, at a minimum, in areas where

boats are launched into the waterway where the restriction or prohibition is in effect. The operator of a vessel who violates any restrictions or prohibition pursuant to this subdivision is subject to a fine of not more than two hundred fifty dollars ($250).

(c) The department may make special rules and regulations governing the use of boats or vessels on any body of water within the territorial limits of two or more counties, cities, or other political subdivisions if no special rules or regulations exist or if the department determines that the local laws regulating the use of boats or vessels on that body of water is not uniform and that uniformity is practicable and necessary.

(d) (1) Any entity, including but not limited to any county, city, port authority, district, or state agency, otherwise authorized by law to adopt measures governing the use and equipment, and matters relating thereto, of boats or vessels, may adopt emergency rules and regulations that are not in conflict with the general laws of the state relating to boats and vessels using any waters within the jurisdiction of the entity if those emergency rules and regulations are required to insure the safety of persons and property because of disaster or other public calamity.

(2) The emergency rules and regulations adopted under paragraph (1) shall become effective immediately upon adoption and may remain in effect for not to exceed 60 days thereafter. The emergency rules and regulations shall be submitted to the department on or before their adoption.

(3) After submission of emergency rules and regulations adopted pursuant to paragraph (1) to the department, the department may authorize the adopting entity to make the emergency rules and regulations effective for the period of time greater than 60 days that is necessary in view of the disaster or circumstances.

Section 660.1 is added to the Harbors and Navigation Code, to read:

660.1. Caulerpa taxifolia; boating restrictions. (a) Upon request of the Director of Fish and Game, or his or her designee, the department shall restrict or prohibit, based on the request, recreational vessel activity on waters of the state if that vessel activity would hinder or jeopardize the efforts of the Department of Fish and Game to control or eradicate Caulerpa taxifolia. Notice of the restriction or prohibition shall be posted conspicuously, and, at a minimum, in areas where boats are launched into the waterway where the restriction or prohibition is in effect. The operator of a vessel who violates any restriction or prohibition pursuant to this subdivision is subject to fine of not more than two hundred fifty dollars ($250).

(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, is enacted before January 1, 2004, deletes or extends that date.

Section 668.1 of the Harbors and Navigation Code is amended to read:

668.1. Moving violations; court order to take boating course. (a) Any person convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655, or of Section 655.2, 655.6, 655.7, 658, or 658.5, or of Section 191.5 of the Penal Code, or of the federal rules of the road and pilot rules, not including equipment requirements, incorporated by reference in Section 6600.1 of Title 14 of the California Code of Regulations, or found by a court to have performed any of the acts described in Section 6697 of Title 14 of the California Code of Regulations, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

(b) Any person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction. The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to enroll in the course. If the person does not complete and pass the boating safety course, the court may extend the period for completion or impose another penalty as prescribed by statute.

(c) The department shall adopt regulations to carry out this section, including approval of boating safety education courses, as specified in Section 668.3, prescribing the forms for proof of completion and passage, approval of testing to indicate appropriate mastery of the course subject matter, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

AMENDMENTS TO THE PENAL CODE

Section 191.5 of the Penal Code is amended to read:

191.5. Gross vehicular manslaughter (vessels) while intoxicated. (a) Gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Gross vehicular manslaughter while intoxicated also includes operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(c) Except as provided in subdivision (d), gross vehicular manslaughter while intoxicated is punishable by imprisonment in the state prison for 4, 6, or 10 years.

(d) Any person convicted of violating this section who has one or more prior convictions of this section or of paragraph (1) or (3) of subdivision (c) of Section 192, subdivision (a) or (c) of Section 192.5 of this code, or of violating Section 23152 punishable under Sections 23540, 23542, 23546, 23548, 23550, or 23552 of, or convicted of Section 23153 of, the Vehicle Code, shall be punished by imprisonment in the state prison for a term of 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant to this subdivision.

(e) This section shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.

(f) This section shall not be construed as making any homicide in the driving of a vehicle or the operation of a vessel punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(g) For the penalties in subdivision (d) to apply, the existence of any fact required under subdivision (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact.

AMENDMENTS TO THE VEHICLE CODE

Section 9872.1 of the Vehicle Code is amended to read:

9872.1. Vessel with altered or removed HIN; impoundment and notification. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or her possession any vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, unless the vessel or component part has attached thereto a hull identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, and which does not have attached thereto an assigned or approved number as described in subdivision (a), comes into the custody of a peace officer, the seized vessel or component part is subject, in accordance with the procedures specified in this section, to impoundment and to such disposition as may be provided by order of a court having jurisdiction. This subdivision does not apply with respect to a seized vessel or component part used as evidence in any criminal action or proceeding.

(c) Whenever a vessel or component part described in subdivision (a) comes into the custody of a peace officer, any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the hearing required in subdivision (e). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vessel or component part as provided in subdivision (b), any person from whom the property was seized shall be provided a notice of impoundment of the vessel or component part which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vessel or component part seized has been impounded for investigation of a violation of this section and that the property will be released upon a determination that the hull identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vessel or component part, provided that no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vessel or component part shall take place in the proper court.

(3) A statement that any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records

in the department, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vessel or component part may be presented.

(5) A statement of the contents of this section.

(e) A hearing on the disposition of the property shall be held by the superior court within 60 days after the seizure. The hearing shall be before the court without a jury. A proceeding under this section is a limited civil case.

(1) If the evidence reveals either that the hull identification number has not been removed, altered, or destroyed or that the hull identification number has been removed, altered, or destroyed but satisfactory evidence of ownership has been presented to the seizing agency or court, the property shall be released to the person entitled thereto.

(2) If the evidence reveals that the hull identification number has been removed, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the property shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency shall have the burden of establishing that the hull identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) Nothing in this section precludes the return of a seized vessel or component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vessel or component part by the department.

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CALIFORNIA BOATING LAW

CURRENT AS OF JANUARY 1, 2002

Laws and Regulations Concerning the Operation of Vessels, Equipment Requirements, Registration, and the Development and Operation of Small Craft Harbors and Boat Launching Facilities

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FOREWORD

The boating laws and regulations of the State of California are published for your convenience in this booklet, which includes excerpts from the Harbors and Navigation, Corporations, Education, Fish and Game, Government, Health and Safety, Penal, Public Resources, Unemployment Insurance, Vehicle, and Water Codes, the California Code of Regulations and the Federal Inland Navigation Rules as they relate to boating. All changes through January 2002 are included.

California boating laws and regulations apply uniformly on all waters of the State and are compatible with Federal laws and regulations.

Knowledge and observance of boating laws and prescribed safety procedures, combined with thoughtful consideration of fellow boaters, will help provide for a safe and enjoyable boating environment.

RAYNOR TSUNEYOSHI
Director, Boating and Waterways

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EXCERPTS FROM THE

HARBORS AND NAVIGATION CODE

EXCERPTS FROM HARBORS AND NAVIGATION CODE

DIVISION 1. DEPARTMENT OF BOATING AND WATERWAYS AND THE BOATING AND WATERWAYS COMMISSION

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

30. Construction of this division. Unless the context otherwise requires, the general provisions and definitions in this chapter govern the construction of this division.

31. Commission defined. ''Commission'' means the Boating and Waterways Commission.

32. Department defined. ''Department'' means the Department of Boating and Waterways.

33. Director defined. ''Director'' means the Director of Boating and Waterways.

34. Harbor defined. ''Harbor'' means a portion of the ocean or inland waters within the jurisdiction of this state either naturally or artificially protected so as to be a place of safety for vessels, including the artificially protective works, the public lands ashore and the structures and facilities provided within the enclosed body of water and ashore for the mooring and servicing of vessels and the servicing of their crews and passengers.

35. Channel defined. ''Channel'' means any waterway now navigable in fact by vessels or artificially improved or created so as to be navigable by vessels, including the structures and facilities created to facilitate navigation.

36. Navigable waters defined. ''Navigable waters'' means waters which come under the jurisdiction of the United States Corps of Engineers and any other waters within the state with the exception of those privately owned.

38. Changes in rules and regulations. The adoption, repeal, amendment or modification of any rules and regulations pursuant to this division shall be made in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

39. State Contract Act. Any construction or development authorized by this division that also constitutes a project within the definition of Section 10105 of the Public Contract Code, when performed by the state, shall be subject to the State Contract Act.

40. Facilities. Facilities in harbors and connecting waterways established under the provisions of this division shall be open to all on equal and reasonable terms; provided that the department may authorize construction of separate facilities and reasonable allocations within the same harbor for separate use by commercial and recreational vessels, and project funding may not be denied solely on the basis that such separate facilities and allocations for such separate use within the same harbor is required by a regulatory agency so long as such requirement is determined by the director, after consultation with the affected regulatory agencies, to be reasonable.

CHAPTER 2. DEPARTMENT OF BOATING AND WATERWAYS

Article 1. Administration

50. Departmental authority. The Department of Harbors and Watercraft and its successor, the Department of Navigation and Ocean Development, are continued in existence in the Resources Agency as the Department of Boating and Waterways. The

Department of Boating and Waterways is the successor to, and is vested with, the powers, functions, and jurisdiction of the following state departments and agencies as hereinafter specified:

(a) All of the powers, functions, and jurisdiction previously vested in the Division of Small Craft Harbors of the Department of Parks and Recreation.

(b) All of the powers, functions, and jurisdiction of the State Lands Commission with respect to the acquisition, construction, development, improvement, maintenance, and operation of small craft harbors.

(c) All of the powers, functions, and jurisdiction of the Department of Parks and Recreation with respect to boating facility planning, design, and construction, except as specifically provided with respect to boating trails in the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code) and in Article 2.6 (commencing with Section 68) of this chapter.

(d) All of the powers, functions, and jurisdiction of the Office of Architecture and Construction in the Department of General Services with respect to boating facility planning and design.

(e) All of the powers, functions, and jurisdiction of the Department of Water Resources with respect to beach erosion control.

(f) All of the policymaking and regulatory powers, functions, and jurisdiction of the Harbors and Watercraft Commission as to matters within the jurisdiction of the department.

50.1. Transfer of authorities. Whenever the term "Division of Small Craft Harbors" or the term "Small Craft Harbors Commission" is used in any provision of law, it shall be construed as referring to the Department of Boating and Waterways.

Whenever, by any statute now in force or that may be hereafter enacted, any power, function, or jurisdiction, as specified in Section 50, is imposed or conferred upon the State Lands Commission, the Department of Parks and Recreation, the Office of Architecture and Construction in the Department of General Services, or the Department of Water Resources, such power, function, or jurisdiction shall be deemed to be imposed or conferred upon the Department of Boating and Waterways.

Nothing in this section or in this code shall divest the State Lands Commission of jurisdiction with respect to the leasing of state lands, including state lands used for small craft harbors, swamps and overflowed lands, or tide and submerged lands, for the extraction and removal of oil and gas and other minerals.

50.2. Departmental administration. The department shall be administered by an executive officer known as the Director of Boating and Waterways. The director shall be appointed by and hold office at the pleasure of the Governor and shall receive an annual salary as provided in Section 11557 of the Government Code. The appointment of any director appointed by the Governor shall be subject to confirmation by the Senate.

50.4. Bonding of the director. The director, before entering upon his duties, shall execute and deliver to the state an official bond in the sum of twenty-five thousand dollars ($25,000) conditioned upon the faithful performance of his duties.

50.6. Power of appointment. The provisions of Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code apply to the director. The director may appoint, in accordance with civil service, such deputies, officers, and other employees as may be necessary.

50.8. Departmental organization. The director, with the approval of the Governor, may arrange and classify the work of the department and consolidate, abolish, or create divisions thereof.

Article 2. General Powers

60. Resources Agency relationship with the Corps of Engineers. The Resources Agency shall represent the State of California and the Governor of California in relationships with the Chief of Engineers, United States Army, and his authorized agents for the purposes set forth in this division.

60.2. Joint project agreements. The department may enter into agreements with the United States and with any county, city, district, or other political subdivision of this state in connection with participation with the United States in any project in which the department may act and may, also, provide such adjustments which, in the judgment of the department, are in the best interest of the State of California.

60.4. Contracts with Department of Army. The department may enter into any contract of agreement with the United States Department of the Army or any other agency or instrumentality of the United States, for the dredging of harbors and the erection of breakwaters, piers, or any other device for the protection of vessels.

60.6. Departmental contracts with the United States. The department may enter into any contracts or agreements that may be necessary in carrying out the provisions of this division including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of such works as the United States shall undertake.

60.8. Power to act or contract. The department may do any act or enter into any contract or agreement desirable in carrying out the purposes of this division.

61. Federal aid. The department may take such action as may be necessary to take advantage of any act of Congress heretofore or hereafter enacted which may be of assistance in carrying out the purposes of this division.

61.2. Acceptance of gifts and grants. For the purposes of this division, the department may receive and accept for the state any gift, devise, grant or other conveyance of title to or any interest in real property. It may receive and accept gifts, donations, contributions, or bequests of money to be used in acquiring title to or any interest in real property or in improving it, in connection with the development and operation of small craft harbors and connecting waterways. It may also receive and accept personal property for such purposes.

61.4. Acceptance of federal grants. The director, with approval of the Director of Finance, may accept on behalf of the department federal grants for the purposes for which the department is established. Such grants shall be deposited in the Special Deposit Fund in the State Treasury provided for by Section 16370 of the Government Code, and may be expended under such terms and conditions as may be required by the federal government.

61.6. Expenditure of funds. The department may expend the money in any appropriation or in any special fund in the State Treasury made available by law for the administration of the statutes the administration of which is committed to the department, or for the use, support, or maintenance of any board, bureau, commission, department, office or officer whose duties, powers, and functions have been transferred to and conferred upon the department. Such expenditures by the department shall be made in accordance with law in carrying out the purposes for which the appropriations were made or the special funds created.

61.8. Departmental control of assets. The department shall have possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal, held for the benefit or use of all bodies, offices, and officers whose duties, powers, and functions have been transferred to and conferred upon the department.

62. Personal property disposal. The department, with the approval of the Department of General Services, may transfer, sell or otherwise dispose of personal property under its jurisdiction, and may contract with other public agencies for its custody.

62.4. Claim for refund, General Fund. Whenever the department has received and deposited any money in the State Treasury to the credit of the General Fund in an excessive amount or in error, or whenever a refund of all or a portion of such money is due any person, firm, or corporation because of the termination of an agreement or other lawful reason, payment of such refund shall be made upon the filing of a claim by the director with the State Controller. The State Controller shall draw his warrant for payment of the refund from any appropriation made for that purpose.

62.6. Insurance of departmental vessels. The department, with the approval of the Department of General Services, may procure insurance on vessels owned or operated by the department against the usual hazards in addition to the special hazards occasioned by the existence of a state of war.

62.8. Public information activity and sale of publications. For the purpose of disseminating information relating to its activities, powers, duties, or functions, the department may issue publications, construct and maintain exhibits, and perform such acts and carry on such functions as in the opinion of the director will best tend to disseminate that information.

The publications may be distributed free of charge to public libraries and to other state departments and state officers. The department may exchange copies with contemporary publications.

All money received by the department from the sale of publications, exclusive of money received by any separate division of the department from the sale of publications, shall be paid into the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

62.9. Facility information available. Upon request, the department shall make available to persons owning or operating small craft harbors, such information as is available to the commission concerning the following:

(a) The maintenance and improvement of existing small craft harbor facilities.

(b) The application of new technical materials and concepts.

(c) The preparation of feasibility reports, environmental impact reports, permits, and other steps required to develop new small craft harbor facilities.

63.2. Sale of records. The department may sell copies of all or any part of its records at a charge sufficient to pay at least the entire actual cost to the department of the copies. The charge for the records and the conditions under which they may be sold shall be determined by the director, with the approval of the Department of Finance. This section does not apply to boating accident reports filed with the department pursuant to Section 656 of this code.

63.4. Federal project financing. The director may recommend to the Legislature such action as may be necessary to provide the finances required of local agencies as a condition for the participation of the United States in any project in which the department may act.

63.6. Biennial and other reports. (a) (1) On or before the January 15 of each odd-numbered year, the director shall make a report to the commission, the Legislature, and the Governor covering the operations of the department for the preceding biennium.

(2) With respect to Article 5 (commencing with Section 76), the report shall include all of the following:

(A) The total amount of loans made in each of the two fiscal years immediately preceding the preparation and submission of the report.

(B) For each recipient of a loan during each of the two fiscal years immediately preceding the preparation and submission of the report, the recipient's name, the location of the marina for which the loan was made, and the amount of the loan.

(C) The financial status of each loan.

(D) Any legislative recommendations.

(3) The report shall also include the status of the department's activities related to the monitoring of rates pursuant to Section 71.4 and subdivision (d) of Section 76.7.

(4) The report shall also include an evaluation of the public participation in the personal watercraft education course developed by the department pursuant to subdivision (b) of Section 668.3 and a determination of the effect of the course on personal watercraft safety in California.

(b) The department shall also make any special reports that are requested by the Secretary of Resources or the Governor.

63.9. Additional powers. In addition to other powers specified in this division and in Division 3 (commencing with Section 399), the department may do any of the following:

(a) Apply for and accept grants, contributions, and appropriations.

(b) Contract for professional services if such work or services cannot be satisfactorily performed by its employees or by any other state agency.

(c) Sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction, including, but not limited to, prohibitory and mandatory injunctions to restrain violations of this division and Division 3 (commencing with Section 399).

(d) Request and utilize the advice and services of all federal, state, local, and regional agencies.

(e) Adopt any rule or regulation or take any action it deems reasonable and necessary to carry out the provisions of this division.

64. Water hyacinth and Egeria densa control. (a) The Legislature hereby finds and declares that the growth of water hyacinth and Egeria densa in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh has occurred at an unprecedented level and that the resulting accumulations of water hyacinth and Egeria densa obstruct navigation, impair other recreational uses of waterways, have the potential for damaging manmade facilities, and may threaten the health and stability of fisheries and other ecosystems within the delta and marsh. Accordingly, it is necessary that the state, in cooperation with agencies of the United States, undertake an aggressive program for the effective control of water hyacinth and Egeria densa in the delta, its tributaries, and the marsh.

(b) The department is designated as the lead agency of the state for the purpose of cooperating with agencies of the United States and other public agencies in controlling water hyacinth and Egeria densa in the delta, its tributaries, and the marsh.

(c) The department, other state agencies, cities, counties, and districts are hereby authorized to cooperate with one another and with agencies of the United States in

controlling water hyacinth and Egeria densa in the delta, its tributaries, and the marsh and may furnish money, services, equipment, and other property to that end.

(d) Up to five thousand dollars ($5,000) per year of the funds available for expenditure by the Department of Fish and Game to implement this section shall be paid from the Harbors and Watercraft Revolving Fund.

(e) Whenever any control program is proposed to take place in Rock Slough, the department and the Contra Costa Water District shall develop a memorandum of understanding establishing the parameters of the control program. This subdivision does not apply to any control program proposed for Sand Mound Slough.

64.5. Aquatic weeds, Lake County. The department shall make a grant of funds to Lake County to conduct a pilot project until December 31, 1999, of aquatic weed control on Clear Lake in Lake County under the following conditions:

(a) Lake County has met the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and, by mutual agreement with the department, agrees to pay a percentage of the cost of the project not to exceed 25 percent.

(b) The aquatic weeds are negatively impacting recreational boating.

(c) The department has received a request from the county agricultural commissioner of Lake County requesting the grant.

(d) Any chemical treatment of aquatic weeds prescribed for the pilot project on Clear Lake, other than those used for the hydrilla eradication or control program pursuant to Article 9 (commencing with Section 6048) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code by the Department of Food and Agriculture, shall be coordinated with the Department of Fish and Game as trustee for fish and wildlife resources in that ecosystem.

64.7. Biennial marina inspections, department loans. (a) Each marina that is developed or improved with funds loaned by the department pursuant to Article 3 (commencing with Section 70) or Article 5 (commencing with Section 76) on or after January 1, 2002, shall have all of its electrical systems that extend into or over water inspected biennially, during the term of the loan, by a licensed electrical contractor or electrical engineer, for compliance with the safety-related provisions of the California Electrical Code (Part 3 of Title 24 of the California Code of Regulations). A marina shall comply with all of the California Electrical Code provisions in effect at the time that the marina is developed. If the marina is improved with a loan, the areas of the marina in which electrical improvements were made shall comply with the California Elecrical Code in effect at the time of the improvement.

(b) For purposes of this section, ‘‘marina’’ means a marina that meets all of the following criteria:

(1) Is privately owned and operated or owned or operated by a local government.

(2) Contains seven or more berths.

(3) Is used by the public primarly for recreational purposes.

Article 2.5. Beach Erosion Control

65. Studies and reports on erosion and stabilization problems. The department, either independently or in cooperation with any person or any county, state, federal, or other agency, to the extent that funds are available therefor, shall study and report upon problems of beach erosion and means for the stabilization of beaches and shoreline areas.

65.1. Cooperation with other agencies. To the extent that funds are available therefor, the department shall cooperate with all agencies of government, federal, state, and local, for the purposes of beach erosion control and stabilization of beaches and

shoreline areas, and shall act in an advisory capacity on beach erosion control and stabilization of beaches and shoreline areas when requested by any public agency of the state or by any agency of the federal government.

65.2. Plans. The department shall prepare plans for and construct such works as its studies and investigations indicate to be necessary for beach erosion control and stabilization of beaches and shoreline areas, to the extent that funds are available therefor. In the preparation of such plans and construction of works therefor the department may cooperate by contract or otherwise with the Beach Erosion Board of the United States or with any other federal, state, county, or municipal agency, or with any or all such agencies, upon such terms and conditions and in such manner as will be for the best interests of the state.

65.3. Matching funds. When state funds are made available on a matching basis to be expended in connection with any federal project for beach erosion control or stabilization of beaches and shoreline areas, such funds shall be administered by the department, subject to approval of the Director of Finance.

65.4. Recreational beaches under control of Department of Parks and Recreation. Any plans for construction of beach erosion control works which may in any way affect recreational beaches under the ownership or control of the Department of Parks and Recreation shall be subject to approval by the Department of Parks and Recreation.

65.5. State participation. Whenever a beach erosion control project has been authorized by Congress for federal financial participation in accordance with Public Law 727, 79th Congress, 2nd Session, as amended by Public Law 826, 84th Congress, 2nd Session, or as it may hereafter be amended, or any other act of Congress relating to beach erosion control in which local participation is required, it shall be the policy of the state to bear one-half the costs of local participation required by the authorizing federal legislation, including construction costs and costs of lands, easements, and rights of way; provided, any affected city, county, or other public agency furnishes assurances satisfactory to the department that it will provide all other local cooperation required by the authorizing federal legislation, will hold and save the state free from damages for all time due to the construction operation, and maintenance of the project, and will maintain and operate the project during its useful life, as may be required to serve its intended purpose, subject to such regulations as may be prescribed therefor by the department.

65.6. Appropriation made by state. Notwithstanding the provisions of Section 65.5, appropriations may be made by the state, from time to time by law, to pay for the costs of sharing in such participation in beach erosion control projects following state authorization of a specific project, but such participation shall apply only to costs incurred for the project as finally authorized by the Congress and the state, and appropriations for such costs shall not be expended by the state until after the appropriation of construction funds by the Congress.

65.7. Projects undertaken by Corps of Engineers. Small beach erosion control projects not specifically authorized by Congress and undertaken by the United States Corps of Engineers pursuant to Section 103 of the River and Harbor Act of 1962, Title I of Public Law 87-874, 76 Stat. 1173, and Section 310(b) of the River and Harbor Act of 1965, Title III of the Public Law 89-298, 79 Stat. 1073 (33 USC 426(f) and 426(g)), are authorized for state participation pursuant to Section 65.5 without further specific authorization by the Legislature, at such costs as may be appropriated by the

Legislature upon the recommendation and advice of the department. Such state participation shall not take precedence over other pending projects of higher priority.

65.9. Small boat harbor development projects. Whenever beach erosion control works are included in a small boat harbor development project, the report of the department required by Section 65.8 shall be approved by the Director of Finance prior to submission to the Legislature.

66. Advancement and reimbursement of funds by state for federal financial participation projects. The department, with the approval of the Director of Finance, and on terms satisfactory to the department may advance moneys appropriated for this purpose in the amount required to meet the federal share of any project described in Section 65.5 in order to carry out construction of the project. Reimbursement from the federal government shall be reimbursed to the fund from which the advance was made.

66.1. Advance payments. Where the department is the construction agency, the city, county or other public agency acting in cooperation with the department in the construction of any federally authorized beach erosion control project shall transmit funds representing its share of the costs to the department for deposit in the State Treasury in advance of commencement of construction work.

Article 2.6. California Recreational Boating Trails

68. Plan for recreational boating trails. The director shall cause to be prepared, and continuously maintained, a comprehensive plan for the development and operation of a statewide system of recreational boating trails. The plan shall be the boating trails element of the California Recreational Trails System Plan as required pursuant to the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code). The plan shall be prepared and continually maintained in accordance with provisions of the California Recreational Trails Act and shall, to the maximum extent practicable, be compatible with other elements of the California Recreational Trails System Plan.

68.2. Legislative finding and declaration of need. In conformance with the California Recreational Trails Act, the Legislature hereby finds and declares that there is a statewide and continuing interest in the public's use of the state's inland waterways for recreational purposes. The Legislature further finds and declares that there exists a need to provide for recreational resource planning of the waterways in a manner that provides access and utilization for recreational purposes, consistent with the provisions of the California Recreational Trails Act.

Article 2.8. California Public Beach Restoration Act

69.5. California Public Beach Restoration Act. This chapter shall be known, and may be cited, as the California Public Beach Restoration Act.

69.6. California Public Beach Restoration Program. (a) The California Public Beach Restoration Program is hereby established, to be administered by the department for all of the following purposes:

(1) The restoration, enhancement, and nourishment of public beaches, as determined to be necessary by the department, through the cost-effective engineered placement of sand on the beach or in the nearshore environment.

(2) The planning, design, and permitting of the beach restoration, nourishment, or enhancement projects specified in paragraph (1), which shall not exceed 15 percent of the total project cost.

(3) The preparation of studies to inventory, characterize, and assess the physical and biological resources of the ocean, and nearshore, shoreline, and inland areas that are

determined by the department to be necessary to construct the projects specified in paragraph (1) that are environmentally and economically sound. The cost of the studies shall not exceed 5 percent of the annual program funding.

(4) The funding of 100 percent of the nonfederal project construction cost for restoration, nourishment, or enhancement of coastal state parks and state beaches with placement of sand on the beach or in the nearshore.

(5) The funding of 85 percent of the nonfederal project cost for restoration, nourishment, or enhancement of nonstate public beaches with placement of sand on the beach or in the nearshore, with a 15 percent match from the local sponsors, provided as funds or in-kind services.

(6) The active pursuit and promotion of federal and local partnerships to cost-share beach restoration, nourishment, or enhancement projects specified in paragraph (1) that have significant state benefits.

(b) Prior to funding any project under this section, the department shall develop guidelines that include application requirements and criteria for evaluating a project. The guidelines shall be consistent with the Resources Agency's policies for shoreline erosion protection. Only beaches that are in public ownership and that are open and accessible to the public are eligible for funding under this section.

69.8. Beach restoration report. Notwithstanding Section 7550.5 of the Government Code, the department, and the State Coastal Conservancy, not later than January 1, 2002, shall jointly prepare and submit to the Legislature a report that does all of the following:

(a) Details the restoration, nourishment, and enhancement activities undertaken through this program.

(b) Discusses and evaluates the need for continued public beach restoration projects.

(c) Reports on the effectiveness of the program in addressing that need.

(d) Discusses ways to increase natural sediment supply in order to decrease the need to nourish the state's beaches, including, but not limited to, an analysis of specific locations where structures might be removed or modified.

69.9. Public Beach Restoration Fund. (a) The Public Beach Restoration Fund is hereby created in the State Treasury. The moneys in the fund shall be available for expenditure by the department only for the purposes of the California Public Beach Restoration Program established pursuant to this article.

(b) Of the moneys in the fund, 60 percent shall be available for allocation by the department to projects south of the point at which the Pacific Ocean meets the border between the County of San Luis Obispo and the County of Monterey and 40 percent shall be available for allocation to projects located north of that point.

Article 3. Small Craft Harbors and Connecting Waterways

70. Acquisition and transfer. The department may prepare plans for, and acquire, construct, develop and improve, small craft harbors, facilities in connection therewith, and connecting waterways. Any small craft harbor so acquired or developed shall be transferred, and its operation relinquished, to a county, city, or any district having power to operate a small craft harbor, in which any part of it is located, upon the request of such city, county, or district, if such city, county, or district enters into an agreement with the department for repayment to the state of all costs incurred by the department in acquiring and developing such small craft harbor, including planning costs. The city, county, or district shall be required by the department to repay such costs by means of deferred payments, such payments to be made in such amounts and at such times as may be provided by the agreement.

70.2. Nonrevenue producing harbor facilities. The department may prepare or contract for the preparation of plans for, acquire or contract for the acquisition of, construct or contract for the construction of, develop and improve or contract for the development and improvement of, any portion of coastal small craft harbors which normally are nonrevenue producing, such as jetties, breakwaters, dredging, seawalls, piers, and communication centers.

This program may be conducted in cooperation with the federal government for harbor development along the coastline of California. In such cooperative projects, the department may assume the role of ''local sponsor'' as that term is used in agreements with the federal government with regard to those projects referred to in this section, providing that before the department may assume the role of ''local sponsor'' it shall determine to its satisfaction that the local entity which would otherwise be designated as local sponsor cannot fulfill the obligations commensurate with that designation.

If the nonrevenue producing facilities are to be a portion of an existing harbor, the department, prior to construction thereof, shall enter into an agreement with the local governing body of the harbor which provides that revenues from harbor operations and harbor district taxes, if any, shall serve as security for repayment of the state contribution to the cost of construction and the local governing body shall assume responsibility for the operation and maintenance of the facilities constructed under the agreement. If, however, unencumbered income to the harbor is insufficient to repay construction costs, such repayment shall be deferred until the department determines that such income is sufficient to initiate repayment thereof.

If nonrevenue producing facilities are to be constructed at a location where no harbor operation is being conducted by any governmental entity, the department may initiate construction of such facilities after securing an agreement with the appropriate local jurisdiction that the local entity shall assume the responsibility of operation and maintenance thereof and repayment of all costs of the department related thereto. Repayment of costs shall commence when it has been determined by the department that revenues attributable to such harbor operations are sufficient for the local entity to assume such responsibilities.

Prior to the date so determined by the department, the department may reimburse the local governing body annually for any deficiency of revenues to the harbor as determined by the division to meet the costs of operation and maintenance of the project.

Harbor facilities provided by the department pursuant to this section shall be defined as nonrevenue producing features for the purpose of the term of repayment under subdivision (g) of Section 71.8.

70.4. Nonexclusion of commercial boats. No city, county or district which has received, or is receiving, money under this division for the construction or improvement of small craft harbors of refuge shall, consistent with the intent of Section 40, exclude the use of such harbor by commercial boats.

70.6. Departmental harbor operation. If the department acquires, constructs, develops, or improves a small craft harbor pursuant to Section 70 but receives no request for transfer of its operation to a city, county, or district willing and able to meet the requisite conditions for such a transfer, the department may maintain and operate the harbor.

70.8. Contracting by department. The department may contract with any federal agency, any state agency, or a city, county, or district, in the planning, construction,

development and improvement of small craft harbors pursuant to this chapter, or for the maintenance and operation of any small craft harbors under the jurisdiction of the department.

71. Concession grants by department. The department may provide for the granting of concessions within the boundaries of harbors under the jurisdiction of the department in order to furnish the public with fuel, oil, food, and other facilities, and may grant easements, rights of way, and permits with respect to such harbors.

71.2. Departmental harbor peace officers. The department shall protect small craft harbors under its jurisdiction from damage and preserve the peace therein. The director and the employees of the department that the director designates have the authority and powers conferred by law upon peace officers listed in Section 830.33 of the Penal Code for those harbors. The department may adopt rules and regulations that may be necessary for the purposes of this section. A violation of those rules or regulations is a misdemeanor.

71.4. Harbor loans and rates charged. (a) The department, subject to the approval of the Legislature in accordance with Section 85.2, may make loans to cities, counties, or districts having power to acquire, construct, and operate small craft harbors, for the planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection therewith, and connecting waterways, if the department finds that the project is feasible.

(b) The department shall establish, by rules and regulations, policies and standards to be followed in making loans pursuant to this section so as to further the proper development and maintenance of a statewide system of small craft harbors and connecting waterways. To the greatest extent possible, the department shall adhere to customary commercial practices to ensure that loans made pursuant to this section are adequately secured and that the loans are repaid consistent with the terms of the loan agreement. Any rules and regulations may include policies and standards for restrooms, vessel pumpout facilities, oil recycling facilities, and receptacles for the purpose of separating, reusing, or recycling all solid waste materials.

(c) The department shall develop weighing and ranking criteria to qualify and prioritize the public loans.

(d) Any such loan shall be repaid as provided in Section 70.

(e) Rates to be charged for the use of the boating facilities shall be established by the city, county, or district, subject to the approval of the department, in every loan contract. The department shall concern itself with the rates charged only as prescribed in Section 71.8. The rates set shall be based on a monthly berthing charge.

The department shall monitor these rates to ensure that the berthing charges are reasonable and not exorbitant.

(f) The department shall submit any project for which it recommends any loan be made to the Governor for inclusion in the Budget Bill.

(g) No loans shall be made to cities, counties, or districts pursuant to this article from funds appropriated in the Budget Act of 1999 for the purposes of this section until the practices and criteria described in subdivisions (b) and (c) have been reviewed and approved by the Department of Finance. Any subsequent changes to those practices and criteria shall also be approved by the Department of Finance.

71.5. Harbor operation by private concessionaire. (a) The department shall encourage cities, counties, and districts that propose to apply for initial loan funding for new small craft harbor development projects pursuant to Section 71.4 to

communicate and to work with private enterprise in order to determine if private business could construct and operate the projects' revenue producing facilities under fair and reasonable terms.

(b) No loan shall be made for the initial phase of new small craft harbor projects pursuant to Section 71.4 for those project facilities that produce revenues, unless the city, county, or district applying for the loan has held a public hearing on the feasibility of a private concessionaire or lessee constructing and operating the proposed project under a contract with the applicable public agency.

(c) Notice of a hearing held pursuant to subdivision (b) shall be published in accordance with Section 6066 of the Government Code and in two publications of general circulation of special interest to the recreational boating community.

71.6. Sponsor indebtedness and revenue conditions. A transfer pursuant to Section 70 or a loan pursuant to Section 71.4 shall not be made to a city, county, or district if it would provide for an indebtedness or liability contrary to the provisions of Section 18 of Article XI of the Constitution unless, at an election called by the governing body of the city, county, or district two-thirds of the qualified electors thereof voting thereat have authorized the governing body to accept, expend, and repay the amount of the indebtedness or liability under this chapter; nor shall such transfer or loan be made if written protest thereto signed by owners of one-half or more of the assessed valuation of taxable property in said city, county, or district is received by the governing body of such city, county, or district. Such election shall be held in accordance with provisions of law for the incurring of bonded indebtedness by the city, county, or district, as near as the same may be applicable. Except as may be prohibited by this section, a transfer pursuant to Section 70 or a loan pursuant to Section 71.4 may be made to a city, county, or district and it may accept such a transfer or loan, notwithstanding any other provision of law limiting or prohibiting the creation of any indebtedness on the part of the city, county, or district.

A transfer pursuant to Section 70 or a loan pursuant to Section 71.4 may be made to a city, county, or district without an election if the transfer or loan agreement provides that payments shall be made from the gross revenues of a small craft harbor, and that such gross revenues shall constitute security for such payments. Gross revenues of a small craft harbor include all charges received from, and all other income and receipts derived by the city, county, or district from, the operation of a small craft harbor.

Gross revenues include any income received by such governmental entity from any concession or other contract operations had by the entity on its harbor facilities, but does not include gross revenues to a concessioner.

71.7. Spud Point Marina. Notwithstanding any other provision of this chapter, Section 82, or any contract or agreement to the contrary, loan payments on the loan on behalf of Spud Point Marina in the County of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516 of Section 2.00 of the Budget Act of 1982, and administered by the department, may be renegotiated by the department and the County of Sonoma, with the advice and consent of the commission, to solve the fiscal problems involving the marina existing on the effective date of this section as enacted during the 1994 portion of the 1993–94 Regular Session.

71.8. Provisions for transfers or loans. (a) Any contract or agreement for a transfer pursuant to Section 70 or a loan pursuant to Section 71.4, for which gross revenues of a small craft harbor are made the security for repayment shall include, but is not limited to, provisions requiring the governing body of the city, county, or district to perform all the following:

(1) Punctually pay all installments of principal and interest on money owed to the state.

(2) Continuously operate in an efficient and economical manner all small craft harbor facilities acquired, constructed, improved, or completed in full or in part as a result of transfers or loans by the state.

(3) Make all repairs, renewals, and replacements necessary to the efficient operation of the small craft harbor facilities and to keep the facilities in good repair at all times.

(4) Preserve and protect the security interest of the state in all respects by procuring insurance on the facilities in an amount and of the type approved by the department.

(5) Subject to subdivision (c), periodically fix, prescribe, and collect fees, rentals, or other charges for services and facilities of the small craft harbor facilities sufficient to produce gross revenues adequate for payment of the following amounts in the order set forth:

(A) All installments of principal and interest on money owed the state as they come due.

(B) All expenses of operation, maintenance, and repair of the small craft harbor facilities.

(C) Any additional sums as may be required by the department for any sinking fund, reserve funds, or other special fund established for the further security of the loan or transfer or as a depreciation or other charge in connection with the small craft harbor facilities.

(6) Repay loans with regard to the revenue-producing features, as determined by the department, constructed under the loan over a period not to exceed 30 years.

(7) Repay loans with regard to the non-revenue-producing features, as determined by the department, constructed under the loan over a period not to exceed 50 years.

(b) The department may require the contract or agreement to include a requirement that installments of principal and interest on money owed the state shall be paid from gross revenues prior to any other expenditures from those revenues. However, if the department is satisfied that the city, county, or district has sufficient financial resources to fully repay the loan without the necessity of priority payment, that requirement may be waived, in which case the contract or agreement shall provide that installments of principal and interest on money owed the state may be repaid under the terms and conditions mutually agreed upon and specifically set forth in the contract or agreement. No loan of funds shall be made to any city, county, or district unless the loan is approved by the department as conforming to the policies established by the department. The contracts and agreements shall not be effective until approved by the Department of General Services for legality, form, and completeness.

(c) The fees for the use of launching ramps in a small craft harbor shall not exceed the sum of the following:

(1) The costs of operation and maintenance of the launching ramp and related harbor facilities, including, but not limited to, access to the ramp from the shore and the ocean.

(2) The prorated capital costs of that portion of the facility which is determined by the governing body of the small craft harbor or boating facility to be necessary to pay amounts specified in paragraph (5) of subdivision (a).

(d) If the city, county, or district defaults on the payment of money owed the state, or otherwise fails to perform in accordance with the terms and conditions of the contract or agreement, the state shall forthwith recover the defaulted loan and the department may assume the operation and maintenance of the harbor or facility or enter into one or more contracts for its operation and maintenance.

71.9. Excess revenues. A city, county, or district may use any excess revenues from rates enacted pursuant to Section 71.4 or from other fees, rates, rents, or charges for services in excess of those revenues required to comply with Section 71.8 and with any agreement entered into pursuant to Section 70, for waterfront improvements, waterfront recreational programs, and purchases of other waterfront property in the waterfront area under its jurisdiction.

This section does not in anyway affect the duties and obligations imposed upon a city, county, or district by any statute granting to any city, county, or district any state-owned tide or submerged lands.

72. Harbor facility lease conditions. If the legislative body of a city, county, or district has acquired, constructed or improved small craft harbor facilities pursuant to an agreement or contract for a transfer pursuant to Section 70, or a loan pursuant to Section 71.4, such facilities may not be leased in whole or in part to a private concessionaire or lessee until such legislative body has published a notice pursuant to Section 6066 of the Government Code inviting bids and has otherwise complied with this section. Prior to publication of the notice the legislative body shall obtain the approval of the department to the proposed leasing of the harbor facility and to the terms and conditions of the proposed lease. The notice shall distinctly and specifically describe the harbor facilities which are to be leased and set forth the period of the time for which the facilities are to be leased, and the minimum rental to be paid under the lease. The notice shall recite that the lease will reserve to the legislative body the power to fix and determine the rates to be charged by the lessee for the use by the public of such facilities. The notice also shall recite that award of the lease by the legislative body is subject to final approval by the department, and fix a time and place for the opening of bids by the legislative body.

At the time and place fixed in the notice the legislative body shall meet and consider all bids which have been submitted. The lease shall be awarded to the highest responsible bidder, but the award shall become final only after the award by the legislative body has been approved by the department.

72.2. Harbor facility lease conditions. Notwithstanding other provisions of this chapter if the legislative body of a city, county, or district has acquired, constructed or improved small craft harbor facilities pursuant to an agreement or contract for a transfer pursuant to Section 70, or a loan pursuant to Section 71.4, where the proposed lease area is land or water area and where the terms of the proposed lease call for the lessee to install or construct all improvements, such land or water area may be leased by the legislative body without public bidding, but only after a public hearing, public notice of which shall be given by publication for not less than once a week for two weeks in a newspaper of general circulation published in the county in which the land lies.

Prior to publication of the public notice the legislative body shall obtain the approval of the department to the proposed leasing of the harbor facility and the provisions of the proposed public notice. The public notice shall describe the land or water area which is to be leased, describe in general terms the nature of the development desired by the legislative body, and set forth the period of time for which the land or water area is to be leased, and the minimum rental to be paid under the lease. The public notice shall recite that the lease will reserve to the legislative body the power to fix and determine the rates to be charged by the lessee for the use by the public of facilities developed by the lessee. The public notice also shall recite that award of the lease by the legislative body is subject to final approval by the department, and fix a time and place for the public hearing by the legislative body. The public notice shall invite proposals for leasing from any and all interested parties.

At the time and placed fixed in the public notice of hearing the legislative body shall meet and consider the lease proposal submitted. The award of the lease shall become final only after the award by the legislative body has been approved by the department.

72.4. Contracts entered into before October, 1966. Any agreement or contract for a transfer pursuant to Section 5823 of the Public Resources Code or a loan pursuant to Section 5827 or 6499.5 of said code, executed prior to the effective date of this chapter, shall, for the purposes of this chapter, be considered as an agreement or contract executed pursuant to this chapter.

72.5. Launching facility grants. The department, subject to the approval of the Legislature in accordance with Section 85.2, may grant funds to a county, city, district, or other public agency for the construction and development of small craft launching facilities and shall establish general policies for determining those projects for launching facilities which the department will recommend to the Legislature for grants of Harbors and Watercraft Revolving Fund moneys on the basis of which facilities will serve the public recreational boating needs.

This program is to build launching facilities in areas not normally considered by other state agencies as suitable to provide for conservation, propagation, and utilization of the fish and game resources of the state.

The department shall submit any project for which it recommends any grant be made to the Governor for inclusion in the Budget Bill.

72.6. Commission consent concerning transfers, loans and grants. Transfers pursuant to Section 70, loans pursuant to Section 71.4, and grants pursuant to Section 72.5 shall be made by the department with the advice and consent of the commission.

72.7. Floating restrooms. (a) The department may grant funds to any public agency for the construction or procurement of floating restrooms and ancillary items.

(b) The department may prepare plans and arrange for the procurement of floating restrooms and ancillary items for later transfer to other public agencies. All procurements shall be conducted under the supervision of the Department of General Services, in accordance with the requirements for state procurement of materials, supplies, and equipment established in Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(c) The department shall establish general policies for determining appropriate bodies of water and locations thereon for placing floating restrooms. The department may adopt such rules and regulations as may be necessary to carry out the provisions of this section.

(d) It is the intent of the Legislature that the purpose of this section is to furnish restroom facilities on bodies of water where conventional restrooms cannot meet the needs of boaters and where the presence of floating restrooms may lessen environmental degradation of those bodies of water.

72.75. Pumpout facility grants. (a) The department may grant funds to any public agency for the construction or procurement of vessel pumpout or dump stations and ancillary items.

(b) The department shall establish general policies for determining appropriate bodies of water and locations thereon for placing vessel pumpout or dump stations. The department may adopt rules and regulations that it finds necessary to carry out this section.

(c) The Legislature finds and declares that the purpose of this section is to furnish vessel pumpout or dump station facilities on bodies of water where needed to meet the

needs of boaters and where the presence of the vessel pumpout or dump stations may lessen environmental degradation of those bodies of water.

72.8. Grants for rafting facilities. The department, subject to a line item appropriation by the Legislature for each proposed project, may grant funds to a county, city, district, or federal agency for the construction of waterway public access facilities used primarily by rafters, canoeists, tubers, and kayakers.

Funds used to implement this section shall be derived from any bond act approved by the voters.

72.9. Property acquisition for rafting facilities. The department, subject to a line item appropriation by the Legislature for each proposed project, may acquire property to provide for waterway public access facilities used primarily by rafters, canoeists, tubers, and kayakers, and may also provide for the construction of those facilities, subject to the approval of any state agency that owns the property upon which the facilities will be constructed.

Funds used to implement this section shall be derived from any bond act approved by the voters.

Article 4. Vessels and Vessel Operators

75. Departmental programs and duties. The department has such powers and duties relating to vessels and vessel operators as are imposed upon the department by Chapter 5 (commencing with Section 650) of Division 3.

Article 5. Recreational Marinas

76. Private recreational marina loans. It is the intent of the Legislature that Harbors and Watercraft Revolving Fund moneys be used to implement the intent of Section 71.5 by providing loans directly to private recreational marina owners for the development, expansion, and improvement of boating facilities. It is the further intent of the Legislature that borrowers receiving loans not charge unreasonably high boat berthing fees at their harbor facilities, but that those borrowers be entitled to charge rates that provide for servicing of borrowed indebtedness obtained to develop those facilities, provide for other expenses incurred in operating the facilities, establish reasonable reserves for repairs, maintenance, and replacement of those facilities, and provide a reasonable return on the borrower's invested capital.

76.1. Private marina owner defined. "Private marina owner" means a profit-oriented business enterprise which owns and operates, or intends to develop and operate, a small boat recreational facility providing boat berthing on a wet or dry storage basis and other improvements commonly found in a facility of that type on privately or publicly owned waters within this state.

76.2. Recreational marina defined. "Recreational marina" means a marina owned by a private marina owner which is used by the public primarily for recreational purposes.

76.3. Department loan provisions. (a) The department may make loans to private marina owners for construction costs, not including planning, design, and other similar expenses, to develop a recreational marina. Loan funds from the department may be utilized for berthing facilities, dredging, parking, public access facilities, restrooms, vessel pumpout facilities, oil recycling facilities, utilities, landscaping, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other incidental boating- related amenities.

(b) No loan made by the department to a private marina owner shall exceed 50 percent of the funds annually budgeted for purposes of this article.

(c) The department shall not make a loan to a recreational marina that restricts access or bars the public other than what is consistent with general commercial business practices.

(d) Any private marina owner who purchases facilities previously developed with a department loan is eligible to apply for a new construction loan from the department.

76.4. Loan applications. (a) An application for a loan under Section 76.3 shall be filed with the department and shall:

(1) Include a feasibility study containing sufficient information and detail to demonstrate that the project is engineeringly and financially feasible.

(2) Be processed with due diligence, giving consideration to the needs of the borrower and the interest of the public in preserving the integrity of the Harbors and Watercraft Revolving Fund.

(3) Include evidence of compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) Include all costs incurred by the applicant in processing and obtaining loan proceeds.

(b) The costs of brokerage fees, planning studies, and all other costs for the preparation of the loan application shall be borne by the applicant.

76.5. Processing applications. In processing applications under the article, the department shall give priority to applications from private marina owners who have not received previous loans from the department. If the department finds a proposed loan project is feasible, the loan request shall be submitted to the commission for its advice and consent.

76.6. Loan terms and conditions. Loans made under this article shall include, but are not limited to, the following terms and conditions:

(a) The annual rate of interest charged by the department shall be a rate equal to 1 percent per annum plus the prevailing rate of interest existing in the marketplace for lending institutions' most creditworthy borrowers. For purposes of this article, the prevailing rate of interest existing in the marketplace for lending institutions' most creditworthy borrowers means the prime or base rate of interest.

(b) The department shall require collateral in the amount of 110 percent of the loan.

(c) The length of a loan shall not exceed 20 years, or be longer than the length of the borrower's leasehold estate, including renewal options, if the loan is based upon a leasehold estate of the borrower.

(d) All loans shall amortize the principal over the term of the loan. However, a loan shall become due and payable in full if the borrower sells or otherwise transfers the recreational marina developed with departmental funds, unless the transfer is, by reason of the death of the borrower, to the borrower's heirs, or the transfer is to another business entity controlled by the borrower in a transaction that does not result in a material change in control or ownership of the recreational marina.

(e) The department's loans shall not be subordinated to any future loans obtained by a private marina owner, except in those cases involving loans acquired for refinancing previous senior loans.

76.7. Fund source; berthing fees. (a) All loans made by the department to private marina owners shall be funded from the Harbors and Watercraft Revolving Fund.

(b) All loans, including those loans previously made under Section 35300 of the Financial Code, shall be repaid by private marina owners to the Harbors and Watercraft Revolving Fund.

(c) Private marina owners receiving loans made by the department shall not charge unreasonably high boat berthing fees.

(d) The department shall monitor the berthing fees of the private marina owners receiving department loans to ensure that these rates are reasonable and not exorbitant.

76.8. Department loan regulations. The department shall adopt regulations to implement or make this article more specific, including standards for the approval of loans, which shall include, but not be limited to, definitions of collateral, standards for the payment of loans, weighing and ranking criteria to qualify and prioritize the loans, and the form of documents to be used to evidence loans. The purpose of the regulations shall be to ensure that loans made under this article conform with customary commercial practices. No loans shall be made pursuant to this article from funds appropriated in the Budget Act of 1999 until the loan approval standards have been approved by the Department of Finance. Any subsequent changes to the loan approval standards shall also be approved by the Department of Finance.

77. Borrow funds to protect security interest. (a) The department, subject to the approval of the Director of Finance, may borrow funds from the Harbors and Watercraft Revolving Fund when a borrower has defaulted from any financial obligation and funds are required to protect the security interest of the department with respect to any loan made under Section 76.3.

(b) The funds borrowed under this section shall be repaid within three years from the date of the approval of the Director of Finance. The repayment shall include the principal amount of the loan, plus interest equal to the rate of earnings of money deposited in the Surplus Money Investment Fund at the time the loan is approved by the Director of Finance.

(c) A maximum of ten million dollars ($10,000,000) per year may be used for purposes of this section.

(d) The borrowed funds may be used to do any of the following:

(1) Pay any administrative and legal expenses incurred in connection with those defaults.

(2) Acquire through negotiated purchase or bid at auction any property which serves as collateral for those defaulted loans.

(3) Pay any costs of operating and maintaining a recreational marina acquired as a result of a failed loan, until the marina is sold.

77.1. Disposition of defaulted property. The department, upon whatever terms and conditions it deems proper, may sell or otherwise dispose of property serving as collateral for a defaulted loan made under Section 76.3 or may operate, contract to operate, or let property involved in the default. All proceeds from any action of the department pursuant to this section shall be deposited in the Harbors and Watercraft Revolving Fund and credited towards the repayment of the defaulted loan.

CHAPTER 3. BOATING AND WATERWAYS COMMISSION

80. Commission. The Harbors and Watercraft Commission and its successor, the Navigation and Ocean Development Commission, are, continued in existence in the Department of Boating and Waterways as the Boating and Waterways Commission but with only the powers and duties imposed upon it by this chapter.

80.2. Members of the commission. The commission shall be composed of seven members appointed by the Governor, with the advice and consent of the Senate. The members shall have experience and background consistent with the functions of the commission. In making appointments to the commission, the Governor shall give primary consideration to geographical location of the residence of members as related

to boating activities and harbors. In addition to geographical considerations, the members of the commission shall be appointed with regard to their special interests in recreational boating. At least one of the members shall be a member of a recognized statewide organization representing recreational boaters. One member of the commission shall be a private small craft harbor owner and operator. One member of the commission shall be an officer or employee of a law enforcement agency responsible for enforcing boating laws. The first vacancy occurring on the commission on and after January 1, 1997, shall be filled by such an officer or employee.

The Governor shall appoint the first seven members of the commission for the following terms to expire on January 15: one member for one year, two members for two years, two members for three years, and two members for four years. Thereafter, appointments shall be for a four-year term. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

80.6. Commission salaries and expenses. Members of the commission may receive a salary for their services in an amount of one hundred dollars ($100) for each day, up to a maximum of 14 days per year. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

80.8. Removal of a commissioner. The members of the commission may be removed from office by the Governor for inefficiency, neglect of duty, misuse of office, or misfeasance in office, in the manner provided by law for the removal of other public officers for like causes.

81. Commission organization. The commission shall, immediately after the effective date of this section, organize and elect from its members a chairman and a vice chairman who shall serve for one year or until their successors are elected and qualified. Annually thereafter the commission shall elect a chairman and a vice chairman.

81.2. Commission seal. The commission shall adopt a seal.

81.4. Majority vote. No action shall be taken by the commission by less than a majority of its members.

81.6. Commission offices. The Department of General Services shall furnish suitable offices and equipment for the use of the commission.

81.8. Commission secretary. The director shall act as the secretary of the commission.

82. Advice, review and consent of the commission. The commission, in furtherance of the public interest and in accordance therewith, shall advise the department with respect to all matters within the jurisdiction of the department. The department shall submit any proposed changes in regulations pertaining to boating functions and responsibilities of the department to the commission for its review and comment prior to enactment of changes. The department shall submit proposals for transfers pursuant to Section 70, loans pursuant to Section 71.4 or 76.3, and grants pursuant to Section 72.5 to the commission for its advice and consent.

82.2. Studies and surveys. The commission shall cause studies and surveys to be made of the need for small craft harbors and connecting waterways throughout the state and the most suitable sites therefor.

82.4. Commission meetings. All meetings of the commission shall be open and public and all persons shall be permitted to attend any meetings of the commission.

82.6. Public inspection of records. All records of the commission shall be open to inspection by the public during regular office hours.

CHAPTER 4. HARBORS AND WATERCRAFT REVOLVING FUND

85. Deposit of funds. All moneys received by the department, including any moneys received by the department from the purchase or condemnation by any other person or agency of any property acquired by the department for the purposes of this division, shall be deposited in the State Treasury and credited to the Harbors and Watercraft Revolving Fund, which fund is hereby created. The Harbors and Watercraft Revolving Fund is the successor to the Small Craft Harbor Revolving Fund, which fund is hereby abolished. All references in any law to the Small Craft Harbor Revolving Fund shall be deemed to refer to the Harbors and Watercraft Revolving Fund.

85.2. Appropriation of funds, Parks and Recreation report. (a) All money in the Harbors and Watercraft Revolving Fund shall be available, upon appropriation by the Legislature, for expenditure by the department for boating facilities development, boating safety, and boating regulation programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed, and constructed by the department, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state.

(b) (1) The money in the fund shall also be available, upon appropriation by the Legislature, to the Department of Parks and Recreation for the operation and maintenance of units of the state park system that have boating-related activities. Funds appropriated to the Department of Parks and Recreation may also be used for boating safety and enforcement programs for waters under its jurisdiction.

(2) Notwithstanding Section 7550.5 of the Government Code, the Department of Parks and Recreation shall submit to the Legislature, on or before January 1 of each year, a report describing the allocation and expenditure of funds made available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund and from the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year. The report shall list the special project or use, project location, amount of money allocated or expended, the source of funds allocated or expended, and the relation of the project or use to boating activities.

(c) The money in the fund shall also be available, upon appropriation by the Legislature, to the State Water Resources Control Board for boating-related water quality regulatory activities.

85.3. Appropriations. There is hereby appropriated from the Harbors and Watercraft Revolving Fund for the fiscal year 1970–1971 a sum not to exceed one hundred fifty thousand dollars ($150,000) to the department for expenditure for contract authority for the purposes of establishing economic justification, making financial and engineering feasibility determinations, and preparing such plans and cost estimates as may be necessary to justify budget proposals or appropriation expenditures, for any projects pursuant to Division 1 of this code. The department may expend such moneys for such purposes in subsequent fiscal years as may be appropriated by the Legislature. Nothing herein shall obligate the department to propose or continue a project for funding if such justifications cannot be shown to the satisfaction of the department. Any moneys expended by the department for contract authority under this section with respect to a project for which a loan is authorized pursuant to Section 71.4 shall be added to the principal of any such loan.

86. Local agency certification, adequate facilities. (a) The local public agency shall certify to the department that for any small craft harbor or boating facility project which is, or has been, funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from the State Lands Commission from tidelands oil revenues, adequate restroom and sanitary facilities, parking, refuse disposal, vessel pumpout facilities as required pursuant to Section 776, walkways, oil recycling facilities, receptacles for the purpose of separating, reusing, or recycling all solid waste materials, and other necessary shoreside facilities sufficient for the use and operation of all vessels using the harbor or facility are provided or provide written findings showing why the facility cannot certify to these conditions.

(b) No city, county, or district, which has received or is receiving money under this division for the construction or improvement of small craft harbors which provides facilities for the operation of commercial fishing vessels registered pursuant to Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, shall prohibit the commercial operation and use of those facilities by commercial passenger fishing vessels of the same or similar displacement, which are licensed pursuant to Section 7920 of the Fish and Game Code, or the use by private recreational vessels unless otherwise expressly provided by law, unless the city, county, or district provides, elsewhere in the same harbor, alternative, equivalent facilities available at comparable cost for the commercial operation and use of commercial passenger fishing vessels and private recreational vessels or unless the city, county, or district adopts written findings showing why the existing facility cannot accommodate the operation of commercial fishing vessels, including commercial passenger fishing vessels, or private recreational vessels and why the facility cannot be modified to do so or why alternative, equivalent facilities cannot be provided in the same harbor to accommodate those operations. This subdivision does not require a facility to accept an application for the operation of an additional commercial passenger fishing boat at that facility if the harbor provides alternative, equivalent, adequate, safe facilities at comparable cost for the operation and use of commercial passenger fishing boats or if accommodations for the operation of the additional commercial passenger fishing boat are not reasonably available at the facility under the contract or agreement.

For the purposes of this subdivision, an alternative, equivalent facility in the same harbor shall provide, at comparable cost, adequate restroom and sanitary facilities, parking, refuse disposal, walkways, power and water service, and other shoreside facilities and equivalent docks, water channels, navigation aids, and weather protection, including, but not limited to, breakwaters, which are equivalent to the facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.

(c) Any loan, grant, contract or agreement, or plan funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 for any small craft harbor or boating facility project shall provide for construction, development, or improvement of facilities to substantially meet the provisions of subdivisions (a) and (b) and to provide vehicular access roads to the harbor or facility, as recommended by the Department of Transportation pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, unless the reasons for not meeting those provisions and recommendations are set forth in the contract or agreement with the department, or an addendum thereto.

(d) During the term of any existing or new loan contract made pursuant to Section 71.4 or 76.3, or any existing or new contract or agreement pursuant to Section 70, 70.2, or 70.8, the department shall supervise and monitor compliance with subdivisions (b) and (c) and the operation and maintenance of the harbor or facility to assure that the planning, construction, development, or improvement fully complies with this section and the contract or agreement terms and conditions.

(e) For the purposes of this chapter and Chapter 2 (commencing with Section 70), any harbor or facility which is the subject of a contract or agreement as described in subdivision (d), is under the jurisdiction of the department.

87. Conditions for consideration of funding. The department shall give consideration for funding the planning, construction, development, or improvement of small craft harbors to projects which are financially feasible and which make existing small craft harbors, which are subject to the jurisdiction of the department, substantially meet the provisions of Section 86.

88. Facility liability. A small craft harbor or boating facility funded pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3 is not liable for any damages which occur on a vessel using those facilities or pursuant to operation of the vessel, other than on the facilities of the harbor or boating facility. This section does not provide immunity from liability for a small craft harbor or boating facility for its negligent acts.

DIVISION 1.5. NAVIGABLE WATERS

CHAPTER 2

100. Public waterways. Navigable waters and all streams of sufficient capacity to transport the products of the country are public ways for the purposes of navigation and of such transportation. However, the floodwaters of any navigable river, stream, slough, or other watercourse while temporarily flowing above the normal high-water mark over public or private lands outside any established banks of such river, stream, slough, or other watercourse are not navigable waters and nothing in this section shall be construed as permitting trespass on any such lands. For the purposes of this section, ''floodwaters'' refers to that elevation of water which occurs at extraordinary times of flood and does not mean the water elevation of ordinary annual or recurring high waters resulting from normal runoff.

CHAPTER 2.5

TBT-BASED ANTIFOULING PAINT

110. Definitions. As used in this chapter:

(a) ''Slow-leaching TBT-based marine antifouling paint'' means a TBT-based marine antifouling paint, but not a coating, treatment, or compound, that releases tributyltin (TBT) at a measured rate equal to or less than five micrograms per square centimeter per day at steady state conditions determined under the Environmental Protection Agency testing procedure, as outlined in the agency's call-in notice of July 29, 1986, on tributyltin in antifouling paints under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), except that, for purposes of this definition, the Department of Food and Agriculture may reduce the maximum permitted release rate of slow-leaching TBT-based marine antifouling paint to less than five micrograms per square centimeter per day at steady state conditions upon a finding by the State Water Resources Control Board, after a noticed public hearing, that the lower release rate is required to protect the waters of the state from contamination.

(b) ''TBT-based marine antifouling paint or coating'' means a paint, coating, treatment, or compound that contains tributyltin, an organotin, or a tri-organotin compound applied as a substitute for tributyltin, and that is intended to control fouling organisms in a freshwater or marine environment.

(c) ''Vessel'' means any watercraft used or capable of being used as a means of transportation on water.

111. Prohibitions. Except as otherwise provided in this chapter, no person shall sell or use a TBT-based marine antifouling paint or coating in this state, and no person

shall sell, rent, or lease in the waters of this state a vessel, fishing gear, or other item intended to be partially or completely submerged in water, if the vessel, gear, or other item has been painted or treated with a TBT-based marine antifouling paint or coating.

112. Prior applications. Nothing in this chapter requires the removal of any TBT-based marine antifouling paint or coating from any vessel, fishing gear, or other item that was so painted or treated before January 1, 1988, but the vessel, gear, or other item shall not be repainted or retreated with any TBT-based marine antifouling paint or coating.

Fish capture nets treated with TBT-based marine antifouling paint or coating before January 1, 1988, shall not be used in state waters on or after January 1, 1993.

Fish culture pens used for rearing fish for human consumption treated with a TBT-based antifouling paint or coating shall not be used in state waters on or after January 1, 1989.

113. Exceptions. Slow-leaching TBT-based marine antifouling paint may be distributed, sold, and used in this state only if it meets one of the following criteria:

(a) It is paint that will be applied only to aluminum vessel hulls or to commercial or recreational vessels 25 meters or more in length.

(b) It is of a type commonly referred to as outboard or lower unit paint and is distributed or sold in a spray can in a quantity of 16 ounces avoirdupois or less.

114. Penalties. Any violation of Section 111 or 112 is a misdemeanor.

115. Effective date. This chapter shall become inoperative on the effective date of regulations adopted by the Department of Food and Agriculture which regulate TBT-based marine antifouling paints or coatings.

CHAPTER 3

131. Obstructing navigable waters. Every person who unlawfully obstructs the navigation of any navigable waters, is guilty of a misdemeanor.

133. Discharging oil upon navigable waters. Except in case of emergency imperiling life or property, or unavoidable accident, collision, or stranding, or as otherwise permitted by law, it is unlawful and constitutes a misdemeanor for any person to discharge, or suffer the discharge of oil by any methods, means, or manner, into or upon the navigable waters of the State from any vessel using oil as fuel for the generation of propulsion power, or any vessel carrying or having oil in excess of that necessary for its lubricating requirements, and such as may be required under the laws and prescribed rules and regulations of the United States and this State.

As used in this section, the term ''oil'' means oil of any kind or in any form, including fuel oil, oil sludge, and oil refuse, and the term, ''navigable waters of the State,'' means all portions of the sea within the territorial jurisdiction of the State, and all inland waters navigable in fact in which the tide ebbs and flows.

DIVISION 2. NAVIGATION

CHAPTER 2

268. Permits for boat races. (a) Counties or cities may adopt restrictions concerning the navigation and operation of vessels and water skis, aquaplanes, or similar devices subject to the provisions of subdivision (a) of Section 660, and may grant permits to bona fide yacht clubs, water ski clubs, or civic organizations to conduct vessel or water ski races or other marine events over courses established, marked, and patrolled by authority of the United States Coast Guard, city harbormaster, or other officer having authority over the waters on which such race or other marine event is

proposed to be conducted and on such days and between such hours as may be approved thereby. These provisions shall not apply to marine events authorized by United States Coast Guard Permit.

(b) The provisions of this section shall apply to all waters which are in fact navigable regardless of whether they are declared navigable by this code.

CHAPTER 4

300. Wilful vessel damage under 10 tons. Every person who wilfully and maliciously cuts, breaks, injures, sinks, or sets adrift any vessel of less than ten gross tons, which is the property of another, is guilty of a misdemeanor.

301. Wilful vessel damage over 10 tons. Every person who wilfully and maliciously cuts, breaks, or injures any vessel of ten gross tons and upwards, which is the property of another, is guilty of a misdemeanor.

302. Sinking or setting adrift; vessel over 10 tons. Every person who wilfully and maliciously sinks or sets adrift any vessel of ten gross tons and upwards, which is the property of another, is guilty of a felony.

304. Wrecking or sinking: by person in command. Every person in command or charge of any vessel, who, within this state, wilfully wrecks, sinks or otherwise injures or destroys it or any of its cargo, or wilfully permits the same to be wrecked, sunk, or otherwise injured or destroyed, with intent to prejudice or defraud any person, is punishable by imprisonment in the state prison for two, three, or four years.

305. Wrecking or sinking by person not in command. Every person, other than those embraced within the last section who is guilty of any act specified in that section, is punishable by imprisonment in the state prison.

307. Mooring to or destroying buoys. Every person who moors any vessel to, or hangs on with a vessel to, or who wilfully removes, damages or destroys, any buoy or beacon placed by competent authority in any navigable waters of this state, is guilty of a misdemeanor.

308. Mooring to or destroying federal buoy or beacon. Every person who moors any vessel of any kind, to any buoy or beacon placed in the waters of California by authority of the United States Coast Guard, or who in any manner hangs on to the same, with any vessel, or who willfully removes, damages, or destroys any such buoy or beacon, or any part thereof, or who cuts down, removes, damages, or destroys any beacon or beacons erected on land in this state by that authority, is, for every offense, guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment not exceeding six months.

DIVISION 3. VESSELS

CHAPTER 1. VESSELS GENERALLY

Article 1. General Provisions and Definitions

406. Subordination to federal law. Any and all rights and obligations created pursuant to the provisions of Chapter 2 (commencing with Section 450) of this division are subordinate to any superseding federal law.

Article 1.5. Vessel Repair

410. Definitions. As used in this article, the following definitions apply:

(a) ''Customer'' means any person who requests a repairperson to do work on a vessel which is in the possession of that person.

(b) ''Repairperson'' means any person engaged in the business of repairing vessels.

(c) ''Vessel'' means any vessel which is subject to registration with the Department of Motor Vehicles and which is manufactured or used for noncommercial purposes or is leased, rented, or chartered to another for noncommercial use.

411. Application. This article applies only to work done on a vessel with an estimated cost of one hundred dollars ($100) or more.

412. Limitation. Notwithstanding Section 502, a repairperson has no lien on a vessel under this article for compensation for services rendered to the vessel, unless the repairperson has complied with this article.

413. Authorization from customer. No repairperson shall commence work for compensation without specific authorization from the customer or his or her agent in accordance with all of the following requirements:

(a) The repairperson shall give to the customer either of the following:

(1) A written estimated price for labor and parts for a specific job.

(2) A written estimate of the maximum cost for a specific job which does not differentiate between labor and parts, but which shall not be exceeded by the actual cost of the job, including labor and parts.

No work shall be done or parts supplied in excess of, or different from, the original written estimate without the separate oral or written consent of the customer. If the consent is oral, the repairperson shall make a notation on the work order and on the invoice of the date, time, name of person authorizing the additional work or change in work, and the telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost.

(b) If it is necessary to disassemble a vessel or its component in order to prepare a written estimated price for required work, the repairperson shall first give the customer a written estimated price for the disassembly and reassembly. The estimate shall also include the cost of parts and necessary labor to replace items such as gaskets, seals, and O rings that are normally destroyed by disassembling the component. If the disassembling might prevent the restoration of the component to its former condition, the repairperson shall write that information on the work order containing the estimate before the work order is signed by the customer.

The repairperson shall inform the customer orally, and conspicuously in writing on the work order, of the maximum time it will take the repairperson to reassemble the vessel or its component if the customer elects not to proceed with the work. The repairperson shall not charge the customer for more time than the specified maximum time if the customer elects not to proceed with the work.

After the disassembling has been performed, the repairperson shall prepare a written estimated price for labor and parts necessary for the requested work. Before performing the requested work, the repairperson shall obtain the customer's authorization to either perform the work or to reassemble the vessel or its components.

(c) When the customer is unable to deliver the vessel to the repairperson during business hours, and the customer has requested the repairperson to take possession of the vessel for the purpose of performing work on the vessel or estimating the cost of the work, the repairperson shall not undertake work on the vessel for compensation unless the repairperson has done all of the following:

(1) The repairperson has prepared a work order stating the written estimated price for labor and parts necessary to perform the work.

(2) By telephone or otherwise, the customer has been given all of the information on the work order, and the customer has approved the work order.

(3) The customer has given oral or written authorization to the repairperson to make the repairs pursuant to the work order.

If the authorization is oral, the repairperson shall make, on both the work order and the invoice, a notation of the name of the customer, the date, the time, and the telephone number called, if any.

414. Completion of work. Any repairperson who gives an original estimate in good faith, shall not be obligated to complete a job within the quoted or written estimated price if additional, unforeseen work is necessary to complete the job and the customer refuses to consent to payment for the cost of that additional work.

415. Invoice requirement. All work done by a repairperson, including all warranty work, shall be recorded on an invoice and shall describe all work done and parts supplied.

Work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each.

If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt, or reconditioned parts, the invoice shall clearly state that fact.

One copy of the invoice shall be given to the customer and one copy shall be retained by the repairperson.

416. Invoice contents. The invoice shall show the repairperson's business name and address.

If the repairperson's telephone number is on the invoice, it shall be the telephone number that appears in any advertisement or on an advertising sign, and shall be the same number as that listed for the repairperson's firm name and address in the telephone directory, or on the telephone company records if the number is assigned to the repairperson subsequent to the publication of the telephone directory.

417. Time and materials basis. Notwithstanding Section 413, upon authorization from the customer as to a specific job, a repairperson may work on a vessel on a time and materials basis.

418. Exemptions. (a) This article does not apply to a vessel in distress which is in need of immediate work critical to its preservation and safety, for which consent cannot expeditiously be obtained.

(b) This section does not include any situation or accident caused to the vessel by the negligence or conduct of the repairperson or the repairperson's agent.

CHAPTER 2. CIVIL ACTIONS AND LIENS

Article 3. Actions Against Vessels

490. Debts contracted for benefit of vessels. Debts amounting to at least fifty dollars ($50), contracted for the benefit of vessels, are liens in the cases provided in Section 491.

Actions for any of the causes specified in Section 491 shall be brought against the owners by name, if known, but if not known, that fact shall be stated in the complaint, and the defendants shall be designated as unknown owners. Other persons having a lien upon the vessel may be made defendants to the action, the nature and amount of such lien being stated in the complaint.

491. Liability and liens for services, supplies, work, etc. All vessels are liable for:

(a) Services rendered on board at the request of, or under contract with, their respective owners, masters, agents, or consignees.

(b) Supplies furnished in this state for their use, at the request of their respective owners, masters, agents, or consignees.

(c) Work done or materials furnished in this state for their construction, repair, or equipment.

(d) Their wharfage and anchorage within this state.

(e) Breach of any contract for the transportation of persons or property between places within this state, made by their respective owners, masters, agents, or consignees.

(f) Injuries caused by them to persons or property, in this state. Demands for these several causes constitute liens upon all vessels, have priority in the order enumerated, and have preference over all other demands; but such liens only continue in force for the period of one year from the time the cause of action accrued.

492. Master's lien for advances made or liability incurred. The master of a vessel has a general lien, independent of possession, upon the vessel and freightage, for advances necessarily made or liability necessarily incurred by him for the benefit of the vessel, but he has no lien for wages.

493. Mate's and seamen's lien for wages. The mate and seamen of a vessel have a general lien, independent of possession, upon the vessel and freightage, for their wages, which is superior to every other lien.

494. Lien for cost of repairing or replacing buoy or beacon; recovery. The cost of repairing or replacing any buoy or beacon which is maintained by authority of the United States Bureau of Lighthouses which may be misplaced, damaged, or destroyed by any vessel being made fast to it, is, when the cost is legally ascertained, a lien upon the vessel, and is recoverable against it and its owner.

495. Lien complaint, summons and service. In any action brought pursuant to the provisions of this chapter, the complaint shall designate the vessel by name, and shall be verified by the oath of the plaintiff, or someone on his behalf.

The summons and copy of the complaint shall be served on the owners if they can be found; otherwise, they may be served on the master, mate, or person having charge of the vessel.

495.1. Attachment of vessel. Notwithstanding Section 483.010 of the Code of Civil Procedure, the plaintiff, at the time of issuing the summons, or at any time afterwards, may have the vessel, with its tackle, appurtenances, appliances, furnishings, and furniture, attached as security for the satisfaction of any judgment that may be recovered in the action. A writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure without the showing required by Section 485.010 of the Code of Civil Procedure.

495.3. Custody of vessel by sheriff, marshal or constable. The writ shall be directed to the sheriff of the county within which the vessel lies, or the marshal or constable of the court, and direct him to attach the vessel, with its tackle, appurtenances, appliances, furnishings, and furniture, and keep the same in his custody until discharged in due course of law.

495.4. Custody limitations concerning merchandise or baggage. The sheriff, marshal, or constable to whom the writ is directed and delivered shall execute it

without delay, and shall attach and keep in his custody the vessel, named therein, with its tackle, appurtenances, appliances, furnishings, and furniture, until discharged in due course of law; but the sheriff, marshal, or constable is not authorized by any such writ to interfere with the discharge of any merchandise on board of such vessel or with the removal of any trunks or other property of passengers, or of the captain, mate, seamen, steward, cook, or other persons employed on board.

495.5. Pleas by owner or on his behalf. The owner, or the master, agent, or consignee of the vessel, may, on behalf of the owner, appear and answer or plead to the action and may object to the undertaking filed on behalf of the plaintiff.

495.6. Discharge of attachment by deposit of sureties. After the attachment is levied, the owner, or the master, agent, or consignee of the vessel, may, in behalf of the owner, have the attachment discharged, upon filing with the court, subject to the provisions of Section 489.060 of the Code of Civil Procedure, an undertaking in an amount sufficient to satisfy the demand in the suit, besides costs. Upon receiving notice of the filing of the undertaking with the court, the sheriff, marshal, or constable shall restore to the owner, or the master, agent, or consignee of the owner, the vessel attached.

495.7. Discharge of attachment; other. After the appearance in the action of the owner, the attachment may, on motion, also be discharged in the same manner, and on like terms and conditions, as attachments in other cases, subject to the provisions of Section 495.9.

495.8. Execution of judgment, sale of vessel and distribution of proceeds. If the attachment is not discharged, and a judgment is recovered in the action in favor of the plaintiff, and an execution is issued thereon, the sheriff, marshal, or constable shall sell at public auction, after publication of notice pursuant to Section 6062 of the Government Code, the vessel, with its tackle, appurtenances, appliances, furnishings, and furniture, or such interest therein as may be necessary, and shall apply the proceeds of the sale as follows:

(a) When the action is brought for demands other than the wages of mariners, boatmen, and others employed in the service of the vessel sold, to the payment of the amount of such wages, as specified in the execution.

(b) To the payment of the judgment and costs, including his fees.

The sheriff, marshal, or constable shall pay any balance remaining to the owner, or to the master, agent, or consignee who may have appeared on behalf of the owner, or if there is no appearance, then into court, subject to the claim of any party or parties legally entitled thereto.

495.9. Mariner's wage claim, judgment costs, custody fees. Any mariner, boatman, or other person employed in the service of the vessel attached, who may wish to assert his claim for wages against the vessel, the attachments being issued for other demands than such wages, may file an affidavit of his claim, setting forth the amount and the particular service rendered, with the clerk of the court; and thereafter no attachment can be discharged upon filing an undertaking, unless the amount of such claim, or the amount determined as provided in Section 496, is covered thereby, in addition to the other requirements; and any execution issued against such vessel, upon judgment recovered thereafter shall direct the application of the proceeds of any sale:

(a) To the payment of the amount of such claims filed, or the amount determined, as provided in Section 496, which amount the clerk shall insert in the writ.

(b) To the payment of the judgment and costs, and sheriff's, marshal's, or constable's fees, and shall direct the payment of any balance to the owner, master, or

consignee, who may have appeared in the action; but if no appearance by them is made therein, it shall direct a deposit of the balance in court.

496. Referee concerning wage claims and court review. If the claim of the mariner, boatman, or other person filed with the clerk of the court, as provided in Section 495.9, is not contested within five days after notice of the filing thereof by the owner, master, agent, or consignee of the vessel against which the claim is filed, or by any creditor, it shall be deemed admitted; but if contested, the clerk shall indorse upon the affidavit thereof a statement that it is contested, and the grounds of the contest, and shall immediately thereafter order the matter to a single referee for his determination, or he may hear the proofs and determine the matter himself. The determination of the clerk or referee may be reviewed by a court in which the action is pending or a judge thereof immediately after such determination is made, and the judgment of the court or judge is final. On the review the court or judge may use the minutes of the evidence taken by the clerk or referee, or may take the evidence anew.

497. Notice of sale of vessel. The notice of sale published by the sheriff, marshal, or constable must contain a statement of the measurement and tonnage of the vessel and a general description of her condition.

Article 4. Boaters Lien Law

500. Citation. This article shall be known and may be cited as the ''Boaters Lien Law''.

501. Definitions. As used in this article:

(a) ''Department'' means the Department of Motor Vehicles or any successor agency thereto which registers vehicles.

(b) ''Mail'' means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(c) ''Services'' means the making of repairs or performing labor upon or to, and the furnishing of supplies or materials for, any vessel or any trailer used in connection with a vessel.

(d) ''Storage'' means the safekeeping, mooring, berthage, wharfage, or anchorage of a vessel and the providing of parking space for any trailer used in connection with the vessel.

(e) ''Vessel'' means every description of watercraft, other than a seaplane on the water or a floating home, used or capable of being used as a means of transportation on the water and required to be registered, excluding any vessel which has a valid marine document issued by the United States or any agency thereof. For the purposes of this article, ''vessel'' includes any trailer used in connection with the vessel which is in the possession of the lienholder at the time the lien arises.

501.3. Time of notice. The time a notice or statement is given or sent, unless otherwise expressly provided, means the time a written notice to a person is deposited in the United States mails; or the time any other written notice is personally delivered to the recipient.

501.5. Other laws affected. The possessory vessel lien procedures described by the provisions of this article shall supersede any local ordinance and shall provide the exclusive means of enforcing these liens. Nothing in this article shall be construed as affecting any maritime lien cognizable under any federal law.

502. Effective time, amount, and elimination of lien. (a) Except as provided in Article 1.5 (commencing with Section 410) of Chapter 1 of Division 3, every person has a lien dependent upon possession of the vessel for the compensation to which he

or she is legally entitled for services rendered to or storage of any vessel subject to registration with the Department of Motor Vehicles. The lien shall arise at the time a written statement of lien is sent to the registered owner of the vessel which specifies the charges for services or storage rendered and states that the vessel is subject to sale pursuant to the California Boater's Lien Law.

(b) Notwithstanding subdivision (a), no lien provided by this section for storage or service provided upon the request of any person other than the legal owner as shown on the registration certificate of the vessel shall be valid against the interest of the legal owner to the extent that the lien exceeds one thousand five hundred dollars ($1,500) unless the person performing the storage or service obtains the consent of the legal owner to the amount of the excess. The legal owner may limit his or her consent to a specified dollar amount or period of time. The lien claimant shall give actual notice in writing, prior to exceeding that amount, either by personal service or by registered mail to the legal and registered owner or owners as named and at the addresses as shown on the registration certificate, on a standard form provided by the department, containing a description of the storage or services, or both, a description and registration number of the vessel, the name of the registered owner or owners, the dollar amount or rate of the charges for the storage or services, and a statement in boldface type that, with respect to storage charges, consent of the legal owner shall be presumed unless the legal owner notifies the lien claimant within 15 days of receipt of the request for consent that he or she declines to consent to the storage. The lien claimant shall notify the legal owner as shown on the registration certificate of the vessel, by certified mail, that the vessel is subject to sale pursuant to the California Boater's Lien Law and that the lien claimed exceeds one thousand five hundred dollars ($1,500).

(c) Notwithstanding subdivision (b), any claim for the cost of services may exceed the estimate given therefor by an amount not in excess of 10 percent thereof and the lien of the lien claimant shall be valid against the legal owner to the full amount of such excess to the same extent as would be a lien for the original estimate.

(d) With respect to claims for storage charges, a legal owner shall be presumed to consent to storage charges if he or she fails to respond to the request for consent set forth in subdivision (b) within 15 days after receipt thereof, such response to be addressed to the lien claimant at the address stated in the request for consent. In addition, consent in all cases is presumed for the 30-day period immediately following the giving of the request for consent notice.

(e) The legal owner may, upon declining consent, remove the vessel from the lien claimant only upon satisfying the lien of the lien claimant.

(f) Any lien arising under this section shall be extinguished, and no lien sale shall be conducted unless, 60 days after the lien arises, the lienholder does either of the following:

(1) Applies to the department for an authorization to conduct a lien sale.

(2) Files an action on the claim in court.

(g) Nothing in this section shall impair any rights or remedies which are otherwise available to the lien claimant against the registered owner under any other provisions of law.

503. Authorization to conduct lien sale of vessels valued at more than $1,500.

(a) A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to the provisions of this section for any vessel with a value determined to be over one thousand five hundred dollars ($1,500). A fee shall be charged by the department and may be recovered by the lienholder if a lien sale is

conducted or if the vessel is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

(1) A description of the vessel, including make, hull identification number, and state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of the vessel, if ascertainable from the registration certificate within the vessel, and the name and address of any person whom the lienholder knows or reasonably should know claims a proprietary interest in the vessel.

(3) A statement of the amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(b) Upon receipt of an application made pursuant to subdivision (a), the department shall within 15 days thereafter do the following:

(1) Notify the vessel registry agency of a foreign state of the pending lien sale, if the vessel bears indicia of registration in that state.

(2) By mail, send a notice, a copy of the application, and a return envelope preaddressed to the department to the registered and legal owners at their addresses of record with the department, and to any other person whose name and address is listed in the application.

(3) A vessel registration stop order or title transfer stop order shall be applied by the department at the time the lien claimant requests authorization to conduct the sale.

(4) Notify the applicant of any outstanding property tax lien on the vessel of which the department has been notified pursuant to subdivision (b) of Section 3205 of the Revenue and Taxation Code. The notice required by this paragraph shall identify the county in which any outstanding lien is held.

(c) The notice required pursuant to subdivision (b) shall include all of the following statements:

(1) An application has been made with the department for authorization to conduct a lien sale and the department has placed a vessel registration stop order or title transfer stop order on the vessel.

(2) Each person to whom notice is sent pursuant to subdivision (b) is entitled to a hearing in court if that person so desires.

(3) If a hearing in court is desired, a declaration of opposition, signed under penalty of perjury, is required to be signed and returned to the department within 15 days of the date that the notice required pursuant to subdivision (b) was mailed.

(4) If the declaration of opposition is signed and returned to the department, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or a subsequent release from the declarant.

(5) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(6) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the declaration of opposition in the time provided, the department shall notify the lienholder within 16 days of the receipt of the declaration of opposition that a lien sale shall not be conducted unless the lienholder files an action in court within 60 days of the notice. A lien sale of the vessel shall not be conducted unless judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vessel.

(e) Service of legal process on the declarant, with return receipt requested signed by the declarant or an authorized agent of the declarant at the address shown on the

declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. Notwithstanding subdivision (d) of Section 415.3 of the Code of Civil Procedure, if the lienholder has attempted service upon declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the department shall promptly authorize the sale.

(f) Upon receipt of authorization to conduct the lien sale, the lienholder shall do all of the following:

(1) At least 10 days, but not more than 30 days, prior to the lien sale, not counting the day of the sale, give notice of the sale by advertising once in a newspaper of general circulation published in the county in which the vessel is located. If there is no newspaper published in the county, notice shall be given by posting a notice of sale form in three of the most public places in the area in which the vessel is located and at the place where the vessel is to be sold for 10 consecutive days prior to and including the day of the sale.

(2) Send a notice of pending lien sale 20 days prior to the sale, but not counting the day of sale, by mail with return receipt requested, to each of the following:

(A) The registered and legal owners of the vessel, if registered in this state.

(B) All persons known to have an interest in the vessel.

(C) The department.

(g) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(h) All notices required by this section, including the notice forms prescribed by the department, shall specify the make, hull identification number, and state of registration, if available, and the specific date, exact time, and place of sale.

504. Lien sale procedures for vessels valued at $1,500 or less. (a) For vessel with a value determined to be one thousand five hundred dollars ($1,500) or less, the department shall promptly furnish the lienholder with the names and addresses of the registered and legal owners of record.

(b) The lienholder shall, immediately upon receipt of the names and addresses, send by mail, with return receipt requested, a completed notice of pending lien sale form, a blank declaration of opposition form, and a return envelope preaddressed to the department, to the registered owner and legal owner at their addresses of record with the department, to any other person known to have a proprietary interest in the vessel, and to the department.

(c) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(d) All notices shall be signed under penalty of perjury and shall include all of the following information and statements:

(1) A description of the vessel, including make, identification number, and state of registration, to the extent available.

(2) The specific date, exact time, and place of sale, which shall be set not less then 35 days, but not more than 60 days, from the date of mailing.

(3) The names and addresses of the registered and legal owners of the vessel and any other person known to have an interest in the vessel.

(4) All of the following statements:

(A) The amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(B) The person has a right to a hearing in court.

(C) If a court hearing is desired, a declaration of opposition signed under penalty of perjury is required to be signed and returned to the department within 15 days of the date the notice of pending lien sale was mailed.

(D) If the declaration of opposition is signed and returned, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant.

(E) If a court action if filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(F) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(e) If the department receives the completed declaration of opposition within the time provided, the department shall notify the lienholder within 16 days that a lien sale shall not be conducted unless the lienholder files an action in court within 20 days of the notice and judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his interest in the vessel.

(f) Service on the declarant by mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. If the lienholder has attempted service upon the declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the lienholder may proceed with the sale.

505. Release of owner's interest. (a) A registered or legal owner of a vessel may release any interest in the vessel after the lien has arisen. The release shall be dated when signed and a copy shall be given at the time the release is signed to the person releasing the interest.

(b) The release shall be in at least 12-point type and shall contain all of the following information in simple, nontechnical language:

(1) A description of the vessel, including the make, the identification number, and the state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of record with the department, to the extent available.

(3) A statement of the amount of the lien and the facts which give rise to the lien.

(4) A statement that the person releasing the interest understands that (i) he or she has a legal right to a hearing in court prior to any sale of the vessel to satisfy the lien and (ii) he or she is giving up the right to appear to contest the claim of the lienholder.

(5) A statement that (i) the person releasing the interest gives up any interest he or she may have in the vessel and (ii) he or she is giving the lienholder permission to sell the vessel.

(c) The release required by this section shall be filed with the department in connection with any transfer of interest in a vessel following a lien sale.

505.5. Unlawful practices. (a) Whenever the lien upon any vessel is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vessel by the former lienholder claimant revives the lien but any lien so revived is subordinate to any right, title, or interest of any person under any sale, transfer,

encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vessel or any part thereof subject to a lien pursuant to the provisions of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vessel to knowingly violate any provisions of this article.

506. Vessel available for inspection. No lien sale shall be undertaken pursuant to Section 503 or 504 unless the vessel has been available for inspection at a location easily accessible to the public for at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner.

506.5. Owner redemption of vessel. Within 10 days after the sale of any vessel pursuant to the provisions of Section 503 or 504, the legal or registered owner may redeem the vessel upon the payment of the amount of the lien, all costs and expenses of the lien, together with interest on that sum at the legal rate from the due date thereof until the repayment. If the vessel is not redeemed, all lien sale documents required by the department to effect transfer of title shall then be completed and delivered to the buyer.

507. Fair market value declaration. (a) Except as provided in subdivision (b), at the time a lienholder applies to the department to conduct a sale under Section 504, the lienholder shall submit with the application a declaration by a licensed yacht and ship broker of the fair market value of the described vessel at a specific date within 30 days of that submission. The opinion need not be based upon a marine survey, but shall be based on a physical inspection of the vessel. No cause of action shall lie against the declarant on account of the opinion given.

(b) The declaration specified in subdivision (a) is not required if a public agency removes an abandoned vessel, or arranges, by contract, for the removal of the vessel, from a highway or from public or private property.

(1) For lien sale purposes, the public agency which removed the vessel, or arranged for the removal, shall determine if the estimated value of the vessel that has been ordered removed or stored is one thousand five hundred dollars ($1,500) or less.

(2) If the public agency fails or refuses to determine the estimated value of the vessel within three days after the date of removal of the vessel, the lienholder or the lienholder's agent shall determine, under penalty of perjury, if the estimated value of the vessel that has been ordered removed or stored is one thousand five hundred dollars ($1,500) or less.

507.5. Distribution of proceeds of sale. The proceeds of a vessel lien sale shall be disposed of as follows:

(a) The amount necessary to discharge the lien and the actual cost of selling the vessel shall be paid to the lienholder. Actual cost of sale shall include any fees charged by the department, publication fees, postage and service of notices, whether incurred as a result of a sale or redemption by the registered or legal owner without a sale. The actual cost of sale shall not exceed one hundred dollars ($100) for a vessel without a trailer and one hundred twenty-five dollars ($125) for a vessel with a trailer, exclusive of the charges of the department.

(b) The balance, if any, shall be forwarded to the department within 15 days of any sale. Within 30 days thereafter, the department shall send notice of the receipt of the funds, if the amount thereof exceeds ten dollars ($10), to the legal and registered owners at the most current addresses shown in the department's records.

(c) Any person claiming an interest in the vessel may file a claim with the department for any portion of the funds forwarded to the department pursuant to subdivision (b). Upon determination of the department that the claimant is entitled to a portion of those funds, the department shall pay any entitled amount which does not exceed the balance of the funds remaining on deposit with the department that pertain to the vessel. The department shall not honor any claim unless the claim has been filed within three years of the date the funds were received. At the end of each fiscal year the department shall deposit in the Harbors and Watercraft Revolving Fund all funds held by it for which no claim was filed within the three-year period.

508. Requirements for assignment of lien. Any lien provided for in this article for repairs, labor, supplies, or materials, or for storage or safekeeping of a vessel may be assigned by written instrument accompanied by delivery of possession of the vessel subject to the lien, and the assignee may exercise the rights of a lienholder as provided in this article. Any lienholder assigning a lien as authorized in this section shall at the time of assigning the lien give written notice of the assignment either by personal delivery or by certified mail, to the registered and legal owners of the vessel, indicating the name and address of the person to whom the lien is assigned.

508.5. Department forms. All forms required pursuant to this article shall be prescribed by the department. Language used in the notices and declarations shall be simple and nontechnical.

509. Personal property. No lien shall attach to any personal property in or on the vessel except that which is carried on the vessel for lifesavings, safety, mooring, and operating purposes. Personal property not subject to lien shall be given to the registered owner or the owner's authorized agent upon demand.

CHAPTER 3. WRECKS AND SALVAGE

Article 1. Wrecks and wrecked property

510. Duties of sheriff and citizens. The sheriff of each county shall give all possible aid and assistance to vessels stranded on its coast, and to the persons on board. He shall exert himself to save and preserve such persons, vessels, and their cargoes, and all goods and merchandise which may be cast by the sea upon the land, and to this end he may employ as many persons as he may think proper. All citizens shall aid the sheriff when required.

511. Reclamation by owners. Wrecked property may be kept or reclaimed at the time of the wreck by the owner, consignee, or other person entitled to possession; but if any person has a just claim for salvage and necessary expenses incurred in saving it, the claim shall be paid before the property can be reclaimed.

512. Possession by sheriff until owner found. The sheriff of any county in which any wrecked property is found, when no person entitled to possession appears, shall take possession of it in the name of the people, cause its value to be appraised by disinterested persons, and keep it in some safe place to answer the owner's claims.

513. Perishable property. If wrecked property is in a perishable state, the sheriff shall apply to the judge of the superior court, upon a verified petition, for an order authorizing the sheriff to sell it. If the judge is satisfied that a sale of the property would be beneficial to the persons interested, he or she shall make the order applied for, and the property shall then be sold at public auction, as specified in the order. The proceeds, deducting the expenses of salvage, storage, and sale as settled and allowed by the judge, shall be transmitted to the Treasurer for deposit in the General Fund.

514. Order for surrender to claimant. If, within 90 days after wrecked property is found, any person claims the property, or its proceeds, and establishes his or her claim by evidence satisfactory to the judge of the superior court, the judge shall make an order directing the officer in whose possession the property or its proceeds may be, to deliver it to the claimant, upon the payment of a reasonable salvage and the necessary expenses of preservation.

515. Bond required by claimant. Before making the order, the judge shall require from the claimant a bond to the people to be approved by the judge and filed with the county clerk, in a penalty double the value of the property or proceeds. The bond shall be conditioned upon the payment of all damages that may be recovered against the claimant or the claimant's representatives, within three years after its date, by any person establishing title to the property or proceeds.

516. Action on bond. If the bond becomes forfeited, the judge of the superior court, upon the application, supported by proof of the person entitled to its benefit shall make an order for its prosecution for such person's benefit, and at his risk and expense.

517. Action by claimant although claim rejected. The rejection by the judge of any claim shall not preclude the claimant from maintaining an action against the officer for the recovery of the property or its proceeds. If the plaintiff prevails, there shall be deducted from the damages, in addition to salvage and expenses, all the defendant's costs.

518. Sale of wrecked property. If, within 90 days after saving wrecked property, no claimant of the property appears, or, if within 60 days after a claim, the salvage and expenses are not paid, or a suit for the recovery of the property is not commenced, the officer who has custody of the property may sell it at public auction and transmit the proceeds of the sale, after deducting salvage, storage, property tax liens, other liens, and other expenses, to the Treasurer for deposit in the General Fund. Deduction of salvage, storage, and other expenses shall not be made, unless the amount has been determined by the superior court of the county. A copy of the order, and the evidence in its support, shall be transmitted by the judge to the Controller.

519. Notice of Sale. Public notice of every sale of wrecked property under the provisions of this article shall be published by the officer making the sale for at least two weeks in succession in one or more newspapers printed in the county, or if none is printed in the county, then by written or printed notices posted in three of the most public places in the county at least fifteen days previous to the sale. Every notice shall state the time and place of the sale and contain a particular description of the property to be sold.

520. Notice of wrecked property in sheriff's possession. Every sheriff into whose possession any wrecked property comes, shall forthwith cause to be published for at least two weeks in succession, in one or more of the newspapers printed in this State, a notice directed to all persons interested. The notice shall contain a minute description of the property, and of every bale, box, case, piece, or parcel, and the marks, brands, letters and figures on each. It shall state:

(a) Where the property then is and its actual condition.
(b) The name, if known, of the vessel from which it came.
(c) The names of its master and supercargo.
(d) The place where the vessel then is, and its actual condition.

521. Expense of publishing notices. The expense of publishing notices under the provisions of this article is a charge upon the property or proceeds to which it relates.

522. Abandoned vessel on public property. (a) Any hulk, derelict, wreck, or parts of any ship, vessel, or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within the corporate limits of any municipal corporation or other public corporation or entity having jurisdiction or control over those lands, without its consent expressed by resolution of its legislative body, for a period longer than 30 days without a watchman or other person being maintained upon or near and in charge of the property, is abandoned property.

Thereafter, that municipal corporation or other public corporation or entity may, notwithstanding any other provision of law, take title to the abandoned property for purposes of abatement without satisfying any property tax lien on that property, and also may cause the property to be sold, destroyed, or otherwise disposed of in any manner it determines is expedient or convenient. Any property tax lien on the abandoned property shall be satisfied within 30 days following the sale of the abandoned property by a municipal corporation or public entity. Any sale in accordance with this section shall vest complete title in the purchaser who shall forthwith take steps to remove the property. Any proceeds derived from the sale shall be transmitted to the Treasurer for deposit in the General Fund.

(b) However, if the owner of the property securely affixes to the property a notice in plain view setting forth the owner's name and address and claim of ownership, together with the name and address of an agent or representative whom the owner may designate to act within the State of California if the owner does not reside in the state, and files a copy of the notice with the secretary of the municipal corporation or other public corporation or entity having jurisdiction or control over the lands at least 10 days prior to the removal, the municipal corporation or other public corporation or entity may not sell, destroy, or otherwise dispose of the property until the corporation or entity has first given the owner or the owner's agent, at the address specified in the claim of ownership, 15 days' notice to remove or cause the property to be removed, and then only if the property is not removed by the owner or the owner's agent within that time or reasonable extensions of time as the corporation or entity may grant by resolution. If a registration number appears on the watercraft, the municipal corporation or other public corporation or entity shall send the notice to the last registered owner and the disposition shall be handled as a lien sale under Section 504.

(c) Any municipal corporation or other public corporation may charge a fee to any person who is determined by that municipal or other public corporation to have caused property of a type described in subdivision (a) to become abandoned as described in that subdivision within its corporate limits, in an amount not to exceed the amount of that municipal or other public corporation's actual and reasonable costs incurred pursuant to this section with respect to the abandoned property.

523. Remove vessel from public waterway. (a) Any peace officer, as described in Section 663, any employee or officer of the State Lands Commission designated by the State Lands Commission, or any lifeguard or marine safety officer employed by a county, city, or district while engaged in the performance of official duties, may remove, and, if necessary, store a vessel removed from a public waterway under any of the following circumstances:

(1) When the vessel is left unattended and is moored, docked, beached, or made fast to land in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other vessels using the waterway, to public safety, or to the property of another.

(2) When the vessel is found upon a waterway and a report has previously been made that the vessel has been stolen or a complaint has been filed and a warrant thereon issued charging that the vessel has been embezzled.

(3) When the person or persons in charge of the vessel are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(4) When an officer arrests any person operating or in control of the vessel for an alleged offense, and the officer is, by any provision of this code or other statute, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(5) When the vessel interferes with, or otherwise poses a danger to, navigation or to the public health, safety, or welfare.

(6) When the vessel poses a threat to adjacent wetlands, levies, sensitive habitat, any protected wildlife species, or water quality.

(b) Costs incurred by a public entity pursuant to removal of vessels under subdivision (a) may be recovered through appropriate action in the courts of this state.

524. Remove vessel from private property. (a) Any peace officer, as described in Section 663, may store any vessel removed from private property when the vessel is found on, or attached to, private property and a report has previously been made that the vessel has been stolen or a complaint has been filed and a warrant thereon issued charging that the vessel has been embezzled.

(b) Any peace officer, as described in Section 663, may, after a reasonable period of time, remove a vessel from private property if the vessel has been involved in, and left at, the scene of a boating accident and no owner is available to grant permission to remove the vessel. This subdivision does not authorize the removal of a vessel if the owner has been contacted and has refused to grant permission to remove the vessel.

(c) Nothing in this section is intended to expand the territorial jurisdiction of peace officers beyond the provisions of Sections 830.1 and 830.2 of the Penal Code.

525. Abandoned vessel, grants. (a) Except for urgent and immediate concern for the safety of those aboard a vessel, no person shall abandon a vessel upon a public waterway or public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(b) The abandonment of any vessel in a manner as provided in subdivision (a) is prima facie evidence that the last registered owner of record, not having notified the appropriate registration or documenting agency of any relinquishment of title or interest therein, is responsible for the abandonment and is thereby liable for the cost of removal and disposition of the vessel.

(c) Violation of this section is an infraction and shall be punished by a fine of not less than five hundred dollars ($500), nor more than one thousand five hundred dollars ($1,500).

(d) All fines imposed and collected pursuant to this section shall be allocated as follows:

(1) (A) Eighty percent of the moneys shall be deposited in the Abandoned Watercraft Abatement Fund, which is hereby created as a special fund. Moneys in the fund shall be used exclusively, upon appropriation by the Legislature, for grants to be awarded by the department to local agencies for the abatement, removal, storage, and disposal as public nuisances of any abandoned, wrecked, or dismantled vessels, or parts thereof, or any other partially submerged objects which pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent. These grants shall not be utilized for abatement, removal, storage, or disposal of commercial vessels.

(B) In evaluating a grant request submitted by a local agency pursuant to subparagraph (A), the department shall place great weight on the following two factors:

(i) The existence of an active local enforcement program to control and prevent the abandonment of watercraft within the local agency's jurisdiction.

(ii) The existence of a submerged navigational hazard abatement plan at the local level which provides for the control or abatement of water hazards, including, but not limited to, abandoned watercraft, wrecked watercraft, hazardous floating debris, submerged vessels and objects, and abandoned piers and pilings.

(C) A grant awarded by the department pursuant to subparagraph (A) shall be matched by a 10-percent contribution from the local agency receiving the grant.

(2) Twenty percent shall be allocated as set forth in Section 1463.001 of the Penal Code.

526. Sale or disposal of wrecked or abandoned property. (a) Notwithstanding any other provision of law, any wrecked property, or abandoned property as described in Section 522, or property removed from a navigable waterway pursuant to Section 523 or 524, may be sold or otherwise disposed of by the public agency that removed or caused the removal of the property pursuant to this section, subject to the following conditions:

(1) The property has been appraised by disinterested persons, and has an estimated value of less than three hundred dollars ($300).

(2) There is no discernable registration, license, hull identification number, or other identifying insignia on the property, or the Department of Motor Vehicles is unable to produce any record of the registered or legal owners or lienholders.

(3) Not less than 72 hours before the property was removed, the peace officer or authorized public employee securely attached to the property a distinctive notice stating that the property would be removed by the public agency.

(4) Within 48 hours after the removal, excluding weekends and holidays, the public agency that removed or caused the removal of the property sent notice of the removal to the registered and legal owners, if known or discovered subsequent to the removal, at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the property. A notice sent by the public agency shall be sent by certified or first-class mail.

(5) If the public agency is unable to locate the registered and legal owners of the property or persons known to have an interest in the property as provided in paragraph (4), the public agency published, or caused to be published, the notice of removal for at least two weeks in succession in one or more daily newspapers circulated in the county.

(b) The notice of removal required by paragraphs (3) to (5), inclusive, of subdivision (a) shall state all of the following:

(1) The name, address, and telephone number of the public agency providing the notice.

(2) A description of the property removed.

(3) The location from which the property is to be or was removed.

(4) The location of the intended or actual place of storage.

(5) The authority and purpose for removal of the property.

(6) A statement that the property may be claimed and recovered within 15 days of the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, after payment of any costs incurred by the public

agency related to salvage and storage of the property, and that following the expiration of the 15-day period, the property will be sold or otherwise disposed of by the public agency.

(7) A statement that the registered or legal owners or any other person known to have an interest in the property have the opportunity for a poststorage hearing before the public agency that removed, or caused the removal of, the property to determine the validity of the removal and storage if a request for a hearing is made in person or in writing to that public agency within 10 days from the date of notice; that if the registered or legal owners or any other person known to have an interest in the property disagree with the decision of the public agency, the decision may be reviewed pursuant to Section 11523 of the Government Code; and that during the time of the initial hearing, or during the time the decision is being reviewed pursuant to Section 11523 of the Government Code, the vessel in question shall not be sold or otherwise disposed of.

(c) (1) Any requested hearing shall be conducted within 48 hours of the time the request for a hearing is received by the public agency, excluding weekends and holidays. The public agency that removed the vehicle may authorize its own officers or employees to conduct the hearing but the hearing officer shall not be the same person who directed the removal and storage of the property.

(2) The failure of either the registered or legal owners or any other person known to have an interest in the property to request or attend a scheduled hearing shall not affect the validity of the hearing.

(d) The property may be claimed and recovered by its registered and legal owners, or by any other person known to have an interest in the property, within 15 days of the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, after payment of any costs incurred by the public agency related to salvage and storage of the property.

(e) The property may be sold or otherwise disposed of by the public agency not less than 15 days from the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, or the date of actual removal, whichever is later.

(f) The proceeds from the sale of the property, after deducting expenses for salvage, storage, sales costs, and any property tax liens, shall be deposited in the Abandoned Watercraft Abatement Fund for grants to local agencies, as specified in paragraph (1) of subdivision (d) of Section 525.

(g) It is the intent of the Legislature that this section shall not be construed to authorize the lien sale or destruction of any seaworthy vessel that is currently registered and operated in accordance with local, state, and federal law.

527. Legislative Intent, Abandoned Watercraft Revolving Fund. It is the intent of the Legislature that a sum of not more than one million dollars ($1,000,000) be appropriated from the Harbors and Watercraft Revolving Fund to the Abandoned Watercraft Abatement Fund for grants to local agencies pursuant to paragraph (1) of subdivision (d) of Section 525 in each fiscal year and that grants from the Abandoned Watercraft Abatement Fund be matched by not less than a 10-percent contribution from the local agency receiving the grant.

Article 4. Offenses

571. Taking of wrecked property. Any person who takes away any goods from any stranded vessel, or any goods cast by the sea upon the land, or found in any bay or creek, or who knowingly has in his possession any goods so taken or found, and does not deliver them to the sheriff of the county where they were found, or notify him

of his readiness to do so within thirty days after they have been taken by him or have come into his possession, is guilty of a misdemeanor.

CHAPTER 4.5. MARINAS

630. Submetering of electrical power. The operator of every privately or publicly owned marina or small craft harbor, or facilities in connection therewith, furnishing electrical power to slips or berths for use aboard any vessel, may provide facilities for submetering to measure the electrical power actually used by or aboard each vessel and may base charges therefor upon that use including the actual cost of inspection, testing, and registration of submeters that may be charged by any authority having jurisdiction thereof.

CHAPTER 5. OPERATION AND EQUIPMENT OF VESSELS

Article 1. Operation and Equipment

650. Policy. It is the policy of this state to promote safety of persons and property in and connected with the use and equipment of vessels and to promote uniformity of laws relating thereto.

650.1. Application. (a) This chapter shall apply to vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this state.

(b) This chapter, except those sections which expressly indicate otherwise, shall not apply to the following:

(1) Foreign vessels temporarily using waters subject to state jurisdiction.

(2) Military or public vessels of the United States, except recreational-type public vessels.

(3) A vessel whose owner is a state or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such.

(4) Ship's lifeboats.

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

(a) ''Alcohol'' means any form or derivative of ethyl alcohol (ethanol).

(b) ''Alcohol concentration'' means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(c) ''Associated equipment'' means any of the following, excluding radio equipment:

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of the system, part, or component.

(2) Any accessory or equipment for, or appurtenance to, a boat.

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

(d) ''Boat'' means any vessel that is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

(e) ''Chemical test'' means a test that analyzes an individual's breath, blood, or urine, for evidence of drug or alcohol use.

(f) ''Controlled substance'' means controlled substance as defined in Section 11007 of the Health and Safety Code.

(g) ''Department'' means the Department of Boating and Waterways.

(h) ''Director'' means the Director of Boating and Waterways.

(i) ''Drug'' means any substance or combination of substances other than alcohol which could so affect the nervous system, brain, or muscles of a person as to impair to an appreciable degree his or her ability to operate a vessel in the manner that an ordinarily prudent person, in full possession of his or her faculties, using reasonable care, would operate a similar vessel under like conditions.

(j) ''Intoxicant'' means any form of alcohol, drug, or combination thereof.

(k) ''Legal owner'' is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district, or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(*l*) ''Manufacturer'' means any person engaged in any of the following:

(1) The manufacture, construction, or assembly of boats or associated equipment.

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(3) The importation into this state for sale of boats, associated equipment, or components thereof.

(m) ''Marine employer'' means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

(n) ''Motorboat'' means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel that has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(o) ''Operator'' means the person on board who is steering the vessel while underway.

(p) ''Owner'' is a person having all the incidents of ownership, including the legal title, of a vessel whether or not that person lends, rents, or pledges the vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. ''Owner'' does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(q) ''Passenger'' means every person carried on board a vessel other than any of the following:

(1) The owner or his or her representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his or her carriage.

(r) ''Person'' means an individual, partnership, firm, corporation, limited liability company, association, or other entity, but does not include the United States, the state, or a municipality or subdivision thereof.

(s) ''Personal watercraft'' means a vessel 13 feet in length or less, propelled by machinery, that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(t) ''Recreational vessel'' means a vessel that is being used only for pleasure.

(u) ''Registered owner'' is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(v) ''Special-use area'' means all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities.

(w) ''State'' means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(x) ''State of principal use'' means the state on which waters a vessel is used or intended to be used most during a calendar year.

(y) ''Undocumented vessel'' means any vessel that is not required to have, and does not have, a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(z) ''Use'' means operate, navigate, or employ.

(aa) ''Vessel'' includes every description of watercraft used or capable of being used as a means of transportation on water, except either of the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.

(bb) ''Water skis, an aquaplane, or a similar device'' includes all forms of water skiing, barefoot skiing, skiing on skim boards, knee boards, or other contrivances, parasailing, ski kiting, or any activity where a person is towed behind or alongside a boat.

(cc) ''Waters of this state'' means any waters within the territorial limits of this state.

651.1. Bather definition. As used in this chapter, unless the context clearly requires a different meaning, ''bather'' or ''bathing'' means a person floating, swimming, wading, or bodysurfing, with or without the use of a flotation device, including, but not limited to, floating upon or with the aid of a surfboard, paddle board, surfmat, innertube, life preserver, or air mattress, except a flotation device which is designed to be propelled by sail, mechanical means, power, oars, or paddle.

651.5. Guidelines for safe vessel operation. The Department of Motor Vehicles shall provide every person who originally registers, or who acquires the ownership certificate of a vessel required to be numbered pursuant to Division 3.5 (commencing with Section 9840) of the Vehicle Code with a copy of guidelines for safe vessel operation prepared by the Department of Boating and Waterways.

652. Required equipment, departmental powers, termination. (a) The department may issue regulations:

(1) Establishing minimum safety standards for boats and associated equipment.

(2) Requiring the installation, carrying, or using of associated equipment.

(3) Prohibiting the installation, carrying, or using of associated equipment which does not conform with safety standards established pursuant to this chapter.

(b) The regulations shall conform with the federal navigation laws or with the navigation rules promulgated by the United States Coast Guard, or any successor thereto.

(c) No person or public agency shall use or give permission for the use of a vessel which does not carry the equipment or meet the standards established pursuant to this chapter.

(d) A peace officer or harbor police officer authorized to enforce this chapter may order the termination of the operation of a vessel which is found to be unsafe for operation pursuant to Section 6550.5 of Title 14 of the California Code of Regulations. A violation of an order under this subdivision is a misdemeanor.

652.5. Lights for enforcement vessels. (a) The use of a distinctive blue light as prescribed by the department is reserved for law enforcement vessels and may be displayed during the day or night whenever the vessel may be engaged in direct law enforcement activities, including, but not limited to, those activities specified in subdivision (a) of Section 663.7, where identification of a law enforcement vessel is desirable or where necessary for safety reasons.

(b) That light when used shall be in addition to prescribed lights and day signals required by law.

(c) The display of such blue lights on vessels for other purposes is prohibited.

(d) Any vessel approaching, overtaking, being approached, or being overtaken by a moving law enforcement vessel operating with a siren or an illuminated blue light, or any vessel approaching a stationary law enforcement vessel displaying an illuminated blue light, shall immediately slow to a speed sufficient to maintain steerage only, shall alter its course, within its ability, so as not to inhibit or interfere with the operation of the law enforcement vessel, and shall proceed, unless otherwise directed by the operator of the law enforcement vessel, at the reduced speed until beyond the area of operation of the law enforcmenet vessel.

(e) The operator of every cable ferry shall take whatever reasonable action is necessary to provide a clear course for any law enforcement vessel operating with a siren or an illuminated blue light, or both.

654. Muffler requirements. The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled at all times to prevent any excessive or unusual noise and as may be necessary to comply with the provisions of Section 654.05.

The provisions of this section shall not apply to motorboats competing under a local public entity or United States Coast Guard permit in a regatta, in a boat race, while on trial runs, or while on official trials for speed records during the time and in the designated area authorized by the permit. In addition, this section shall not apply to motorboats preparing for a race or regatta if authorized by a permit issued by the local entity having jurisdiction over the area where the preparations will occur.

654.05. Motorboat noise. No person shall operate any motorboat in or upon the inland waters of this state in such a manner as to exceed the following noise levels:

(a) For engines manufactured before January 1, 1976, a noise level of 86 dbA measured at a distance of 50 feet from the motorboat.

(b) For engines manufactured on or after January 1, 1976, and before January 1, 1978, a noise level of 84 dbA measured at a distance of 50 feet from the motorboat.

(c) For engines manufactured on or after January 1, 1978, a noise level of 82 dbA measured at a distance of 50 feet from the motorboat.

(d) Testing procedures employed to determine such noise levels shall be in accordance with the exterior sound level measurement procedure for pleasure motorboats recommended by the Society of Automotive Engineers in its recommended practice designated SAEJ34. The department may, by regulation, amend such testing procedures when deemed necessary to adjust to advances in technology.

The provisions of this section shall not apply to motorboats competing under a local public entity or United States Coast Guard permit in a regatta, in a boat race, while on trial runs, or while on official trials for speed records during the time and in the designated area authorized by the permit. In addition, this section shall not apply to motorboats preparing for a race or regatta if authorized by a permit issued by the local entity having jurisdiction over the area where the preparations will occur.

654.06. Sale of engine at retail, restriction. No person shall sell or offer for sale at retail any internal combustion engine for use on any motorboat which, when operated, exceeds the following noise levels:

(a) For engines manufactured on or after January 1, 1974, and before January 1, 1976, a noise level of 86 dbA measured at a distance of 50 feet from the motorboat.

(b) For engines manufactured on or after January 1, 1976, and before January 1, 1978, a noise level of 84 dbA measured at a distance of 50 feet from the motorboat.

(c) For engines manufactured on or after January 1, 1978, a noise level of 82 dbA measured at a distance of 50 feet from the motorboat.

654.1. Shoreside facilities for servicing holding tanks in vessels. Boating facilities constructed with funds derived from the state shall be required as a condition for the receipt of such funds to provide shoreside facilities for purposes of emptying waste matter holding tanks from vessels in accordance with needs and standards as established by the department.

654.3. Commercial diesel powered vessels. (a) Each diesel powered vessel operating exclusively in California, engaged in the commercial transport of passengers with the capacity to transport 75 passengers or more, shall use only California diesel fuel formulated as specified in Sections 2281 and 2282 of Title 13 of the California Code of Regulations.

(b) This section shall become operative on January 1, 2003.

654.5. Throwing object at vessel. Any person who maliciously throws, hurls, or projects any object by manual, mechanical, or other means at a vessel or any occupant of a vessel on any of the waters within or bordering on this state, which act does not constitute a violation of either Section 242 or 594 of the Penal Code, is guilty of a misdemeanor, and upon first conviction the punishment shall be a fine not to exceed one hundred dollars ($100) or imprisonment in the county jail not to exceed 30 days, or both that fine and imprisonment. Upon a second or subsequent conviction, the punishment shall be a fine of not to exceed two hundred fifty dollars ($250) or imprisonment in the county jail not to exceed 60 days, or both that fine and imprisonment.

655. Reckless, negligent operation; influence of alcohol or drugs; U.S. Coast Guard. (a) No person shall use any vessel or manipulate water skis, an aquaplane, or a similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner that will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug.

(c) No person shall operate any recreational vessel or manipulate any water skis, aquaplane, or similar device if the person has an alcohol concentration of 0.08 percent or more in his or her blood.

(d) No person shall operate any vessel other than a recreational vessel if the person has an alcohol concentration of 0.04 percent or more in his or her blood.

(e) No person shall operate any vessel, or manipulate water skis, an aquaplane, or a similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(f) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or under the combined influence of an alcoholic beverage and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(g) Notwithstanding any other provision of law, information, verbal or otherwise, which is obtained from a commissioned, warrant, or petty officer of the United States Coast Guard who directly observed the offense may be used as the sole basis for establishing the necessary reasonable cause for a peace officer of this state to make an arrest pursuant to the United States Constitution, the California Constitution, and Section 836 of the Penal Code for violations of subdivisions (b), (c), (d), and (e) of this section.

(h) In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of operation of a recreational vessel if the person had an alcohol concentration of 0.08 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(i) In any prosecution under subdivision (d), it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel other than a recreational vessel if the person had an alcohol concentration of 0.04 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(j) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person who was operating a vessel or manipulating water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage in violation of subdivision (b) or (f), the amount of alcohol in the person's blood at the time of the test, as shown by a chemical test of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(k) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

(*l*) This section applies to foreign vessels using waters subject to state jurisdiction.

655.05. Order not to operate. (a) No person shall operate a vessel other than a recreational vessel for 24 hours if the person is found by a peace officer to have an alcohol concentration of 0.01 percent or more in his or her blood. The peace officer shall order the person out of service for 24 hours.

655.1. Request for testing, mechanically propelled vessel. (a) As used in this section, ''mechanically propelled vessel'' means any vessel actively propelled by machinery, whether or not the machinery is the principal source of propulsion.

(b) A peace officer, having reasonable cause to believe that any person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, who lawfully arrests the person for any violation of subdivision (b), (c), (d), (e), or (f) of Section 655, may request that person to submit to chemical testing of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood. The arrested person shall be informed that a refusal to submit to, or failure to complete, the required chemical testing may be used against the person in a court of law and that the court may impose increased penalties for that refusal or failure, upon conviction.

(c) (1) If the person is lawfully arrested for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of an alcoholic beverage and submits to the chemical testing, the person has the choice of whether the chemical test shall be of his or her blood or breath and the person shall be advised by the arresting officer that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then subdivision (n) applies.

(2) If the person is lawfully arrested for operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of any drug or the combined influence of an alcoholic beverage and any drug and submits to the chemical testing, the person has the choice of whether the chemical test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(d) The arresting officer shall advise a person submitting to chemical testing under this section that he or she does not have the right to have an attorney present before stating whether he or she will submit to the chemical testing, before deciding which chemical test or tests to take, or during the administration of the chemical test or tests chosen.

(e) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the arresting officer has reasonable cause to believe that the person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device under the influence of any drug, or the combined influence of an alcoholic beverage and any drug, and if the arresting officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The arresting officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person shall have the choice of submitting to and completing a blood or urine test, and shall be advised by the arresting officer that he or she is requested to submit to an additional test, and that he or she may choose a test of either blood or urine. If the person arrested is either incapable, or states that he or she is incapable, of completing either chosen chemical test, the person shall submit to and complete the other remaining chemical test.

(f) (1) A person who chooses to submit to a breath test shall be advised before or after the breath test that the breath-testing equipment does not retain any sample of the breath, and that no breath sample will be available after the breath test which could be analyzed later by the person or any other person.

(2) The person shall also be advised that, because no breath sample is retained, the person will be given an opportunity to provide a blood or urine sample that will be retained at no cost to the person so that there will be something retained that may be subsequently analyzed for the alcoholic content of the persons's blood. If the person completes a breath test and wishes to provide a blood or urine sample to be retained, the sample shall be collected and retained in the same manner as if the person had chosen a blood or urine test initially.

(3) The person shall also be advised that the blood or urine sample may be tested by either party in any criminal prosecution. The failure of either party to perform this chemical test shall place no duty upon the opposing party to perform the chemical test nor affect the admissibility of any other evidence of the drug or alcoholic content of the blood of the person arrested.

(g) If the person is lawfully arrested for any offense allegedly committed in violation of subdivision (b), (c), (d), (e), or (f) of Section 655, and because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular chemical test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of submitting to those chemical tests which are available at the facility to which that person has been transported. In this event, the arresting officer shall advise the person of those chemical tests which are available at the medical facility, and that the person's choice is limited to those chemical tests which are available.

(h) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal may be subjected to chemical testing of his or her blood, breath, or urine for the purpose of determining the drug or alcoholic content of the blood, whether or not the person is informed that a refusal to submit to, or failure to complete, the required chemical testing may be used against the person in a court of law, and that the court may impose increased penalties upon conviction.

(i) Any person who is afflicted with hemophilia is exempt from the blood test provided for in this section.

(j) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test provided for in this section.

(k) A person lawfully arrested for any offense allegedly committed while the person was operating a mechanically propelled vessel or manipulating any water skis, aquaplane, or similar device in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 may request the arresting officer to have a chemical test made of his or her blood or breath for the purpose of determining the drug or alcoholic content of the blood and, if so requested, the arresting officer shall have the chemical test performed. However, if a blood or breath test, or both, are unavailable, then subdivision (n) applies.

(*l*) Any chemical test of blood, breath, or urine to determine the percentage, by weight, of alcohol in the blood shall be performed in accordance with Section 23158 of the Vehicle Code.

(m) Nothing in this section limits the authority of a peace officer to gather evidence from a person lawfully arrested for a violation of subdivision (b), (c), (d), (e), or (f) of Section 655.

(n) If a blood or breath test is not available under paragraph (1) of subdivision (c) or under subdivision (k), the person shall submit to the remaining test in order to determine the percent, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

655.2. Speed limit for vessels in certain areas. (a) Every owner, operator, or person in command of any vessel propelled by machinery is guilty of a misdemeanor who uses it, or permits it to be used, at a speed in excess of five miles per hour in any portion of the following areas not otherwise regulated by local rules and regulations:

(1) Within 100 feet of any person who is engaged in the act of bathing. A person engaged in the sport of water skiing shall not be considered as engaged in the act of bathing for the purposes of this section.

(2) Within 200 feet of any of the following:

(A) A beach frequented by bathers.

(B) A swimming float, diving platform, or lifeline.

(C) A way or landing float to which boats are made fast or which is being used for the embarkation or discharge of passengers.

(b) This section does not apply to vessels engaged in direct law enforcement activities which are displaying the lights prescribed by Section 652.5. Those vessels are also exempt from any locally imposed speed regulation adopted pursuant to Section 660.

655.3. Pilot rules; departmental powers. The department may establish and maintain for the use of vessels on the waters of this state rules of the road and pilot rules in conformity with those contained in the federal navigation laws or the navigation rules promulgated by the United States Coast Guard.

655.4. Charter boat crew members. (a) No person shall serve as a crew member on any charter boat while under the influence of intoxicating liquor, any drug, or the combined influence of intoxicating liquor and any drug.

(b) No person shall serve as a crew member on any charter boat while under the influence of intoxicating liquor, any drug, or under the combined influence of intoxicating liquor and any drug, and while so serving, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, which act or neglect proximately causes bodily injury to any person other than himself or herself.

655.5. Enhanced penalties for refusal. (a) Whenever a person convicted of any violation of subdivision (b), (c), (d), (e), or (f) of Section 655 is found by the court to have willfully refused the request of a peace officer to submit to chemical testing of the blood, breath, or urine pursuant to Section 655.1, the court may impose enhanced penalties either by fine or imprisonment, or both, not to exceed the maximum of the penalties prescribed in Section 668.

(b) A willful refusal to submit to chemical testing pursuant to subdivision (a) shall be pled and proven.

655.6. Influence of alcohol, minors. (a) It is an infraction for a person under the age of 21 years who has 0.01 percent or more, by weight, of alcohol in his or her blood to operate any motorized vessel or manipulate water skis, an aquaplane, or a similar device.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of operating any motorized vessel or manipulating water skis, an aquaplane, or a similar device, under the age of 21 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine

that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was operating any motorized vessel or manipulating water skis, an aquaplane, or a similar device while having a concentration of 0.01 percent or more, by weight, of alcohol in his or her blood.

(c) Section 655.1 applies to violations of this section.

(d) A violation of this section is punishable by a fine not exceeding one hundred dollars ($100). A second violation occurring within one year of a prior violation which resulted in a conviction is punishable by a fine not exceeding two hundred dollars ($200). A third or any subsequent conviction within a period of one year of two or more prior infractions which resulted in convictions is punishable by a fine not exceeding two hundred fifty dollars ($250). A person found to have committed a violation of this section shall be required to participate in an alcohol education or community service program as provided in Section 23502 of the Vehicle Code.

655.7. Operation of personal watercraft. (a) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to his or her person, clothing, or personal flotation device, as appropriate for the specific vessel.

(b) No person shall operate a personal watercraft equipped by the manufacturer with a self-circling device if the self-circling device or engine throttle has been altered in any way that would impede or prevent the self-circling device from operating in its intended manner.

(c) Every personal watercraft shall, at all times, be operated in a reasonable and prudent manner. Maneuvers that unreasonably or unnecessarily endanger life, limb, or property, including, but not limited to, jumping or attempting to jump the wake of another vessel within 100 feet of that other vessel, operating the personal watercraft toward any person or vessel in the water and turning sharply at close range so as to spray the vessel or person, or operating at a rate of speed and proximity to another vessel so that either operator is required to swerve at the last minute to avoid collision, is unsafe or reckless operation of a vessel.

(d) No person shall operate a personal watercraft at any time between the hours from one-half hour after sunset to one-half hour before sunrise.

(e) This section does not apply to a performer who is engaged in a professional exhibition or to a person who is participating in a regatta, race, marine parade, tournament, exhibition, or other event sanctioned by the United States Coast Guard or authorized by a permit issued by the local entity having jurisdiction over the area where the event is held.

(f) Any violation of this section is an infraction.

656. Duty of operator in boating accident. (a) It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to his or her own vessel, crew, and passengers, to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from, or minimize any, danger caused by the collision, accident, or other casualty.

(b) Any person who complies with subdivision (a) or Section 656.1, 656.2, or 656.3 or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident or other casualty without objection by any person assisted, shall not be held liable for any civil damages sought as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person has acted as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

(c) (1) An individual employee of a public entity engaged in rescue pursuant to this code shall not be a proper party defendant and shall be dismissed on motion, unless the employee has violated a statute other than a statute creating a general obligation to rescue or is guilty of oppression, fraud, malice, or the conscious disregard of the safety of others.

(2) The public entity employing such an individual shall be liable in civil damages where the individual employee has failed to act as a reasonably prudent person would have acted under the same or similar circumstances.

(3) Where a public entity has given a reasonable printed, electronic, or verbal warning of the danger causing the distress which created the necessity for the rescue, and there has been a reasonable opportunity for the party in distress to receive the warning, the public entity shall be liable only for acts or omissions of its employee which were taken in a grossly negligent manner.

(d) The owner, operator, or other person on board a vessel involved in a casualty or accident shall report the casualty or accident in accordance with regulations adopted by the department. The department shall adopt regulations to maintain a uniform casualty and accident reporting system for vessels subject to this code in conformity with federal casualty and accident reporting regulations promulgated by the United States Coast Guard or any successor thereto. Consistent with Public Law 92-75 and the federal regulations contained in Part 173 of Title 33 of the Code of Federal Regulations, a peace officer or harbor policeman, upon receiving an initial report of a casualty involving the death or disappearance of a person as a result of a boating accident, shall immediately forward the report, by quickest means available, to the department.

(e) Neither the report required by this section nor any action taken by the department with regard to the report shall be referred to in any way, or be any evidence of negligence or due care of any party, at the trial of any action at law to recover damages.

(f) All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the department and any peace officer actually engaged in the enforcement of this chapter, except that the department shall disclose the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vessels involved, and the date, time, and location of an accident to any person who may have a proper interest therein, including the operators involved or the legal guardian thereof, the parent of a minor operator, the authorized representative of an operator, or to any person injured therein and the owners of vessels or property damaged thereby.

(g) This section applies to foreign vessels, military or public recreational-type vessels, vessels owned by a state or subdivision thereof, and ship's lifeboats otherwise exempted from this chapter pursuant to Section 650.1.

656.1. Damage to property. The operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in damage to other property shall, if reasonable to do so under the circumstances, stop at the scene of the accident and shall do either of the following:

(a) Locate and notify the owner or person in charge of the damaged property of the name and address of the operator and owner of the vessel involved, and upon locating the owner or operator of any other vessel involved, or the owner or person in charge of any other property damaged, upon being requested, exhibit the vessel registration and furnish the current residence address of the vessel's owner and operator to the other person.

(b) If the owner or person in charge of the damaged property or the owner or operator of any other vessel involved cannot be located, leave, in a conspicuous place on the property damaged or other vessel involved, a written notice giving the name and address of the operator and of the owner of the vessel involved and a statement of the circumstances of the accident, and, without unnecessary delay, notify the law enforcement agency having jurisdiction over the waterway or, if unknown, the sheriff of the county in which the accident occurred.

656.2. Damage resulting in injury. In addition to the requirements of Section 656.1, the operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in injury to any person shall furnish his or her name, address, and the registration number of the vessel, and the name of the owner, to the person injured, or occupant of any other vessel involved, or shall furnish that information to any peace officer at the scene of the accident, and shall render to any injured person reasonable assistance, including transportation for medical treatment if required or requested by the injured person, so far as the operator can do so without serious danger to the vessel or passengers.

656.3. Death or disappearance. In addition to the requirements of Sections 656.1 and 656.2, the operator of any vessel involved in an accident in the waters of this state who knows or has reason to know that the accident resulted in the death or disappearance of any person shall, after fulfilling the requirements of this division, and if there is no peace officer at the scene of the accident to whom to furnish the information required by Section 656.2, without delay, report the accident to the law enforcement agency having jurisdiction over the waterway or, if unknown, the sheriff of the county in which the accident occurred.

656.4. Public Information Program. The department is authorized to develop a program of public information and research in the interest of reducing loss of life and property in the operation of vessels covered by this chapter.

657. Transmittal of accident information to a United States agency. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the department pursuant to Section 656 shall be transmitted to said official or agency of the United States.

658. Operation of boats towing water skis. (a) No person shall operate a vessel on any waters for towing a person or persons on water skis, an aquaplane, or a similar device unless there is in the vessel a person at least 12 years of age, in addition to the operator, in a position to observe the progress of the persons being towed.

This subdivision does not apply to motorboats less than 16 feet in length actually operated by the person or persons being towed and so constructed as to be incapable of carrying the operator in or on the motorboat. The department may establish rules and regulations governing the operation of those watercraft, which rules and regulations shall provide the greatest possible safety of persons and vessels.

(b) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, an aquaplane, or a similar device nor shall any person engage in water skiing, aquaplaning, or other similar activity at any time between the hours from sunset to sunrise, except that those hours do not apply to those waters of this state as to which prohibited hours for those activities are fixed by local ordinances, laws, or regulations enacted pursuant to this chapter.

(c) Subdivisions (a) and (b) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in a regatta, vessel or water ski race, or other marine event authorized pursuant to Section 268.

(d) No person shall operate or manipulate any vessel, towrope, or other device by which the direction or location of water skis, an aquaplane, or a similar device may be affected or controlled so as to cause the water skis, aquaplane, or similar device, or any person thereon, to collide with, or strike against, any object or person. This subdivision does not apply to collisions of two or more persons on water skis, aquaplanes, or similar devices being towed by the same vessel.

(e) No person shall operate water skis, an aquaplane, or a similar device so as to endanger the life, limb, or property of any person.

658.3. Life jacket requirements. (a) No person shall operate a motorboat, sailboat, or vessel that is 26 feet or less in length unless every person on board who is 11 years of age or less is wearing a type I, II, III, or V Coast Guard-approved personal flotation device while that motorboat, sailboat, or vessel is underway.

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is 11 years of age or less is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is 11 years of age or less is in an enclosed cabin.

(c) Any person on board a personal watercraft or any person being towed behind a vessel on water skis, an aquaplane, or similar device shall wear a type I, II, III, or V Coast Guard-approved personal flotation device.

(1) This subdivision does not apply to a person aboard a personal watercraft or a person being towed behind a vessel on water skis, if that person is a performer engaged in a professional exhibition, or preparing to participate or participating in an official regatta, marine parade, tournament, or exhibition.

(2) In lieu of wearing a Coast Guard-approved personal flotation device of a type described in this subdivision, any person engaged in slalom skiing on a marked course or any person engaged in barefoot, jump, or trick water skiing may elect to wear a wetsuit designed for the activity and labeled by the manufacturer as a water ski wetsuit. A Coast Guard-approved personal flotation device of a type described in this subdivision shall be carried in the tow vessel for each skier electing to wear a water ski wetsuit pursuant to this paragraph.

(d) Subdivisions (a) and (c) do not apply to a person operating a motorboat, sailboat, or vessel if the operator is reacting to an emergency rescue situation.

(e) The following definitions govern the construction of this section:

(1) ''Enclosed cabin'' means a space on board a vessel that is surrounded by bulkheads and covered by a roof.

(2) ''Operate a motorboat, sailboat, or vessel'' means to be in control or in charge of a motorboat, sailboat, or vessel while it is underway.

(3) ''Underway'' means all times except when the motorboat, sailboat, or vessel is anchored, moored, or aground.

(f) A violation of this section is an infraction punishable as provided in subdivision (a) of Section 668.

658.5. Age limitations. (a) Except as provided in subdivision (b), no person under 16 years of age shall operate a vessel powered by a motor of greater than 15 horsepower, except for a vessel that does not exceed 30 feet in length and is designed to use wind as its principal source of propulsion, or a dinghy used directly between a moored vessel and the shoreline or between a moored vessel and another moored vessel.

(b) Except as provided in subdivision (a), no person 12, 13, 14, or 15 years of age shall operate a vessel powered by a motor of greater than 15 horsepower, or a vessel that exceeds 30 feet in length and is designed to use wind as its principal source of

propulsion, unless the person is accompanied in the vessel by a person who is at least 18 years of age and who is attentive and supervising the operation of the vessel.

(c) Subdivisions (a) and (b) do not apply to any of the following:

(1) A person who operates a vessel as a performer in a professional exhibition.

(2) A person engaged in an organized regatta, vessel race, or water ski race.

(3) A person engaged in a marine event authorized pursuant to Section 268.

(d) Any person who violates this section, and any person who permits any other person under 16 years of age to operate a vessel in violation of this section, is guilty of an infraction.

658.7. Ski flag. (a) Failure of the operator of a vessel involved in towing a skier to display or cause to be displayed a ski flag, as described in subdivision (a) of Section 7009 of Title 14 of the California Code of Regulations, to indicate any of the following conditions, is an infraction punishable by a fine not exceeding fifteen dollars ($15):

(1) A downed skier.

(2) A skier in the water preparing to ski.

(3) A ski line extended from the vessel.

(4) A ski in the water in the vicinity of the vessel.

(b) Subdivision (a) does not apply to a performer engaged in a professional exhibition or a person engaged in a regatta, vessel or water ski race or competition, or other marine event authorized pursuant to Section 268.

659. Uniform navigational marking of waters. The department may make rules and regulations for the uniform navigational marking of the waters of this state. Such rules and regulations shall not be in conflict with markings prescribed by the United States Coast Guard. No city, county, or person shall mark the waters of this state in any manner in conflict with the markings prescribed by the department.

660. Application of chapter to all waters; local boating regulations. (a) Any ordiance, law, regulation, or rule relating to vessels, which is adopted pursuant to provisions of law other than this chapter by any entity other than the department, including but not limited to any county, city, port authority, district, or any state agency other than the department shall, notwithstanding any other provision of law, pertain only to time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control, and the measure shall not conflict with this chapter or the regulations adopted by the department. Except as provided in subdivision (c), any measure relating to boats or vessels adopted by any governmental entity other than the department shall be submitted to the department prior to adoption and at least 30 days prior to the effective date thereof.

(b) The department may make special rules and regulations governing the use of boats or vessels on any body of water within the territorial limits of two or more counties, cities, or other political subdivisions if no special rules or regulations exist or if the department determines that the local laws regulating the use of boats or vessels on that body of water is not uniform and that uniformity is practicable and necessary.

(c) (1) Any entity, including but not limited to any county, city, port authority, district, or state agency, otherwise authorized by law to adopt measures governing the use and equipment, and matters relating thereto, of boats or vessels, may adopt emergency rules and regulations which are not in conflict with the general laws of the state relating to boats and vessels using any waters within the jurisdiction of the entity if those emergency rules and regulations are required to insure the safety of persons and property because of disaster or other public calamity.

(2) The emergency rules and regulations adopted under paragraph (1) shall become effective immediately upon adoption and may remain in effect for not to exceed 60 days thereafter. The emergency rules and regulations shall be submitted to the department on or before their adoption.

(3) After submission of emergency rules and regulations adopted pursuant to paragraph (1) to the department, the department may authorize the adopting entity to make the emergency rules and regulations effective for the period of time greater than 60 days that is necessary in view of the disaster or circumstances.

661. Limitation of liability of owner of a numbered vessel. (a) Every owner of an undocumented vessel numbered under this code is liable and responsible for the death of or injury to person or property resulting from negligence in the operation of such vessel, in the business of the owner or otherwise, by any person using and operating the same with the permission, express or implied, of the owner, and the negligence of such person shall be imputed to the owner for all purposes of civil damage. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner if at the time of the injury, death or damage it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained in this chapter shall be construed to relieve any person from any liability which he would otherwise have, but nothing contained in this chapter shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

(b) The liability of an owner for imputed negligence imposed by this section and not arising through the relationship of principal and agent or master and servant is limited to the amount of ten thousand dollars ($10,000) for the death of or injury to one person in any one accident and, subject to the limit as to one person, is limited to the amount of twenty thousand dollars ($20,000) for the death of or injury to more than one person in any one accident and is limited to the amount of ten thousand dollars ($10,000) for damage to property of others in any one accident.

(c) In any action against an owner on account of imputed negligence as imposed by this section the operator of the vessel whose negligence is imputed to the owner shall be made a party defendant if personal service of process can be had upon the operator within this State. Upon recovery of judgment, recourse shall first be had against the property of the operator so served.

(d) If there is recovery under this section against an owner based on imputed negligence, the owner is subrogated to all the rights of the person injured or whose property has been injured and may recover from the operator the total amount of any judgment and costs recovered against the owner.

(e) If the bailee of an owner with the permission, expressed or implied, of the owner permits another to operate the vessel of the owner, then the bailee and such operator shall both be deemed operators of the vessel of the owner within the meaning of subdivisions (c) and (d) of this section.

(f) Where two or more persons are injured or killed in one accident, the owner may settle and pay any bona fide claims for damages arising out of personal injuries or death, whether reduced to judgment or not, and the payments shall diminish to the extent thereof the owner's total liability on account of the accident. Payments aggregating the full sum of twenty thousand dollars ($20,000) shall extinguish all liability of the owner for death or personal injury arising out of the accident which exists by reason of imputed negligence, pursuant to this section, and did not arise through the negligence of the owner nor through the relationship of prinicipal and agent or master and servant.

(g) If a vessel is sold under a contract of conditional sale whereby the title to such vessel remains in the vendor, such vendor or his assignee shall not be deemed an owner within the provisions of this section relating to imputed negligence, but the vendee or his assignee shall be deemed the owner notwithstanding the terms of such contract, until the vendor or his assignee retakes possession of the vessel. A chattel mortgagee of a vessel out of possession is not an owner within the provisions of this section relating to imputed negligence.

(h) No action based on imputed negligence under this section shall abate by reason of the death of any injured person or of any person liable or responsible under the provisions of this section. In any action for physical injury based on imputed negligence under this section by the executor, administrator, or personal representative of any deceased person, the damages recoverable shall be the same as those recoverable under Section 956 of the Civil Code.

662. Filing of local boating regulations. A copy of the ordinances or local laws adopted pursuant to this chapter, and of any amendments thereto, shall be filed in the office of the department.

663. Enforcement by peace officers; authority to stop and board vessels. Every peace officer of this state or of any city, county, city and county, or other political subdivision of the state shall enforce this chapter and any regulations adopted by the department pursuant to this chapter and in the exercise of that duty shall have the authority to stop and board any vessel subject to this chapter, where the peace officer has probable cause to believe that a violation of state law or regulations or local ordinance exists.

663.1. Arrest without warrant. Notwithstanding any other provision of law, a peace officer may, without a warrant, arrest a person who is involved in an accident in the waters of this state involving a vessel when the officer has reasonable cause to believe that the person had been operating the vessel while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

663.5. Enforcement by harbor policemen; marking of police vessels. Within the territorial limits of a county, city, or district, a harbor policeman regularly employed and paid as such by the county, city, or district shall also enforce the provisions of this chapter and any rules or regulations adopted by the department pursuant to this chapter and the provisions of Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code.

In the exercise of his duties, a harbor policeman shall have the authority to stop any vessel subject to this chapter and to issue written notices to appear in court pursuant to Section 664. As used in Section 664, the term ''officer'' shall include a harbor policeman regularly employed and paid as such by a county, city, or district.

Every harbor policeman who is on duty for the purpose of enforcing the provisions of this chapter, and the rules and regulations adopted by the department pursuant to this chapter, shall wear a full distinctive uniform, and, if he uses a vessel, the vessel shall be painted a distinctive color and appropriately marked as specified by the department to identify it as a harbor police vessel.

663.6. Vessel shall stop on lawful order. Every vessel subject to this chapter, if under way and lawfully ordered to stop and lie to by a peace officer or harbor policeman authorized to enforce the provisions of this chapter who is either in a uniform of a law enforcement agency or the harbor police or in a vessel that is distinctly marked as belonging to a law enforcement agency or to the harbor police,

shall stop immediately and lie to, or shall maneuver in such a way as to permit the peace officer or harbor police vessel to come alongside.

663.7. Boating safety and enforcement aid program. (a) Each county of the state is entitled to receive state financial aid for boating safety and enforcement programs on waters under its jurisdiction as provided in this section. A boating safety and enforcement program, as used in this section, includes search and rescue operations, recovery of drowned bodies, enforcement of state and local measures for regulation of boating activities, inspection of vessels, and supervision of organized water events.

(b) A public agency within a county and the Department of Parks and Recreation are entitled to receive aid for boating safety and enforcement programs on waters under their jurisdiction through the county in which it lies, and that aid shall be counted as aid to the county; except that aid provided under subdivision (h) for boating safety and enforcement programs of the Department of Parks and Recreation for waters under its jurisdiction shall not be counted as aid to a county.

(c) (1) Of the funds appropriated for boating safety and enforcement programs pursuant to section 85.2, the department shall adopt and utilize a formula that first allocates funds to counties so that no county receives less than the amount it was allocated in the 1996–97 fiscal year, unless the county's program is reduced, or the county does not meet the eligibility requirements of this section. If the total amount of money in the Harbors and Watercraft Revolving Fund is less than the amount available for the 1996–97 fiscal year, the funds allocated to each county shall be reduced in proportion to the reduction in the overall fund relative to the 1996–97 fiscal year.

(2) Second, from funds remaining, the department shall allocate funds to eligible counties which have submitted a grant application pursuant to subdivision (i) but which do not receive an allocation pursuant to paragraph (1).

(3) The funds allocated pursuant to paragraph (1) shall not be greater in total amount than 50 percent of the funds appropriated for boating safety programs, unless the department determines that an amount greater than 50 percent is needed to meet the minimum allocation requirements set forth in paragraph (1).

(d) The amount of aid for which a county or a public agency within a county is eligible under this section shall not exceed the total cost of its boating safety and enforcement program. Notwithstanding paragraph (1) of subdivision (c), no county shall receive an amount greater than 20 percent of the total funds appropriated to all counties for boating safety and enforcement programs in any fiscal year. Notwithstanding any other provision of this section, any county that receives a boating safety and enforcement allocation during the 1997–98 fiscal year as a result of a prior appropriation shall not receive an additional allocation for the 1997–98 fiscal year pursuant to this section.

(e) The department shall not allocate funds to any county or a public agency within a county unless the department receives a resolution adopted annually by the board of supervisors authorizing the county to participate in the program and certifying that the county will expend for boating safety programs during that year not less than an amount equal to 100 percent of the amount received by the county from personal property taxes on vessels. The money allocated to a county pursuant to subdivision (a) shall be used only for boating safety and enforcement programs, as specified in subdivision (a), that are conducted in that county.

(f) Any county that receives an allocation of funds pursuant to subdivision (c) shall submit a report to the department on or before 60 days after the end of the fiscal year that provides all of the following:

(1) The purpose for which funds received in the immediately preceding fiscal year were spent.

(2) The total amount expended on boating safety and enforcement programs in the immediately preceding fiscal year.

(3) All pertinent boating safety and enforcement and accident statistics from the immediately preceding fiscal year.

(4) All other data that may be required by the department relating to improved boating safety in California.

(g) The department shall provide in its biennial report to the Legislature a summary of boating safety activities undertaken by the counties receiving financial aid from the department in the immediately preceding two fiscal years along with a summary of the information received pursuant to subdivision (f).

(h) Aid for boating safety and enforcement programs shall be made available to the Department of Parks and Recreation for waters under its jurisdiction in accordance with a boat entry unit cost factor derived by dividing the most recent annual boat entry count into the maximum amount available and appropriated for those programs in the 1969-70 fiscal year. Budgets for those programs shall be estimated for each fiscal year and adjustments shall be made thereto for the previous year in accordance with the actual boat entry count as it becomes available multiplied by the boat entry unit cost factor. The amount thus determined shall be available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund.

(i) Entities or agencies desiring aid under this section shall submit grant applications to the department at least six months prior to the period for which aid is required. Grant applications shall be in the form and contain the information that the department may require.

(j) Within 60 days after the close of any period for which aid is received, the entity or agency shall submit to the department a statement of the expenditures actually incurred, in the form and containing the information that the department may require.

(k) The department shall be responsible for the administration of this section, and may adopt rules and regulations that may be necessary to carry out its provisions. The department shall make periodic evaluations of the effectiveness of programs receiving aid under this section.

664. Arrests and notices to appear. (a) When any person is arrested for a violation of this chapter or any regulation adopted by the department pursuant to this chapter or any ordinance or local law relating to the operation and equipment of vessels, and such person is not immediately taken before a magistrate, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.

(b) The time specified in the notice to appear must be at least five days after such arrest.

(c) The place specified in the notice to appear shall be either:

1. Before a municipal court judge, or superior court judge in a county in which there is no municipal court, within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and who is nearest and most accessible with reference to the place where the arrest is made; or

2. Upon demand of the person arrested, before a municipal court judge, or superior court judge in a county in which there is no municipal court, having jurisdiction of such offense at the county seat of the county in which such offense is alleged to have been committed; or before a judge in the judicial district in which the offense is alleged to have been committed.

3. Before an officer authorized by the county, city, or city and county, to receive a deposit of bail.

4. Before a municipal court judge, or superior court judge in a county in which there is no municipal court, within 50 miles by the nearest road to the place of the alleged offense who has jurisdiction of the offense and whose judicial district contains any portion of the body of water upon which the offense charged is alleged to have been committed.

(d) The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give a written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate specified therein. Thereupon the magistrate shall fix the amount of bail which in the magistrate's judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by the defendant in the form set forth in Section 815a of the Penal Code. The defendant may, prior to the date upon which the defendant promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in the magistrate's discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of the Penal Code.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until the person has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

665. Violation of promise to appear in court; misdemeanor. Any person willfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

666. Violation of promise to appear in court; warrant for arrest. When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 664, the magistrate shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised, or if such person promises to appear before an officer authorized to accept bail other than a magistrate and fails to do so on or before the date which he promised to appear, then, within twenty (20) days after the delivery of such written promise to appear by the officer to a magistrate having jurisdiction over the offense.

When such person violates his promise to appear before an officer authorized to receive bail other than a magistrate, the officer shall immediately deliver to the magistrate having jurisdiction over the offense charged the written promise to appear and the complaint, if any, filed by the arresting officer.

667. Proper place of trial. In addition to any other court which may be a proper place of trial, any municipal court within 50 miles by the nearest road to the place of the alleged offense having jurisdiction of the offense, or the superior court in a county in which there is no municipal court, shall be a proper place of trial of any person on

a charge of violation of this chapter or any regulation adopted by the department pursuant to this chapter or any ordinance or local law relating to the operation and equipment of vessels if the judicial district includes any portion of the body of water upon which the offense charged is alleged to have been committed.

668. Penalties. (a) Any person who violates subdivision (c) of Section 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659, 673, 674, or 754, or any regulations adopted pursuant thereto, or any regulation adopted pursuant to Section 655.3 relating to vessel equipment requirements, is guilty of an infraction, punishable by a fine of not more than two hundred fifty dollars ($250).

(b) (1) Any person who violates Section 655.2, or any regulation adopted pursuant thereto, or, except as provided in subdivision (a), any regulation adopted pursuant to Section 655.3, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than five days, or by both that fine and imprisonment, for each violation.

(2) Any person who violates subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars ($200) for each violation.

(3) Any person who violates subdivision (d) of Section 652, Section 652.5, subdivision (a) of Section 655, Section 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658, Section 663.6 or 665, or any rules and regulations adopted pursuant to subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for each violation.

(c) (1) Any person convicted of a violation of Section 656.2 or 656.3 shall be punished by a fine of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000), or by imprisonment in the state prison or in the county jail for not more than one year, or by both that fine and imprisonment.

(2) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant's ability to pay the fine and, in the interest of justice for reasons stated in the record, may reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

(d) Any person convicted of a violation of Section 658.5 shall be punished by a fine of not more than one hundred dollars ($100).

(e) Any person convicted of a first violation of subdivision (b), (c), (d), or (e) of Section 655, or of a violation of Section 655.4, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, an alcohol or drug education, training, or treatment program, in addition to imposing any penalties required by this code. In order to enable all persons to participate in licensed programs, every person referred to a program licensed pursuant to Section 11836 of the Health and Safety Code shall pay that program's costs commensurate with that person's ability to pay as determined by Section 11837.4 of the Health and Safety Code.

(f) Any person convicted of a second or subsequent violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of the first conviction of any of those subdivisions or subdivision (f) of Section 655, or any person convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 within seven years of a separate conviction of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or a separate

conviction of Section 23152 or 23153 of the Vehicle Code or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, shall be punished by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If probation is granted, the court, as a condition of probation, may require the person to do either of the following, if available in the county of the person's residence or employment:

(1) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(2) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this paragraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this paragraph is a basis for reducing any other probation requirement.

(g) Any person convicted of a violation of subdivision (f) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days or more than one year, and by a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000). If probation is granted, the court, as a condition of probation, may require the person to participate in, and successfully complete, a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the person's county of residence or employment, as designated by the court. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(h) (1) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than five days or more than one year and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000).

(2) If any person is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (f) of Section 655, of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 90 days or more than one

year, and pay a fine of not less than two hundred fifty dollars ($250) or more than five thousand dollars ($5,000), and the court, as a condition of probation, may order that the person participate in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, if available in the county of the person's residence or employment. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code.

(i) The court shall not absolve a person who is convicted of a violation of subdivision (f) of Section 655 within seven years of a separate conviction of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655, or Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the separate conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, from the minimum time in confinement provided in this section and a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(j) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a separate conviction of an offense under subdivision (b), (c), (d), (e), or (f) of Section 655 or of Section 191.5 or subdivision (c) of Section 192.5 of the Penal Code, when the prior conviction resulted from the operation of a vessel, or Section 23152 or 23153 of the Vehicle Code or Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, when the separate conviction resulted from the operation of a motor vehicle, for purposes of sentencing in order to avoid imposing, as part of the sentence or as a term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When a separate conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking a separate conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(k) A person who flees the scene of the crime after committing a violation of Section 191.5, paragraph (1) or (3) of subdivision (c) of Section 192, or subdivision (a) or (c) of Section 192.5 of the Penal Code shall be subject to subdivision (c) of Section 20001 of the Vehicle Code.

(*l*) Any person who violates Section 654.3 is guilty of an infraction punishable by a fine of not more than five hundred dollars ($500) for each separate violation.

668.1. Court order to take boating course. (a) Any person convicted of a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of this code, or of Section 655.2, 655.6, 658, or 658.5 of this code, or of Section 191.5 of the Penal Code, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

(b) Any person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction. The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to

enroll in the course. If the person does not complete and pass the boating safety course, the court may extend the period for completion or impose another penalty as prescribed by statute.

(c) The department shall adopt regulations to carry out this section, including approval of boating safety education courses, as specified in Section 668.3, prescribing the forms for proof of completion and passage, approval of testing to indicate appropriate mastery of the course subject matter, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

668.2. Funding, boating safety education, vessels, and safety equipment. The department may grant funds from the Harbors and Watercraft Revolving Fund to local public agencies, nonprofit organizations, and colleges and universities for scholarship funding relating to boating safety education, to finance the purchase of vessels and related safety equipment for use in boating safety education classes, and to provide voluntary personal watercraft education course materials developed by the department pursuant to subdivision (b) of Section 668.3 in those situations where the department determines the course would not otherwise be available to a significant number of personal watercraft operators. The department shall adopt regulations necessary to implement this section.

668.3. Approval of boating safety courses; PWC course development. (a) For the purposes of Section 668.1, the department shall approve boating safety courses that it determines provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate recreational vessels, and actions that can be taken to avoid boating-related environmental pollution.

(b) The department shall develop a personal watercraft education course that provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate personal watercraft, and actions that can be taken to avoid personal watercraft-related environmental pollution. The course shall be voluntary and shall be made available to groups, individuals, and clubs. The course shall be made available on the department's website and may be made available in other formats, as determined by the department. The department shall consult with the California State Sheriff's Association in developing the course and making it available on the Internet.

669. Adoption of departmental regulations. The regulations adopted by the department pursuant to this chapter shall be adopted with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

673. Boat livery record keeping. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any boat or vessel subject to this code, the registered identification number of such vessel, the departure date and time, and the expected time of return. The record shall be preserved for at least six months.

674. Livery boat equipment requirements. Neither the owner of a boat livery nor his agent or employees shall permit any vessel to be delivered to a renter unless it shall have been provided, either by the owner or renter, with the equipment required pursuant to the applicable laws and regulations.

Article 2. Yacht and Ship Brokers

700. Citation of article. This article shall be known and may be cited as the Yacht and Ship Brokers Act.

701. Definitions. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) ''Broker'' means a person who, except as otherwise excluded by Section 710, for compensation or in expectation of compensation, does, or negotiates to do, one or more of the following acts for another or others:

(1) Sells or offers to sell, buys or offers to buy, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of yachts, and who does not own those yachts.

(2) Leases or rents, offers to lease or rent, places for rent, solicits a listing of a yacht for rent, or negotiates the purchase, sale, or exchange of a lease on a yacht, for a rental or lease period of more than 90 consecutive days to any one person or business during any 12-month period, and who does not own that yacht.

(b) ''Salesman'' refers to a natural person who, except as otherwise excluded by Section 710, for compensation or in expectation of compensation, is employed by a licensed broker to do one or more of the acts set forth in subdivision (a). The term includes ''saleswoman'' and ''salesperson.''

(c) ''Yacht'' or ''ship'' refers to any vessel 16 feet or more in length and under 300 gross tons used for navigating in water and designed to be propelled by machinery or sail.

702. Public inspection of records. Except as otherwise provided by law, all records of the department relating to yacht brokers and yacht salesmen shall be open to inspection by the public during regular office hours.

702.5. Electronic records. Any declaration, license, or other record electronically generated or transmitted pursuant to this article shall meet the requirements of a ''record'' under Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

703. Director's authority. (a) The director may, in accordance with the State Civil Service Act (commencing with Section 18500 of the Government Code), select, employ, and fix the compensation of such employees as may be necessary properly to administer this article, provided that no employee of the department shall have an interest for financial or other personal gain in the business of a licensed broker as director, stockholder, officer, member, agent, salesman, or employee.

(b) The director may prescribe the duties of all employees.

(c) The director may regulate and control the issuance, denial, suspension, and revocation, both temporary and permanent, of the licenses issued under this article.

(d) The director may perform all other acts and duties necessary for the proper enforcement of this article.

(e) The director may institute proceedings in any court of competent jurisdiction to enforce the provisions of this article by injunction or otherwise.

(f) The director or any member of the department may administer oaths for the purpose of executing this article.

(g) The director may prescribe rules and regulations to carry this article into effect in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and may authorize the department to establish branch offices in such other cities as may be necessary for the proper administration of this article.

704. Advisory function of commission. In accordance with the provisions of Section 82 of this code, the commission shall advise the department with respect to all matters relating to the administration of this act. The department shall submit any

proposed regulations or changes in regulations pertaining to this act for review and comment by the commission prior to enactment.

705. Authenticity of papers as evidence. (a) The director may adopt a seal and such other device for use by the department as it may desire, which may be used to authenticate all papers and documents required by this article which are under the control of the department.

(b) Copies of all records and papers required by this article which are in the department's office shall be received in evidence in all cases, when certified under the hand and seal of the department, equally and with like effect as the originals.

706. Attorney General as attorney. The Attorney General shall act as the attorney for the department in all actions and proceedings pursuant to this article and shall render to the department opinions upon all questions of law arising under this article or in its administration.

707. Directory, bulletins and reports. (a) The department shall publish or cause to be published on or before July 1st of each year a directory of licensed brokers and salesmen and may publish such additional information as it deems expedient.

The department may also issue a periodical bulletin concerning affairs arising under the administration of this article.

(b) The department shall submit to the Governor a full and true report of its activities under this article, including a complete statement of receipts and expenditures during the preceding two years. This report shall be a part of the biennial report of the department.

708. Licensing provisions. (a) No person shall engage in the business of, act in the capacity of, advertise as, or assume to act as a broker or salesperson within this state without first obtaining a license under this article to do so.

(b) Only the person to whom a license is issued may perform or offer to perform any act subject to this article.

(c) No fictitious name shall be used by a broker in the conduct of any business for which a license is required under this article, unless a license bearing that fictitious name has been issued to the broker.

(d) The department shall not issue a license under a fictitious business name which is the same as or similar to the fictitious business name on a license previously issued and in effect.

709. Fraudulent or negligent misrepresentation. No licensed broker or licensed salesman shall practice any fraud or deceit or make any fraudulent or grossly negligent representation with respect to any act for which a license is required under this article.

710. Exemptions. The definitions of ''broker'' and ''salesperson,'' as set forth in Section 701, do not include the following:

(a) A person who directly performs any act subject to this article with reference to a yacht owned by that person or, in the case of a corporation which, through its regular officers receiving no special compensation therefor, performs any act subject to this article with reference to the corporation's yacht.

(b) Services rendered by an attorney at law in performing duties as an attorney at law.

(c) Any receiver, trustee in bankruptcy, or other person acting under the order of any court.

(d) Any transaction involving the sale of property subject to foreclosure of a security interest in a yacht which is conducted only by the holder of the security interest or by a person licensed pursuant to Chapter 11 (commencing with Section

7500) of Division 3 of the Business and Professions Code when liquidating repossessed collateral pursuant to the written request of the holder of the security interest.

(e) Any transaction involving the sale, lease, or rental of a yacht in excess of 300 gross tons or tenders thereof sold at the same time.

(f) Any transaction involving the sale, lease, or rental of a new yacht or ship.

(g) Any transaction in the regular course of business by a wholesale motor vehicle auction subject to regulation by the Department of Motor Vehicles.

711. License required to collect compensation. No person engaged in the business or acting in the capacity of a licensed broker or salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed broker or licensed salesman at the time the alleged cause of action arose.

712. Unlicensed persons, prohibitions and violations. (a) No licensed broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed broker or salesman licensed under the broker employing or compensating him or her, except that a licensed broker may pay a commission to a broker of another state or country.

(b) No salesman shall accept compensation for performing any of the acts within the scope of this article from any person other than the broker under whom the salesman is at the time licensed.

(c) No licensed salesman shall pay any compensation for performing any of the acts within the scope of this article to any broker licensed under this article, except through the licensed broker under whom the salesman is at the time licensed.

(d) For a violation of any of the provisions of this article, the department may temporarily suspend or permanently revoke the license of the broker in accordance with the provisions of this article.

713. Partnership acting as broker. Nothing contained in this article shall preclude a partnership from performing acts for which a broker's license is required, provided every partner through whom the partnership so acts is a licensed broker.

714. Deposit and record of funds, neutral escrow depository. A licensed broker who accepts funds from others in connection with any transaction subject to this article who does not, as soon as possible, place those funds into a neutral escrow depository, shall place the funds into a trust fund account maintained by the broker in some bank or recognized depository and shall retain all the funds in the account until the broker makes a disbursement of the funds in accordance with written instructions from the person entrusting the money. The written instructions shall also set forth the specific purposes for which the broker may use money deposited with him or her. If the broker wishes to use money from the deposit for a purpose not included in the written instructions, the broker shall first obtain the written consent of the person entrusting the money specifically authorizing the use proposed by the broker for the money. The written consent may be given to the broker by a letter or facsimile. A separate record shall be maintained of all moneys received subject to this section and shall further indicate the disposition thereof. Any funds received by a licensed salesperson shall be delivered by the salesperson to the broker under whom the salesperson is at the time licensed.

As used in this section, ''neutral escrow'' means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any person described by subdivision (a) or (c) of Section 17006 of the Financial Code.

715. Closing statement. Within one month after the closing of a transaction in which title to a yacht is conveyed from a seller to a purchaser through a licensed broker, the licensee shall provide, or cause to be provided to the seller and purchaser, a closing statement in writing of the selling price thereof, including all charges and credits which shall be itemized, and in the event an exchange of yachts is involved, the information shall include a description of the yachts and amount of added money consideration, if any. The licensee shall affix his or her signature to the closing statement to attest to the facts provided in the closing statement. If the transaction is closed through escrow and the escrowholder renders a closing statement which reveals the information, that shall be deemed compliance with this section on the part of the licensed broker.

716. Transactions, written authorization required and copies. (a) No broker shall engage in any transaction for which a license is required under this article without first obtaining a signed written authorization to do so from the broker's principal. An authorization to sell shall contain a description of the vessel, including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization shall also state the type of listing, the gross listing price, the agreed upon commission or other compensation of the broker, and any repairs authorized to be made.

(b) An offer to purchase shall contain the description of the yacht, including the undocumented vessel's registration number or the name, official number and home port if the vessel is documented with a federal agency. The written authorization to purchase shall also state the amount of deposit, terms of the sale, and any contingencies or conditions under which a deposit shall not be returned if the sale is not completed.

(c) When a broker prepares, or there is prepared on behalf of a broker, a written authorization to sell or purchase, the broker shall deliver a copy of the written authorization to the person executing it. Receipt of the copy shall be made on the face of the original written authorization.

717. Application for broker license. Application for a license as a broker shall be made on forms prescribed by the department and shall be signed by the applicant. The application shall be accompanied by the broker license examination fee.

718. Application for salesman license. Application for a license as a salesman shall be made on forms prescribed by the department and shall be signed by the applicant and by the employing broker. The application shall be accompanied by the salesman license examination fee.

719. Qualifications. (a) A person shall be deemed qualified to submit an application for a broker's license if, as shown on the department's records, the person meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Has not been cited for a violation of this article within the preceding two years.

(3) Possesses a working knowledge and understanding of the principles of the yacht brokerage business and profession.

(4) Either has been employed within five years preceding his or her application as a California licensed salesperson for at least one year, has been licensed as a California broker within five years preceding his or her application, has owned and operated a

marine business selling new or used yachts for a minimum of three continuous years, or has been employed as a broker or a yacht salesperson in another state where that employment was a primary occupation for a minimum of three continuous years immediately preceding application for a broker's license in California. Proof of employment as a broker in another state or as an employee of a marine business selling new or used yachts in California shall be in the form of all of the following:

(A) State, if applicable, and federal income tax returns, or a proof of earning statement made by the applicant under penalty of perjury, for the three-year period preceding the filing of the application in California.

(B) If bonded, a statement issued by the applicant's bonding company that no action has been taken against the bond for fraud or gross misrepresentation for the period for which the bond has been issued.

(C) A copy of all business permits, issued by any state, county, or city agency, which, if applicable, includes the fictitious business name (''dba'' or ''doing business as'') under which the applicant conducted a yacht or ship brokerage business or a marine business selling new or used yachts in California for the three-year period preceding application for a California broker's license.

(D) If the applicant conducts a yacht or ship brokerage business in another state that requires broker or salesperson licensing, evidence of a current license issued by that state.

(b) If the applicant is a partnership, then one of the partners of the applicant shall have the foregoing qualifications.

(c) If the applicant is a corporation, then the officer or officers of the corporation to be designated for a license as provided in this article shall have the foregoing qualifications.

720. Proof concerning applicant's reputation. The department may require proof as it deems advisable concerning the honesty, truthfulness, and good reputation of the applicant for a broker's or salesperson's license or of the officers of any corporation making application before the issuance of a broker's license. For this purpose, the director may call a hearing in accordance with this article, and at the request of the applicant shall call a hearing.

721. Written examination. (a) In addition to any proof of honesty, truthfulness, and good reputation required of any applicant for a broker's license, the department shall ascertain by written examination that the applicant, and in case of a partnership or corporation applicant for a broker's license that an officer or partner thereof through whom it proposes to act as a yacht broker, has all of the following:

(1) Appropriate knowledge of the English language, including reading, writing, and spelling, and of arithmetical computations common to the yacht brokerage business.

(2) An understanding of the principles of the yacht brokerage business and profession, including an understanding of a certificate of ownership, certificate of number, security agreement, bill of sale, and other documents required to register and number, and to transfer title of an undocumented vessel pursuant to the Vehicle Code.

(3) An understanding that transfer of title of a documented vessel shall be performed in accordance with federal law as administered by the United States Coast Guard.

(4) An understanding of maritime and admiralty liens with respect to vessels and the requirements of the Department of Transportation or other federal agency and the United States Coast Guard with respect to documentation, mortgaging, and transferring of title of documented vessels.

(5) An understanding of agency contracts and of types and kinds of listings and deposit receipts with respect to vessels.

(6) A general knowledge of equipment legally required on a yacht.

(7) A general understanding of the obligations between principal and agent, and of the fiduciary relationship between them, and of business ethics pertaining to the business and profession of yacht brokers and yacht salespersons.

(8) A general knowledge of yachts.

(b) (1) If an applicant fails to pass the required examination, the department shall so notify the applicant, may suggest further study, and, upon payment of the required fee, shall schedule a reexamination.

(2) Notwithstanding paragraph (1), whenever an applicant fails to pass the written examination on the third attempt to do so, he or she shall be prohibited from retaking the examination for a period of six months from the date of taking the third examination.

722. Term of broker's license, renewal. The license first issued to a broker shall be for a period of one year. Such license may be renewed for periods of two years upon filing of the required application and payment of the required fee.

723. Term of salesman's license, renewal. The license first issued to a salesman shall be for a period of one year. Such license may be renewed for periods of two years. Applicants for renewal of such licenses shall submit a recommendation of the broker who is to be his employer certifying that the applicant is honest, truthful, and of good reputation. The license of a salesman may be renewed upon filing the required application and payment of the renewal fee.

724. License renewal, expiration, reinstatement, and fees. (a) An application on the form prescribed by the department for the renewal of a broker or salesman license shall be filed with the department prior to the last day of the period for which a previous license was issued, accompanied by the applicable renewal fee.

(b) Every license not renewed in accordance with subdivision (a) shall expire at midnight of the last day of the period for which it was issued and shall immediately be returned to the department. The license may thereafter be reinstated only upon the filing of an application therefor, accompanied by the payment of the renewal fee required by this article, together with a penalty equal to 50 percent of the renewal fee. No examination shall be required for the reinstatement of a license which has expired solely for nonpayment of the renewal fee as required by this subdivision, subject to Section 726.

(c) An application for reinstatement of a license which has expired pursuant to subdivision (b) shall be executed under penalty of perjury. The department may refuse to grant reinstatement if the applicant after the expiration of the license has performed any act or participated in any transaction for which a license is required by this article or, during the period, has committed any offense or performed any act which would be cause for the suspension or revocation of a license under this article. However, the department shall not refuse to grant reinstatement unless written notice of the grounds of the refusal is mailed or delivered to the applicant.

(d) A salesman's license which expires other than pursuant to subdivision (b) and under conditions beyond the control of the salesman may be reinstated with another broker on payment of the transfer fee and the renewal fee if applicable and without penalty.

(e) All fees charged and collected under this article shall be paid by the department at least once a month, accompanied by detailed statement, into the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

(f) All fees charged and collected under this article and paid into the State Treasury are continuously appropriated to carry out the provisions of this article and shall be paid in the manner provided by law.

(g) The department may establish a revolving fund in an amount that it may determine subject to the approval of the director.

725. Temporary licenses. Temporary licenses may be issued to salespersons under the following conditions:

(a) The licenses shall be issued for a period not to exceed 60 days and only one license shall be issued to each applicant.

(b) An application shall be filed for a temporary license and for a permanent license and at the same time the applicant shall pay all the prescribed fees.

(c) The application shall be in the form and upon the conditions required by the department as provided in this article with respect to a permanent salesperson's license.

(d) On or before the expiration date of the temporary license, the licensee shall take a written examination for a permanent license. If, without a valid excuse, the licensee fails to appear for the examination at the time prescribed, the examination fee shall be forfeited. In the event of failure to pass the required examination, the department shall notify the applicant, may suggest further study, and upon payment of fees, shall schedule a reexamination.

(e) The applicant shall be at least 18 years of age.

726. Failure to renew, requirements for new license. (a) A person who fails to renew his license within two years after its expiration may not renew it pursuant to Section 724. Such person may apply and obtain a new license, in which case all of the provisions hereof shall apply as if such person were applying for a license for the first time.

(b) In the event a salesman's license expires only because that salesman procured a broker's license or a broker's license expires only because that broker procured a salesman's license, either former license may be reinstated under the provisions of Section 724 within two years of the expiration of the latter license.

727. Certificate of convenience. The department may issue a certificate of convenience to the executor or administrator of the estate of a deceased broker, or if no executor or administrator has been appointed, and until a certified copy of an order making such appointment is filed with the department, to the widow or other heir otherwise entitled to conduct the business of the deceased, permitting such person to act as a broker in the conduct of the business of the estate for a period of 90 days from and after the date of death pending, but not later than, disposal of the business unless such person qualifies by examination for and obtains a permanent broker's license. The department may extend the certificate of convenience beyond the 90 days on the showing of a just and reasonable cause.

728. Corporation licenses. (a) Every license issued to a corporation entitles one officer thereof on behalf of the corporation to engage in the business of broker without the payment of any further fee and such officer shall be designated in the application of the corporation for a license. When a broker's license is issued to a corporation, if it desires any of its officers other than the officer designated by it in the application as provided in this section to act under its license as a broker, it shall procure an additional broker's license to so employ each of such additional officers. For each officer other than the officer so designated through whom the corporation engages in the business of broker, the appropriate original or renewal fee shall be paid in addition to the fee paid by the corporation.

(b) Each officer of a corporation through whom it is licensed to act as a broker is, while so employed under such license, a licensed yacht broker, but licensed only to act as such for and on behalf of the corporation as an officer.

(c) An officer of a corporation licensed to act as a broker on behalf of the corporation who desires also to act as a broker or salesman under this article on his own behalf shall procure a separate license in accordance with the provisions of this article.

(d) The department may deny, suspend, or revoke the broker's license of a corporation as to any officer acting under its license without revoking the license of the corporation. Every corporation making application for a license under this article shall furnish the department with a resolution of its board of directors giving the name of the officer or officers who shall act for and on behalf of the corporation.

(e) Every corporation licensed under the provisions of this article may by resolution of its board of directors substitute another officer for the one named in the corporation license, provided the person to be substituted qualifies as provided for in this article for a broker's license and the corporation pays the appropriate original, renewal, or transfer fee as set forth in this article.

729. Partnership licenses. (a) Every license issued to a partnership entitles one partner thereof on behalf of the partnership to engage in the business of yacht broker without the payment of any further fee and such partner shall be designated in the application of the partnership for a license.

(b) When a broker's license is issued to a partnership if the partnership desires any partner or partners other than the partner designated by it as provided in this section to act under its license as a broker, the partnership shall procure an additional broker's license for each of such additional partner or partners. For each partner other than the partner designated through whom the partnership engages in the business of yacht broker, the appropriate original or renewal fee shall be paid in addition to the fee paid by the partnership.

(c) Each partner of a partnership is licensed to act as a broker while such a partner under such license is a licensed broker, but is licensed only to act as such for and on behalf of the partnership.

(d) A partner of a partnership licensed to act as a broker on behalf of the partnership who desires also to act as a broker or salesman under this article on the partner's own behalf shall procure a separate license in accordance with the provisions of this article.

(e) The department may deny, suspend, or revoke the broker's license of a partnership as to any partner acting under its license without revoking the license of the partnership.

(f) Every partnership making an application for a license under this article shall set forth in the application the name of the partner who is to act under the license for and on behalf of the partnership.

(g) Every partnership licensed under the provisions of this article may substitute another partner for the one named in the partnership license provided the person to be substituted qualifies as provided for in this article for a broker's license and the partnership pays the appropriate original, renewal, or transfer fee as set forth in this article.

729.5. Limited liability company. (a) Any limited liability company licensed by the department as a yacht broker on July 1, 2001, in order to continue to be licensed after that date, shall apply to the department in the form of an individual, partnership, or corporation for a broker's license on or before the expiration date of its existing license.

(b) On or before February 1, 2001, the department shall provide notice of the requirements imposed by subdivision (a) to any limited liability company licensed by the department.

730. Surety bond, action on bond, new bond. (a) Before any broker's license shall be issued or renewed by the department for any applicant, the applicant shall procure, file, and maintain with the department a good and sufficient bond in the amount of fifteen thousand dollars ($15,000) with a corporate surety duly licensed to do business within the State of California, and conditioned that the applicant shall not practice any fraud or deceit or make any fraudulent or grossly negligent representations that will cause a monetary loss to any person for whom the broker acts under this article.

(b) If any person suffers any loss or damage by reason of any fraud or deceit practiced on that person or any fraudulent or grossly negligent representation made to that person by a licensed broker or the broker's sales personnel acting for the broker on the broker's behalf or within the scope of the employment of the sales personnel, which fraud, deceit, or fraudulent or grossly negligent representation is practiced or made with respect to any act of the broker or the sales personnel for which a license is required under this article, that person has a right of action against the broker, the sales personnel, the surety upon the broker's bond, or the deposit held by the department in accordance with Section 731. If any action is commenced upon the bond, the surety thereunder and the licensed yacht broker with respect to whom the bond has been issued shall immediately notify the department of the action.

(c) If an action is commenced on the bond of a licensed broker, the department may require the filing of an additional bond, and immediately upon the recovery in any action on the bond, the broker described therein shall file a new bond. Failure to file an additional bond within 15 days after notification that an additional bond is required by reason of action against the bond or after recovery on a bond constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled or on whose bond recovery has been made may be suspended.

(d) If a broker's bond is canceled for a reason other than an action being commenced upon it, a new bond shall be filed by the broker. Failure to file a new bond within 30 days after notification that a new bond is required because a previous bond has been canceled constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled may be suspended.

731. Alternative bond requirement. (a) A cash deposit given instead of the bond required by Section 730 shall be held by the department during the life of the license and for a period of four years after the expiration of the license.

(b) If an action is commenced on the cash deposit of a licensed broker pursuant to subdivision (a), the department may require the filing of an additional cash deposit, and immediately, upon the recovery in any action on the deposit, the broker described therein shall file a new cash deposit, equal to the amount specified in the action or recovery, but no greater than the amount specified in subdivision (a) of Section 730, whichever is less. Failure to file an additional cash deposit within 30 days after notification that an additional cash deposit is required by reason of an action filed against the cash deposit, or after the recovery on a cash deposit, shall constitute a failure to comply with this article, in which case the department may suspend the license of the licensed broker whose cash deposit has been acted on, or where a cash deposit recovery has been made.

732. Denial of application, suspension, or revocation. The department may deny an application or temporarily suspend or permanently revoke the license of a

broker or a salesperson at any time if the licensee, while a broker or salesperson, in performing or attempting to perform any of the acts within the scope of this article, has committed any of the following acts:

(a) Makes any substantial misrepresentation, including a false advertisement or an omission of relevant facts upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade, or induce any person with whom business is transacted under this article.

(c) Engages in a continued and flagrant course of misrepresentation or makes false warranties whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without full disclosure of that fact to the buyer and seller and their written consent, except in the case where the selling broker is not the listing broker.

(e) Commingles the money or other property of his or her principal with that of his or her own or uses it for any purpose other than that for which it was entrusted, when the yacht involved in the transaction is not his or her own.

(f) Disburses or uses entrusted money for purposes other than those specifically authorized by Section 714.

(g) Uses coercive or oppressive methods for the purpose of obtaining business or of procuring a listing or participating in a transaction.

(h) Quotes prices different from the gross listing prices without the consent of the seller.

(i) Engages in any other conduct constituting fraud or dishonest dealings, either with respect to his or her principal or other persons.

(j) Permits his or her name to be used for the purpose of assisting any person who is not a licensed broker or salesperson to evade this article.

(k) Demonstrates negligence or incompetence in performing any act for which he or she is required to hold a license.

(*l*) As a broker licensee, fails to exercise reasonable supervision over the activities of his or her salespersons, or, as the person designated by a corporate or partnership licensee, fails to exercise reasonable supervision and control over the activities of the corporation or partnership for which a yacht and ship broker's license is required.

(m) Fails to act in accordance with, or disregards, his or her fiduciary duty toward a principal.

(n) Violates any provisions of Section 708, 712, 714, 715, 716, 730, or 731, or the rules and regulations of the department implementing this article.

733. Additional grounds for denial, suspension, or revocation. The department may deny an application or may suspend or revoke the license of a yacht broker or yacht salesperson who, within four years immediately preceding, has committed any of the following acts:

(a) Has procured a license under this article for himself or herself or another by fraud, misrepresentation, or deceit.

(b) Has been convicted of a felony or any crime involving moral turpitude.

(c) Has withheld information from the department that he or she at any time has been convicted of a felony or any crime involving moral turpitude.

(d) Knowingly authorizes, directs, connives, or aids in the publication, advertisement, distribution, or circulation of any material false statements or misrepresentation concerning his or her business or any transaction under this article.

(e) Has acted or conducted himself or herself in a manner that would warrant the denial of his or her application for a broker's or salesperson's license pursuant to Section 720.

734. Hearings and investigations. (a) The department shall not deny, suspend, or revoke a license granted under this article without a hearing, except the department may suspend a license without a hearing for failure of a broker to maintain a bond as specified in subdivision (d) of Section 730, or for failure of a broker to make available to the department, for inspection, any records, as set forth in Section 735.1.

(b) The department may upon its own motion, and shall upon the verified written complaint of any person which sets forth facts which could be grounds for the denial, suspension, or revocation of a license pursuant to this article, investigate the actions of any broker or salesman whether or not licensed.

(c) The suspension, expiration, or revocation by operation of law of a license issued by the department, or its surrender, whether voluntary or not, does not deprive the department of its authority, during the period in which the license may be renewed, reinstated, or reissued, to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law, to enter an order suspending or revoking the license, or to take any action against the licensee on any other ground provided by law.

(d) A broker whose license has been suspended pursuant to subdivision (a) for failure to make records available to the department for inspection, may request that an expedited hearing be held within 30 days of the suspension before an administrative law judge to appeal the suspension. Upon a showing of good cause to reinstate the license, the broker's license shall be reinstated. If no good cause is found, the broker's license may be revoked.

(e) (1) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding under this article, the department may request the administrative law judge to direct a licensee found to have committed a violation or violations of this article to pay a sum not to exceed the reasonable costs of the investigation, prosecution, and enforcement of the case.

For purposes of this paragraph, ''reasonable costs'' shall include, but not be limited to, all of the following:

(A) Attorney, paralegal, and investigator fees and costs, including salary, travel, and other expenses attributable to hours expended on the case by employees of the office of the Attorney General and the department.

(B) Witness fees, travel, and other expenses paid to or in connection with witnesses to facilitate their attendance and testimony at the disciplinary proceeding or to facilitate their appearance at a deposition, by video or by other means.

(C) Fees and costs attributable to expert review, including, but not limited to, laboratory analysis, physical examination, and psychological examination, whether by an independent expert or a staff member of the department.

(D) Administrative expenses attributable to case preparation and presentation, including, but not limited to, exhibit preparation and document copying, postage, telephone calls, word processing, whether by an independent contractor or a staff member of the department, and costs for obtaining certified public documents.

(2) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(3) A declaration under penalty of perjury of the actual costs, or a good faith estimate of costs if the actual costs are not available, signed by the director, and containing sufficient information by which the administrative law judge can determine the costs incurred in connection with the matter and the reasonableness of the costs, shall be prima facie evidence of reasonable costs of investigation, prosecution, and enforcement of the case.

(4) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to paragraph (1). The department may reduce or eliminate the award of any costs by the administrative law judge, and may request the administrative law judge to reconsider his or her decision if the proposed decision does not make a finding on costs as requested pursuant to paragraph (1).

(5) Where an order for recovery of costs is made and timely payment is not made as directed, the department may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the department may have as to any licensee to pay costs.

(6) In any action for recovery of costs, proof of the department's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(7) The department shall not renew or reinstate the license of any licensee who does not pay all of the costs ordered under this section.

(8) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Harbors and Watercraft Revolving Fund.

(9) Nothing in this section shall preclude the department from including the recovery of the costs of investigation, prosecution, and enforcement of a case in any stipulated settlement.

735. Broker's offices. (a) Every broker shall maintain a definite place of business in this state as his principal office and may establish other branch offices throughout the state. Every broker maintaining more than one place of business within this state shall procure an additional license for every branch office maintained by him. Every broker shall keep the department informed at all times of the address of his principal and branch offices and any changes of address.

(b) Every broker's license shall be prominently displayed in the broker's principal office. The license for each branch office, if any, of such broker shall be prominently displayed in such branch office. Every salesman's license shall be prominently displayed in the principal office or branch office of the broker in which the business of such salesman is transacted. When a broker or any branch office to which a license was issued, for any reason ceases to be licensed, or when there is a name or address change, such license shall be immediately returned to the department.

(c) Every salesman's license shall remain in the control of the broker by whom the salesman is employed until the license is canceled or until he leaves the employment of the broker. Immediately upon the salesman's withdrawal from the employment of the broker, such broker shall return such salesman's license to the department for cancellation and shall notify the department of the exact date of termination.

(d) Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the department may be issued without charge to such licensee, which card shall be evidence that the licensee is duly licensed pursuant to this article. When any broker to whom a card is issued ceases for any reason to be licensed as a broker, the card issued to such broker shall be mailed or delivered by the broker to the department for cancellation. When any salesman to whom a card is issued ceases to be a salesman for any reason, the card issued to him shall be mailed or delivered to the department for cancellation.

735.1. Records retention, availability. A licensed broker shall retain, for four years, copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed or obtained by the broker in connection with a transaction for which a broker's license is required. These records shall be made available to the department for inspection upon request. If the records have not been made available within 30 days of a request by the department, the department may subpoena the

requested records. If the records have not been made available within 14 days from the requested day of production on the subpoena, and the director determines that the public may be at risk if the broker continues to be licensed, the department may suspend the broker's license pursuant to Section 734.

735.2. Electronic record and digital signature. The department shall accept any electronic record or electronic or digital signature created, generated, sent, communicated, received, or stored by electronic means on or after January 1, 2000. A ''digital signature'' means a signature that complies with the regulations adopted by the Secretary of State relating to digital signatures.

736. Fee schedule. The department shall charge and collect the fees prescribed by this article in accordance with the following schedule:

(a) Two hundred dollars ($200) for each original broker's license.

(b) Seventy-five dollars ($75) per year for the renewal of an original broker's license.

(c) One hundred dollars ($100) for each original salesperson's license.

(d) Fifty dollars ($50) per year for the renewal of an original salesperson's license.

(e) Twenty-five dollars ($25) for a salesperson's temporary license.

(f) Twenty-five dollars ($25) for each license obtained by a broker for a branch office and for each renewal thereof.

(g) Ten dollars ($10) for each transfer of a salesperson's license for each change of employment.

(h) Ten dollars ($10) for each duplicate license.

(i) Ten dollars ($10) for each substitution of a name in the license of a corporation or a partnership.

(j) Ten dollars ($10) for the granting of each certificate of convenience under Section 727.

(k) Twenty-five dollars ($25) for each examination.

(*l*) A criminal records investigation fee, collected for both a salesperson's and broker's license, in an amount determined by the Department of Justice, or by any other state or federal custodian of criminal records from which the department has requested information concerning an applicant's criminal record, not to exceed the amount needed to reimburse the department for conducting the criminal records investigation.

737. Proceedings, hearings, judicial review. (a) The proceedings and hearings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11523 of the Government Code.

(b) In addition to any other disciplinary action and in lieu of a separate action in civil court, the department, as part of a disciplinary hearing conducted by an administrative law judge, may impose a civil penalty as provided in Section 739.

738. Violations. (a) Each violation of any section or subdivision of any section of this article, excepting Section 709, is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), provided that a violation committed willfully and with knowledge of the provisions of the violated section or subdivision is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and such imprisonment.

(b) Each violation of Section 709 is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and such imprisonment.

739. Civil penalties. Any person who violates any provision of this article, or any regulation adopted pursuant to this article, is liable for a penalty in an amount not less than one hundred dollars ($100) and not to exceed one thousand five hundred dollars ($1,500) for each separate violation. The penalties provided in this section are in addition to the remedies or penalties available under all other laws of this state.

Every civil or administrative action brought under this article at the request of the director shall be brought by the Attorney General in the name of the people of the State of California, in any court of competent jurisdiction, or through the Office of Administrative Hearings pursuant to Section 737, except that, when the civil action is to be filed in a small claims court, the director may bring the action.

The amount of penalty that is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of the violation upon the implementation of the purposes and provisions of this article. Any sum that is recovered under this section shall be deposited in the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

740. Statute of limitations. Any action taken in the enforcement of this article shall be commenced within three years of the department's discovery of the facts constituting the grounds for that action.

754. Record of vessel stored over 12 hours. (a) Every keeper of a storage facility shall keep a written record of every vessel subject to registration with the Department of Motor Vehicles which is stored therein for compensation for a period longer than 12 hours.

(b) The record shall contain the name and address of the person storing the same and a brief description of the vessel including its builder and builder's hull number.

(c) All records shall be open to inspection by any peace officer.

Article 3. For-Hire Vessel Operators' Licenses

760. Definition of for-hire vessels. As used in this article, "for-hire vessel" includes any vessel propelled by machinery carrying more than three passengers for hire, except the following:

(a) A seaplane on the water.

(b) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to or guided on such permanently fixed course by means of a mechanical device on a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled, or by means of a mechanical device attached to the watercraft itself.

761. Waters on which license is required. No for-hire vessel, while carrying passengers for hire, shall be operated or navigated on the waters of this state except by a person who holds a valid license issued by the department pursuant to the provisions of this article. This requirement, however, shall not apply to persons who operate a for-hire vessel on waters of this state which have been declared to be navigable by agenices of the federal government.

762. Application for license. An applicant for an operator's license shall submit his written verified application to the department. The application shall be in such form and contain such information as the department requires.

764. Examination requirements. Upon application for an operator's license, the department shall require an examination of the applicant. The department shall adopt rules and regulations establishing the requirements for the examination which will demonstrate to the department the applicant's competency in the operation of vessels.

If an applicant presents a valid operator's license issued pursuant to the provisions of the Federal Motorboat Act of 1940 (Title 46, U.S.C., Section 526f) or the federal act of May 10, 1956 (Title 46, U.S.C. 390–390g), the department may issue an operator's license without requiring an examination.

765. Scope of examination. The examination may include a test of the applicant's knowledge of safety rules, an actual demonstration of his ability to exercise ordinary and reasonable control in operating a vessel, and his mental and physical fitness. The examination may also include an inspection of the for-hire vessel.

766. Issuance of license; procedure on refusal. Upon completion of the examination, the department may, with or without hearing, issue the operator's license or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the license such terms and conditions as, in its judgment, the public safety requires.

If the department refuses to grant an operator's license the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the department shall have all the powers granted therein.

767. License duration; renewal requirements. An operator's license issued by the department pursuant to the provisions of this article shall be valid for five years from the date of issuance or renewal and may be renewed every five years thereafter unless suspended or revoked pursuant to Section 768. The department may adopt rules and regulations establishing the requirements for renewal of any license issued under this article, including therein requirements for acuity of vision, color sense and general physical condition.

768. Revocation of license. (a) The department may suspend or revoke any license issued pursuant to this article on a finding that the licensee has violated any of the provisions in this chapter, or has violated any of the regulations promulgated pursuant to carrying out the provisions of this article. The department may also revoke any license issued pursuant to this article upon any of the grounds which authorize the refusal to issue a license.

If the department suspends or revokes an operator's license, the proceedings shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the department shall have all the powers granted therein.

(b) The period of time for suspension during which the person may not apply for his license shall be determined by the department. The department shall not renew an operator's license which has been revoked until the expiration of one year after the date of such revocation unless the revocation was for a cause which has been removed.

769. Administration and enforcement. The department shall be responsible for administering the licensing of operators of for-hire vessels and for enforcing the provisions of this article, and in this connection may inspect for-hire vessels as defined in Section 760 on waters of this state other than those waters which have been declared to be navigable by agencies of the federal government.

770. Departmental regulations. The department may make rules and regulations to carry out the provisions of this article.

771. Violation; misdemeanor. It is unlawful and constitutes a misdemeanor for any person to violate, or to fail to comply with, any provision of this article after April 1, 1964.

772. Jurisdiction of Public Utilities Commission. The authority and power granted to the department in this article shall not be construed to conflict with or diminish in any manner the jurisdiction of the Public Utilities Commission over for-hire vessels or common carriers, as those terms are defined in the Public Utilities Code.

Article 4. Charter Boat Safety

773. Legislative declaration. The Legislature finds and declares that the charter boat industry operates in the public interest by providing jobs, nutritious food, education, recreation, and joy for Californians and their visitors. The appreciation of whales in their natural habitat has increased enormously in recent years, along with the number of off-shore excursions embarking from California harbors, carrying people from all over the world close to whales that pass along our shore. Because Pacific Ocean conditions, especially in winter, may suddenly turn rough or even hazardous, the public health and safety, as well as the continued vitality of the charter boat industry, is best served by appropriate safety regulation.

773.1. Citation of article. This article shall be known and may be cited as the Charter Boat Safety Act of 1983.

773.2. Definitions. As used in this article:

(a) ''For-hire vessel'' means a for-hire vessel as defined in Section 4661 of the Public Utilities Code, irrespective of the number of passengers carried.

(b) ''Charter boat'' means a for-hire vessel operating on navigable water of the state in the coastal zone as defined in Section 30103 of the Public Resources Code, whether or not the vessel is licensed by the state. However, ''charter boat'' does not include any boat operating solely within a harbor, as defined in Section 34, or any boat licensed for point-to-point service while operating within the scope of that license.

(c) ''Operator'' means a person owning, controlling, operating, or managing a for-hire vessel.

(d) ''Charterer'' means a person who receives compensation for contracting with an operator to transport three or more passengers.

(e) ''Coast Guard'' means the United States Coast Guard.

(f) ''Life preserver'' means a life preserver approved and certified by the Coast Guard and capable of providing at least 90 percent of factory-rated flotation capacity.

(g) ''Person'' means any individual, firm, partnership, for-profit corporation, not for-profit corporation, limited liability company, association, joint stock association, trustee, receiver, assignee, or other similar entity or representative.

773.3. Requirement to be licensed. No person shall take or offer to take seven or more passengers on a charter boat unless the vessel is licensed by the United States Coast Guard.

773.4. Restrictions of compliance with this article. (a) No operator or charterer shall prevent any person from complying with, or direct any person to violate, any provision of this article, or direct the captain to get underway over the captain's objection that the condition of the vessel, or the weather, or a combination of both, makes the trip inadvisable.

(b) It shall be a full and complete defense to a charge of violating this section that, given the then-existing conditions of the vessel and the weather, the captain's or other person's compliance, however obtained, did not violate and would not have violated any provision of this article or any regulation of the Coast Guard, and was and would have been consistent with all safety precautions and procedures recommended by the Coast Guard.

(c) As used in this section:

(1) ''Direct'' means to coerce or attempt to coerce by threat of loss of employment or charter earnings or, if by an operator but not a charterer, to make a demand in violation of this section under circumstances in which it would be reasonable for the captain or other person to believe that failure to comply could lead to the loss of his or her employment or charter earnings.

(2) ''Captain'' means the individual responsible for the operation of the vessel while underway.

773.5. Requirement to wear life preserver. The operator of a charter boat, or the operator's employee or agent, shall require each passenger to don a life preserver under any of the following conditions:

(a) When conditions of rough weather or heavy seas pose a threat to the vessel or its passengers.

(b) When there is a casualty to the vessel including, but not limited to, any of the following:

(1) Loss of watertight integrity.

(2) Loss of propulsion or steering in close proximity to a shoal or shore.

(3) Fire at sea.

(4) When under tow.

(c) When crossing or navigating the bar or shoal at or near the entrance of any California harbor where weather conditions, surface current, breaking seas, or severely reduced visibility, cause an increase in the possibility of a sudden emergency that might prevent passengers from donning life preservers before entering the water.

(d) As used in this section:

(1) ''An increase in the possibility'' means a decrease in the certainty of a reasonably prudent operator that normal operation of the charter boat would avoid any sudden mishap.

(2) ''Normal operation'' means operation without resort to emergency procedures or other extraordinary measures to maintain course.

773.6. Advice to passengers on life preserver requirements. An operator, or the operator's employee or agent, who directs the passengers to the life preservers while announcing that the passengers are required for their safety to don them shall be deemed to have complied with Section 773.5, if the operator, or the operator's employee or agent, or the operator's employee at least once instructs any passenger who fails to don a life preserver to do so, and if the life preservers are unwrapped, ready to be donned, and stowed in a conveniently accessible place.

773.7. Advice to passengers on emergency procedures. The operator, or the operator's employee or agent, of a charter boat, prior to getting underway, shall orient each passenger concerning emergency procedures. A public announcement shall be made at the beginning of each trip to afford all passengers knowledge of the stowage location of life preservers, a demonstration of the proper method of donning and adjusting life preservers, the type and location of all lifesaving devices carried on the vessel, and the location of and contents of the emergency check-off list as prescribed in 46 C.F.R. 185.25-1. This public announcement shall be identified as a safety briefing in compliance with state law so as to differentiate it from a general information announcement.

773.8. Information to passengers about availability of life jackets. (a) A charterer or operator who organizes charter boat trips shall inform each adult passenger as soon as practicable after the passenger contracts or pays for passage or boards the charter boat, whichever occurs first, that life jackets will be provided at the adult

passenger's request. Adult and minor passengers shall be informed that life jackets are required to be worn at the direction of the operator or the operator's employee or agent.

(b) When leaving or returning to port, the operator shall use reasonable care in securing or causing to be secured objects which may cause injury to passengers.

774. Advertising requirements; penalty for violation. (a) Every charterer and every charter boat operator shall include in all advertising for any charter trips in the coastal zone, as defined in Section 30103 of the Public Resources Code, the statement that for the public safety all personal flotation devices carried aboard these United States Coast Guard Certificated Vessels are inspected and approved by the United States Coast Guard.

(b) Any operator or charterer who violates this section shall be liable for a civil penalty not less than fifty dollars ($50) and not more than one hundred dollars ($100) for each violation. The action shall be brought in the manner specified in Section 17206 of the Business and Professions Code.

774.1. Restrictions on leaving or entering Morro Bay. No operator of a for-hire vessel shall leave or enter Morro Bay after being directed by the harbormaster of the harbor not to do so because of the condition of the weather, the sea, the vessel, or a combination thereof.

774.2. Suspension of certain requirements. The operation of Sections 655, 773.5, 773.7, or 774.1 or subdivision (b) of Section 773.8 shall be suspended if the Coast Guard or other appropriate federal agency has adopted and is enforcing a substantially similar regulation which conflicts with those sections.

774.3. Violations. (a) Except as provided in Section 774, violation of any provision of this article is a misdemeanor punishable by imprisonment for not more than six months in the county jail, or a fine of not more than one thousand dollars ($1,000), or both the fine and imprisonment.

(b) Any operator who violates any provision of this article shall be liable for a civil penalty of not more than fifty thousand dollars ($50,000) for each violation. The action shall be brought in the manner specified in Section 17206 of the Business and Professions Code.

(c) Any violation of this article may be enjoined by the manner specified in Section 17203 of the Business and Professions Code and a violation of an injunction may be punished to the extent provided in Section 17207 of the Business and Professions Code.

774.4. Public entity, duties and liabilities. (a) This article does not impose any mandatory duties upon any public entity to monitor sea or weather conditions or to warn or prevent vessels from leaving or entering a harbor entrance during unsafe conditions.

(b) No public entity or employee thereof is liable for any injury which results from any act, or omission to act, prohibiting an operator for a for-hire vessel from leaving or entering a harbor.

CHAPTER 6. MARINE SANITATION

775. Legislative intent. (a) The Legislature hereby finds and declares all of the following:

(1) Marine sanitation devices should be regulated pursuant to uniform standards and procedures, and California vessel owners should not be subject to any local or state regulation as to the type of marine sanitation devices installed on their vessels.

(2) The proper use of marine sanitation devices is critical to the protection of water quality throughout California, and use of marine sanitation devices is required to be in conformance with the Federal Water Pollution Control Act (33 U.S.C. Sec. 1321 et seq.)

(3) For proper utilization of retention-type marine sanitation devices installed in conformance with the federal Water Pollution Control Act and for the protection of the quality of the waters of this state, adequate vessel pumpout facilities are essential.

(b) It is the intent of the Legislature that every vessel with a toilet shall comply with federal standards for marine sanitation devices.

775.5. Definitions. The definitions in this section govern the construction of this chapter.

(a) ''Vessel terminal'' means any private or public shoreside installation on any waters of this state which provides mooring, docking, berthing, and other facilities for the use of vessels.

(b) ''Marine sanitation device'' means any equipment on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat the sewage.

(c) ''Promulgation date'' means the date upon which the initial standards and regulations for marine sanitation devices are promulgated by an appropriate federal agency in accordance with Section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1322).

(d) ''Sewage'' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(e) ''Vessel'' means every watercraft or other contrivance used or capable of being used as a means of transportation on the waters of the state, excepting foreign and domestic vessels engaged in interstate or foreign commerce upon the waters of the state.

(f) ''State board'' means the State Water Resources Control Board.

(g) ''Regional board'' means a California regional water quality control board.

(h) ''Waters of this state'' shall mean all waters of the state except waters beyond three nautical miles of any shore of the state.

(i) ''Department'' means the Department of Boating and Waterways.

(j) ''No-discharge area'' means a body of water designated as a no-discharge area under subsection (f) of Section 312 of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1322 (f)).

(k) ''Discharge'' means spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(*l*) ''Secured'' means, for a marine sanitation device not approved for use in a no-discharge area, mechanically controlling valves or facilities in an identifiable manner to prevent any overboard discharge of sewage.

776. Vessel terminal requirements. (a) Every vessel terminal shall, as required by the regional board for the protection of the quality of the waters of this state, be equipped with vessel pumpout facilities for the transfer and disposal of sewage from marine sanitation devices. In imposing this requirement, the regional board shall take into account the number and type of vessels that use or are berthed at the vessel terminal and whether there exists at other locations pumpout facilities that have a total capacity sufficient for, and are convenient and accessible to, vessels that use or are berthed at the vessel terminal. In addition, the regional board may require any vessel pumpout facility to be equipped with a meter for the purpose of measuring use of the facility. All pumpout facilities installed after the operative date of the statute adding this section shall be equipped with a meter.

(b) This section does not apply to the following:

(1) Small craft launching facilities.

(2) Dockage adjacent to and serving private residences in areas where vessel pumpout facilities are conveniently available to vessels so docked, as determined by the regional board.

(3) Other types of facilities designated by the regional board after consulting with the department.

(c) Any violation of this section is a misdemeanor. In addition, any violation of this section is subject to any remedy provided for in Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code.

777. Transfer facilities. (a) Vessel pumpout facilities for the transfer and disposal of sewage from marine sanitation devices, floating restrooms, and onshore toilets shall be operated and maintained in a manner that will prevent the discharge of any sewage to the waters of the state and shall be maintained in good working order and regularly cleaned.

(b) Every vessel pumpout facility shall have a notice posted on the facility identifying the city, county, local public health officer, or boating law enforcement officer responsible for enforcing this chapter pursuant to Section 779, with the telephone number where a violation of subdivision (a) may be reported.

(c) Any violation of this section is a misdemeanor. In addition, any violation of this section is subject to any remedy provided for in Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code.

778. Standards. The state board shall adopt standards for the location, construction, operation, and maintenance of vessel pumpout facilities.

779. Enforcement. Every peace officer of the state and of any city, county, or other public agency, all state and local public health officers, and all boating law enforcement officers shall enforce this chapter and any regulations adopted pursuant to this chapter.

780. Sewage discharge, penalties. (a) No person shall disconnect, bypass, or operate a marine sanitation device so as to discharge sewage into the waters of this state, unless the particular discharge is expressly authorized or permitted pursuant to state or federal law or regulations. A violation of this subdivision is a misdemeanor.

(b) The following prohibitions apply in no-discharge areas:

(1) No person shall disconnect, bypass, or operate a marine sanitation device so as to potentially discharge sewage.

(2) No person shall occupy or operate a vessel in which a marine sanitation device is installed unless the marine sanitation device is properly secured.

The first violation of this subdivision is an infraction. A second or subsequent violation of this subdivision by any one person is a misdemeanor.

781. Representation. The Attorney General, at the request of the department, the state board, any regional board, or any aggrieved person, shall petition the superior court for injunctive relief, as may be appropriate, to secure compliance with this chapter.

782. Applicable law; local agency regulation. (a) Excepting laws regulating the discharge of sewage into or upon the navigable waters of any lake, reservoir, or fresh water impoundment of this state, and notwithstanding the provisions of Section 660, no vessel, as defined in subdivision (e) of Section 775.5, shall be subject to any other state or local government law, ordinance, or regulation with respect to the design, manufacture, installation, or use within any vessel of any marine sanitation device.

(b) Notwithstanding any other provision of law, nothing in this chapter precludes or restricts a city, county, or other public agency from adopting rules and regulations with respect to the discharge of sewage from vessels.

(c) State and local peace officers may enforce state laws relating to marine sanitation devices and may inspect vessels if there is reasonable cause to suspect noncompliance with those laws.

783. Houseboats regulation. Nothing in this chapter precludes the regulation of houseboats, as defined in Section 13901 of the Water Code, under other provisions of law by the state board, any regional board, or any local agency.

784. Provisions respecting vessel sanitation—not affected; regulating non-sewage discharges; exception. Nothing in this chapter is intended to affect the operation of Section 117505 of the Health and Safety Code. The state board and any regional board may also regulate nonsewage discharges excepting vessel washdown water, liquid galley, shower, or bath waste, or water discharges necessary for the propulsion or stability of a vessel.

785. State board authority. Nothing in this chapter shall prevent the state board from taking any action pursuant to subdivision (f) of Section 312 of the Federal Water Pollution Control Act.

786. Loan requirements. (a) Any loan made pursuant to Section 71.4 or 76.3, and any lease or concession contract entered into pursuant to Section 72, shall be subject to the express condition that the borrower comply with all applicable requirements of this chapter.

(b) Any loan made pursuant to Section 71.4 or 76.3 for, respectively, a project or a recreational marina that is required, pursuant to Section 776, to provide vessel pumpout facilities shall be subject to the following express conditions:

(1) The pumpout facility shall be opened to public use within six months of receiving any funds, or when any part of the project is opened to public use, whichever is later, unless the department determines that the facility cannot be opened to public use within this period due to circumstances beyond the control of the borrower.

(2) The borrower shall agree to budget funds each year for the maintenance and operation of the pumpout facility for its expected life.

(3) The location of the pumpout facility shall be publicized, by any convenient means available, and shall be marked with a distinctive and prominent sign that is readily identifiable from offshore locations.

(4) Charges imposed for the use of the pumpout facility shall not, in the aggregate, exceed the cost of maintaining and operating the pumpout facility and a pro rata share of the amount necessary for repayment of the loan.

(5) The portion of the loan equal to the cost of the pumpout facility shall become immediately due, if the borrower does not perform any requirement imposed pursuant to this subdivision.

(c) Any lessee or concessionaire that is required, pursuant to Section 776, to provide vessel pumpout facilities, shall be required through the lease or concession contract to comply with requirements that are not less restrictive than the requirements imposed by paragraphs (1) to (4), inclusive, of subdivision (b).

(d) Any loan made pursuant to Section 71.4 or 76.3, and any concession contract entered into pursuant to Section 72, shall be subject to the express condition that restrooms be opened to public use within six months of the date the project is opened to public use, unless the department determines that the facility cannot be opened to public use within this period due to circumstances beyond the control of the borrower.

DIVISION 6. HARBORS AND PORTS

PART 2. HARBORS AND PORTS MITIGATION PROJECTS

1720. Port mitigation. Any public agency with authority to approve or deny port projects that result in the filling of subtidal habitats within the ocean ports of California or habitats in the water of inland ports of California shall approve, as mitigation for those fill projects, any subtidal or in-water mitigation project proposed by the port authority that the public agency determines provides appropriate and adequate mitigation for the adverse impacts on the affected subtidal or in-water habitat in a manner consistent with other law that is then existing.

DIVISION 8. HARBOR AND PORT DISTRICTS

PART 4. CHAPTER 3. DISTRICT POWERS

Article 1

6302.5. Surfriding, Santa Cruz Port District. (a) This section is applicable only within the Santa Cruz Port District. The Legislature finds and declares that this section is necessary to meet a serious danger to the public safety within the Santa Cruz Port District caused by surfriding activities within the harbor entrance area.

(b) No person shall swim or surfride, or use any watercraft or device to surfride, on ocean waters within a harbor entrance area, as prescribed by the Santa Cruz Port District by ordinance.

(c) For the purposes of this section, ‘‘surfride’’ includes traveling to or from a surfriding staging area and activities in the staging area which are preparatory or preliminary to, or connected with, riding the surf.

(d) Every person who violates this section is guilty of a misdemeanor, and shall be punished by a fine not to exceed five hundred dollars ($500).

EXCERPTS FROM THE

BUSINESS AND PROFESSIONS CODE

EXCERPTS FROM THE BUSINESS AND PROFESSIONS CODE

DIVISION 5. WEIGHTS AND MEASURES

CHAPTER 2. ADMINISTRATION

Article 2.1. Fees and Charges

12240. County device fees, marinas, meters. (a) Except as otherwise provided in this section, the board of supervisors, by ordinance, may charge an annual device registration fee, not to exceed the county's total cost of actually inspecting or testing the devices as required by law, to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, and to recover the cost of carrying out Section 12211.

(b) Except as otherwise provided in this section, the device registration fee shall not exceed the amount prescribed in the Table of Maximum Annual Charges set forth in subdivision (f).

(c) The county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code.

(d) Retail gasoline pump meters, for which the above fees are assessed, shall be inspected as frequently as required by regulation, but not less than once every two years.

(e) Livestock scales, animal scales and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.

(f) Table of Maximum Annual Charges:

Number of Devices		Charge Per Location
1 to 3	.....	$ 40
4 to 9	.....	$ 80
10 to 19	.....	$120
20 to 25	.....	$160
Over 25	.....	$200

(g) For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the annual fee shall not exceed sixty dollars ($60) per marina, park, or complex, and a fee of up to two dollars ($2) per device per space or apartment. Marinas, mobilehome parks, recreational vehicle parks, and apartment complexes for which the above fees are assessed shall be inspected and tested as frequently as required by regulation.

(h) For weighing devices, other than livestock and motor truck scales, with capacities of 20,000 pounds or greater, the registration fee shall be two hundred dollars ($200) per device.

(i) For motor truck scales, the registration fee shall be one hundred dollars ($100) per device.

(j) This section does not apply to farm milk tanks.

(k) A scale or device used in a certified farmers' market, as defined by Section 113745 of the Health and Safety Code, is not required to be registered in the county where the market is conducted, if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.

(*l*) For livestock scales with capacities of 20,000 pounds or more, the registration fee shall be one hundred dollars ($100) per device, except that the fee for not more than three devices at a single location shall be one hundred dollars ($100).

DIVISION 9. ALCOHOLIC BEVERAGES

CHAPTER 16. REGULATORY PROVISIONS

Article 3. Women and Minors

25662. Possession of alcohol by person under 21. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars ($250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars ($500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

EXCERPTS FROM THE

CORPORATIONS CODE

EXCERPTS FROM THE CORPORATIONS CODE

DIVISION 3. CORPORATIONS FOR SPECIFIC PURPOSES

PART 4. PROFESSIONAL CORPORATIONS

13401.3. Professional services defined. As used in this part, ''professional services'' also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigations Code).

TITLE 2.5. LIMITED LIABILITY COMPANIES

CHAPTER 9. PROFESSIONAL LIMITED LIABILITY COMPANIES: RESERVED

17375. Limited liability company prohibition. Nothing in this title shall be construed to permit a domestic or foreign limited liability company to render professional services, as defined in subdivision (a) of Section 13401 and in Section 13401.3, in this state.

EXCERPTS FROM THE

EDUCATION CODE

EXCERPTS FROM THE EDUCATION CODE

DIVISION 4. INSTRUCTION AND SERVICES

PART 28. GENERAL INSTRUCTION PROGRAMS

CHAPTER 5. AUTHORIZED CLASSES AND COURSES OF INSTRUCTION

Article 16. Aquatic Safety

51879.7. Legislative intent. The Legislature finds that, given the great diversity of water recreation activities available statewide and the significant loss of life associated with those activities, there is a great need for an aquatic safety program in the state.

It is the intent of the Legislature in enacting this article that fundamental water safety training be provided for all the children of the state so that California's youth will be able to enjoy water recreation while avoiding its hazards.

51879.8. Aquatic education. The Department of Boating and Waterways, in cooperation with the Department of Education and other appropriate agencies, industry, and nonprofit organizations involved with water safety, shall develop an aquatic safety program which shall be made available for use at an appropriate grade level in public elementary schools, as determined by the Director of Boating and Waterways, at no expense to the schools. The aquatic education program shall include, but not be limited to, an audiovisual instructional aid and parental involvement materials. The Department of Boating and Waterways will act as liaison between the schools and school districts and the industry and nonprofit organizations involved with water safety.

51879.9. Notification of schools. Once developed, the Department of Boating and Waterways shall notify the schools and school districts of the availability of the aquatic safety program.

EXCERPTS FROM THE

FISH AND GAME CODE

EXCERPTS FROM THE FISH AND GAME CODE

DIVISION 4. BIRDS AND MAMMALS

PART 1. PROVISIONS GENERALLY APPLICABLE TO BOTH

CHAPTER 1. GENERAL PROVISIONS

Article 1. Methods of Taking

3003.5. Pursuing animal with powerboat. It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water, land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:

(a) On private property by the landowner or tenant thereof to drive or herd game mammals for the purpose of preventing damage by such mammals to private property.

(b) Pursuant to a permit from the department issued under such regulations as the commission may prescribe.

(c) In the pursuit of agriculture.

DIVISION 6. FISH

PART 1. GENERALLY

CHAPTER 2. POLLUTION

Article 1. General

5650. Water Pollution. (a) Except as provided in subdivision (b), it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

(1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(2) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.

(3) Any sawdust, shavings, slabs, or edgings.

(4) Any factory refuse, lime, or slag.

(5) Any cocculus indicus.

(6) Any substance or material deleterious to fish, plant life, or bird life.

(b) This section does not apply to a discharge or a release that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms conditions of a federal permit for which the State Water Resources Control Board or a regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This section does not confer additional authority on the State Water Resources Control Board, a regional water quality control board, or any other entity.

(c) It shall be an affirmative defense to a violation of this section if the defendant proves, by a preponderance of the evidence, all of the following:

(1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.

(2) The substance or material did not enter the waters of the state or a storm drain that discharges into the waters of the state.

(3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(d) The affirmative defense in subdivision (c) does not apply and may not be raised in an action for civil penalties or injunctive relief pursuant to Section 5650.1.

(e) The affirmative defense in subdivision (c) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this section, or suffered a judgment for a violation of this section or Section 5650.1. This subdivision shall apply only to cases filed on or after January 1, 1997.

(f) The affirmative defense in subdivision (c) does not apply and may not be raised by the defendant in any case in which a district attorney, city attorney, or Attorney General alleges, and the court finds, that the defendant acted willfully.

5652. Illegal deposit, etc., of refuse in waters of state; presumption on abandonment of motor vehicle, and liability for cost of removal; exception. It is unlawful to deposit, permit to pass into, or place where it can pass into the waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high-water mark of the waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

The abandonment of any motor vehicle in any manner that violates this section shall constitute a rebuttable presumption affecting the burden of producing evidence that the last registered owner of record, not having complied with Section 5900 of the Vehicle Code, is responsible for such abandonment and is thereby liable for the cost of removal and disposition of the vehicle. This section prohibits the placement of a vehicle body on privately owned property along a streambank by the property owner or tenant for the purpose of preventing erosion of the streambank.

This section does not apply to a refuse disposal site which is authorized by the appropriate local agency having jurisdiction or to the depositing of such materials in a container from which the materials are routinely removed to a legal point of disposal.

This section shall be enforced by all law enforcement officers of this state.

DIVISION 7. REFUGES

CHAPTER 1. REFUGES AND OTHER PROTECTED AREAS

Article 1. General Provisions

10502.8. Catalina Marine Refuge, research. (a) The director may appoint the Director of the Catalina Marine Science Center Marine Life Refuge.

(b) The Director of the Catalina Marine Science Center Marine Life Refuge may authorize any person to enter the Catalina Marine Science Center Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the department determines necessary for the protection and propagation of fish and wildlife and related scientific purposes in that refuge.

(c) The Director of the Catalina Marine Science Center Marine Life Refuge, upon recommendation of the Director of the Catalina Marine Science Center, may authorize any person involved in oceanographic and scientific research in and around Catalina Island to anchor or moor a vessel in the Catalina Marine Science Center Marine Life Refuge.

10655. Caltalina Marine Refuge, vessels. (a) A person involved in oceanographic and scientific research in and around Santa Catalina Island may be authorized by the Director of the Catalina Marine Science Center Marine Life Refuge to enter the Catalina Marine Science Center Marine Life Refuge and to anchor or moor a vessel therein.

(b) The Director of the Catalina Marine Science Center Marine Life Refuge, or any person that the Director of the Catalina Marine Science Center Marine Life Refuge has authorized under Section 10502.8, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under Section 10502.8.

10655.5. Catalina Marine Refuge, vessel restrictions. (a) Except as expressly provided in this division, it is unlawful to enter the Catalina Marine Science Center Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Catalina Marine Science Center Marine Life Refuge.

(b) Except as permitted by federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science Center Marine Life Refuge without authorization by the Director of the Catalina Marine Science Center Marine Life Refuge pursuant to Section 10502.8.

(c) Section 10655 and this section do not prohibit or restrict navigation in the Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

10932. Catalina Marine Refuge, legal boundary. The following constitutes a marine life refuge and shall be designated the Catalina Marine Science Center Marine Life Refuge: All that area bounded on the south and southeast by the mean high tide line and by the present seaward boundary of the lease to tide and submerged lands now held by the University of Southern California from the State Lands Commission (No. 3692.1 Public Resources Code Series) and extending from a point on the mean high tide line at 33° 26′ 39″ North Latitude 118° 29′ 19″ West Longitude, thence to 33° 26′ 50″ North Latitude 118° 29′ 08″ West Longitude, thence to 33° 26′ 57.5″ North Latitude 118° 28′ 33.5″ West Longitude, thence to 33° 26′ 55″ North Latitude 118° 28′ 32″ West Longitude, and thence to a point on the mean high tide line at 33° 26′ 53.5″ North Latitude 118° 28′ 35″ West Longitude.

EXCERPTS FROM THE

GOVERNMENT CODE

EXCERPTS FROM THE GOVERNMENT CODE

DIVISION 1. SOVEREIGNTY AND PEOPLE OF THE STATE

CHAPTER 1. SOVEREIGNTY OF THE STATE

Article 3. State Boundaries

170. Coastal boundary. To give greater precision to the boundary of the State of California as defined in Article XXI of the Constitution, it is hereby declared that the part of the boundary which is described as ''running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude,'' and as ''including all the islands, harbors, and bays along and adjacent to the coast,'' runs and has in the past run three English nautical miles oceanward of lines drawn along the outer sides of the outermost of the islands, reefs and rocks along and adjacent to the mainland and across intervening waters; and where there are harbors, but no such outlying islands, reefs and rocks, it runs and in the past has run three English nautical miles oceanward of lines drawn in front of the harbors along the outermost works and installations thereof, and, in the case of all bays (including inlets and estuaries) three English nautical miles from lines drawn from headland to headland across the mouth of each bay, inlet and estuary, regardless of the length of the lines.

Where there are no outlying islands, reefs or rocks and no harbors or bays or inlets or estuaries, the boundary runs and has in the past run three English nautical miles oceanward of the lowest low-water mark on the shore.

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

DIVISION 3. EXECUTIVE DEPARTMENT

PART 3. DEPARTMENT OF FINANCE

CHAPTER 3. FISCAL AFFAIRS

Article 2.5. Provisions Applicable to Appropriations of Funds

13332.11. Capital outlay projects; plan approval; exceptions. (a) No funds appropriated for capital outlay may be expended by any state agency, including the University of California, the California State University, and the community colleges, until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be financed from the appropriation for capital outlay, except that community college approvals by the State Public Works Board shall apply only to the allocation of state capital outlay funds appropriated heretofore and hereafter by the Legislature, including land acquisition and equipment funds.

This subdivision shall not apply to any of the following:

(1) Amounts for acquisition of land or other real property.

(2) Amounts needed for equipment or minor projects.

(3) Amounts appropriated specifically for preliminary surveys, studies, and planning.

(b) Any appropriated amounts for working drawings or construction where the working drawings or construction have been started by any state agency prior to approval of the preliminary plans by the State Public Works Board, and all amounts not approved by the board under this section shall be reverted to the fund from which the appropriation was made. If the Director of Finance or his or her authorized representative requests review of working drawings, no major project for which an appropriation is made shall be put out to bid until the working drawings therefor have been approved by the Department of Finance. No substantial change shall be made

from the preliminary plans or working drawings as approved by the State Public Works Board and the Department of Finance without written approval by the Department of Finance. Any proposed construction bid alternates shall be approved by the Department of Finance.

(c) No more than two thousand dollars ($2,000) of funds appropriated may be spent for any single unit of equipment until prior approval for the purchase of the equipment has been given by the Department of Finance.

(d) The State Public Works Board shall defer all augmentations in excess of 20 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(e) Augmentations in excess of 10 percent of the amount appropriated for each capital outlay project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine. Any augmentation of construction projects shall be limited to the amounts appropriated for construction contract costs and architectural and engineering services costs.

(f) Prior to State Public Works Board action on any capital outlay appropriation, the Department of Finance shall certify, in writing, to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the board that the requested action is in accordance with the legislatively approved scope and cost. If, pursuant to the other provisions of this section, the Department of Finance approves changes to the approved scope or cost, or both, the department shall report the changes and associated cost implications. The reports shall also include all proposed or potential augmentations in excess of 10 percent of the amount appropriated for construction contract costs related to capital outlay projects.

(g) The State Public Works Board shall defer action with respect to approval of any portion of an acquisition project, or approval of preliminary plans, when it is determined that the estimated cost of the total acquisition project, or construction project, approved by the Legislature is in excess of 20 percent of the amount appropriated, unless, in the case of acquisition projects, it is determined that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature, and the Chairperson of the Joint Legislative Budget Committee, or his or her designee, is provided a 20-day prior notification of the proposed reductions in the acquisition project, or whatever lesser period the chairperson, or his or her designee, may in each instance determine.

(h) Nothing in this section shall be construed to limit or control the Department of Transportation in the expenditure of all funds appropriated to the department for capital outlay purposes.

TITLE 5. LOCAL AGENCIES

DIVISION 2. CITIES, COUNTIES AND OTHER AGENCIES

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES AND OTHER AGENCIES

CHAPTER 1. GENERAL

Article 8. Costs of Emergency Response

53151. Liable for emergency response costs—vessel. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of any boat or vessel

caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

53153. Person under the influence of alcohol or drugs. For purposes of this article, a person is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, when as a result of drinking an alcoholic beverage or using a drug, or both, his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle, boat or vessel, or aircraft with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstances. For purposes of this article, the presumptions described in Sections 23152 and 23155 of the Vehicle Code shall apply.

53154. Collection by public agency. The expense of an emergency response shall be a charge against the person liable for expenses under this article. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied, except that liability for the expenses provided for in this article shall not be insurable and no insurance policy shall provide or pay for the expenses.

53155. Maximum liability. In no event shall a person's liability under this article for the expense of an emergency response exceed five hundred dollars ($500) for a particular incident.

53156. Definitions. As used in this article:

(a) ''Expense of an emergency response'' means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising because of the response to the particular incident. Reasonable costs shall include the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(b) ''Public agency'' means the state and any city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

(c) ''Intentionally wrongful conduct'' means conduct intended to injure another person or property.

53157. Inadmissibility of evidence in criminal proceedings. Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this article, or any evidence derived from the testimony, admission, or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same incident.

53158. Legislative intent. It is not the intent of the Legislature, in enacting this article, to occupy the field of recovery of the expense of an emergency response by a public agency, nor is it the intent of the Legislature to preempt local regulations or to otherwise limit the remedies available to any public agency to recover the expenses of an emergency response to any incident not involving persons who operate a motor vehicle, a boat or vessel, or a civil aircraft while under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug. It is the intent of the Legislature that the recovery of the expenses of an emergency response under this chapter shall supplement and shall not supplant any other provisions of law relating to the recovery of those expenses.

EXCERPTS FROM THE

HEALTH AND SAFETY CODE

EXCERPTS FROM THE HEALTH AND SAFETY CODE

DIVISION 104. ENVIRONMENTAL HEALTH

PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL

CHAPTER 4. WASTE AND WASTE DISPOSAL

Article 2. Pollution of Navigable Waters with Garbage

117475. Definitions. For the purpose of this article the term "garbage" includes any or all of the following:

(a) Garbage.
(b) Swill.
(c) Refuse.
(d) Cans.
(e) Bottles.
(f) Paper.
(g) Vegetable matter.
(h) Carcass of any dead animal.
(i) Offal from any slaughter pen or butcher shop.
(j) Trash.
(k) Rubbish.
(*l*) Radioactive waste materials.
(m) Discarded, nonbiodegradable materials including plastics or damaged or broken marine equipment.

117480. Dumping garbage in navigable waters. Every person who places, deposits, or dumps any garbage in or upon the navigable waters of this state, or who places, deposits, or loads it upon any vessel, with intent that it shall be dumped or deposited in or upon the navigable waters of this state, or at any point in the ocean within twenty miles of any point on the coast line of the state, is guilty of a misdemeanor.

117485. Loading garbage on vessel for purpose of dumping. Every person in charge of any vessel who permits it to be loaded with any garbage with intent that it shall be dumped or deposited from the vessel in or upon any of the navigable waters of this state, or at any point in the ocean, within twenty miles of any point on the coast line of the state, is guilty of a misdemeanor.

117490. Inspector on vessel loaded with garbage. A vessel upon which any garbage has been loaded with the intent that it shall be dumped or deposited upon any of the waters of the ocean where permitted by this article, shall not leave any point within the state unless it shall carry for the entire trip an inspector appointed by the department, or where the point of departure is in a city, then by the city. The inspector shall enforce this article.

Every person in charge of a vessel that is required to have an inspector on board by this article, and that does not carry an inspector during the entire trip, is guilty of a misdemeanor.

117495. Notice of intent to dump radioactive waste materials. Every person in charge of a vessel that is to dump or deposit radioactive waste materials upon any of the waters of the ocean where permitted by this article shall notify the department in writing at least five days in advance of the dumping or depositing, specifying the intended date of departure and giving other information as may be required by the department. The department may permit the vessel to leave without the inspector

required by Section 117490 if it determines that the public health and welfare will not be endangered thereby. If this permission is granted, the department may require the person in charge of the vessel to submit a certified statement to it, at a time as the department determines, setting forth the time, location, and manner of the dumping or disposal and other information as the department may require.

117500. Discharge of sewer system. This article shall not be construed to affect the discharge of any sewer system.

Article 3. Vessel Sanitation

117505. Vessel toilets. No person shall maintain or operate in or upon the navigable waters of any lake, reservoir, or fresh water impoundment of this state any vessel that is equipped with a toilet unless the toilet is sealed or otherwise rendered inoperable or designed so that no human excreta can be discharged into the waters.

117510. Definitions. As used in this article:

(a) ''Vessel'' means every description of craft or other contrivance used, or capable of being used, as a means of transportation in or on water.

(b) ''Navigable waters'' means all public waters of the state in any river, stream, lake, reservoir, or other body of water, including all salt water bays, inlets, and estuaries within the jurisdiction of the state.

117515. Dumping of human excreta in navigable waters. No person shall place, deposit, or dump any human excreta in or upon the navigable waters of this state, that are within any marina, yacht harbor, fresh water lake, or fresh water impoundment, from any vessel tied to any dock, slip, or wharf that has toilet facilities available for the use of persons on the vessel.

117520. Enactment and enforcement of ordinances. It is not the intent of the Legislature in enacting this article to preempt the field of pollution by vessels, and the provisions of this article do not prohibit the enactment or enforcement of any ordinance by any city, county, or district having the power to regulate pollution by vessels, that is stricter than the provisions of this article.

117525. Violation. Any violation of this article is a misdemeanor.

DIVISION 10.5. STATE DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

PART 2. STATE GOVERNMENTS ROLE TO ALLEVIATE PROBLEMS RELATED TO THE INAPPROPRIATE USE OF ALCOHOLIC BEVERAGES

CHAPTER 9. SERVICES TO PERSONS CONVICTED FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL

11837. Alcohol programs, conditions. (a) Pursuant to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and any drug, as set forth in paragraph (3) of subdivision (a) of Section 13352 of the Vehicle Code, the Department of Motor Vehicles shall restrict the driving privilege pursuant to Section 13352.5 of the Vehicle Code, if the court has notified the department pursuant to Section 13352 of the Vehicle Code that the person convicted of that offense has consented to participate for at least 18 months in a program designed to offer alcohol and other drug education and counseling services that is licensed pursuant to this chapter.

(b) In determining whether to refer a person, who is ordered to participate in a program pursuant to Section 668 of the Harbors and Navigation Code, in a licensed alcohol and other drug education and counseling services program pursuant to Section

23538 of the Vehicle Code, or, pursuant to Section 23542, 23548, 23552, 23556, 23562, or 23568 of the Vehicle Code, in a licensed 18-month or 30-month program, the court may consider any relevant information about the person made available pursuant to a presentence investigation, that is permitted but not required under Section 23655 of the Vehicle Code, or other screening procedure. That information shall not be furnished, however, by any person who also provides services in a privately operated, licensed program or who has any direct interest in a privately operated, licensed program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in a licensed 18-month or 30-month program pursuant to this chapter. When preparing a presentence report for the court, the probation department may consider the suitability of placing the defendant in a treatment program that includes the administration of nonscheduled nonaddicting medications to ameliorate an alcohol or controlled substance problem. If the probation department recommends that this type of program is a suitable option for the defendant, the defendant who would like the court to consider this option shall obtain from his or her physician a prescription for the medication, and a finding that the treatment is medically suitable for the defendant, prior to consideration of this alternative by the court.

(c) (1) The court shall, as a condition of probation pursuant to Section 23538 or 23556 of the Vehicle Code, refer a first offender whose concentration of alcohol in his or her blood was less than 0.20 percent, by weight, to participate for at least three months or longer, as ordered by the court, in a licensed program that consists of at least 30 hours of program activities, including those education, group counseling, and individual interview sessions described in this chapter.

(2) Notwithstanding any other provision of law, in granting probation to a first offender described in this subdivision whose concentration of alcohol in the person's blood was 0.20 percent or more, by weight, or the person refused to take a chemical test, the court shall order the person to participate, for at least six months or longer, as ordered by the court, in a licensed program that consists of at least 45 hours of program activities, including those education, group counseling, and individual interview sessions described in this chapter.

(d) (1) The State Department of Alcohol and Drug Programs shall specify in regulations the activities required to be provided in the treatment of participants receiving six months of licensed program services under Section 23538 or 23556 of the Vehicle Code.

(2) Any program licensed pursuant to this chapter may provide treatment services to participants receiving at least six months of licensed program services under Section 23538 or 23556 of the Vehicle Code.

(e) The court may, subject to Section 11837.2, and as a condition of probation, refer a person to a licensed program, even though the person's privilege to operate a motor vehicle is restricted, suspended, or revoked. An 18-month program described in Section 23542 or 23562 of the Vehicle Code or a 30-month program described in Section 23548, 23552, or 23568 of the Vehicle Code may include treatment of family members and significant other persons related to the convicted person with the consent of those family members and others as described in this chapter, if there is no increase in the costs of the program to the convicted person.

(f) The clerk of the court shall indicate the duration of the program in which the judge has ordered the person to participate in the abstract of the record of the court that is forwarded to the department.

11837.3. Establishment of alcohol programs. (a) (1) Each county, through the county alcohol program administrator, shall determine its ability to establish, through

public or private resources, a program of alcohol and other drug education and counseling services for a person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a first violation of Section 23152 or 23153 of the Vehicle Code, or who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of, or Section 655.4 of, the Harbors and Navigation Code, pursuant to subdivisions (e) and (f) of Section 668 of the Harbors and Navigation Code. The program shall be self-supporting through fees collected from program participants. The program shall be of at least three months' duration and totaling at least 30 hours of direct education and counseling services, that shall be authorized by each county and licensed by, and operated under general regulations established by, the department. A county that shows the department that it has insufficient resources, insufficient potential program participants, or other material disadvantages is not required to establish a program.

(2) The department may license an alcohol and other drug education program that is less than 30 hours in length in any county where the board of supervisors has provided the showing pursuant to paragraph (1), and the department has upheld that showing. The shorter program is subject to all other applicable regulations developed by the department pursuant to paragraph (3) of subdivision (b) of Section 11837.4.

(b) Each county that has approved an alcohol and other drug education program or programs and that is licensed by the department shall make provision for persons who can document current inability to pay the program fee, in order to enable those persons to participate. The county shall require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(c) In order to assure effectiveness of the alcohol and other drug education and counseling program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(d) (1) Any person required to successfully complete an alcohol and other drug education and counseling program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person also shall participate in and successfully complete the program, and shall furnish proof of successful completion within the period of time and in the manner specified by the court.

(2) An alcohol and other drug education and counseling program shall report to the court, within the period of time and in the manner specified by the court, the name of any person who fails to successfully complete the program.

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS

CHAPTER 1. HEALTH AND SAFETY OF BATHERS

Article 3. Swimming Pool Sanitation

24100.3. Aquatic safety instructors. Persons providing aquatic instruction, including, but not limited to, swimming instruction, water safety instruction, water contact activities, and competitive aquatic sports, at a public swimming pool shall possess an American Red Cross Emergency Water Safety Course Certificate, or have equivalent qualifications, as determined by the state department. In addition, these persons shall be certified in standard first aid and cardiopulmonary resuscitation (CPR). All of these persons shall meet these qualifications by January 1, 1991. Persons who only disseminate written materials relating to water safety, are not persons providing aquatic instruction within the meaning of this section.

The requirements of this section shall be waived under either of the following circumstances: (a) when one or more aquatic instructors possessing the American Red Cross Emergency Water Safety Course Certificate or its equivalent are in attendance continuously during periods of aquatic instruction, or (b) when one or more lifeguards meeting the requirements of Section 24100.1 are in attendance continuously during periods of aquatic instruction.

25210. Nonbiodegradable toxic chemicals; unlawful use or sale; regulations. It shall be unlawful, on or after January 1, 1979, to use a nonbiodegradable toxic chemical in a chemical toilet, recreational vehicle, or waste facility of a vessel as the term vessel is defined in the Harbors and Navigation Code, and it shall be unlawful on or after January 1, 1979, to sell a nonbiodegradable toxic chemical in a container which indicates that the chemical could be used in a chemical toilet, a waste facility of a recreational vehicle, or a waste facility of a vessel as the term vessel is defined in the Harbors and Navigation Code. The department shall develop and adopt regulations to define nonbiodegradable toxic chemicals and limitations on the sale thereof by June 1, 1978.

DIVISION 104. ENVIRONMENTAL HEALTH

PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL

CHAPTER 4. WASTE AND WASTE DISPOSAL

Article 2. Pollution of Navigable Waters with Garbage

117505. Vessel sanitation, lakes. No person shall maintain or operate in or upon the navigable waters of any lake, reservoir, or fresh water impoundment of this state any vessel that is equipped with a toilet unless the toilet is sealed or otherwise rendered inoperable or designed so that no human excreta can be discharged into the waters.

EXCERPTS FROM THE

PENAL CODE

EXCERPTS FROM THE PENAL CODE

PRELIMINARY PROVISIONS

7. Words and phrases. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word ''person'' includes a corporation as well as a natural person; the word ''county'' includes ''city and county;'' writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term ''testify,'' and every written one in the term ''depose;'' signature or subscription includes mark, when the person cannot write, his name being written near it, by a person who writes his own name as a witness; provided, that when a signature is made by mark it must, in order that the same may be acknowledged or serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witnesses thereto.

The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word ''willfully,'' when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

2. The words ''neglect,'' ''negligence,'' ''negligent,'' and ''negligently'' import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

3. The word ''corruptly'' imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

4. The words ''malice'' and ''maliciously'' import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

5. The word ''knowingly'' imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.

6. The word ''bribe'' signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given, in his action, vote, or opinion, in any public or official capacity.

7. The word ''vessel,'' when used with reference to shipping, includes ships of all kinds, steamboats, canalboats, barges, and every structure adapted to be navigated from place to place for the transportation of merchandise or persons, except that, as used in Sections 192 and 193, the word ''vessel'' means a vessel as defined in subdivision (c) of Section 651 of the Harbors and Navigation Code.

8. The words ''peace officer'' signify any one of the officers mentioned in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

9. The word ''magistrate'' signifies any one of the officers mentioned in Section 808.

10. The word ''property'' includes both real and personal property.

11. The words ''real property'' are coextensive with lands, tenements, and hereditaments.

12. The words ''personal property'' include money, goods, chattels, things in action, and evidences of debt.

13. The word ''month'' means a calendar month, unless otherwise expressed; the word ''daytime'' means the period between sunrise and sunset, and the word ''nighttime'' means the period between sunset and sunrise.

14. The word ''will'' includes codicil.

15. The word ''writ'' signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer, and the word ''process'' a writ or summons issued in the course of judicial proceedings.

16. Words and phrases must be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, must be construed according to such peculiar and appropriate meaning.

17. Words giving a joint authority to three or more public officers or other persons, are construed as giving such authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

18. When the seal of a court or public officer is required by law to be affixed to any paper, the word ''seal'' includes an impression of such seal upon the paper alone, or upon any substance attached to the paper capable of receiving a visible impression. The seal of a private person may be made in like manner, or by the scroll of a pen, or by writing the word ''seal'' against his or her name.

19. The word ''state,'' when applied to the different parts of the United States, includes the District of Columbia and the territories, and the words ''United States'' may include the district and territories.

20. The word ''section,'' whenever hereinafter employed, refers to a section of this code, unless some other code or statute is expressly mentioned.

21. To ''book'' signifies the recordation of an arrest in official police records, and the taking by the police of fingerprints and photographs of the person arrested, or any of these acts following an arrest.

PART 1. OF CRIMES AND PUNISHMENTS

TITLE 8. OF CRIMES AGAINST THE PERSON

CHAPTER 1. HOMICIDE

191.5. Gross vehicular manslaughter (vessels) while intoxicated. (a) Gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was in violation of Section 23140, 23152, or 23153 of the Vehicle Code, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence, or the proximate result of the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Gross vehicular manslaughter while intoxicated also includes operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(c) Gross vehicular manslaughter while intoxicated is punishable by imprisonment in the state prison for 4, 6, or 10 years.

(d) Any person convicted of violating this section who has one or more prior convictions of this section or of paragraph (1) or (3) of subdivision (c) of Section 192,

subdivision (a) or (c) of Section 192.5 of this code, or of violating Section 23152 punishable under Sections 23165, 23166, 23170, 23171, 23175, or 23176 of, or convicted of Section 23153 of, the Vehicle Code, shall be punished by imprisonment in the state prison for a term of 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the term imposed pursuant to this subdivision.

(e) This section shall not be constructed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal. 3d 290.

(f) This section shall not be constructed as making any homicide in the driving of a vehicle or the operation of a vessel punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

192. Manslaughter. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary—upon a sudden quarrel or heat of passion.

(b) Involuntary—in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) Vehicular—

(1) Except as provided in Section 191.5, driving a vehicle in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(2) Except as provided in paragraph (3), driving a vehicle in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in violation of Section 23140, 23152, or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in violation of Section 23140, 23152, or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(4) Driving a vehicle in connection with a violation of paragraph (3) of subdivision (a) of Section 550, where the vehicular collision or vehicular accident was knowingly caused for financial gain and proximately resulted in the death of any person. This provision shall not be construed to prevent prosecution of a defendant for the crime of murder.

This section shall not be construed as making any homicide in the driving of a vehicle punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

''Gross negligence,'' as used in this section, shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in People v. Watson, 30 Cal.3d 290.

192.5. Vessel manslaughter—definition. Vehicular manslaughter pursuant to subdivision (c) of Section 192 includes:

(a) Except as provided in subdivision (b) of Section 191.5, operating a vessel in the commission of an unlawful act, not amounting to felony, and with gross negligence; or operating a vessel in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(b) Except as provided in subdivision (c), operating a vessel in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(c) Operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or operating a vessel in violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code, and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

193.5. Vessel manslaughter—penalties. Manslaughter committed during the operation of a vessel is punishable as follows:

(a) A violation of subdivision (a) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for two, four, or six years.

(b) A violation of subdivision (b) of Section 192.5 is punishable by imprisonment in the county jail for not more than one year.

(c) A violation of subdivision (c) of Section 192.5 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months or two or four years.

219.2. Throwing object at passenger or freight carrier. Every person who willfully throws, hurls, or projects a stone or other hard substance, or shoots a missile, at a train, locomotive, railway car, caboose, cable railway car, street railway car, or bus or at a steam vessel or watercraft used for carrying passengers or freight on any of the waters within or bordering on this state, is punishable by imprisonment in the county jail not exceeding one year, or in a state prison, or by fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.

TITLE 10. OF CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY

370. Public nuisances. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, or any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

374. Littering waste matter. (a) Littering means the willful or negligent throwing, dropping, placing, depositing, or sweeping, or causing any such acts, of any waste matter on land or water in other than appropriate storage containers or areas designated for such purposes.

(b) Waste matter means discarded, used, or left over substance including, but not limited to, a lighted or nonlighted cigarette, cigar, match, or any flaming or glowing material, or any garbage, trash, refuse, paper, container, packaging or construction material, carcass of a dead animal, any nauseous or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard.

374.7. Littering waters. (a) Every person who litters or causes to be littered, or dumps or causes to be dumped, any waste matter into any bay, lagoon, channel, river, creek, slough, canal, lake, or reservoir, or other stream or body of water, or upon a bank, beach, or shore within 150 feet of the high water mark of any stream or body of water, is guilty of a misdemeanor.

(b) Every person convicted of a violation of subdvision (a) shall be punished by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars ($750) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

(c) The court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of subdivision (a), pick up litter at a time and place within the jurisdiction of the court for not less than eight hours.

374.8. Hazardous materials, state waters. (a) In any prosecution under this section, proof of the elements of the offense shall not be dependent upon the requirements of Title 22 of the California Code of Regulations.

(b) Any person who knowingly causes any hazardous substance to be deposited into or upon any road, street, highway, alley, or railroad right-of-way, or upon the land of another, without the permission of the owner, or into the waters of this state is punishable by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for a term of 16 months, two years, or three years, or by a fine of not less than fifty dollars ($50) nor more than ten thousand dollars ($10,000), or by both the fine and imprisonment, unless the deposit occurred as a result of an emergency that the person promptly reported to the appropriate regulatory authority.

(c) For purposes of this section, ‘‘hazardous substance’’ means either of the following:

(1) Any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the environment, including, but not limited to, hazardous waste and any material that the administering agency or a handler, as defined in Chapter 6.91 (commencing with Section 25410) of Division 20 of the Health and Safety Code, has a reasonable basis for believing would be injurious to the health and safety of persons or harmful to the environment if released into the environment.

(2) Any substance or chemical product for which one of the following applies:

(A) The manufacturer or producer is required to prepare a MSDS, as defined in Section 6374 of the Labor Code, for the substance or product pursuant to the Hazardous Substances Information Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(B) The substance is described as a radioactive material in Chapter 1 of Title 10 of the Code of Federal Regulations maintained and updated by the nuclear Regulatory Commission.

(C) The substance is designated by the Secretary of Transportation in Chapter 27 (commencing with Section 1801) of the appendix to Title 49 of the United States Code and taxed as a radioactive substance or material.

(D) The materials listed in subdivision (b) of Section 6382 of the Labor Code.

TITLE 13. OF CRIMES AGAINST PROPERTY

CHAPTER 5. LARCENY (THEFT)

487. Grand theft. Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding four hundred dollars ($400), except as provided in subdivision (b).

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding one hundred dollars ($100).

(B) For the purposes of establishing that the value of avocados or citrus fruit under this paragraph exceeds one hundred dollars ($100), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft avocados or citrus fruit of the same variety and weight exceeded one hundred dollars ($100) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding one hundred dollars ($100).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates four hundred dollars ($400) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is an automobile, firearm, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

488. Petty theft. Theft in other cases is petty theft.

496d. Vessel and trailer theft. (a) Every person who buys or receives any motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code, that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any motor vehicle, trailer, special construction equipment, or vessel from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in the state prison for 16 months or two or three years or a fine of not more than ten thousand dollars ($10,000), or both, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars ($1,000), or both.

(b) For the purposes of this section, the terms ‘‘special construction equipment’’ and ‘‘vessel’’ are limited to motorized vehicles and vessels.

499. Penalty. (a) Any person who, having been convicted of a previous violation of Section 10851 of the Vehicle Code, or of subdivision (d) of Section 487, involving a vehicle or vessel, and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for the offense, is subsequently convicted of a violation of Section 499b, involving a vehicle or vessel, is punishable for the subsequent offense by imprisonment in the county jail not exceeding one year or the state prison for 16 months, two, or three years.

(b) Any person convicted of a violation of Section 499b, who has been previously convicted under charges separately brought and tried two or more times of a violation of Section 499b, all such violations involving a vehicle or vessel, and who has been

imprisoned therefore as a condition of probation or otherwise at least once, is punishable by imprisonment in the county jail for not more than one year or in the state prison for 16 months, two, or three years.

499b. Taking vehicle for temporary use or operation. Any person who shall, without the permission of the owner thereof, take any bicycle or motorboat or vessel, for the purpose of temporarily using or operating the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding four hundred dollars ($400), or by imprisonment not exceeding three months, or by both that fine and imprisonment.

CHAPTER 8. FALSE PERSONATION AND CHEATS

537. Defrauding innkeepers, etc. (a) Any person who obtains any food, fuel, services, or accommodations at a hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, fuel, services, or accommodations, at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground, absconds, or surreptitiously, or by force, menace, or threats, removes any part of his or her baggage therefrom with the intent not to pay for his or her food or accommodations is guilty of a public offense punishable as follows:

(1) If the value of the credit, food, fuel, services, or accommodations is four hundred dollars ($400) or less, by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for a term not exceeding six months, or both.

(2) If the value of the credit, food, fuel, services, or accommodations is greater than four hundred dollars ($400), by imprisonment in the county jail for a term of not more than one year, or in the state prison.

(b) Any person who uses or attempts to use ski area facilities for which payment is required without paying as required, or who resells a ski lift ticket to another when the resale is not authorized by the proprietor, is guilty of an infraction.

(c) Evidence that a person left the premises of such an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying or offering to pay for such food, fuel, services, use of facilities, or accommodation, or that the person, without authorization from the proprietor, resold his or her ski lift ticket to another person after making use of such facilities, shall be prima facie evidence of the following:

(1) That the person obtained such food, fuel, services, use of facilities or accommodations with intent to defraud the proprietor or manager.

(2) That, if, after obtaining the credit, food, fuel, services, or accommodations, the person absconded, or surreptitiously, or by force, menace, or threats, removed part of his or her baggage therefrom, the person did so with the intent not to pay for the credit, food, fuel, services, or accommodations.

537e. Purchase, possession or sale of item having altered or obliterated serial number or identification mark. (a) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his or her possession any personal property from which the manufacturer's serial number, identification number, electronic serial

number, or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed, is guilty of a public offense, punishable as follows:

(1) If the value of the property does not exceed four hundred dollars ($400), by imprisonment in a county jail not exceeding six months.

(2) If the value of the property exceeds four hundred dollars ($400), by imprisonment in a county jail not exceeding one year.

(3) If the property is an integrated computer chip or panel of a value of four hundred dollars ($400) or more, by imprisonment in the state prison for 16 months, or 2 or 3 years or by imprisonment in a county jail not exceeding one year.

For purposes of this subdivision, ''personal property'' includes, but is not limited to, the following:

(1) Any television, radio, recorder, phonograph, telephone, piano, or any other musical instrument or sound equipment.

(2) Any washing machine, sewing machine, vacuum cleaner, or other household appliance or furnishings.

(3) Any typewriter, adding machine, dictaphone, or any other office equipment or furnishings.

(4) Any computer, printed circuit, integrated chip or panel, or other part of a computer.

(5) Any tool or similar device, including any technical or scientific equipment.

(6) Any bicycle, exercise equipment, or any other entertainment or recreational equipment.

(7) Any electrical or mechanical equipment, contrivance, material, or piece of apparatus or equipment.

(8) Any clock, watch, watch case, or watch movement.

(9) Any vehicle or vessel, or any component part thereof.

(b) When property described in subdivision (a) comes into the custody of a peace officer it shall become subject to the provision of Chapter 12 (commencing with Section 1407) of Title 10 of Part 2, relating to the disposal of stolen or embezzled property. Property subject to this section shall be considered stolen or embezzled property for the purposes of that chapter, and prior to being disposed of, shall have an identification mark imbedded or engraved in, or permanently affixed to it.

(c) This section does not apply to those cases or instances where any of the changes or alterations enumerated in subdivision (a) have been customarily made or done as an established practice in the ordinary and regular conduct of business, by the original manufacturer, or by his or her duly appointed direct representative, or under specific authorization from the original manufacturer.

TITLE 16. GENERAL PROVISIONS

666.5. Vessel and trailer theft, enhanced penalties. (a) Every person who, having been previously convicted of a felony violation of Section 10851 of the Vehicle Code, or felony grand theft involving an automobile in violation of subdivision (d) of Section 487 or former subdivision (3) of Section 487, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or felony grand theft involving a motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code in violation of former Section 487h, or a felony violation of Section 496d regardless of whether or not the person actually served a prior prison term for those offenses, is subsequently convicted of any of these offenses

shall be punished by imprisonment in the state prison for two, three, or four years, or a fine of ten thousand dollars ($10,000), or both the fine and the imprisonment.

(b) For the purposes of this section, the terms ''special construction equipment'' and ''vessel'' are limited to motorized vehicles and vessels.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

PART 2. OF CRIMINAL PROCEDURE

TITLE 3. ADDITIONAL PROVISIONS REGARDING CRIMINAL PROCEDURE

CHAPTER 1. OF THE LOCAL JURISDICTION OF PUBLIC OFFENSES

782. Offenses committed on boundary of jurisdictional territories. When a public offense is committed on the boundary of two or more jurisdictional territories, or within 500 yards thereof, the jurisdiction of such offense is in any competent court within either jurisdictional territory.

CHAPTER 5B. INTERSTATE JURISDICTION

853.1. Colorado River Compact. (a) Pursuant to the authority vested in this state by Section 112 of Title 4 of the United States Code, the Legislature of the State of California hereby ratifies the Colorado River Crime Enforcement Compact as set forth in Section 853.2.

(b) The purpose of this compact is to promote the interests of justice with regard to crimes committed on the Colorado River by avoiding jurisdictional issues as to whether a criminal act sought to be prosecuted was committed on one side or the other of the exact boundary of the channel, and thus avoiding the risk that an offender may go free on technical grounds because neither state is able to establish that the offense was committed within its boundaries.

(c) This compact shall become operative when ratified by law in the State of Arizona; and shall remain in full force and effect so long as the provisions of this compact, as ratified by the State of Arizona, remain substantively the same as the provisions of this compact, as ratified by this section. This compact may be amended in the same manner as is required for it to be ratified to become operative.

853.2. Jurisdiction. (a) All courts and officers now or hereafter having and exercising jurisdiction in any county which is now or may hereafter be formed in any part of this state bordering upon the Colorado River, or any lake formed by, or which is a part of, the Colorado River, shall have and exercise jurisdiction in all criminal cases upon those waters concurrently with the courts of and officers of the State of Arizona, so far and to the extent that any of these bodies of water form a common boundary between this state and the State of Arizona. In addition, the officers shall have concurrent jurisdiction with the officers of the State of Arizona on any land mass within 25 air miles of the Colorado River, or within 25 air miles of any lake formed by, or that is a part of, the Colorado River.

(b) This section applies only to those crimes which are established in common between the States of Arizona and California; and an acquittal or conviction and sentence by one state shall bar a prosecution for the same act or omission by the other.

(c) This compact shall not be construed to bar the enforcement of the penal laws of either state not established in common with the other, provided that the act or omission proscribed occurs on that state's side of the river channel boundary.

(d) This compact does not apply to Division 3.5 (commencing with Section 9840) of the Vehicle Code, relating to registration of vessels, or to Section 658.7 of the Harbors and Navigation Code, relating to the display of a ski flag.

853.3. California-Nevada Compact Ratification. (a) Pursuant to the authority vested in this state by Section 112 of Title 4 of the United States Code, the Legislature of the State of California hereby ratifies the California-Nevada Compact for Jurisdiction on Interstate Waters as set forth in Section 853.4.

(b) The Legislature finds that law enforcement has been impaired in sections of Lake Tahoe and Topaz Lake forming an interstate boundary between California and Nevada because of difficulty in determining precisely where a criminal act was committed.

(c) The Legislature intends that a person arrested for an act that is illegal in both states should not be freed merely because neither state could establish that a crime was committed within its boundaries.

(d) The California-Nevada Compact for Jurisdiction on Interstate Waters is enacted to provide for the enforcement of the laws of this state with regard to certain acts committed on Lake Tahoe or Topaz Lake, on either side of the boundary line between California and Nevada.

853.4. California-Nevada Compact. (a) As used in this compact, unless the context otherwise requires, ''party state'' means a state that has enacted this compact.

(b) If conduct is prohibited by the party states, courts and law enforcement officers in either state who have jurisdiction over criminal offenses committed in a county where Lake Tahoe or Topaz Lake forms a common interstate boundary have concurrent jurisdiction to arrest, prosecute, and try offenders for the prohibited conduct committed anywhere on the body of water forming a boundary between the two states.

(c) This section applies only to those crimes that are established in common between the States of Nevada and California, and an acquittal or conviction and sentence by one state shall bar a prosecution for the same act or omission by the other.

(d) This compact does not authorize any conduct prohibited by a party state.

(e) This compact shall become operative when ratified by law by the party states and shall remain in full force and effect so long as the provisions of this compact, as ratified by the State of Nevada, remain substantively the same as the provisions of this compact, as ratified by this section. This compact may be amended in the same manner as is required for it to become operative.

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 2. CONTROL OF DEADLY WEAPONS

CHAPTER 1. FIREARMS

12001. Firearms, definitions. (a) (1) As used in this title, the terms ''pistol,'' ''revolver,'' and ''firearm capable of being concealed upon the person'' shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term ''handgun'' means any ''pistol,'' ''revolver,'' or ''firearm capable of being concealed upon the person.''

(b) As used in this title, ''firearm'' means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term ''firearm'' includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term ''firearm'' also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term ''firearm'' does not include an unloaded firearm that is defined as an ''antique firearm'' in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a ''handgun,'' ''pistol,'' ''revolver,'' or ''firearm capable of being concealed upon the person'' from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term ''BB device'' means any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun.

(h) As used in this title, ''wholesaler'' means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

''Wholesaler'' shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, ''application to purchase'' means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be ''loaded'' whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term ''any firearm'' may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(*l*) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a ''personal handgun importer'' means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the Armed Forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

(p) As used in this code, ''basic firearms safety certificate'' means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, prior to January 1, 2003.

(q) As used in this code, ''handgun safety certificate'' means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or after January 1, 2003.

12031.1. Devices designed for emergency or distress signaling. Nothing in Section 12031 shall prevent any person from storing aboard any vessel or aircraft any

loaded or unloaded rocket, rocket propelled projectile launcher, or similar device designed primarily for emergency or distress signaling purposes, or from possessing such a device while in a permitted hunting area or traveling to or from such area and carrying a valid California permit or license to hunt.

EXCERPTS FROM THE

PUBLIC RESOURCES CODE

EXCERPTS FROM THE PUBLIC RESOURCES CODE

DIVISION 5. PARKS AND MONUMENTS

CHAPTER 1. STATE PARKS AND MONUMENTS

Article 1. State Park System

5002.6. State beaches; L.A. County.[1] (g) On and after June 30, 1998, it is the intent of the Legislature that any application by the County of Los Angeles Fire Department to secure state funding support for boating safety and enforcement on waters within the County of Los Angeles shall be given priority consideration by the Legislature, unless an alternative source of funding is secured prior to that date which serves the same or similar purposes.

(h) This section shall become operative only if the Board of Supervisors of the County of Los Angeles adopts a resolution accepting the fee title grants, in trust for the people of the State of California, in accordance with this section, of the lands and improvements described in subdivision (a).

Article 6. California Recreational Trails

5070.7. Recreational Trails System Plan. The director shall cause to be prepared, and continuously maintained, a comprehensive plan for the development and operation of a statewide system of recreation trails. The plan, which shall be titled the California Recreational Trails System Plan, shall:

(a) Assess the present and future demand for trail-oriented recreation uses.

(b) Recommend an integrated and interconnecting system of trail routes designed to provide a wide range of recreational opportunities and to assure access and linkage to scenic, natural, historic, and recreational areas of statewide significance.

5071. Plan elements. The plan shall contain, but shall not be limited to, the following elements:

(a) Pedestrian trails.

(b) Bikeways.

(c) Equestrian trails.

(d) Boating trails.

(e) Trails and areas suitable for use by physically disabled persons, the elderly, and others in need of graduated trails, especially along designated heritage corridors.

(f) Cross-country skiing trails.

(g) Heritage corridors.

5071.7.(b). Boating trails. The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be prepared and maintained by the Department of Boating and Waterways pursuant to Article 2.6 (commencing with Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code. Those segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50) of this division.

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[1] For purposes of space, most of Section 5002.6 has been omitted. Section 5002.6 is concerned with the transfer of eight state beaches to the County of Los Angeles. Subdivision (g) is the only part that is concerned with boating.

5075.7. Boating trails, river routes. Each study of potential trail routes for inclusion in the system shall include an evaluation of the impact of the proposed trail route on adjacent landowners. In conducting studies of potential trail routes for inclusion in the system, the director shall give priority to the following:

(a) A trail route linking state parks, federal recreation areas, and other areas of statewide or national significance located in coastal areas.

(b) A trail route through the Sacramento-San Joaquin Delta linking scenic and recreation areas of the San Francisco Bay area with state and federal recreation areas in the Lake Tahoe Basin.

(c) East-west trail routes for nonmotorized use linking the state coastal trail route with the existing Pacific Crest Trail.

(d) Trail routes designed principally for boaters along the following waterways:

(1) Eel River in Humboldt, Mendocino, and Trinity Counties.

(2) Smith River in Del Norte County.

(3) Russian River in Sonoma and Mendocino Counties.

(4) Big River in Mendocino County.

(5) Albion River in Mendocino County.

(6) Navarro River in Mendocino County.

(7) Feather River from Thermalito Afterbay to mouth.

(8) Sacramento River from Keswick Dam to mouth.

(9) American River from Folsom Dam to mouth.

(10) South Fork of American River from Coloma to Folsom Lake.

(11) Tuolumne River from O'Shaughnessy Dam to New Don Pedro Reservoir.

(12) Stanislaus River from the Stanislaus Power House to Melones Reservoir.

(13) Colorado River from Needles to the international boundary.

(e) A hiking, bicycling, and horseback riding trail route along the San Joaquin River from Friant Dam to State Highway Route 99.

EXCERPTS FROM THE

UNEMPLOYMENT INSURANCE CODE

EXCERPTS FROM THE UNEMPLOYMENT INSURANCE CODE

DIVISION 1. UNEMPLOYMENT AND DISABILITY COMPENSATION

PART 1. UNEMPLOYMENT COMPENSATION

CHAPTER 3. SCOPE OF COVERAGE

Article 2. Excluded Services

650. Employment; yacht broker or salesperson. ''Employment'' does not include services performed as a real estate, mineral, oil and gas, or cemetery broker or as a real estate, cemetery or direct sales salesperson, or a yacht broker or salesman, by an individual if all of the following conditions are met:

(a) The individual is licensed under the provisions of Chapter 19 (commencing with Section 9600) of Division 3 of, or Part 1 (commencing with Section 10000) of Division 4 of, the Business and Professions Code, Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code, or is engaged in the trade or business of primarily inperson demonstration and sales presentation of consumer products, including services or other intangibles, in the home or sales to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, for resale by the buyer or any other person in the home or otherwise than from a retail or wholesale establishment.

(b) Substantially all of the remuneration (whether or not paid in cash) for the services performed by that individual is directly related to sales or other output (including the performance of services) rather than to the number of hours worked by that individual.

(c) The services performed by the individual are performed pursuant to a written contract between that individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to those services for state tax purposes.

EXCERPTS FROM THE

VEHICLE CODE

EXCERPTS FROM THE VEHICLE CODE

DIVISION 2. ADMINISTRATION

CHAPTER 1. THE DEPARTMENT OF MOTOR VEHICLES

Article 3. Records of Department

1803. Abstract of court record. (a) Every clerk of a court in which a person was convicted of any violation of this code, was convicted of any violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of any violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or any violation of Section 191.5 of the Penal Code when the conviction resulted from the operation of a vessel, was convicted of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle or a motorized scooter.

(7) Division 16.5 (commencing with Section 38000).

(8) Subdivision (b) of Section 23221, subdivision (b) of Section 23223, subdivision (b) of Section 23225, and subdivision (b) of Section 23226.

(c) If the court impounds a license, or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23538, subdivision (b) of Section 23542, subdivision (b) of Section 23562, or subdivision (d) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare

an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23602, the clerk of the court in which the order terminating or revoking probation was entered shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

1804. Form of abstract, required information. (a) The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, including, but not limited to, the person's driver's license number, name, and date of birth, the date and nature of the offense, the vessel number, if any, of the vessel involved in the offense, the license plate number of the vehicle involved in the offense, the date of hearing, and the judgment, except that in the case of infractions where the court has not directed the department to suspend or restrict the defendant's driver's license, only the conviction and not the judgment need be set forth in the abstract. The abstract shall also indicate whether the vehicle involved in the offense is a commercial motor vehicle, as defined in subdivision (b) of Section 15210, and whether the vehicle was of a type requiring the driver to have a certificate issued pursuant to Section 2512, 12517, 12519, 12523, or 12523.5 or any endorsement issued pursuant to paragraph (2) or (4) of subdivision (a) of Section 15278, and whether the vehicle was transporting hazardous material at the time of the offense, or whether the vessel involved in the offense was a recreational vessel, as defined in subdivision (bb) of Section 651 of the Harbors and Navigation Code.

(b) As to any abstract for which the original arrest and final conviction was for a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code or Section 23152 or 23153 of this code, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled if it is available to the clerk of the court. All information required to be compiled pursuant to this subdivision shall be kept confidential in the records of the department pursuant to Section 1808.5. The department may use the information for research and statistical purposes and for determining the eligibility of any person to operate a motor vehicle on the highways of this state. The information, shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

(c) The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount.

DIVISION 3.5. REGISTRATION AND TRANSFER OF VESSELS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

9840. Definitions. As used in this division, unless the context clearly requires a different meaning:

(a) ''Vessel'' includes every description of watercraft used or capable of being used as a means of transportation on water, except the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to or guided on such permanently fixed course by means of a mechanical device on a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled, or by means of a mechanical device attached to the watercraft itself.

(3) A floating structure which is designed and built to be used as a stationary waterborne residential dwelling, which (A) does not have and is not designed to have a mode of power of its own, (B) is dependent for utilities upon a continuous utility linkage to a source originating on shore, and (C) has a permanent, continuous hookup to a shoreside sewage system.

(b) ''Owner'' is a person having all the incidents of ownership, including the legal title, of a vessel whether or not such person lends, rents, or pledges such vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. ''Owner'' does not include a person holding legal title to a vessel under a conditional sales contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(c) ''Legal owner'' is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(d) ''Registered owner'' is the person registered by the department as the owner of the vessel.

(e) ''Waters of this state'' means any waters within the territorial limits of this state.

(f) ''State of principal use'' means the state on which waters a vessel is used or intended to be used most during a calendar year.

(g) ''Undocumented vessel'' means any vessel which is not required to have and does not have a valid marine document issued by the Bureau of Customs of the United States or any federal agency successor thereto.

(h) ''Use'' means operate, navigate, or employ.

9845. HIN inspection. The director, deputy director, registrar, deputy registrar, investigators of the department, and peace officers, as defined in Chapter 4.5 (commencing with Section 830) of the Penal Code, may inspect the hull identification number, certificate of number, and certificate of ownership of any vessel, as defined in Section 9840, when transported on a highway, or in any public garage, repair shop, public or private marina, dry storage facility, new or used vessel sales lot or boat yard, or other similar establishment for the purpose of investigating the ownership and registration of vessels, locating stolen vessels, and for inspection of wrecked, dismantled, or abandoned vessels. The authority to inspect pursuant to this section does not extend to any enclosed living area aboard a vessel.

CHAPTER 2. REGISTRATION

9850. Numbering of undocumented vessels. Every undocumented vessel using the waters or on the waters of this state shall be currently numbered. No person shall operate nor shall any county, city, or political subdivision give permission for the operation of any undocumented vessel on those waters unless the undocumented vessel is numbered in accordance with this chapter, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless (1) the certificate of number issued to such undocumented vessel is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of the undocumented vessel for which the identifying number was issued.

9851. Public undocumented vessels. The department may adopt rules and regulations for the registration of undocumented vessels belonging to the state, local public agencies, or to the United States without payment of fees specified in this code, except fees for duplicate certificates of ownership, duplicate certificates of number, or substitute current year registration stickers. Any vessel owned by the Department of Boating and Waterways is exempt from any fees specified in this division.

9852. Proof of ownership. The department shall promulgate rules and regulations setting forth requirements relative to establishing proof of ownership to be submitted by the owner at the time of filing initial application for a certificate of number and a certificate of ownership. The issuance of a certificate of ownership or certificate of number under this chapter shall not in any way be construed that the department is warranting or guaranteeing the title of the vessel as it appears on such certificates.

9852.5. Ownership by two or more coowners. Ownership of an undocumented vessel subject to registration may be held by two or more coowners as follows:

(a) A vessel may be registered in the names of two or more persons as coowners in the alternative by the use of the word ''or.'' A vessel so registered in the alternative shall be deemed to be held in joint tenancy. Each coowner shall be deemed to have granted to the other coowners the absolute right to dispose of the title and interest in the vessel. Upon the death of a coowner the interest of the decedent shall pass to the survivor as though title or interest in the vessel was held in joint tenancy unless a contrary intention is set forth in writing upon the application for registration.

(b) A vessel may be registered in the names of two or more persons as coowners in the alternative by the use of the word ''or'' and if declared in writing upon the application for registration by the applicants to be community property, or tenancy in common, shall grant to each coowner the absolute power to transfer the title or interest of the other coowners only during the lifetime of such coowners.

(c) A vessel may be registered in the names of two or more persons as coowners in the conjunctive by the use of the word ''and'' and shall thereafter require the signature of each coowner or his personal representative to transfer title to the vessel, except where title to the vessel is set forth in joint tenancy, the signature of each coowner or his or her personal representative shall be required only during the lifetime of the coowners, and upon death of a coowner title shall pass to the surviving coowner.

(d) The department may adopt suitable abbreviations to appear upon the certificate of ownership and certificate of number to designate the manner in which title to the vessel is held if set forth by the coowners upon the application for registration.

9852.7. Death of owner of vessel, beneficiary. (a) Ownership of an undocumented vessel subject to registration may be held in beneficiary form that includes a

direction to transfer ownership of the vessel to a designated beneficiary on death of the owner if both of the following requirements are satisfied:

(1) Only one owner is designated.

(2) Only one TOD beneficiary is designated.

(b) Ownership registration and title issued in beneficiary form shall include, after the name of the owner, the words ''transfer on death to'' or the abbreviation ''TOD'' followed by the name of the beneficiary.

(c) During the lifetime of the owner, the signature or consent of the beneficiary is not required for any transaction relating to the vessel for which a certificate of ownership in beneficiary form has been issued.

(d) The fee for registering ownership of a vessel in a beneficiary form is ten dollars ($10).

(This section is effective January 1, 1993.)

9853. Application for number; fee. (a) The owner of each vessel requiring numbering by this state shall file an initial application for a number with the department or with an agent authorized by the department on forms approved by the department. Such forms shall be prepared in cooperation with the Department of Boating and Waterways. The application shall contain the true name and address of the owner and of the legal owner, if any, and the hull identification number of the vessel as may be required by the department. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of nine dollars ($9), in addition to the fees required under subdivision (b), except that an owner of a vessel registered outside this state who is submitting an application for registration in this state shall pay a fee of thirty-seven dollars ($37), in addition to the fees required under subdivision (b).

(b)(1) Whenever the fee for original registration of a vessel becomes due between January 1 and December 31 of any even-numbered year, the application shall be accompanied by a fee of five dollars ($5), in addition to any other fees that are then due and payable.

(2) Whenever the fee for original registration of a vessel becomes due, or is filed with the department, between December 1 and December 31 of any odd-numbered year, the application shall be accompanied by a fee of ten dollars ($10) in addition to any other fees that are then due and payable.

9853.1. Certificate of number, ownership. Upon receipt of the application in approved form, the department shall issue a certificate of ownership to the legal owner and a certificate of number to the owner, or both to the owner if there is no legal owner, stating the number issued to the vessel and the name and address of the owner.

9853.2. Display of numbers. The owner shall paint on or attach to each side of the forward half of the vessel the identification number in such manner as may be prescribed by rules and regulations of the department in order that it may be clearly visible. Any such rules and regulations shall be developed in cooperation with the Department of Boating and Waterways. The number shall be maintained in a legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever the vessel is in use, except as to those vessels subject to Section 9853.3.

9853.3. Certificate of number, rental agreement. The certificate of number for vessels less than 26 feet in length and leased or rented to another for the latter's noncommercial use of less than 24 hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative. A copy of the lease or rental agreement

signed by the owner or his authorized representative and by the person leasing or renting the vessel shall be carried aboard the vessel at all times during use.

9853.4. Current registration sticker. (a) The department may issue one or more stickers, tabs, or other suitable devices to identify vessels as being currently registered. The size, shape, and color of the sticker, tab, or other device and the positioning of the sticker, tab, or other device on the vessel shall be as determined by the department after consultation with the Department of Boating and Waterways, such consultation to consider the responsibilities and duties of the Department of Boating and Waterways as prescribed in the Harbors and Navigation Code.

(b) Whenever the department issues a sticker, tab, or other device pursuant to subdivision (a), the sticker, tab, or device shall only be displayed on the vessel for which it was issued.

9853.5. Plaques for wood motorboats. Upon request, the department shall issue for any power-driven pleasure craft which is constructed of wood and which was constructed prior to December 31, 1942, a special plaque which identifies the craft as a vessel of historical interest. The provisions of this section shall apply to documented as well as undocumented vessels. The size, shape, and content of such plaque and its positioning on the vessel shall be determined by the department after consultation with the Department of Boating and Waterways; provided, that such plaque shall be of a durable material and shall be no smaller than six inches in height and six inches in width. A reasonable fee, as determined by the department, sufficient to support the administration of such program, shall be charged for issuance of the plaque. The plaque shall be valid for the life of the vessel.

9854. Federal or out-of-state registration. The owner of any vessel already covered by a number in full force and effect which has been issued to it pursuant to then operative federal law or a federally approved numbering system of another state shall make application within 30 days after the 90-day reciprocity period provided for in Section 9873. Such application shall be in a manner and pursuant to the procedure required for the issuance of a number under Section 9853.

9855. Change of ownership. If the ownership of an undocumented vessel changes, the existing certificate of ownership and a new application form accompanied by a fee of fifteen dollars ($15) shall be filed with the department and a new certificate of ownership and a new certificate of number shall be issued in the same manner as provided for in the initial issuance of number and the number shall be reassigned to the new owner.

9856. Transfer to dealer. (a) It is not required that the department issue, or that an application be made for a new certificate of ownership or a new certificate of number, or that the fee prescribed in Section 9855 be paid on transfer of an undocumented vessel to a dealer in the course of his business as is otherwise provided in this division, if both of the following conditions are satisfied:

(1) The vessel is held and operated by the dealer only for the purpose of resale in the course of his business.

(2) The dealer has been issued a sales permit by the Board of Equalization covering sale of such property.

(b) The certificate of ownership bearing the endorsement of the transferor to the dealer of a vessel registered pursuant to this section and the certificate of number thereof shall be retained by the dealer until a transfer of the vessel by him. During that time the certificates shall be subject to inspection by the department or other authorized

agency. Upon transfer of the vessel by the dealer the certificate of ownership shall be endorsed by the dealer and transfer further accomplished as otherwise provided in this division.

9857. Conformity with federal system. If an agency of the United States government shall have in force an overall system of identification numbering for undocumented vessels within the United States, the numbering system employed pursuant to this chapter shall be in conformity therewith.

9858. Issuance of certificates; department or agent. The department may issue any certificate of ownership and certificate of number or temporary certificate of number directly or the department may authorize any person to act as agent for the issuance of a certificate of number or temporary certificate of number. If a person accepts such authorization, he may be assigned a block of numbers which upon issuance, in conformity with this chapter and with any rules and regulations of the department, shall be valid as if issued directly by the department. Registration of vessels pursuant to the provisions of this code shall be conducted by the department or by any agent authorized by the department to conduct such registration.

9858.1. Agent documentary charge. Any documentary preparation charge by an authorized agent of the department shall not exceed twenty dollars ($20).

9858.5. Collection of use tax. Any licensed yacht and ship broker acting as an authorized agent of the department may collect use tax on a vessel transfer when applicable, and transmit the use tax and the registration application and applicable fees to the department, or may submit the registration application and applicable fees to the department for collection of any use tax due.

9859. Funds received by agent. All money received by an agent from the sale of certificates of number or temporary certificates of number and use tax shall be kept separate and apart from any other funds of the agent, and shall at all times belong to the state.

In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the agent, receiver, or trustee for all moneys owing the state for the sale of certificates as provided in this code and any use tax, and shall not be estopped from asserting such claim by reason of the commingling of funds or otherwise.

9860. Renewal of certificates of number; fee. (a) Certificates of number shall be renewed before midnight of the expiration date by presentation of the certificate of number last issued for the vessel or by presentation of a potential registration card issued by the department. The fee for renewal shall be ten dollars ($10) for each two-year period and shall accompany the request for renewal. If the certificate of number and potential registration card are unavailable, a fee as specified in Section 9867 shall not be paid.

(b) This section applies to the renewal of all certificates of number that expire on or after, or are renewed on or after, December 31, 1997.

(c) This section shall become operative on September 1, 1997.

9861. Expiration date of certificates of number; biennial registration. (a) All certificates of number expire on December 31 of every odd-numbered year.

(b) This section applies to all certificates of number that expire on or after, or are renewed on or after, December 31, 1997.

9862. Penalties for delinquency. (a) If the initial application for a number is not received by the department on or before the date set by the department, a penalty of

one-half of the fee shall be assessed. If a certificate of number is not renewed on or before midnight of the expiration date, a penalty of one-half of the fee shall be assessed.

(b) If any person has received as the transferee of a vessel a properly endorsed certificate of ownership and certificate of number describing that vessel and the transfer fee has not been paid as required by this code within 30 days, a penalty of one-half of the transfer fee specified in Section 9855 shall be assessed.

9862.2. Expiration prior to January 1, 1991. (a) Owners of vessels for which the certificate of number has expired on or before December 31, 1990, may submit a certificate of nonoperation in lieu of fees or penalties, or both, as required by this code, for any period during which the vessel was not used on the waters of the state prior to January 1, 1991.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1995, deletes or extends that date.

9862.5. Computation of fees. In computing any penalty imposed under this chapter, a fraction of a dollar shall be disregarded unless it equals or exceeds fifty cents ($0.50), in which case it shall be treated as one dollars ($1).

9863. Harbors and Watercraft Revolving Fund; dedication of fees. All fees received, except moneys collected under Section 9875, pursuant to this chapter shall be deposited in the Harbors and Watercraft Revolving Fund and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the administration of this chapter by the department. Any funds in the Harbors and Watercraft Revolving Fund derived pursuant to this chapter in excess of the amount determined by the Director of Finance, from time to time, to be necessary for expenditure for the administration of this chapter, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the Department of Boating and Waterways, without regard to fiscal years, for expenditure in accordance with Section 663.7 of the Harbors and Navigation Code.

9864. Wrecked, dismantled, destroyed, or abandoned undocumented vessels. The owner shall furnish the department notice of the wrecking or dismantling, or the destruction or abandonment of an undocumented vessel within 15 days thereof. The wrecking, dismantling, destruction or abandonment shall terminate the certificate of ownership and certificate of number of such undocumented vessel which if in existence shall be surrendered to the department.

The department, upon receiving notice of the abandonment of an undocumented vessel, or upon an official determination that an undocumented vessel has been abandoned, may order the destruction of such vessel at the expiration of 30 days if an investigation by the department has disclosed that no owner, legal owner, or lienholder claims an interest in the vessel, or if those persons have waived their interest. Nothing in this section shall be construed to deny the legal rights, otherwise provided for by law, of any person claiming an interest in an abandoned vessel if that person notifies the department within the time specified therefor.

9865. Change of address. Any holder of a certificate of number shall notify the department within 15 days, if his address no longer conforms to the address appearing on the certificate and shall, as part of such notification, furnish the department with his new address. The department may provide for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

9866. Display of other numbers on bow. No number other than the number issued to an undocumented vessel or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such undocumented vessel.

9867. Duplicate fee. A fee of fifteen dollars ($15) shall be charged for a duplicate of certificate of number, certificate of ownership, or current year registration stickers.

9867.5. Additional transfer fee. Upon application for transfer of registration pursuant to Section 9917, a fee as specified in Section 9867 shall be paid to the department in addition to the regular transfer fee.

9868. Refunds. Fees received pursuant to this chapter are appropriated for payment of refunds of money received or collected in the payment of fees, permits, or services whenever the fee, permit or service cannot lawfully be issued or rendered to the applicant, and in cases where the payment in whole or in part represents overpayment or payment in duplicate.

9869. Information to be transmitted to county assessor. The department shall transmit information from each initial application and each transfer application or renewal application to the county assessor in the county of residence of the owner of the vessel and to the county assessor in the county in which the vessel is principally kept if other than the county of residence of the owner, if such other county is known to the department. If an application shows that the owner of the vessel has changed his residence from one county to another county or shows that there has been a change in the county in which the vessel is principally kept, the department shall transmit information of the change to the assessor of the county in which the owner of the vessel formerly resided or to the assessor of the county in which the vessel formerly was principally kept. After the department receives a notice pursuant to Section 9864, the department shall transmit information of the destruction or abandonment to the assessor of the county in which the owner of the vessel resides and to the assessor of the county in which the vessel is or was principally kept, if other than the county of residence of the owner, if such other county was known to the department.

9870. Nonprofit public benefit corporation exemption. A nonprofit public benefit corporation governed by the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), which purposes relate to promoting the ability of boys and girls to do things for themselves, to train them in scoutcraft and camping, and to teach them patriotism, courage, self-reliance and kindred virtues, shall not be required to pay the fees provided for in Sections 9853, 9855, and 9860.

9871. Assignment and marking of hull identification number. Upon application for original registration or transfer of registration of an undocumented vessel, the department may assign an appropriate hull identification number to such vessel whenever there is no hull identification number thereon, or when a hull identification number thereon has been destroyed or obliterated; and such hull number identification shall be permanently marked in an integral part of the hull which is accessible for inspection.

9871.5. Registration renewal: hull identification number. Upon application for renewal of registration of an undocumented vessel, the applicant is required to furnish the hull identification number if the records of the department do not contain such number. If the vessel does not have a hull number, the department may assign an appropriate hull identification number.

9872. Defacing, destroying or altering hull identification number. No person shall intentionally deface, destroy, or alter the hull identification number of a vessel required to be numbered under this chapter without written authorization from the department; nor shall any person place or stamp any serial or other number or mark upon an undocumented vessel which might interfere with identification of the hull identification number. This does not prohibit the restoration by an owner of an original number or mark when the restoration is authorized by the department, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new vessels or new parts thereof.

9872.1. Vessel with altered or removed HIN; impoundment and notification. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or her possession any vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, unless the vessel or component part has attached thereto a hull identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, and which does not have attached thereto an assigned or approved number as described in subdivision (a), comes into the custody of a peace officer, the seized vessel or component part is subject, in accordance with the procedures specified in this section, to impoundment and to such disposition as may be provided by order of a court having jurisdiction. This subdivision does not apply with respect to a seized vessel or component part used as evidence in any criminal action or proceeding.

(c) Whenever a vessel or component part described in subdivision (a) comes into the custody of a peace officer, any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the hearing required in subdivision (e). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vessel or component part as provided in subdivision (b), any person from whom the property was seized shall be provided a notice of impoundment of the vessel or component part which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vessel or component part seized has been impounded for investigation of a violation of this section and that the property will be released upon a determination that the hull identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vessel or component part, provided that no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vessel or component part shall take place in the proper court.

(3) A statement that any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vessel or component part may be presented.

(5) A statement of the contents of this section.

(e) A hearing on the disposition of the property shall be held by the municipal or justice court within 60 days after the seizure. The hearing shall be before the court without a jury.

(1) If the evidence reveals either that the hull identification number has not been removed, altered, or destroyed or that the hull identification number has been removed, altered, or destroyed but satisfactory evidence of ownership has been presented to the seizing agency or court, the property shall be released to the person entitled thereto.

(2) If the evidence reveals that the hull identification number has been removed, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the property shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency shall have the burden of establishing that the hull identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) Nothing in this section precludes the return of a seized vessel or component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vessel or component part by the department.

9872.5. Amphibious vehicle. No certificate of ownership shall be issued under this chapter for any ''amphibious vehicle'' for which a certificate of ownership may be issued by the department under other provisions of this code.

For the purposes of this section, an ''amphibious vehicle'' is a device by which any person or property may be propelled, moved, or drawn, both upon water and upon a highway on land.

9873. Undocumented vessels not required to be numbered. An undocumented vessel shall not be required to be numbered under this chapter if it is:

(a) Already covered by a number in full force and effect which has been issued to it pursuant to federal law or a federally approved numbering system of another state; provided, that such undocumented vessel shall be subject to the numbering requirements of this chapter if it has changed its state of principal use and has been within this state for a period in excess of 90 consecutive days.

(b) A vessel from a country other than the United States temporarily using the waters of this state.

(c) A public vessel of the United States, another state or subdivision thereof or municipality of such other state.

(d) A ship's lifeboat.

(e) Any vessel belonging to a class of boats which has been exempted from numbering by the department after the department has found that the numbering of vessels of such class will not materially aid in their identification; and, if any agency of the federal government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the department has further found that the vessel would also be exempt from numbering if it were subject to the federal law. An undocumented vessel propelled solely by oars or paddles and an undocumented vessel eight feet or less propelled solely by sail are exempt from the provisions of this chapter.

9874. Suspension, cancellation, revocation. The department may suspend, cancel, or revoke the registration of a vessel, a certificate of number, sticker, certificate of ownership, or temporary certificate of number in any of the following cases:

(a) When the department is satisfied that the registration or the certificate of number, sticker, certificate of ownership, or temporary certificate of number was fraudulently obtained or erroneously issued.

(b) When the department determines that the required fee has not been paid and the same is not paid upon reasonable notice and demand.

9875. Penalties. Except as provided in Section 40000.8, any person who violates any provision of this chapter or any rule or regulation of the department adopted pursuant to this chapter is guilty of an infraction, punishable under Section 42001.

9880. Delinquent taxes. (a) The department shall not renew the certificate of number of, or allow a transfer of any title to or interest in, a vessel if the county tax collector has notified the department pursuant to Section 3205 of the Revenue and Taxation Code, that taxes are delinquent upon the vessel, and the department shall not subsequently issue a certificate of number for, or a new certificate of ownership reflecting a transfer of title to or interest in, that vessel until the department receives a certificate of clearance from the county tax collector that the delinquent taxes have been paid on that vessel or until the county tax collector has provided notice to the department that the delinquency has been satisfied.

(b) The department shall record the notice of delinquent taxes on the vessel. If the department is notified by the county tax collector that the delinquency has been satisfied, the department shall, if all other requirements are satisfied, issue a certificate of number for, or a new certificate of ownership reflecting a transfer of title to or interest in, the vessel. The department shall assess a fee upon each county tax collector in an amount that is sufficient to reimburse the department for its actual costs of administering this section.

(c) Whenever a vessel subject to this section is transferred, or not renewed for 26 months, the department shall notify the county tax collector of that fact.

CHAPTER 3. TRANSFER OF TITLE OR INTEREST IN UNDOCUMENTED VESSEL

9900. Requirements for transfer. No transfer of the title or any interest in or to an undocumented vessel numbered under this code shall pass, and any attempted transfer shall not be effective, until the parties thereto have paid any delinquent property taxes with respect to that vessel and fulfilled either of the following requirements:

(a) The transferor has made proper endorsement and delivery of the certificate of ownership to the transferee as provided in this code and the transferee has delivered to the department or has placed the certificates in the United States mail addressed to the department when and as required under this code with the proper transfer fee and thereby makes application for a new certificate of ownership and a new certificate of number.

(b) The transferor has delivered to the department or has placed in the United States mail addressed to the department the appropriate documents for the transfer of ownership of the vessel pursuant to the sale or transfer except as otherwise provided.

9901. Transfer application and fee. Whenever any person has received as transferee a properly endorsed certificate of ownership, he or she shall, within 10 days thereafter, forward the certificates with the transfer fee specified in Section 9855 to the department, and thereby make application for a certificate of ownership and certificate of number.

9902. Issuance of certificate of ownership. The department, upon receipt of a properly endorsed certificate of ownership and a new application form and the required fee, shall issue a new certificate of ownership and a new certificate of number in the same manner as provided for in the initial issuance of number and the number may be reassigned to the new owner, provided, however, in the case of a transfer of a part interest which does not affect the owner's right to operate such undocumented vessel the transfer shall not terminate the certificate of number.

9903. Statement of transferee or transferor; information to be transmitted to State Board of Equalization. (a) Prior to the issuance of any certificate of ownership the department shall obtain a statement in writing, signed by the transferee or transferor, showing:

(1) The date of the sale or other transfer of ownership of the vessel.

(2) The name and address of the seller or transferor.

(3) The name and address of the buyer or transferee.

(4) The total consideration (valued in money) given for the sale or other transfer of the vessel, including any motor or other component part of the vessel included in the sale or other transfer.

(b) Upon the transfer of ownership of a vessel the department shall forward to the State Board of Equalization information from its records identifying the vessel together with the data required by subdivision (a). The information shall be transmitted as promptly as feasible and in such form and manner as shall be agreed between the department and the board.

9905. Requirements for releasing liability. An owner who has made a bona fide sale or transfer of an undocumented vessel and has delivered possession of the vessel to a purchaser shall not by reason of any of the provisions of this code or the Harbors and Navigation Code be deemed the owner of the vessel so as to be subject to civil liability for the operation of the vessel thereafter by another when the owner, in addition to the foregoing, has fulfilled either of the following requirements:

(a) Made proper endorsement and delivery of the certificate of ownership as provided in this code.

(b) Delivered to the department or placed in the United States mail, addressed to the department, either the notice as provided in Sections 9911 and 9912 or appropriate documents for the transfer of the vessel pursuant to the sale or transfer.

9906. Transfer by legal owner. A legal owner may assign his title or interest in or to an undocumented vessel numbered under this code to a person other than the owner without the consent of and without affecting the interest of the owner.

9907. Endorsement of certificate of ownership upon transfer by legal owner. Upon transfer of the title or any interest of the legal owner or legal owners in an undocumented vessel numbered under this code, the transferee shall write his signature, and the transferor shall write his signature and address, in the appropriate spaces provided upon the reverse side of the certificate of ownership issued for the vessel.

9908. Transfer by registered owner. Upon transfer of the title or interest or any part thereof of the registered owner only in an undocumented vessel numbered under this code, the registered owner shall write his signature and address and the transferee shall write his signature and address in the appropriate spaces provided on the reverse side of the certificate of ownership for the vessel, and the legal owner shall write his signature in the space provided for the new legal owner indicating that he is to retain his legal title and interest.

9909. Endorsement when certificate of ownership unavailable. When the required certificate of ownership is lost, stolen, damaged, or mutilated, application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership. The transferor shall write his signature and address in the appropriate spaces provided upon the application and file the same together with the proper fees for duplicate certificate of ownership and transfer.

9910. Delivery of certificates. It is unlawful for any person to fail or neglect to deliver the certificate of number and, when having possession, to properly endorse, date, and deliver the certificate of ownership to a transferee who is lawfully entitled to a transfer of ownership.

9911. Notice by owner. Whenever the owner of an undocumented vessel numbered under this code sells or transfers his or her title or interest in, or any part thereof, and delivers the possession of, the vessel to another, the owner shall, within five calendar days, notify the department of the sale or transfer by giving the date thereof, the name and address of the owner and of the transferee and a description of the vessel as may be required in the appropriate form provided for the purpose by the department.

9912. Notice by dealers. Every dealer upon transferring by sale, lease or otherwise any undocumented vessel, whether new or used, required to be numbered under this code, shall, not later than the end of the next business day of the dealer, give written notice of the transfer to the department upon an appropriate form provided by it, but a dealer need not give the notice when selling or transferring a new unnumbered vessel to another dealer.

9913. New security interest executed by parties to prior security agreement. When a security interest upon a numbered vessel is satisfied, canceled, or released by the parties thereto who are the registered owner and legal owner respectively of said vessel and thereafter within a period of 10 days a new security interest covering the vessel is executed between the same parties, no application for transfer of ownership by reason thereof shall be made, no new certificate of ownership or certificate of number shall be issued, and all provisions of this code relating to transfers of any title or interest in a vessel shall be deemed to have been fully complied with.

9914. Pledge of security agreement by legal owner. The transferee of a security interest in the interest of a legal owner of a numbered vessel need not make application for a transfer of ownership when the security interest arises from a pledge of security agreement by the legal owner to the pledgee.

9915. Involuntary transfers. (a) Whenever the title or interest of any owner or legal owner in or to a vessel numbered under this code passes to another otherwise than by a voluntary transfer, the new owner or legal owner may obtain a transfer of ownership upon application therefor and upon presentation of the last certificate of ownership and certificate of number issued for the vessel, if available, and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect a transfer of title or interest in or to chattels in such case.

(b) The department when satisfied of the genuineness and regularity of the transfer shall give notice by mail to the owner and legal owner of the vessel as shown by the records of the department, and five days after the giving of the notice, if still satisfied of the genuineness and regularity of such transfer, shall transfer the ownership of the vessel accordingly and issue a new certificate of ownership and certificate of number to the person or persons entitled thereto. Such notice shall not be required for an involuntary transfer when repossession involves a secured party.

9916. Transfer without probate. (a) If 40 days have elapsed since the death of an owner or legal owner of any vessel numbered under this division without the decedent leaving other property necessitating probate, and irrespective of the value of the vessel, the following person may secure a transfer of ownership of the title or interest of the decedent:

(1) The surviving husband or wife or other heir in the order named in Section 630 of the Probate Code unless the vessel is, by will, otherwise bequeathed.

(2) The beneficiary who takes the vessel under the will of the decedent where the vessel is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of ownership of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and certificate of number, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the vessel either (i) as the surviving heir or heirs named in Section 630 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's vessel that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

9916.5. Death of owner of vessel, beneficiary procedures. (a) On death of the owner of a vessel numbered under this division and owned in beneficiary form, the vessel belongs to the surviving beneficiary, if any. If there is no surviving beneficiary, the vessel belongs to the estate of the deceased owner.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of the owner by either of the following methods:

(1) By sale of the vessel with property assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vessel at death of the owner is subject to any contract of sale, assignment, or security interest to which the owner was subject during his or her lifetime.

(e) The surviving beneficiary may secure a transfer of ownership for the vessel upon presenting to the department all of the following:

(1) The appropriate certificate of ownership.

(2) A certificate under penalty of perjury stating the date and place of the owner's death and that the declarant is entitled to the vessel as the designated beneficiary.

(3) If required by the department, a certificate of the death of the owner.

(f) After the death of the owner, the surviving beneficiary may transfer his or her interest in the vessel to another person without securing transfer of ownership into his or her own name by appropriately signing the certificate of ownership for the vessel and delivering the document to the transferee for forwarding to the department with appropriate fees. The transferee may secure a transfer of ownership upon presenting to the department (1) the certificate of title signed by the beneficiary, (2) the certificate

described in paragraph (2) of subdivision (e) executed by the beneficiary under penalty of perjury, and (3) if required by the department, a certificate of death of the owner.

(g) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vessel shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

(i) If there is no surviving beneficiary, the person or persons described in Section 9916 may secure transfer of the vessel as provided in that section.

(j) The department may prescribe forms for use pursuant to this section.

(This section is effective January 1, 1993.)

9916.7. Department liability. (a) If the department makes a transfer pursuant to Section 9916.5, the department is discharged from all liability, whether or not the transfer is consistent with the beneficial ownership of the vessel transferred.

(b) The protection provided by subdivision (a) does not extend to a transfer made after the department has been served with a court order restraining the transfer. No other notice or information shown to have been available to the department shall affect its right to the protection afforded by subdivision (a).

(c) The protection provided by this section has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of the vessel.

(d) The protection provided by this section is in addition to, and not exclusive of, any other protection provided to the department by any other provision of law.

(This section is effective January 1, 1993.)

9917. Transfer when certificates unavailable. Whenever application is made to the department for a transfer of ownership of a vessel to a new owner or legal owner and the applicant is unable to present the certificate of ownership issued for the vessel by reason of the same being lost or otherwise not available, the department may receive the application and examine into the circumstances of the case and may require the filing of affidavits or other information, and when the department is satisfied that the applicant is entitled to a transfer of ownership, the department may transfer the ownership of the vessel, and issue a new certificate of ownership, and certificate of number to the person or persons found to be entitled thereto.

9918. Transfer under regular application. If the application for a transfer is made in the manner provided in this code, the department shall not be required to withhold the transfer of any right, title or interest in or to a vessel if the application on its face appears to be genuine and regular and the department has received neither a request from any law enforcement agency that action on the application be deferred nor an order of a court of the United States or of the State of California restraining the transfer within two years prior thereto.

9919. Recording of security interest. No security interest in any vessel numbered under this code, irrespective of whether such number was effected prior or subsequent to the creation of such security interest, is perfected, until the secured party, or his successor or assignee, has deposited with the department a properly endorsed certificate of ownership to the vessel, subject to the security interest, showing the secured party as legal owner if the vessel is then numbered under this code; or if the vessel is not so numbered, the owner shall file an initial application for number as

provided for in this code, and the certificate of ownership issued under said application shall contain the name and address of the legal owner.

9920. Perfection of security interest. When the secured party, his successor or assignee, has deposited with the department a properly endorsed certificate of ownership showing the secured party as legal owner, or if the vessel is not numbered when the owner shall file an initial application for number as provided for in this code, and the certificate of ownership issued under said application show said secured party as the legal owner, and said certificate of ownership is deposited with the department, the deposit constitutes perfection of the security interest.

9921. Secured party as legal owner. Upon the deposit with the department of the certificate of ownership showing the secured party as legal owner as provided in Section 9919 hereof, the department shall on its records show the secured party, his successor or assignee, as legal owner with respect to such vessel.

9922. Method is exclusive. The method provided in this chapter for perfecting a security interest in a vessel numbered under this code is exclusive.

9923. Undertaking or bond. In the absence of the regularly required supporting evidence of ownership upon application for registration or transfer of a vessel, the department may accept an undertaking or bond in the amount of the fair market value of the vessel at the time of the application, as determined by the department, which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the vessel, any person acquiring a lien or security interest thereon, or the successor in interest of such purchaser or person, against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the vessel.

9924. Action on bond or undertaking, liability of surety, and return and surrender of bond or undertaking. In the event the vessel is no longer registered in this state and the currently valid certificate of ownership is surrendered to the department or the vessel has been destroyed or lost, the bond or undertaking shall be returned and surrendered after three years.

9928. Withholding transfer, pending payment of use tax. The department shall withhold the certificate of number or the transfer of registration of any vessel sold at retail to any applicant by any person other than a person holding a seller's permit pursuant to Section 6066 of the Revenue and Taxation Code, and regularly engaged in the business of selling vessels, until the applicant pays to the department the use tax measured by the sales price of the vessel as required by the Sales and Use Tax Law, together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his application for registration or transfer of registration and thereafter he may apply through the Department of Motor Vehicles to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of the use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section.

(d) In computing any use tax or penalty thereon under the provisions of the section, dollar fractions shall be disregarded in the manner specified in Section 9559. Payment

of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vessels to which this section relates.

(e) The department and the State Board of Equalization shall enter into an agreement for the collection of the use tax pursuant to this section and Section 6294 of the Revenue and Taxation Code. The agreement shall specify the procedures agreed upon by the department and the board for collection of the tax and the reimbursement provided for in subdivision (c). The agreement shall be approved by the the Department of Finance.

DIVISION 4. SPECIAL ANTITHEFT LAWS

CHAPTER 1.5. REPORT OF STOLEN VESSELS

10550. Definitions. In this chapter, unless the context clearly requires a different meaning, the terms and definitions set forth in Section 9840 shall apply.

10551. Peace officers duty to report to department. Every peace officer upon receiving a report based on reliable information that any undocumented vessel numbered under this code has been stolen shall immediately after receiving such information report the theft to the Department of Justice, Automated Boat System, and such peace officer upon receiving information of the recovery of any such vessel which he has previously reported as stolen, shall immediately report the fact of the recovery to the Department of Justice, Automated Boat System.

10551.5. Notification to department. The Department of Justice upon receiving notice under this chapter that a vessel has been stolen or that a vessel reported stolen has been recovered shall notify the Department of Motor Vehicles of the reported theft or recovery.

10552. False or fraudulent reports. It is unlawful for any person to make or file a false or fraudulent report of the theft of an undocumented vessel required to be numbered under this code with any law enforcement agents with intent to deceive.

10553. Report by owner or legal owner. The owner or legal owner of a vessel numbered under this code which has been stolen or embezzled may notify a law enforcement agency of the theft or embezzlement, but in the event of an embezzlement may make the report only after having procured the issuance of a warrant for the arrest of the person charged with such embezzlement. Every owner or legal owner who has given any such notice shall notify the law enforcement agency of a recovery of the vessel.

10554. Designation on department record. The department upon receiving a report of a stolen or embezzled vessel shall place an appropriate notice in the electronic file system which will identify such vessel during the processing of new certificates of number, ownership, or number and ownership. When such vessels are thus identified, processing shall be discontinued and the agency holding the theft report and the Department of Justice shall be notified. New certificates shall not be issued until cleared by the Department of Justice. Notices shall remain in the Department of Motor Vehicles system until a Department of Justice deletion is received.

A report of a stolen or embezzled vessel is effective for a period of not less than one year from the date first reported, or for such longer period as the department may determine.

DIVISION 10. ACCIDENTS AND ACCIDENT REPORTING

CHAPTER 1. ACCIDENTS AND ACCIDENT REPORTS

20001. Duty to stop at scene of an accident; vessel manslaughter. (a) The driver of any vehicle involved in an accident resulting in injury to any person, other than himself or herself, or in the death of any person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.

(b) (1) Except as provided in paragraph (2), any person who violates subdivision (a) shall be punished by imprisonment in the state prison, or in a county jail for not more than one year, or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both that imprisonment and fine.

(2) If the accident described in subdivision (a) results in death or permanent, serious injury, any person who violates subdivision (a) shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than 90 days nor more than one year, or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both that imprisonment and fine. However, the court, in the interests of justice and for reasons stated in the record, may reduce or eliminate the minimum imprisonment required by this paragraph.

(3) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant's ability to pay the fine and, in the interests of justice and for reasons stated in the record, may reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

(c) A person who flees the scene of the crime after committing a violation of Section 191.5 of, paragraph (1) or (3) of subdivision (c) of Section 192 of, or subdivision (a) or (c) of Section 192.5 of, the Penal Code, upon conviction of any of those sections, in addition and consecutive to the punishment prescribed, shall be punished by an additional term of imprisonment of five years in the state prison. This additional term shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact. The court shall not strike a finding that brings a person within the provisions of this subdivision or an allegation made pursuant to this subdivision.

(d) As used in this section, ''permanent, serious injury'' means the loss or permanent impairment of function of any bodily member or organ.

DIVISION 11. RULES OF THE ROAD

CHAPTER 3. DRIVING, OVERTAKING, AND PASSING

Article 2. Additional Driving Rules

21712. Unlawful riding and towing. (a) No person driving a motor vehicle shall knowingly permit any person to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers.

(b) No person shall ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers.

(c) Subdivisions (a) and (b) shall not apply to any employee engaged in the necessary discharge of his duty or in the case of persons riding completely within or upon vehicle bodies in space intended for any load on the vehicle.

(d) No person shall drive a motor vehicle that is towing a trailer coach, camp trailer, or trailer carrying any vessel, containing any passenger, except when a trailer carrying or designed to carry a vessel is engaged in the launching or recovery of the vessel.

(e) No person shall knowingly drive a motor vehicle which is towing any person riding upon any motorcycle, motorized bicycle, bicycle, coaster, roller skates, sled, skis, or toy vehicle.

(f) Subdivision (d) shall not apply to a trailer coach being towed with a fifth-wheel device if the trailer coach is equipped with safety glazing materials wherever glazing materials are used in windows or doors, with an audible or visual signaling device which a passenger inside the trailer coach can use to gain the attention of the motor vehicle driver, and with at least one unobstructed exit capable of being opened from both the interior and exterior of the trailer coach.

DIVISION 11.5. SENTENCING FOR DRIVING WHILE UNDER THE INFLUENCE

CHAPTER 4. PROCEDURES

Article 2. Prior and Separate Offenses

23620. Intoxication, vessel-vehicle operators. (a) For the purposes of this division and Chapter 12 (commencing with Section 23100) of Division 11, a separate offense which resulted in a conviction of a violation of subdivision (f) of Section 655 of the Harbors and Navigation Code or of Section 191.5 of, or paragraph (3) of subdivision (c) of Section 192 of, the Penal Code is a separate offense of a violation of Section 23153.

(b) For the purposes of this division and Chapter 12 (commencing with Section 23100) of Division 11, and Section 13352, a separate offense which resulted in a conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code is a separate violation of Section 23152.

DIVISION 17. OFFENSES AND PROSECUTION

CHAPTER 1. OFFENSES

Article 1. Violation of Code

40000.8. Misdemeanors. A violation of any of the following provisions is a misdemeanor, and not an infraction:

Section 9872, relating to the registration of vessels.

Section 9872.1, relating to unidentified vessels.

EXCERPTS FROM THE

WATER CODE

EXCERPTS FROM THE WATER CODE

DIVISION 7. WATER QUALITY

CHAPTER 5.2. SAN DIEGO ADVISORY COMMITTEE FOR ENVIRONMENTALLY SUPERIOR ANTIFOULING PAINTS

13366. Antifouling Paint Report. (a) The San Diego Advisory Committee for Environmentally Superior Antifouling Paints is hereby established, for the purpose of making recommendations and advising in the preparation of a report by the University of California, or a consultant, to identify incentives necessary to ensure that nontoxic alternatives to metal-based antifouling hull coatings are used for recreational vessels. The report shall consider, but need not be limited to, all of the following:

(1) Product costs, including, but not limited to, product costs of noncoating alternatives.

(2) Hull preparation, including, but not limited to, initial costs, lifespan costs, maintenance, and repairs.

(3) Market-based alternatives, including, but not limited to, differential pricing.

(4) The term of any incentives to encourage the availability and use of alternatives.

(5) Criteria for evaluating the effectiveness of any incentives.

(b) The committee members shall be appointed by the Board of Port Commissioners of the San Diego Unified Port District for two-year terms. The membership of the committee should include, but need not be limited to, all of the following:

(1) A representative of the San Diego Association of Yacht Clubs who resides in San Diego.

(2) A representative of the San Diego Port Tenants Association.

(3) A marina owner or operator in the San Diego Bay.

(4) A representative of the San Diego Unified Port District.

(5) A representative of the Sea Grant Extension Program.

(6) A representative of the Southern California Professional Divers Association.

(7) A representative of the Environmental Health Coalition in San Diego County.

(8) A representative of the boatyard industry operating in San Diego County.

(9) A representative of the San Diego Regional Water Quality Control Board.

(10) A recreational boat owner who resides in the City of San Diego.

(11) A representative of the Department of Boating and Waterways.

(c) The committee may include one nonvoting representative of each of the following:

(1) The United States Navy.

(2) The Department of Pesticide Regulation.

(d) Committee members shall not be compensated for their services or any expenses incurred in the performance of their duties pursuant to this chapter.

(e) The report required under subdivision (a) shall be submitted on or before December 31, 2002, to all of the following:

(1) The Legislature.

(2) The San Diego Regional Water Quality Control Board.

(3) The Department of Boating and Waterways.

(f) This section shall only apply to the University of California to the extent the regents of the university elect to make the section applicable.

13367. Effective Date. This chapter shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends that date.

CHAPTER 11. DISCHARGES FROM HOUSEBOATS ON OR IN THE WATERS OF THE STATE

13900. Legislative intent. The Legislature finds and hereby declares that discharges from houseboats in or on the waters of the state constitute a significant source of waste as defined in Section 13050; that discharges of waste from houseboats in or on the waters of the state may impair the beneficial uses of the waters of the state to the detriment of the health, safety, and welfare of the people of the state; and that the discharges of waste from houseboats are not adequately regulated. The Legislature therefore declares that the people of the state have a primary interest in the coordination and implementation of the regulation of discharges of waste from houseboats on or in the waters of the state.

13901. Definitions. As used in this article, ''houseboat'' means a watercraft or industrial or commercial structure on or in the waters of the state, floating or nonfloating, which is designed or fitted out as a place of habitation and is not principally used for transportation. ''Houseboat'' includes platforms, and waterborne hotels and restaurants. ''City or county'' means any city, county, city and county, or port authority.

13902. Investigations by regional board. Each regional board shall investigate its region to determine areas in which discharges of waste from houseboats are inadequately regulated by local ordinance.

13903. Notification of inadequate regulation. Each regional board shall notify each affected city or county, the State Department of Public Health and the State Department of Boating and Waterways of areas of inadequate regulation by ordinance of discharges of waste from houseboats and shall recommend provisions necessary to control the discharges of waste from houseboats into the waters.

13904. Adoption of ordinances. Each such affected city or county shall within 120 days of receipt of the notice from the regional board, adopt an ordinance for control of discharges of waste from houseboats within the area for which notice was given by the board. A copy of such ordinance shall be sent to the regional board on its adoption and the regional board shall transmit such ordinance to the state board, the State Department of Public Health and the State Department of Boating and Waterways.

13905. Effective date of city or county ordinance. Such city or county ordinance shall take effect 60 days from the date of adoption by the city or county, unless the regional board holds a public hearing on the matter and determines that the city or county ordinance is not sufficiently restrictive to protect the quality of the waters affected. If the board makes such a determination, it shall so report to the affected city or county and also recommend the ordinance, or modification of the city or county ordinance, which it determines is necessary.

13906. Failure to adopt ordinance. If a city or county fails to adopt an ordinance controlling discharges of waste from houseboats within 120 days of receipt of the regional board's notice pursuant to Section 13903, or fails to adopt or modify such ordinance in the manner determined as necessary by the regional board pursuant to Section 13905, within 90 days of receipt of the regional board's notice, the regional board may adopt regulations necessary for the control of discharges of waste from houseboats for the area designated. Such regional board regulations shall take effect 30 days from the date of their adoption and shall be enforced by the city or county and have the same force and effect as if adopted as a city or county ordinance.

13907. Review by state board. Any action, report, determination, or regulation taken or adopted by a regional board, or any failure of a regional board to act may be reviewed by the state board, and shall be reviewed by the state board on the request of any affected city or county. The state board has all powers as to the review of action or inaction of a regional board under this article as it has to other action or inaction of a regional board, including all powers granted to a regional board to initially determine areas in which discharges of waste from houseboats are inadequately regulated by local ordinance and to adopt regulations when a city or county fails to do so, if the state board finds that appropriate action has not been taken by a regional board. Any action of a regional board under this chapter or any city or county ordinance affected by the review of the state board shall have no force or effect during the period of the review by the state board.

13908. Construction of chapter. No provision of this chapter and no action thereunder by a regional board or the state board is a limitation on the power of a city or county to adopt and enforce additional ordinances or regulations not in conflict therewith imposing further conditions, restrictions, or limitations with respect to the discharges of waste from houseboats.

EXCERPTS FROM

TITLE 8

CALIFORNIA CODE OF REGULATIONS

TITLE 8. INDUSTRIAL RELATIONS

GROUP 2. SAFE PRACTICES AND PERSONAL PROTECTION

Article 10. Personal Safety Devices and Safeguards

GROUP 2. SAFE PRACTICES AND PERSONAL PROTECTION

Article 10. Personal Safety Devices and Safeguards

3389. Life Rings and Personal Flotation Devices.

(a) At least one U.S. Coast Guard approved 30-inch life ring with not less than 90 feet of 600 pound capacity line attached shall be kept in a conveniently accessible place where employees work exposes them to the hazard of drowning or each employee so exposed shall wear a U.S. Coast Guard approved personal flotation device.

EXCEPTION: Flume Patrol. Flumes provided with caps as described in Section 3207.

(b) Any personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices.)

(c) Personal flotation devices shall be maintained in good condition. They shall be removed from service when damaged so as to affect their buoyant properties or capability of being fastened.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

EXCERPTS FROM

TITLE 13

CALIFORNIA CODE OF REGULATIONS

TITLE 13. MOTOR VEHICLES

DIVISION 1. (CHAPTER 1) DEPARTMENT OF MOTOR VEHICLES

Article 3.2. Registration of Vessels

Division 1. Department of Motor Vehicles

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DIVISION 1. DEPARTMENT OF MOTOR VEHICLES

CHAPTER 1. DEPARTMENT OF MOTOR VEHICLES

Article 3.2. Registration of Vessels

190.00. Display of Numbers.

(a) The number issued to each undocumented vessel shall be displayed in the following manner:

(1) Be painted on or permanently attached to each side of the forward half of the vessel.

(2) Be in plain vertical block characters of not less than 3 inches in height.

(3) Contrast with the color of the background and be distinctly visible and legible.

(4) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than"1" between the prefix and the number, and the number and the suffix.

EXAMPLE: CF 1234 AB

(5) Letters and numbers to read from left to right.

(b) Vessels used by a manufacturer or by a dealer for testing or demonstrating shall have the number painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.

(c) On inflatable vessels or on vessels so configured that a number on the hull or superstructure would not be clearly visible or properly adhere, the number shall be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(d) No numerals, letters or devices other than those used in connection with the state number issued shall be placed in the proximity of the state number, and no numerals, letters or devices which might interfere with the ready identification of the vessel by its state number shall be carried on any part of the vessel.

NOTE: Authority cited: Sections 1651 and 9853.2, Vehicle Code. Reference: Sections 9850, 9853.2 and 9857, Vehicle Code; and CFR, Title 33, Sections 173.19, 173.27, 174.13 and 174.14.

190.01. Registration Stickers.

The registration stickers issued by the department under the authority of Vehicle Code Section 9853.4 to identify a vessel as currently registered shall be securely affixed on each side of the vessel three inches aft (toward the stern) of and directly in line with the registration numbers and shall be so maintained as to be clearly visible at all times.

NOTE: Authority cited: Sections 1651 and 9853.4, Vehicle Code. Reference: Section 9853.4, Vehicle Code; and CFR, Title 33, Section 174.15.

190.02. Proof of Ownership.

Proof of ownership of vessels may be established for the purposes of Vehicle Code Section 9852 by one of the following:

(a) A Bill of Sale executed by the seller showing the name and address of the seller, name and address of the purchaser, the name and address of the legal owner if any, the location and date of sale, and description of the vessel; or a Certificate of Sale executed by the seller under oath showing the information required to be shown on the Bill of Sale.

(b) A properly endorsed document indicating title if the vessel has been numbered and issued a title by another state.

(c) Where neither (a) nor (b) above is appropriate, an affidavit executed by the applicant fully setting forth the facts to support applicant's claim of ownership in the vessel. Affidavits for materials used in construction of homemade boats shall be supported with Bills of Sale for major components.

(d) A Certificate of Origin, Bill of Lading or Invoice describing the vessel shall be required from any dealer who upon application for original registration lists himself as the owner of the vessel when such vessel is obtained through the dealer's inventory.

NOTE: Authority cited: Sections 1651 and 9852, Vehicle Code. Reference: Section 9852, Vehicle Code; and CFR, Title 33, Section 174.31.

190.04. Definition of a Livery Boat.

A livery boat is any vessel subject to registration under the California Vehicle Code, that is held primarily for the purpose of renting, leasing or chartering to others.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9840 and 9850, Vehicle Code; and CFR, Title 33, Section 174.19.

190.05. Definition of a Vessel Carrying Passengers for Hire.

Vessels carrying passengers for hire means any vessel subject to registration under the California Vehicle Code which is held for use the carriage of any person by such vessel for valuable consideration whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9840 and 9850, Vehicle Code; and CFR, Title 33, Section 174.19.

190.06. Definition of a Boat Manufacturer.

A boat manufacturer is a person who is engaged wholly or in part in the business of building or assembling vessels who subsequently offers these vessels for sale and receives or expects to receive money, profit or any other thing of value resulting from such transactions.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9840, Vehicle Code.

190.07. Definition of a Boat Dealer.

A boat dealer is a person who is engaged wholly or in part in the business of selling or offering for sale, buying or taking in trade for the purpose of resale, or exchanging, any vessel or vessels and receives or expects to receive money, profit, or any other thing of value.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9856 and 9912, Vehicle Code.

190.08. Certificates of Number for Dealer, Manufacturer, Livery Vessel and Vessel Carrying Passengers for Hire.

(a) The Certificates of Number for dealer, manufacturer, livery vessels, commercial vessels of less than five net tons and vessels carrying passengers for hire shall be clearly marked to show the vessel use.

(b) All applications for numbering of such vessels shall be submitted directly to the Department of Motor Vehicles, Sacramento, who may upon approval after the payment of the required fees issue a vessel number with distinctive suffix letters.

(c) Dealer or manufacturer numbers shall only be temporarily attached to the vessel during demonstration or test period and are valid for that period of demonstration or test only.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9850, 9853, 9853.1-9853.3, Vehicle Code; CFR, Title 33, Sections 173.27 and 174.19; and CFR, Title 46, Section 67.01-11.

190.09. Terms and Conditions for Vessel Registration and Numbering.

The issuance of Certificates of Ownership and Number may be conditioned on:

(a) Title to, or other proof of ownership of a vessel except a recreational-type public vessel of the United States, and

(b) The payment of State or local taxes, except for such public vessels as defined in Section 9851 V.C.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9852, 9853.1, 9853.4, 9855 and 9858, Vehicle Code; and CFR, Title 33, Section 174.31.

190.10. Contents of Applications for Certificate of Ownership and Certificate of Number.

(a) Applications for Certificates of Ownership and Number shall contain the following information:

(1) Name of the registered owner.

(2) Address of the registered owner and ZIP code.

(3) State in which vessel will be principally used.

(4) Location of vessel, city and/or county.

(5) Any number previously issued by an issuing authority for the vessel.

(6) Whether the application is for a new number, renewal of a number, transfer of ownership, duplicate Certificates of Ownership or Number.

(7) Whether the vessel is to be used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying or other commercial use.

(8) Make of vessel.

(9) Year vessel was manufactured and model year, if known.

(10) Hull identification number.

(11) Overall length of vessel.

(12) Type of vessel.

(13) Hull material.

(14) Propulsion.

(15) Fuel, gasoline, diesel or other.

(16) Name and address of legal owner, if any.

(17) Signature of the registered owner.

(b) Applications made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes need only furnish items 1, 2, 6, 7 and 17 of paragraph (a).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9852 and 9853, Vehicle Code; and CFR, Title 33, Section 174.17.

190.11. Contents of Certificate of Number.

(a) Each Certificate of Number shall contain the following information:

(1) Number issued to vessel.

(2) Expiration date of the Certificate of Number.

(3) State of principal use.

(4) Name of the registered owner.

(5) Address of registered owner, including ZIP code.

(6) Name and address of legal owner, if any.

(7) Use of vessel such as pleasure, livery, dealer or manufacturer for demonstration, commercial passenger carrying or other commercial.

(8) Hull identification number.

(9) Make of vessel.

(10) Year manufactured and year model, if known.

(11) Overall length of vessel.

(12) Type of vessel.

(13) Hull material.

(14) Type of propulsion.

(15) Fuel type, gasoline, diesel or other.

(16) Information pertaining to change of ownership, documentation, theft or recovery of vessel, carriage of the Certificate of Number on board when vessel is in use; rendering aid in accidents and reporting casualties and accidents shall be contained on the Certificate of Number.

(b) A Certificate of Number issued to a manufacturer or dealer to be used on a vessel for demonstration purposes need only show items 1, 2, 3, 4, 5,

7 and 16 of paragraph (a) if the word ''manufacturer'' or ''dealer'' is plainly marked on the certificate.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853 and 9853.1, Vehicle Code; and CFR, Title 33, Section 174.19.

190.12. Validity of Certificate of Number.

(a) The Certificate of Number shall become invalid after the date:

(1) The vessel is documented or required to be documented under Part 67 of Title 46, Code of Federal Regulations.

(2) The owner of the vessel transfers all of his ownership in the vessel.

(3) The vessel is destroyed or abandoned.

(b) A Certificate of Number shall be invalid if the application contains a false or fraudulent statement.

(c) A Certificate of Number shall become invalid 60 days after the day on which the vessel is no longer principally used within the State of California.

(d) The Certificate of Number shall become invalid when the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal process.

(e) The Certificate of Number shall become invalid when the primary use of the vessel changes from the use indicated on the Certificate of Number pursuant to Section 190.11(a)(7).

(1) The owner of a vessel shall apply to the department for a new Certificate of Number when the primary use of the vessel changes from that indicated on the Certificate of Number.

(2) ''Primary use of the vessel'' means use that accounts for more than fifty percent of the operation of the vessel during a calendar year.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853.1, 9855, 9858, 9864, 9874 and 9915, Vehicle Code; and CFR, Title 33, Section 173.77.

190.13. Removal of Stickers.

The number and sticker shall be removed from the vessel if the Certificate of Number becomes invalid for reasons contained in Section 190.12(a)(1), (b), or (c) of these regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853.4 and 9874, Vehicle Code; and CFR, Title 33, Section 173.33.

190.14. Temporary Certificate of Number.

A Temporary Certificate of Number shall be issued to applicants in accordance with Section 9858 V.C. to be valid for 60 days from date of issue.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9858; and CFR, Title 33, Sections 173.75 and 174.29.

190.15. Hull Identification Numbers.

(a) All vessels subject to registration under the California Vehicle Code shall display a hull identification number. On vessels built after 1971, this

number shall consist of at least 12 characters in a configuration consistent with federal regulations.

(b) Hull identification numbers will be assigned by the manufacturer or by the Department of Motor Vehicles upon failure by the manufacturer to assign the number.

(c) The hull identification number shall be carved, burned, stamped, embossed or otherwise permanently affixed using letters and numerals not less than 1/4 inch in height to the outboard side of the transom, or if there is no transom to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the water line of the boat in such a way that alterations, removal or replacement would be obvious.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9871 and 9871.5, Vehicle Code; and CFR, Title 33, Sections 181.23, 181.25, 181.27 and 181.29.

190.16. Fee-Exempt Boats.

(a) Boats belonging to State, County, or City Governments; and Federal agencies of the United States shall not be required to pay the fees provided for in Sections 9853, 9855 and 9860 of the California Vehicle Code.

NOTE: Authority cited: Section 9851, Vehicle Code. Reference: Section 9851, Vehicle Code.

190.17. Recreational-Type Public Vessels.

Boats owned by the United States Armed Forces that are used for recreational purposes shall be known as ‘‘recreational-type public vessels’’. The Department of Motor Vehicle, Sacramento, California, shall upon application issue a Certificate of Number and Certificate of Ownership to the Armed Forces Agency owning the vessel. Such vessels shall be exempt from payment of all fees.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9851, Vehicle Code; and CFR, Title 33, Section 173.11.

190.18. Fee-Exempt Annual Renewal.

The number issued to fee-exempt vessels shall contain suffix letters to designate the vessel as ‘‘fee-exempt’’. Display of the number shall be in accordance with Section 190 of this regulation. A sticker shall be issued to each vessel to identify it to be currently registered. Display of the sticker shall be in accordance with Section 190.01.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9850, Vehicle Code.

190.19. Racing Vessels.

Boats brought to this state exclusively for racing purposes and remaining for less than 90 days, may be exempted from registering and numbering in California, providing the state of origin also exempts such vessels.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9854 and 9873, Vehicle Code.

190.20. Livery Vessels.

No person may operate a livery vessel unless that vessel has on board a valid Certificate of Number, a valid Temporary Certificate of Number, or a copy of the rental or lease agreement. The agreement must contain:

(1) The signature of the owner of the vessel or his representative.

(2) The signature of the person leasing or renting the vessel.

(3) The vessel number that appears on the Certificate of Number.

(4) The time period for which the vessel is leased or rented.

No obligation is created by these regulations (Sections 190.00 through 190.20) under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred in carrying on any program or performing any service required to be carried on or performed under these regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9853.3, Vehicle Code; and CFR, Title 33, Section 173.21.

190.21. Notification to the Department.

A person whose name appears as the owner of a vessel on a Certificate of Number shall, within 15 days, notify the Department of:

(a) Any change in his address.

(b) The loss or destruction of a valid Certificate of Number.

(c) The destruction or abandonment of the vessel.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9864, 9865 and 9911, Vehicle Code; and CFR, Title 33, Section 173.29.

190.22. Surrender of Certificate of Number.

A person whose name appears as the owner of a vessel on a Certificate of Number shall surrender the certificate in a manner prescribed by the Department within 15 days after it becomes invalid under Section 190.12, paragraphs (a)(1)(2)(3), (b), (c), (d).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9864 and 9900, Vehicle Code; and CFR, Title 33, Section 173.31.

190.30. Department Agent's Authorization.

(a) Agents authorized by the department under Vehicle Code Section 9858 to accept registration applications of undocumented vessels shall be known as Undocumented Vessel Registration Agents. The appointment of such agents shall be at the pleasure of the department and they shall serve without compensation from the department.

(b) Undocumented Vessel Registration Agents may charge their customers a documentary preparation fee pursuant to Vehicle Code Section 9858.1.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858, 9858.1 and 9859, Vehicle Code.

190.32. Application for Appointment as an Undocumented Vessel Registration Agent.

(a) An applicant for appointment as an Undocumented Vessel Registration Agent shall submit to the department an Application for Appointment as Non-Public Undocumented Vessel Registration Agent, Form OL 54 (9/94).

(1) Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(b) The Application for Appointment as Non-Public Undocumented Vessel Registration Agent shall contain the following information:

(1) Information specifying the reason the application is being submitted.

(A) An application shall be submitted for the original appointment, change of name or address, change of ownership structure, or when adding a branch location.

(2) The business name, address and telephone number.

(3) The days and hours the business is open for business and the days the business is closed.

(4) The nature of the business.

(5) The date the organization was established.

(6) An indication of how the business is structured.

(7) The date and state of incorporation, when the business is incorporated.

(8) The name, residence address, telephone number, and driver license number of the owner, each partner, or each of the corporation's principal officers, depending on the business structure.

(A) When the business is a corporation, the application shall also include the corporate officer title of each of its principal officers.

(9) An explanation of the bankruptcy, including the date and court of jurisdiction, if the applicant, any partner or officer has ever declared bankruptcy.

(10) An explanation of the offense, including court information such as the charge, disposition, and, if available, the police arrest report, if the applicant, any partner or officer has every been convicted of any misdemeanor or felony offense.

(11) An indication as to whether the applicant, any partner, or corporate officer has ever been a Vessel Registration Agent for the state, has ever been a yacht and ship broker, or has ever been a Department of Motor Vehicles Occupational Licensee, and, if so, the license number and date of the license.

(12) The applicant's Board of Equalization resale number.

(13) A certification that the information provided on the application is true and correct, and an agreement to comply with the department's requirements as set forth in the Agreement of Appointment as an Undocumented Vessel Registration Agency to Represent the California Department of Motor Vehicles, Form OL 261 (11/94).

(A) The certification and agreement shall be dated and signed under penalty of perjury under the laws of the State of California by the sole proprietor, all individual partners of a co-partnership, or all principal officers of the corporation, depending on the business structure.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

190.34. Responsibilities of Undocumented Vessel Registration Agents.

(a) Each Undocumented Vessel Registration Agent shall agree to assume, as a condition of appointment, the following responsibilities:

(1) Maintain an established place of business.

(2) Be engaged in an activity directly related to boating.

(3) Display a means of identification which will clearly indicate to the public the name of the business. Each separate branch of the business which will be authorized to conduct registration of vessels shall display such means of identification.

(4) Maintain all supplies at the business location described on the Application for Appointment as Non-Public Undocumented Vessel Registration Agent, Form OL 54 (9/94).

(5) Make available for review all accountable vessel registration items upon demand by an authorized department employee. Accountable vessel registration items shall include any item bearing a serial number and having a value attached to it.

(6) Notify the Department of Motor Vehicles, Occupational Licensing Unit, P.O. Box 932342, Sacramento, CA 94232-3420, in writing no later than the first business day following the event of any of the following:

(A) Sale of business or change of terms in the agreement for appointment.

(B) Change of business structure, including the addition or deletion of partners or corporate officers.

(C) Change of business name or address.

(D) Adding or deleting a branch location.

(E) Lost or stolen accountable vessel registration items.

(7) Upon sale or termination of the business, all accountable vessel registration supplies, applications, and fees shall be forwarded to the department no later than the first business day following the sale or termination.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

190.36. Duties of Undocumented Vessel Registration Agents.

(a) Each Undocumented Vessel Registration Agent shall agree to assume, as a condition of appointment, the following duties:

(1) Accept applications and fees for registration and transfer of vessels and issue Permanent Vessel Numbers, Temporary Certificates of Number, and vessel stickers to applicants.

(2) Forward a report every seven days listing all vessel registration transactions received during the previous seven days, accompanied by each application listed on the report and a single check or money order for all fees received for the registration of a vessel, to the address designated by the department no later than the close of business on the date shown on the report.

(A) The report shall be prepared on the Transmittal Record of Vessel Agent Registration Applications, Form ADM 173-1 (10/94) provided by the department. Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial complaint with the requirements of this section.

(B) The Transmittal Record of Vessel Agent Registration Applications shall be completed in ink and shall include the following information: the business name, address, and telephone number; the agent's number; date submitted; the vessel's CF number, or, if a new vessel, the hull identification number or the last name of the registered owner; the amount of cash, check, or credit media collected; the number of the sticker issued, miscellaneous receipts issued for transactions such as transfers, duplicates, etc.; an indication of whether a credit or refund is desired; an indication of the preferred delivery method; the total number of items by type submitted with the transmittal bundle; an authorized signature; and, the printed name of the person signing the report.

(C) All accountable items issued shall be listed on the transmittal in numerical order.

(D) Each registration transaction processed shall be entered on the transmittal immediately after the receipt has been written.

(E) Three copies of the transmittal shall be sent weekly to the department, and the agent shall retain a fourth copy.

(F) A Transmittal of Vessel Agent Registration Applications shall be submitted indicating, "No transactions during week of xx/xx/xx" when no transactions have occurred during the week.

(3) Process the types of vessel registration transactions indicated on the Agreement of Appointment as an Undocumented Vessel Registration Agency to Represent the California Department of Motor Vehicles, Form OL 261 (11/94).

(A) These transactions shall include either or both: original vessel registration for new boats; or, vessel ownership transfer applications for used boats, registration renewals and applications for duplicate certificates and stickers.

(B) Agents shall register only those vessels they sell.

(4) Complete and provide a Quarterly Physical Inventory of Accountable Items, Form BOAT 124-1 (12/94) by the fifth day of January, April, July, and October. Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(A) The Quarterly Physical Inventory of Accountable Items shall include a listing of receipts for new and used boats, as evidenced by the beginning and ending number of Certificates of Number and Temporary Certificates of Numbers issued, and the number of each on hand; a listing of the number of vessel stickers issued, as evidenced by the beginning and ending number of stickers issued and the number on hand, a listing of void receipts, and an authorized signature.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

190.38. Agreement for Appointment as an Undocumented Vessel Registration Agent.

(a) Each applicant for appointment as an Undocumented Vessel Registration Agent shall complete an Agreement for Appointment as an Undocumented Vessel Registration Agency to Represent the California Department of Motor Vehicles, Form OL 261 (11/94) on which the owner, all partners of a co-partnership, or all principal officers of a corporation, agree to assume the duties and responsibilities which are outlined in the agreement and reflect the requirements specified in the Vehicle Code and in regulation.

(1) Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858, 9858.1 and 9859, Vehicle Code.

191.00. Non-Motorized Surfboard-Like Vessels Exempted Under Vehicle Code Section 9873(e).

Non-motorized surfboard-like vessels over 8 feet in length, propelled solely by sail, and with a mast which is required to be held upright by the operator in order to sail are exempt from the numbering requirements of Vehicle Code Section 9850.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9873, Vehicle Code.

192.00. Proof Documents Re Lien Sale Vessels.

All applications for the transfer of title of an undocumented vessel after a lien sale of such vessel under Article 4 (commencing with Section 500) of the Harbors and Navigation Code shall be accompanied by proof of the possessory character of the lien so that the department may be satisfied of the genuineness and regularity of the transfer pursuant to Vehicle Code Section 9915(b). For the purposes of such proof, ‘‘storage’’ means services

rendered in the safekeeping of a vessel by a person not the owner who has a right of possession together with a duty to care for the vessel and may include mooring, berthage, wharfing and anchorage and rental of vessel trailer parking space done in the process of the storage of a vessel. ''Storage'' does not include the rental of mooring space or of vessel trailer parking space when there is no duty to keep the vessel safe when occupying such space. Costs of repair means all material and labor of a repairman when a vessel is put in his keeping for such purposes and may include costs of mooring, berthage, wharfing and anchorage and rental of vessel trailer parking space if such services are included in the repairman's cost of handling a vessel for the purpose of repairing it.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9915, Vehicle Code.

EXCERPTS FROM

TITLE 14

CALIFORNIA CODE OF REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 4. DEPARTMENT OF BOATING AND WATERWAYS

Chapter 1. Department of Boating and Waterways

Chapter 3. Conflict of Interest Code

Division 4. Department of Boating and Waterways

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Article 1. Planning Loan Regulations

5000. Short Title.

This article shall be known and may be cited as the Boating and Waterways Planning Loan Regulations under which the Department of Boating and Waterways may make planning loans to eligible applicants in accordance with the provisions of section 71.4 of the Harbors and Navigation Code.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5001. Loan Conformity.

Any loan made to a county, city, or district for the purpose of planning for the acquisition, construction, improvement, maintenance or operation of small craft harbors shall be in conformity with this article.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5002. Application.

No planning loan shall be made unless written application therefor is filed with the Department of Boating and Waterways. All such applications shall contain a statement of facts certified as true by the governing body of the applicant showing that the loan in the amount requested, if made, will not be in violation of the California Constitution, Article XVI, Section 18, or of the Harbors and Navigation Code, Section 71.6.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.6 and 85.2, Harbors and Navigation Code.

5003. Terms of Loan.

Planning loans shall be for a period not to exceed ten years.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

Article 1.1. Public Small Craft Harbor Loan Regulations

5100. Short Title.

This article shall be known and may be cited as the Boating and Waterways Public Small Craft Harbor Loan Regulations under which the Department of Boating and Waterways may make construction loans to eligible applicants for small craft harbor facilities and connecting waterways in accordance with the provisions of section 71.4 of the Harbors and Navigation Code.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5101. Definitions.

As used in this article:

(a) ''Applicant.'' A city, county, or district which requests or receives a loan and has the statutory authority to undertake the development of a small craft harbor, described in Section 71.4 of the Harbors and Navigation Code.

(b) ''Collateral.'' Property, both real and personal, whether tangible or not, pledged as security for repayment of a debt, including but not limited to any or all of the following: an interest in real property; a mortgage or security interest (deed of trust) in real estate, including buildings or property of the applicant, a deed of trust or lease and leaseback of the project area; an irrevocable letter of credit in an amount equal to the principal and estimated accrued interest; a collateral assignment of rents and leases equal to not less than 125 percent of applicant's total annual debt service to the department; a security agreement; a Uniform Commercial Code financing statement (UCC-1).

(c) ''Commission.'' The Boating and Waterways Commission.

(d) ''Contract.'' A contract to implement the disbursement of loan funds.

(e) ''Default'':

(1) The failure of an applicant to make any payment required by the contract within 30 days of the due date of the payment,

(2) the failure of an applicant to comply with any other requirement of the contract. Such defaults, for failure to comply with terms of contract other than payments, may be cured by complying with the requirement within 180 days after receipt of written notice from the department specifying such failure,

(3) the provision of false representations or false warranties by the applicant in response to any obligations under the contract,

(4) the failure of an applicant to conduct appropriate proceedings in good faith to contest any levy or proceeding against the collateral or applicant's interest therein; or

(5) the filing of a petition by an applicant under the provisions of the Bankruptcy Code, or the failure of an applicant to conduct appropriate proceedings in good faith to contest a bankruptcy filing by a third party when such action affects the collateral.

(f) ''Department.'' The Department of Boating and Waterways.

(g) ''Loan.'' A loan for the purpose of acquisition, construction, and/or improvement, maintenance or operation of small craft harbors, related facilities, or connecting waterways, pursuant to Harbors and Navigation Code Section 71.4.

(h) ''Project.'' Any construction, improvement, acquisition, maintenance or operation of small craft harbors, related facilities, or connecting waterways.

(i) ''Project Area.'' A delineated area in which the project is to be located.

(j) ''Project Costs.'' Those contract, equipment, labor, material and construction costs which are incurred by the applicant for the purpose of completing the project; however, such project costs shall not include indirect or overhead charges incurred by the applicant for its own personnel.

(k) ''Reserve Fund.'' A separate and independent fund for the exclusive purpose of providing extraordinary, non-routine maintenance, repair or replacement during the loan period.

(*l*) ''Surplus Revenues.'' Revenues received by an applicant from any source within a project area less the applicant's expenses for (1) loan repayment, and (2) operation and maintenance (including the Reserve Fund) of the project; tax revenues may be considered as a revenue source.

(m) ''Unpaid Balance.'' Total outstanding debt, including principal, interest and penalties, if applicable.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5102. Application.

(a) Preliminary Coordination: Loans will be processed in accordance with departmental guidelines and criteria. The applicant may seek departmental assistance in formulating the project.

(b) Preliminary Study: The applicant's formal request for a loan will not be submitted until the department's reconnaissance survey of the proposed project area has determined the initial acceptability of the project and the applicant has been so notified.

(c) Formal Application: Upon receipt of a favorable preliminary report from the department, the applicant may make a formal loan application which shall include:

(1) Feasibility Study: A report containing sufficient information and detail to demonstrate that the project is both engineeringly and financially feasible. The report shall include, but not be limited to:

(A) A project plan and map which establishes the project area and location.

(B) Preliminary project layout and designs of project features in sufficient detail to develop accurate cost estimates.

(C) A plan for operational and fiscal management of the project throughout the loan period.

(D) The proposed method and means of retiring the loan, meeting other financial obligations of the project, and, if the project is to be undertaken with funds in addition to the loan applied for, a funding plan indicating the sources of such additional construction funds.

(E) A report on the effect the project would have on the environment. The department will provide the applicant with a copy of the latest law on this subject.

(F) A plan to capitalize a reserve fund in an amount specified by the department.

(G) Collateral acceptable to the department.

(2) A designation of a representative authorized to act for the applicant to sign any necessary papers or to otherwise act as the representative of the applicant.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5103. Feasibility Review.

The applicant's formal application will be judged as to the following considerations:

(a) Engineering feasibility, including a determination as to whether or not the project can be developed within the total amount of funds to be made available.

(b) Financial feasibility, including an analysis of the availability of capital to finance construction to completion, users' willingness and ability to pay anticipated berthing and other charges used in estimating revenues, and evaluation of the sufficiency of revenues to cover annual cost on a year-by-year basis, including maintenance of a reserve fund and the amortization of the applied for loan.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5104. Priority.

When considering applications, the department shall, in addition to priorities set forth in the Harbors and Navigation Code, rank applications based upon the following:

(a) First priority shall be given to projects based upon issues of the health and safety of boaters using the facilities.

(b) Next, priority shall be given to projects currently receiving phased funding from the department.

(c) Next, priority shall be given based upon availability of matching funds.

(d) Next, priority shall be given based upon relative demand for facilities in the same market area, as determined by the department. Consideration shall be given to:

(1) Population size of the market area.

(2) Similar facilities in the market area.

(3) Boating activity in the market area.

(e) In the event that a priority between applications cannot be established by Subsections (a) through (d), priority shall be given to applicants with greatest ability to repay the loan.

(1) Evaluation of the applicant's ability to repay shall be based on the applicant's audited financial statements for the previous three years, if available.

(2) If financial statements are not available, the applicant will provide other information acceptable to the department which establishes a financial ability to repay the loan.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4, 85.2 and 87, Harbors and Navigation Code.

5105. Loan Terms and Conditions.

The agreement between the department and the applicant shall include but not be limited to the following provisions:

(a) A provision to the effect that the loan will be used for the purpose of developing the project in a continuous and expeditious manner to completion and that the project when completed will be made available and open to all on equal and reasonable terms.

(b) A provision specifying that no loan funds for construction purposes shall be released to an applicant until final plans and specifications for the project (or a particular portion thereof to be constructed with such funds) are approved in writing by the department.

(c) A provision requiring applicant to comply with department approved construction plans and specifications and change orders thereto.

(d) A repayment plan setting forth the provisions for repayment of principal and interest until the loan is repaid in full.

(e) A provision permitting inspection of the project by the department or its agents at any time during construction or after completion, and permitting the inspection and audit of all records of the applicant relating to the project until the loan is paid in full.

(f) A provision that the applicant will provide fire and extended coverage insurance to ninety percent of the value of insurable structures within the project area with the department named as additional insured.

(g) A provision that the applicant will provide insurance, with the department named as additional insured, to cover liability arising from design, planning, construction, maintenance or operation of the project in the following minimum amounts:

(1) Bodily injury $300,000 each person $1,000,000 each occurrence

(2) Property and product damage $500,000 each occurrence $1,000,000 each aggregate

(h) A provision allowing applicant to provide self-insurance in the amounts prescribed in subsection (g), above.

(i) A provision that during the loan repayment period applicant shall not sell, lease, transfer, exchange, mortgage or hypothecate in any manner all or any portion of the real property or improvements within the project area without prior written approval of the department.

(j) A provision requiring applicant to establish and capitalize a reserve fund in an amount and under terms and conditions specified by the department.

(1) The reserve fund shall be an interest-bearing account.

(2) In order to withdraw funds from the reserve fund, the signature of the director, or his or her designee shall be required.

(3) All funds remaining in the reserve fund account shall be returned to the borrower upon full performance of the loan contract. However, unless and until all reserve funds, including accumulated interest, are first committed to improvements at the marina, the borrower may not apply for additional department funding for any project within the marina for a period of five years beginning on the last date any reserve funds are returned to the borrower.

(k) A statement that surplus revenues shall be administered as follows:

(1) The applicant shall retain and invest in reasonable liquid assets all surplus revenues;

(2) Except for the purpose of making capital improvements and at the discretion of the department, no expenditure of surplus revenues other than for the advance repayment of the loan will be permitted until the loan is paid in full;

(3) The applicant shall record all surplus revenues in a separate account and such account shall reflect all receipts by the applicant of revenues originating within the project area.

(*l*) A provision that the department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and copy any records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated.

(m) A provision that the borrower agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code; and General Services, Standard Agreement Language, as found in GTC 699 (as amended 6/99).

5106. Project Development.

(a) All plans and specifications shall be prepared by persons licensed by the State of California to undertake the type of design work required by the project. All design plans, specifications and reports shall be signed by the licensee. The designer's license number shall appear on the documents.

Plans and specifications for work to be accomplished by force account shall be in final form to permit immediate undertaking of the project.

(b) Property Control. Land and water area to be acquired with the loan funds shall be acquired promptly after execution of the loan agreement. No loan funds for strictly construction purposes shall be released until all land and water areas necessary for the construction of the project have been acquired as evidenced by a title insurance policy or other evidence satisfactory to the department. If the loan is based upon a leasehold estate, applicant's leasehold estate (including renewal options) as specified by contract and with finite time periods, must extend at least to the end of the loan period.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

5107. Default Remedies.

Upon the occurrence of a default, the department:

(a) May exercise all rights and remedies accorded to the department by law, including, but not limited to, those rights established in the Harbors and Navigation Code;

(b) May declare all unperformed obligations, in whole or in part, of the applicant immediately due and payable without demand or notice.

(c) May deposit funds obtained from the sale of collateral, less reasonable cost of recovery or maintenance of property, in the Harbors and Watercraft Revolving Fund. Any remaining funds shall be provided to the borrower, in accordance with California law.

NOTE: Authority cited: Sections 63.9(e) and 71.4, Harbors and Navigation Code. Reference: Sections 71.4 and 85.2, Harbors and Navigation Code.

Article 1.2. Launching Facility Grant Regulations

5150. Short Title.

This article shall be known and may be cited as the Boating and Waterways Launching Facility Grant Regulations under which the Department of Boating and Waterways may make grants to eligible applicants in accordance with the provisions of Section 72.5 of the Harbors and Navigation Code.

NOTE: Authority cited: Sections 63.9(e) and 72.5, Harbors and Navigation Code. Reference: Sections 72.5 and 85.2, Harbors and Navigation Code.

5151. Grant Conformity.

Any grant made to a county, city, or district for the purpose of construction and development of small craft launching facilities shall be in conformity with this article.

NOTE: Authority cited: Sections 63.9(e) and 72.5, Harbors and Navigation Code. Reference: Sections 72.5 and 85.2, Harbors and Navigation Code.

5152. Application.

Applications for launching facility grants shall be in accordance with procedures established by the department, and shall include a feasibility report, prepared at applicant's expense, containing demonstrations of site suitability, engineering and financial feasibility, and economic justification.

NOTE: Authority cited: Sections 63.9(e) and 72.5, Harbors and Navigation Code. Reference: Sections 72.6 and 85.2, Harbors and Navigation Code.

5154. Construction and Operation Agreement.

A construction and operation agreement between the applicant and the department will be entered into after funds are appropriated, specifying that applicant will carry insurance as required by the department and that the completed facility will be operated and maintained for a period of 20 years at no cost to the department. If the applicant fails to construct, maintain or operate the facility in accordance with the terms of the agreement, he may be required, at the option of the department, to reimburse the department for the State's share of the costs of development on a prorated unexpired term basis.

NOTE: Authority cited: Sections 63.9(e) and 72.5, Harbors and Navigation Code. Reference: Sections 72.5 and 85.2, Harbors and Navigation Code.

Article 1.3. Floating Rest Room Grant Regulations

5160. Short Title.

This article shall be known and may be cited as the Boating and Waterways Floating Rest Room Grant Regulations under which the Department of Boating and Waterways may make grants to eligible applicants in accordance with the provisions of Section 72.7 of the Harbors and Navigation Code.

NOTE: Authority cited: Sections 63.9(e) and 72.7, Harbors and Navigation Code. Reference: Sections 72.7 and 85.2, Harbors and Navigation Code.

5161. Grant Conformity.

Any grant made to a county, city, district, or other public agency for the purpose of construction and development of floating rest room facilities shall be in conformity with this article.

NOTE: Authority cited: Sections 63.9(e) and 72.7, Harbors and Navigation Code. Reference: Sections 72.7 and 85.2, Harbors and Navigation Code.

5162. Application.

Applications for floating rest room grants shall include:

(a) A demonstration that the body of water on which the rest room would be located is affected by significant seasonal fluctuation in water surface elevation and/or a lack of conveniently located and accessible landside sanitary facilities; and

(b) A finding that due to either or both of the aforesaid conditions, conventional rest rooms cannot meet the needs of boaters and the presence of floating rest rooms may lessen environmental degradation of the body of water.

NOTE: Authority cited: Sections 63.9(e) and 72.7, Harbors and Navigation Code. Reference: Sections 72.7 and 85.2, Harbors and Navigation Code.

5163. Construction and Operation Agreement.

A construction and operation agreement between the applicant and the Department will be entered into after funds are appropriated, specifying that applicant will carry insurance as required by the Department, and that the completed rest room will be operated and maintained for a period of ten years at no cost to the Department. If the applicant fails to construct, maintain or operate the rest room in accordance with the terms of the agreement, the applicant may be required, at the option of the Department, to reimburse the Department for the State's share of the costs of development on a prorated unexpired term basis.

NOTE: Authority cited: Sections 63.9(e) and 72.7, Harbors and Navigation Code. Reference: Sections 72.7 and 85.2, Harbors and Navigation Code.

Article 1.4. Recreational Marina Loan Regulations

5170. Short Title.

This article shall be known and may be cited as the Boating and Waterways Recreational Marina Loan Regulations under which the Department of Boating and Waterways may make loans to private marina owners in accordance with the provisions of section 76.3 of the Harbors and Navigation Code.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3 and 85.2, Harbors and Navigation Code.

5171. Definitions.

For the purposes of this article, the definitions found in Harbors and Navigation Code Sections 30 through 40 and 76 through 76.8 shall apply unless otherwise indicated. The following supplementary definitions shall also govern the construction of this article:

(a) ''Collateral.'' Property, both real and personal, whether tangible or intangible, pledged as security for repayment of a debt, including but not limited to: a mortgage or security interest in real estate, buildings, equipment accounts, contract rights and chattel paper of the borrower or any third party legally bound as a surety with the knowledge that the surety is bound.

(b) ''Commission.'' The Boating and Waterways Commission.

(c) ''Contract.'' The Recreational Marina Loan agreement to implement the disbursement of loan funds.

(d) "Default":

(1) the failure of a borrower to make any payment required by the contract within 30 days of the due date of the payment,

(2) the failure of a borrower to comply with any other requirement of the contract. Such default may be cured by complying with the requirement within 30 days after receipt of written notice from the department specifying such failure,

(3) the provision of false representations or false warranties by the borrower in response to any obligations under the contract,

(4) the failure of a borrower to conduct appropriate proceedings in good faith to contest any levy or proceeding against the collateral or borrower's interest therein; or

(5) the filing of a petition by a borrower under the provisions of the Bankruptcy Code, or the failure of a borrower to conduct appropriate proceedings in good faith to contest a bankruptcy filing by a third party when such action affects the collateral.

(e) "Department." The Department of Boating and Waterways.

(f) "Loan" A loan made pursuant to Section 76.3 of the Harbors and Navigation Code.

(g) "Project." The development of boating facilities specified in the contract.

(h) "Project Area." A delineated area in which the project is to be located.

(i) "Project Costs." Those equipment, labor, material and construction costs that are incurred by the borrower for the purpose of completing the project; however, such project costs shall not include indirect or overhead charges incurred by the borrower for its own personnel and shall not include any expenses incurred prior to the effective date of the contract.

(j) "Reserve Fund." A separate and independent fund for the exclusive purpose of providing extraordinary, non-routine, maintenance, repair or replacement during the loan period.

(k) "Unpaid Balance." Total outstanding debt, including principal, interest and penalties, if applicable.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3 and 85.2, Harbors and Navigation Code.

5172. Application.

(a) Loan Application: An application for any loan under Section 76.3 of the Harbors and Navigation Code shall be filed with the department and shall include a copy of:

(1) Federal income tax returns for the business and/or owners and partners, as requested by the department, for the three years immediately preceding an application for a loan. Federal income tax returns shall not be

released by the department, except with permission of an applicant or borrower, unless ordered, as specified by court order.

(2) All land and water use permits required such as by federal, state and local planning agencies needed to develop the project.

(3) An "as is" or current appraisal of any assets to be used as loan collateral required by the department.

(4) Preliminary construction plans, including a site plan and any normally required engineering.

(5) Preliminary title report for any property used as loan collateral.

(6) A feasibility study containing sufficient information and detail to demonstrate that the project is engineeringly and financially feasible.

(7) Evidence of compliance with the California Environmental Quality Act [Division 13 (commencing with Section 21000) of the Public Resources Code].

(8) A list of all costs incurred by the borrower in processing and obtaining loan proceeds.

(9) The proposed method and means of retiring the loan, meeting other financial obligations of the project, and, if the project is to be undertaken with funds in addition to the construction loan applied for, a funding plan indicating the sources of such additional construction funds.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3, 76.4 and 85.2, Harbors and Navigation Code.

5173. Application Review.

(a) The borrower's formal application will be judged as to the following principal considerations:

(1) Engineering feasibility, including a determination as to whether or not the project can be developed within the total amount of funds to be made available.

(2) Financial feasibility, including an analysis of the availability of capital to finance construction to completion, market analysis or market survey to determine the financial feasibility of the project, anticipated berthing and other charges used in estimating revenues, and evaluation of the sufficiency of revenues to cover annual costs on a year-by-year basis, including the amortization of the applied-for loan.

(b) Upon request of the applicant, the department may issue a letter of intent, explaining the availability of State funds, the status of the loan application and other requirements necessary for the approval of the loan.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3, 76.4, 76.5 and 85.2, Harbors and Navigation Code.

5174. Priority.

When considering applications, the department shall, in addition to priorities set forward in Sections 76 through 77.1 of the Harbors and

Navigation Code, rank borrowers based upon the following; however, in no case shall the department make a loan to any recreational marina that restricts access or bars the public other than in ways that are lawful and consistent with general commercial business practices:

(a) First priority shall be given to projects based upon issues of the health and safety of boaters using the facilities.

(b) Next, priority will be given for completion of projects that are being phase-funded.

(c) Next, priority shall be given to projects that are receiving significant capital investment funds from borrowers in addition to loan funds.

(d) Next, priority shall be given based upon relative demand for facilities in the market area. Consideration shall be given to:

(1) Population size of the market area.

(2) Similar facilities in the market area.

(3) Boating activity in the market area.

(e) In the event that a priority between applications cannot be established by subsections (a) through (c), priority will be given to borrowers with the greatest ability to repay the loan. Evaluation of the borrower's ability to repay shall be based on:

(1) The department's relative security position.

(2) The loan-to-value (LTV) ratio.

(3) The borrower's audited financial statements for the three years immediately preceding the application, if available.

i. Each of these statements shall consist of a balance sheet, an income statement, and a statement of changes in financial position, all of which shall have been prepared according to generally accepted accounting principles.

ii. If the latest complete financial statement is more than six months old, an interim financial statement not older than sixty days shall be included.

(4) Other information acceptable to the department, if financial statements are not available, which establishes a financial ability to repay the loan, such as:

i. Federal income tax returns, filed with the application, and

ii. Credit reports from credit reporting agencies.

(5) An appraisal report showing the current market value of real and personal property which is suitable as collateral.

(6) The type and liquidity of the collateral.

(f) In the event that a priority between applications cannot be established by subsections (a) through (d), priority will be given to those applications with the smallest dollar value, in order to allow the maximum number of projects to be made within the limits of the Recreational Marina Loan Program.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3, 76.4, 76.5 and 85.2, Harbors and Navigation Code.

5175. Loan Terms and Conditions.

Loan Terms and conditions, in addition to those specified in Sections 76 through 77.1 of the Harbors and Navigation Code, shall also include the following provisions:

(a) The borrower shall establish and capitalize a reserve fund in an amount and under terms and conditions specified by the department.

(1) The reserve fund shall be an interest-bearing account.

(2) In order to withdraw funds from the reserve fund, the signature of the director, or his or her designee, shall be required.

(3) All funds remaining in the reserve fund account shall be returned to the borrower upon full performance of the loan contract. However, unless and until all reserve funds, including accumulated interest, are first committed to improvements at the marina, the borrower may not apply for additional department funding for any project within the marina for a period of five years beginning on the last date any reserve funds are returned to the borrower.

(b) The loan shall be secured by collateral equal to or greater than 110 percent of the loan amount, such as, but not limited to, a mortgage or security interest in real estate, and buildings or personal property of the borrower. These items may only be subject to encumbrances that the department may approve, such as, assignment or pledges of leases, and personal or corporate guarantees. Only the unencumbered equity portion of the property accepted as collateral shall be considered as collateral. Personal guarantees of the principals shall be required, unless reasons satisfactory to the department are presented that justify not requiring such guarantees. The value of the collateral shall be subject to reappraisal as requested by the department from time to time at its discretion, and if, as a result of such reappraisal, it is determined that the value of the collateral has dropped below 110 percent of the then-outstanding loan amount, the borrower shall provide additional collateral as security as required by the department.

(c) Real estate or stationary machinery or equipment pledged as a significant portion of collateral for repayment of a guaranteed loan shall be located within the State of California. Real estate pledged as collateral shall not include land that has been used as a solid waste disposal site. Any appraisal of property shall be conducted by a licensed appraiser acceptable to the borrower and the department.

(d) The borrower shall obtain and maintain, throughout the duration of the loan, fire and extended coverage insurance in an amount equal to 100 percent of the current replacement cost of all improvements which are part of the collateral, with the department named as additional insured.

(e) The borrower will obtain insurance to cover liability arising from design, planning, construction, maintenance or operation of the project, with

the department named as additional insured, in the following minimum amounts:

(1) Bodily injury $300,000 each person, $1,000,000 each occurrence.

(2) Property and product damage $500,000 each occurrence, $1,000,000 each aggregate.

(f) The loan shall become due and payable in full upon transfer of the marina, unless such transfer is:

(1) By reason of death of the borrower, and the marina is transferred to the borrower's heirs.

(2) Transfer is to another business entity controlled by the borrower, provided that the transaction does not result in a material change in control or ownership of the recreational marina and collateral associated with the loan.

(g) The loan shall not be subordinated to any future loans obtained by a private marina owner except in those cases involving loans acquired for refinancing previous senior loans.

(h) A provision that the department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and copy any records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated.

(i) A provision that the borrower agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3, 76.6 and 85.2, Harbors and Navigation Code; and Department of General Services (DGS), Standard Agreement Language, as found in GTC 699 (and as may be subsequently amended by DGS).

5176. Default Remedies.

Upon the occurrence of a default, the department:

(a) Has and may exercise all rights and remedies accorded to the department by law, including but not limited to the provisions and remedies contained in the California Uniform Commercial Code;

(b) May declare all unperformed obligations, in whole or in part, of borrower immediately due and payable without demand or notice;

(c) May require borrower to take any and all action necessary to transfer the collateral in an amount equal to the unpaid balance of the loan to the secured party;

(d) May deposit all funds obtained from the sale of collateral, less reasonable costs of recovery or maintenance of property, to the Harbors and Watercraft Revolving Fund.

NOTE: Authority cited: Sections 63.9(e) and 76.8, Harbors and Navigation Code. Reference: Sections 76.3, 77.1 and 85.2, Harbors and Navigation Code.

Article 3. Boating Accident and Casualty Reporting

6501. Applicability.

(a) This article applies to each vessel used on waters subject to the jurisdiction of the State of California and on the high seas for vessels whose last port of call was within the State of California that:

(1) Is used by its operator for recreational purposes; or

(2) Is required to be numbered under Section 9850 of the California Vehicle Code.

(b) This article does not apply to a vessel required to have a certificate of inspection under Chapter 1 of Title 46, Code of Federal Regulations.

NOTE: Authority cited: Section 656, Harbors and Navigation Code. Reference: Section 656, Harbors and Navigation Code.

6502. Immediate Notification of Death or Disappearance.

(a) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the Department of Boating and Waterways and the nearest enforcement agency having jurisdiction over the waterbody of:

(1) The date, time, and exact location of the occurrence;

(2) The name of each person who died or disappeared;

(3) The registration number or name of the vessel as documented, and

(4) The names and addresses of the owner and operator.

(b) When the operator of a vessel cannot give the notice required by paragraph (a) of this section, each person on board the vessel shall notify the Department of Boating and Waterways and the enforcement agency having jurisdiction over the waterbody or determine that the notice has been given.

NOTE: Authority cited: Section 656, Harbors and Navigation Code. Reference: Section 656, Harbors and Navigation Code.

6503. Peace Officer Reports to Department.

Pursuant to section 656(d) of the Harbors and Navigation Code, a peace officer or harbor policeman, upon receiving an initial report of a casualty involving the death or disappearance of a person as a result of a boating occurrence, shall immediately forward such report, by quickest means available, to the Department of Boating and Waterways in Sacramento.

NOTE: Authority cited: Section 656, Harbors and Navigation Code. Reference: Section 656, Harbors and Navigation Code.

6504. Boat Accident Reports in Writing.

(a) The operator(s) or owner(s) of the boat(s) shall, in addition to the report required by section 6502, submit a written report(s) on forms provided by the Department of Boating and Waterways, directly to the State of California, Department of Boating and Waterways, Sacramento, California

95814, when, as a result of an occurrence that involves the vessel or its equipment:

(1) A person dies;

(2) A person is injured and requires medical treatment beyond first aid;

(3) Damage to the vessel and other property damage totals more than $500, or there is a complete loss of a vessel; or

(4) A person disappears from the vessel under circumstances that indicate death or injury.

(b) A report required by this section must be made within forty-eight hours of the occurrence if:

(1) A person dies within twenty-four hours of the occurrence;

(2) A person disappears;

(3) A person is injured and receives medical treatment beyond first aid.

(c) A report required by this section must be made within ten days of the occurrence if an earlier report is not required by this section if:

(1) A person dies more than twenty-four hours after the occurrence;

(2) Damage to the vessel and other property damage totals more than $500, or there is a complete loss of a vessel.

NOTE: Authority cited: Section 656, Harbors and Navigation Code. Reference: Section 656, Harbors and Navigation Code.

6505. Content.

Each accident report must be in writing, dated upon completion, and signed by the person who prepared it, and must contain, if available, at least the following information about the accident:

(a) The registration numbers or names as documented of each vessel involved.

(b) The name and address of each owner of each vessel involved.

(c) The name of the nearest city or town, the county, the state, and the body of water.

(d) The time and date the casualty or accident occurred.

(e) The location on the water.

(f) The visibility, weather, and water conditions.

(g) The estimated air and water temperatures.

(h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.

(i) The name and address of each operator of each vessel involved.

(j) The number of persons on board and towed on skis by each vessel.

(k) The name, address, and date of birth of each person who died, was injured or disappeared.

(*l*) The cause of each death.

(m) Weather forecasts available to, and weather reports used by, the operator before and during the use of each vessel.

(n) The name and address of each owner of property involved.

(o) The number, availability, and use of personal flotation devices.

(p) The type and size of each fire extinguisher used.

(q) The nature and extent of each injury.

(r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(s) A description of each equipment failure that caused or contributed to the cause of the casualty or accident.

(t) A description of the vessel casualty or accident.

(u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing or other) and the type of accident (capsizing, sinking, fire, explosion, or other).

(v) The opinion of the person making the report as to the cause of the accident.

(w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard/outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year) of the reporting operator's vessel.

(x) The name, address, and telephone number of each witness.

(y) The manufacturer's hull identification number, if any, of reporting operator's vessel.

(z) The name, address, and telephone number of the person submitting the report.

NOTE: Authority cited: Section 656, Harbors and Navigation Code. Reference: Section 656, Harbors and Navigation Code.

Article 4. Equipment Requirements

6550.5. Scope of Articles 4 and 5.

(a) The regulations in this article and in Article 5 apply to vessels operating on the waters of this State that are defined in Government Code Section 170. All vessels complying with the construction and equipment requirements of the International Regulations for Preventing Collisions at Sea, 1972, are considered to be in compliance with these Rules.

(b) Where federal law, including the United States Coast Guard regulations, provides an exemption to any of the provisions of the federal equipment or operation requirements which conform to the state requirements set forth in Articles 4 and 5 of this chapter, such exemption shall also apply to the state requirements.

(c) Any peace officer or harbor policeman authorized to enforce the provisions of Chapter 5 of the Harbors and Navigation Code may inspect a vessel using California waterways for compliance with safety laws, rules, and/or regulations where he has probable cause or a reasonable suspicion to believe that a violation of such laws, rules, or regulations exists.

(d) Any peace officer authorized to enforce the provisions of Chapter 5 of the Harbors and Navigation Code may order the operator of an unsafe vessel to remove such vessel to the shore or to a safe moorage or anchorage in accordance with the requirements of this subsection. An officer may order an unsafe vessel so removed where it is being operated with one or more of the following hazardous conditions, where such conditions cannot be corrected on the spot, and where, in the judgment of the officer, continued operation of the vessel would create an immediate danger to life, limb, or property.

(1) Boat being used without sufficient personal flotation devices, as prescribed by Section 6565 of this Chapter;

(2) Boat being used without sufficient firefighting devices, as prescribed by Section 6569 of this Chapter;

(3) Boat does not display required navigation lights between sunset and sunrise, as prescribed by Section 6600.1 of this Chapter;

(4) Boat has fuel leakage from either the fuel system or engine, or both;

(5) Boat has accumulation of fuel in bilges or compartment other than a fuel tank;

(6) Boat does not have legal and serviceable ventilation system, as prescribed by Section 6575 of this Chapter;

(7) Boat does not have proper backfire flame control system, as prescribed by Section 6574 of this Chapter;

(8) Boat is overloaded to such an extent that there exists so little freeboard the danger of sinking or capsizing may be imminent.

Any person operating an unsafe vessel, as specified in this subsection, shall remove it to the shore or to a safe moorage or anchorage as directed by the peace officer.

NOTE: Authority cited: Sections 662 and 655, Harbors and Navigation Code. Reference: Sections 652, 655, 663, 663.5, and 663.6, Harbors and Navigation Code; and PL 96-591, Rule 1(b)(ii).

6551. Invalidity of Provision or of Application to Particular Person or Circumstance.

If any provision of this article, or its application to any person or circumstance, is held invalid the remainder of this article, and the application of its provisions to any other person or circumstance, is not affected.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Sections 650 and 652, Harbors and Navigation Code.

6552. Definitions.

As used in Articles 4 and 5:

(a) ''Approved'' means approved by the Commandant of the United States Coast Guard.

(b) ''Barge'' means any nonself-propelled vessel.

(c) ''Carrying passengers for hire'' means the carriage of a person by a vessel for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

(d) ''Ferry'' includes a vessel having provisions only for deck passengers and/or vehicles, operating on a short run on a frequent schedule between two points over the most direct water route, and offering a public service of a type normally attributed to a bridge or tunnel. ''Ferry'' does not include a vessel navigating the water of the ocean.

(e) ''Fire extinguisher'' means a marine-type fire extinguisher, as approved by the Commandant of the Coast Guard.

(f) ''High Seas'' means:

(1) Crescent City Harbor. Those waters outside of a line drawn from Crescent City Entrance Light to the southeasternmost extremity of Whaler Island.

(2) Arcata-Humboldt Bay. Those waters outside of a line drawn from Humboldt Bay Entrance Light 4 to Humboldt Bay Entrance Light 3.

(3) Noyo River. Those waters outside of a line drawn from Noyo River Entrance Daybeacon 4 to Noyo River Entrance Light 5.

(4) Albion River. Those waters outside of a line drawn on an axis of 030° true through Albion River Light 1 across Albion Cove.

(5) Bodega Bay. Those waters outside of a line drawn from the seaward extremity of Bodega Harbor North Breakwater to Bodega Harbor Entrance Light 1.

(6) Tomales Bay. Those waters outside of an east-west line drawn from Sand Point to Avalis Beach.

(7) San Francisco Harbor. Those waters outside of a straight line drawn from Point Bonita Light through Mile Rocks Light to the shore.

(8) Pillar Point Harbor. Those waters outside of a line drawn from Pillar Point Harbor Light 6 to Pillar Point Harbor Entrance Light.

(9) Santa Cruz Harbor. Those waters outside of a line drawn from the seaward extremity of the Santa Cruz Harbor East Breakwater to Santa Cruz Harbor West Breakwater Light; thence to Santa Cruz Light.

(10) Moss Landing Harbor. Those waters outside of a line drawn from the seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(11) Monterey Harbor. Those waters outside of a line drawn from Monterey Harbor Light 6 to the northern extremity of Monterey Municipal Wharf 2.

(12) Estero-Morro Bay. Those waters outside of a line drawn from the seaward extremity of the Morro Bay East Breakwater to the Morro Bay West Breakwater Light.

(13) San Luis Obispo Bay. Those waters outside of a line drawn from the southernmost extremity of Fossil Point to the seaward extremity of Whaler Island Breakwater.

(14) Santa Barbara Harbor. Those waters outside of a line drawn from Santa Barbara Harbor Light 4 to Santa Barbara Harbor Breakwater Light.

(15) Ventura Marina. Those waters outside of a line drawn from Ventura Marina South Jetty Light 6 to Ventura Marina Breakwater South Light 3; thence to Ventura Marina North Jetty Light 7.

(16) Channel Islands Harbor.

(A) Those waters outside of a line drawn from Channel Islands Harbor South Jetty Light 2 to Channel Islands Harbor Breakwater South Light 1.

(B) Those waters outside of a line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light 5.

(17) Port Hueneme. Those waters outside of a line drawn from Port Hueneme East Jetty Light 4 to Port Hueneme West Jetty Light 3.

(18) Marina del Rey.

(A) Those waters outside of a line drawn from Marina del Rey Breakwater South Light 1 to Marina del Rey Light 4.

(B) Those waters outside of a line drawn from Marina del Rey Breakwater North Light 2 to Marina del Rey Light 3.

(C) Those waters outside of a line drawn from Marina del Rey Light 4 to the seaward extremity of the Ballona Creek South Jetty.

(19) Redondo Harbor. Those waters outside of a line drawn from Redondo Beach East Jetty Light 2 to Redondo Beach West Jetty Light 3.

(20) San Pedro Bay-Anaheim Bay.

(A) Those waters outside of a line drawn across the seaward extremities of Anaheim Bay Entrance Jetties; thence to Long Beach Breakwater East End Light 1.

(B) Those waters outside of a line drawn from Long Beach Channel Entrance Light 2 to Long Beach Light.

(C) Those waters outside of a line drawn from Los Angeles Main Entrance Channel Light 2 to Los Angeles Light.

(21) Newport Bay. Those waters outside of a line drawn from Newport Bay East Jetty Light 4 to Newport Bay West Jetty Light 3.

(22) Santa Catalina Island. Those waters within the harbors of Santa Catalina Island.

(23) Dana Point Harbor. Those waters outside of a line drawn from Dana Point Jetty Light 6 to Dana Point Breakwater Light 5.

(24) Oceanside Harbor. Those waters outside of a line drawn from Oceanside South Jetty Light 4 to Oceanside Breakwater Light 3.

(25) Mission Bay. Those waters outside of a line drawn from Mission Bay South Jetty Light 2 to Mission Bay North Jetty Light 1.

(26) San Diego Harbor. Those waters outside of a line drawn from Zuniga Jetty Light ''V'' to Zuniga Jetty Light ''Z''; thence to Point Loma Light.

(27) Other Entrances. At all buoyed entrances from seaward to bays, sounds, rivers, or other estuaries for which specific lines are not described in this section, the waters outside of a line approximately parallel with the general trend of the shore, drawn through the outermost buoy or buoys or other aid to navigation of any system of aids.

(g) ''Inland Waters'' means any waters within the territorial limits of California other than those that are defined in Section 6552(f) of these regulations as the ''high seas.''

(h) ''Machinery'' includes an inboard or outboard engine and any other type of motor or mechanical device capable of propelling a vessel.

(i) ''Nonself-propelled vessel'' means a vessel without sufficient means for self-propulsion and is required to be towed.

(j) ''Operator'' means the person who operates or who has charge of the navigation or use of a vessel.

(k) ''Passenger'' means every person, other than the master and a member of the crew or other persons employed or engaged in any capacity on board a vessel in the business of that vessel.

(*l*) ''Power driven vessel'' means any vessel propelled by machinery.

(m) ''Sailing vessel'' means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(n) ''Ship's lifeboat'' means a lifeboat used solely for lifesaving purposes and does not include dinghies, tenders, speedboats, or other types of craft carried aboard a vessel and used for other than lifesaving purposes.

(o) ''Whistle'' means any sound signaling appliance capable of producing the prescribed blasts.

(p) ''Boat'' means any vessel which is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

(q) ''Vessel'' includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water;

(r) ''Seaplane'' includes any aircraft designed to maneuver on the water.

(s) ''Vessel engaged in fishing'' means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability;

(t) ''Vessel not under command'' means a vessel which, through some exceptional circumstance, is unable to maneuver as required by these Rules, and is, therefore, unable to keep out of the way of another vessel.

(u) ''Vessel restricted in her ability to maneuver'' means a vessel which, from the nature of her work, is restricted in her ability to maneuver as required by these Rules, and is, therefore, unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

(1) A vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(2) A vessel engaged in dredging, surveying, or underwater operations;

(3) A vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(4) A vessel engaged in the launching or recovery of aircraft;

(5) A vessel engaged in minesweeping operations; and

(6) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(v) ''Underway'' means that a vessel is not at anchor, or made fast to the shore, or aground.

(w) ''Length'' and ''breadth'' of a vessel mean her length overall and greatest breadth.

(x) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

(y) ''Restricted visibility'' means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

NOTE: Authority cited: Sections 652 and 655.3, Harbors and Navigation Code. Reference: Sections 650, 652 and 655.3, Harbors and Navigation Code.

6564. Personal Flotation Devices.

Pursuant to Section 652, Harbors and Navigation Code, a vessel being operated on the waters of this State shall carry personal flotation equipment as prescribed in Sections 6565 to 6566, inclusive.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6565. Personal Flotation Devices for Boats.

In accord with Federal regulations (33 CFR Part 175), a boat or recreational boat shall be equipped with personal flotation devices as set forth in sections 6565.2 through 6565.9.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6565.2. Definitions.

As used in sections 6565.2 through 6565.8:

(a) ''Boat'' means any vessel manufactured or used primarily for noncommercial use; leased, rented or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(b) ''Recreational boat'' means any vessel manufactured or used primarily for noncommercial use; or leased, rented, or chartered to another for the latter's noncommercial use. It does not include a vessel engaged in the carrying of six or fewer passengers.

(c) ''Vessel'' includes every description of watercraft other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

(d) ''Use'' means operate, navigate, or employ.

(e) ''Passenger'' means every person carried on board a vessel other than:

(1) The owner or his representative;

(2) The operator;

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or

(4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

(f) ''Racing shell, rowing scull, racing canoes and racing kayak,'' means a manually-propelled boat that is recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6565.3. Applicability.

Sections 6565.2 through 6565.8 apply to all recreational boats that are propelled or controlled by machinery, sails, oars, paddles, poles, or another vessel except racing shells, rowing sculls, racing canoes, and racing kayaks.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6565.4. Definitions.

As used in sections 6565.2 through 6565.8:

(a) ''Personal flotation device'' means a device that is approved by the Commandant under 46 CFR Part 160.

(b) ''PFD'' means ''personal flotation device.''

NOTE: Authority cited: Sections 642 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6565.5. Personal Flotation Devices Required.

Except as provided in Section 6565.6:

(a) Effective January 1, 1998, no person may use a recreational boat unless at least one PFD of the following types is on board for each person:

(1) Type I PFD,

(2) Type II PFD, or

(3) Type III PFD.

(b) Prior to January 1, 1998, a Type IV may be carried in lieu of any Type I, II, or III PFD, for each person on board a recreational boat less than 16 feet in length or any canoe or kayak of any length.

(c) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless

(1) One Type IV PFD is on board, and

(2) At least one PFD of the following types is on board for each person;

(i) Type I PFD;

(ii) Type II PFD; or

(iii) Type III PFD.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6565.6. Exceptions.

A Type V PFD may be carried in lieu of any PFD required under Section 6565.5 provided:

(a) The approval label on the Type V PFD indicates that the device is approved:

(1) For the activity in which the boat is being used; or

(2) As a substitute for a PFD of the Type required on the boat in use;

(b) The PFD is used in accordance with any requirements on the approval label; and

(c) The PFD is used in accordance with requirements in its owner's manual, if the approval label makes reference to such a manual.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors an Navigation Code.

6565.7. Stowage.

(a) No Person may use a recreational boat unless each Type I, II, or III PFD required by Section 6565.5 or equivalent type allowed by 6565.6 is readily accessible.

(b) No person may use a recreational boat unless each Type IV PFD required by Section 6565.5 or equivalent type allowed by 6565.6 is immediately available.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors an Navigation Code.

6565.8. Conditions; Size and Fit; Approval Marking.

No person may use a recreational boat unless each PFD required by Section 6565.5 or allowed by Section 6565.6 is:

(a) In serviceable condition;

(b) Of an appropriate size and fit for the intended wearer, as marked on the approval label; and

(c) Legibly marked with its approval number, as specified in 46 CFR Part 160.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6566. Life Preservers and Lifesaving Equipment—Passengers-for-Hire Vessels.

(a) In accordance with Federal regulation (46 CFR, Part 25.25), commercial vessels and those carrying passengers for hire shall be equipped with life preservers and other lifesaving equipment as follows:

(1) Application. This section applies to each vessel to which this section applies, except:

(A) Vessels used for noncommercial use;

(B) Vessels leased, rented, or chartered to another for the latter's noncommercial use;

(C) Commercial vessels propelled by sail not carrying passengers for hire; or

(D) Commercial barges not carrying passengers for hire.

(2) Definitions. As used in this section:

(A) ''Approved'' means approved by the Commandant under 46 CFR, Part 160.

(B) ''Use'' means operate, navigate, or employ.

(3) Life preservers and other lifesaving equipment required.

(A) No person may operate a vessel to which this section applies unless it meets the requirements of this section.

(B) Each vessel not carrying passengers for hire less than 40 feet in length, must have at least one life preserver, buoyant vest, or special purpose water safety buoyant device intended to be worn approved by the Comman-

dant under 46 CFR, Part 160, of a suitable size for each person on board. Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts are not acceptable as equipment required by this paragraph.

(C) Each vessel carrying passengers for hire and each vessel 40 feet in length or longer not carrying passengers for hire must have at least one approved life preserver of a suitable size for each person on board. Kapok and fibrous glass life preservers which do not have plastic-covered pad inserts are not acceptable as equipment required by this paragraph.

(D) Each vessel 26 feet in length or longer must have at least one ring life buoy approved under Title 46, CFR, Subparts 160.009 or 160.050, in addition to the equipment required in paragraph (B) or (C) of this section.

(E) On each vessel, regardless of length and regardless of whether carrying passengers for hire, an approved commercial hybrid PFD may be substituted for a life preserver, buoyant vest, or marine buoyant device required by paragraphs (B) or (C) of this section, only if it is:

1. Worn when the vessel is underway and the intended wearer is not within an enclosed space;

2. Used in accordance with the conditions marked on the PFD and in the owner's manual; and

3. Labeled for use on uninspected commercial vessels.

(F) Each vessel not carrying passengers for hire may substitute an exposure suit for a life preserver, buoyant vest, or marine buoyant device required under paragraphs (B) or (C) of this section. Each exposure suit carried in accordance with this paragraph must be of a type approved under Title 46, CFR, Subpart 160.071.

(4) Marking. The lifesaving equipment required by this section must be legibly marked as specified in 46 CFR, Part 160.

(5) Storage.

(A) The lifesaving equipment designed to be worn as required in subsection (3), (B) (C) and (E) must be readily accessible.

(B) Lifesaving equipment designed to be thrown as required in subsection (3) (D) must be immediately available.

(6) Condition. The lifesaving equipment required by this section must be in serviceable condition.

(7) Retroreflective material for personal flotation devices.

(A) Each life preserver, each marine buoyant device intended to be worn, and each buoyant vest carried on a vessel to which this section applies, must have Type I retroreflective material that is approved under 46 CFR, Subpart 164.018.

(B) Each item required to have retroreflective material must have at least 200 sq. cm (31 sq. in.) of material attached to the front side, at least 200 sq. cm of material on its back side, and if the item is reversible, at least 200 sq. cm of material on each of its reversible sides. The material attached on each

side of the item must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the item.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Sections 650 and 652, Harbors and Navigation Code.

6569. Fire Extinguishing Equipment.

Pursuant to Section 652, Harbors and Navigation Code, a boat being operated on the waters of this State shall be provided with fire extinguishers as prescribed in Sections 6570 to 6573, inclusive, which shall at all times be kept in condition for immediate and effective use, and shall be so placed as to be readily accessible.

NOTE: Authority cited: Sections 652 and 669, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6570. Fire Extinguishing Equipment—Definitions.

(a) A ''B'' type fire extinguisher means a fire extinguisher system suitable for extinguishing fires involving flammable liquids, greases, etc.

(b) ''Hand-portable fire extinguisher'' means a fire extinguisher of either of the following minimum sizes:

Size	*Foam gallons*	*Carbon dioxide, pounds*	*Dry chemicals, pounds*	*Freon, pounds*
I	1¼	4	2	2½
II	2½	15	10	—

(c) ''Semiportable fire extinguisher'' means a fire extinguisher system of the following size or larger which is fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered.

Size	*Foam gallons*	*Carbon dioxide, pounds*	*Dry chemicals, pounds*
III	12	35	20

(d) ''Fixed fire extinguishing system'' means a fire extinguishing system of an approved carbon dioxide type, designed and installed in agreement with the applicable provisions of subpart 76.15 of subchapter H of Title 46, Code of Federal Regulations, as amended.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6571. Fire Extinguishing Equipment—Vaporizing—Liquid Type.

A vaporizing-liquid type fire extinguisher containing carbon tetrachloride or chlorobromomethane or other toxic vaporizing liquids are not acceptable as equipment required by Section 6573.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6572. Fire Extinguishing Equipment—Markings Required.

(a) Each hand portable fire extinguisher and semiportable fire extinguishing system shall have permanently attached thereto a metallic name plate giving the

(1) Name of the item

(2) Rated capacity in gallons, quarts, or pounds

(3) Name of the person or firm for whom approved

(4) Address of the person or firm for whom approved, and

(5) The identifying mark of the actual manufacturer.

(b) Each hand portable fire extinguisher and semiportable fire extinguisher shall bear a label containing the ''marine type'' listing manifest issued by a recognized laboratory, as defined in 46 CFR 162.028-5 and 162.039-5. This label will include the classification of the extinguisher in accordance with the Coast Guard approval number, thus: ''Marine Type USCG Type _____ , Approval No. 162.028/_____ , or 162.039/Ex. _____.''

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6573. Fire Extinguishing Equipment—Requirements.

(a) Boat Propelled by Machinery Sixty-five Feet or Less in Length. A boat propelled by machinery 65 feet or less in length shall carry at least the minimum number of hand-portable fire extinguishers set forth in Table 2.

TABLE 2

		Minimum number of type B-I hand-portable fire extinguishers required [1]	
Size of boat	*Length, feet*	*Without fixed fire extinguishing system in machinery space*	*With fixed fire extinguishing system in machinery space*
Under 16		1	0
16 and over, but under 26		1	0
26 and over, but under 40		2	1
40 and over, but not over 65		3	2

[1] One type B-II hand-portable fire extinguisher may be substituted for two type B-I hand-portable fire extinguishers.

(1) Exceptions: A boat of any of the following types is not required to carry a fire extinguisher.

(A) Less than 26 feet in length, not carrying passengers for hire, propelled by an outboard motor, without permanently installed fuel tanks, and of a construction which will not permit the entrapment of explosive or flammable gasses or vapors.

(b) Boat Propelled by Machinery Over Sixty-Five Feet in Length. A boat propelled by machinery over 65 feet in length shall carry at least the minimum number of hand-portable fire extinguishers set forth in Table 3 and in addition shall carry:

(1) One type B-II hand-portable fire extinguisher for each 1,000 B.H.P. of the main engine or fraction thereof. However, not more than six such extinguishers need be carried.

(2) On boats propelled by machinery over 65 feet in length and over 300 gross tons, either one type B-III semi-portable fire extinguishing system shall be fitted, or alternatively, a fixed fire extinguishing system shall be fitted in the machinery space.

TABLE 3

Gross tonnage		*Minimum number of B-II hand-portable fire extinguishers*
Over	*Not over*	
—	50	1
50	100	2
100	500	3
500	1,000	6
1,000	—	8

(c) Barge Carrying Passengers.

(1) 65 Feet in Length or Less. A barge 65 feet in length or less carrying passengers, which is regularly operated with a boat propelled by machinery, shall be fitted with hand-portable fire extinguishers as required by Table 2 depending upon the length of the barge.

(2) Over 65 Feet in Length. A barge of over 65 feet in length carrying passengers, which is regularly operated with a boat propelled by machinery, shall be fitted with hand-portable fire extinguishers as required by Table 3, depending upon the gross tonnage of the barge.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6574. Backfire Flame Control.

Pursuant to Section 652, Harbors and Navigation Code, every gasoline engine installed in a boat after April 25, 1940, except outboard motors, shall be equipped with one of the following:

(a) Backfire flame arrestor, suitably secured to the air intake with flame-tight connection, that is approved or complies with SAE J-1928 or UL 1111 and marked accordingly.

(b) A reed valve assembly or an air and fuel induction system installed in accordance with SAE J-1928.

(c) Any attachment to the carburetor or location of the engine air induction system by means of which flames caused by engine backfire will be dispersed to the atmosphere outside the vessel in such a manner that the flames will not endanger the vessel, persons on board, or nearby vessels and structures. All attachments shall be of metallic construction with flame-tight connections and firmly secured to withstand vibration, shock, and engine backfire.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6575. Ventilation.

(a) Pursuant to Section 652, Harbors and Navigation Code, all boats propelled by machinery being operated on the waters of this State except open boats, and as provided in paragraphs (c) and (d) of this section, the construction or decking over of which is commenced after April 25, 1940, and which use fuel having a flashpoint of 110° F. or less, shall have at least 2 ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least one exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilge and at least one intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor air intake. The cowls shall be located and trimmed for maximum effectiveness and in such a manner so as to prevent displaced fumes from being recirculated.

(b) As used in this section, the term "open boats" means those boats propelled by machinery with all engine and fuel tank compartments, and other spaces to which explosive or flammable gases and vapors from these compartments may flow, open to the atmosphere and so arranged as to prevent the entrapment of such gases and vapors within the vessel.

(c) Boats, as defined in the Federal Boat Safety Act of 1971, built after July 31, 1980, or which are in compliance with 33 CFR, Part 183, are excepted from these requirements.

(d) Boats, as defined in the Federal Boat Safety Act of 1971, built after July 31, 1978, are excepted from the requirements of paragraph (a) for fuel tank compartments that—

(1) Contain a permanently installed fuel tank if each electrical component is ignition protected in accordance with 33 CFR 183.410(a); and

(2) Contain fuel tanks that vent to the outside of the boat.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

6575.1. Operator Responsibility.

No person may operate a boat built after July 31, 1980, that has a gasoline engine for electrical generation, mechanical power, or propulsion unless it is

equipped with an operable ventilation system that meets the requirements of Section 6575.5(a), (b), (d), (e), and (f), and 6575.6(a).

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code; and 33 CFR 175.201.

6575.2. Applicability.

This regulation applies to all new boats that—

(a) Have gasoline engines for electrical generation, mechanical power, or propulsion; and

(b) Are built after July 31, 1980, except that a manufacturer may elect to comply with this subpart at any time after July 31, 1978.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code; and 33 CFR 183.601.

6575.3. Definitions.

''AMCA'' means Air Moving and Conditioning Association.

''ASTM'' means American Society for Testing and Materials.

''Fuel'' means gasoline.

''Open to the atmosphere'' means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

''UL'' means Underwriters Laboratories, Incorporated.

NOTE: Authority cited: Sections 652 and 656.4, Harbors and Navigation Code. Reference: Sections 650 and 652, Harbors and Navigation Code; and 33 CFR 183.605.

6575.4. Incorporation by Reference.

(a) The following standards are incorporated by reference. Copies may be obtained from the sources indicated. They are also available for inspection at the Department of Boating and Waterways, 1629 ''S'' Street, Sacramento, California 95814; Archives, Secretary of State, 1020 ''O'' Street, Sacramento, California 95814; Coast Guard Headquarters, Room 4220, 2100 Second Street, S.W., Washington, D.C. 20590; and at the Office of the Federal Register Library, Room 8401, 1100 L Street, N.W., Washington, D.C. 20408.

(1) AMCA Standard 210-74, Figure 12, dated 1974, Air Moving and Conditioning Association, 30 West University Drive, Arlington Heights, Illinois 60004.

(2) ASTM Standard D-471-79 dated May 1979. American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(3) UL Standard 1128, dated August 23, 1977. Underwriters Laboratories, Incorporated, 207 Ohio Street, Chicago, Illinois 60611.

NOTE: Authority cited: Sections 652 and 656.4, Harbors and Navigation Code. Reference: Sections 650 and 652, Harbors and Navigation Code; and 33 CFR 183.607.

6575.5. Powered Ventilation System.

(a) Each compartment in a boat that has a permanently installed gasoline engine with a cranking motor must—

(1) Be open to the atmosphere, or

(2) Be ventilated by an exhaust blower system.

(b) Each exhaust blower or combination of blowers must be rated an at air flow capacity not less than that computed by the formulas given in Table A, Column 2. Blower rating must be determined according to AMCA Standard 210-74, Figure 12, dated 1974, or UL Standard 1128 dated August 23, 1977.

Table A

Col. 1 [1]	*Col. 2* [2]	*Col. 3* [3]
Below 34	Fr=50	Fo=20
34 to 100	Fr=1.5V	Fo=0.6V
Over 100	Fr=V/2 + 100	Fo=0.2V + 40

[1] Net compartment volume of engine compartment and compartments open thereto (V) cubic feet.

[2] Rated blower capacity (Fr) cubic feet per minute.

[3] Blower system output (Fo) cubic feet per minute.

(c) Each exhaust blower system required by paragraph (a) (2) of this section must exhaust air from the boat at a rate which meets the requirements of Table A, Column 3, when the engine is not operating.

(d) Each intake duct for an exhaust blower must be in the lower one-third of the compartment and above the normal level of accumulated bilge water.

(e) More than one exhaust blower may be used in combination to meet the requirements of this section.

(f) Each boat that is required to have an exhaust blower must have a label that—

(1) Is located as close as practicable to each ignition switch;

(2) Is in plain view of the operator; and

(3) Has at least the following information: WARNING—GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE, OPERATE BLOWER FOR 4 MINUTES AND CHECK ENGINE COMPARTMENT BILGE FOR GASOLINE VAPORS.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code; and 33 CFR 183.610.

6575.6. Natural Ventilation System.

(a) Except for compartments open to the atmosphere, a natural ventilation system that meets the requirements of Section 6575.7 must be provided for each compartment in a boat that—

(1) Contains a permanently installed gasoline engine;

(2) Has openings between it and a compartment that requires ventilation, where the aggregate area of those openings exceeds two percent of the area

between the compartments, except as provided in paragraph (c) of this section;

(3) Contains a permanently installed fuel tank and an electrical component that is not ignition protected in accordance with 33 CFR 183.410(a);

(4) Contains a fuel tank that vents into that compartment; or

(5) Contains a nonmetallic fuel tank with an aggregate permeability rate of more than the greater of 1.2 grams of fuel loss in 24 hours, or 1.2 grams of fuel loss in 24 hours per cubic foot of net compartment volume. Reference fuel ''C'' at 40° C plus or minus 2° C from ASTM standard D-471-79, dated May, 1979, is to be used in determining the permeability rate.

(b) Each natural ventilation system must be constructed so that—

(1) Each supply opening required in Section 6575.7 is located on the exterior surface of a boat; or

(2) Air will flow into or out of the supply or exhaust openings required in Section 6575.7 when the boat is in a wind flowing from bow to stern at a velocity of ten miles per hour when the engine is not operating.

(c) An accommodation compartment above a compartment requiring ventilation that is separated from the compartment requiring ventilation by a deck or other structure is excepted from paragraph (a)(2) of this section.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code; and 33 CFR 183.620.

6575.7. Standards for Natural Ventilation.

(a) For the purpose of Section 6575.6, ''natural ventilation'' means an airflow in a compartment in a boat achieved by having—

(1) A supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere; and

(2) An exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere.

(b) Each exhaust opening or exhaust duct must originate in the lower third of the compartment.

(c) Each supply opening or supply duct and each exhaust opening or exhaust duct in a compartment must be above the normal accumulation of bilge water.

(d) Except as provided in paragraph (e) of this section, supply openings or supply ducts and exhaust openings or exhaust ducts must each have a minimum aggregate internal cross-sectional area calculated as follows: A = 5 1n (V/5); where:

(1) A is the minimum aggregate internal cross-sectional area of the openings or ducts in square inches;

(2) V is the net compartment volume in cubic feet, including the net volume of other compartments connected by openings that exceed two percent of the area between the compartments; and

(3) 1n (V/5) is the natural logarithm of the quantity (V/5).

(e) The minimum internal cross-sectional area of each supply opening or duct and exhaust opening or duct must exceed 3.0 square inches.

(f) The minimum internal cross-sectional area of terminal fittings for flexible ventilation ducts installed to meet the requirements of paragraph (d) of this section must not be less than 80 percent of the required internal cross-sectional area of the flexible ventilation duct.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code; and 33 CFR 183.630.

6576. Liquefied Petroleum Gas.

Pursuant to section 652, Harbors and Navigation Code, a vessel carrying passengers for hire on the waters of this State using liquefied petroleum gas or compressed natural gas for heating, cooking, or lighting must adhere to the federal regulations as contained in 46 CFR 25, 58, 147, and 184.

NOTE: Authority cited: Section 652, Harbors and Navigation Code. Reference: Section 652, Harbors and Navigation Code.

Article 4.5. Law Enforcement Vessels

6590. Law Enforcement Vessels.

Vessels used as law enforcement vessels under the authority of Section 663.5, Harbors and Navigation Code, shall be identified as follows:

(a) They shall be of a distinctive color compatible with use as harbor police vessels.

(b) They shall be marked with words such as ‘‘Harbor Police,’’ ‘‘Port Police,’’ ‘‘Harbor Patrol,’’ or ‘‘Port Patrol’’ or their equivalent. These identifying words shall be placed on each side of the vessel in a manner which will provide clear legibility and maximum opportunity for identification. The letters shall be of block character, of good proportion, and not less than six (6) inches in height. They shall be of a color which will form a good contrast with the color of the background and so maintained as to be clearly visible and legible. In addition to this marking, the vessel shall display prominently the identification of the operating agency.

NOTE: Authority cited: Section 663.5, Harbors and Navigation Code. Reference: Sections 650 and 663.5, Harbors and Navigation Code.

6591. Blue Light for Enforcement Vessels.

The distinctive light prescribed by Section 652.5, Harbors and Navigation Code, for law enforcement vessels shall be a blue colored, revolving horizontal beam, low intensity light rotating or appearing to rotate because of a pulsating effect gained by means of a rotating reflector which causes a flashing or periodic peak intensity effect. The light shall be located at any

effective point on the forward exterior of the vessel. A shield or other device, fixed or movable, to restrict the arc of visibility may be used if desired.

NOTE: Authority cited: Section 652.5, Harbors and Navigation Code. Reference: Sections 650 and 652.5, Harbors and Navigation Code.

6592. Sound Level Measuring Instruments.

Pursuant to the authority provided in Section 654.05(d) of the Harbors and Navigation Code, a precision sound level meter which meets the Type II requirements of ANSI S1.4-1983 (revision of S1.4-1971), titled ''Specification For Sound Level Meters,'' published in 1983, may be substituted for the Type I referred to in the Society of Automotive Engineers Technical Report J34 for measuring pleasure motorboat sound levels, titled ''Exterior Sound Level Measurement Procedure For Pleasure Motorboats—SAE J34,'' published in 1973.

NOTE: Authority cited: Sections 652 and 654.05(d), Harbors and Navigation Code. Reference: Sections 652, 654, 654.05 and 654.06, Harbors and Navigation Code.

Article 4.6. Multi-Jurisdictional Vessel Restrictions

6595. Prohibition of Watercraft Powered by Certain Spark-Ignition Two-Stroke Engines.

Commencing October 4, 2001, the operation of all two-stroke-engine-powered watercraft on Lake Tahoe, Cascade Lake, Fallen Leaf Lake and Echo Lake, is prohibited, except watercraft powered by a two-stroke-powered engine whose engine is certified and labeled as meeting either of the following pollution air emissions standards:

(a) the 2006 or later model year United States Environmental Protection emissions standards, as specified in Title 40, Code of Federal Regulations, Part 91, or

(b) the 2001 or later California Air Resources Board emissions standard, as specified in Title 13, California Code of Regulations, Chapter 9, Sections 2440 et seq.

NOTE: Authority cited: Section 660(b), Harbors and Navigation Code. Reference: Section 660(b), Harbors and Navigation Code.

Article 5. Pilot Rules and Rules of the Road

6600.1. Incorporation by Reference.

(a) The following rules of the road and pilot rules promulgated by the United States Coast Guard are incorporated by reference. Copies may be obtained from sources indicated. They are also available for inspection at the Department of Boating and Waterways, 1629 ''S'' Street, Sacramento, California 95814, and Archives, Secretary of State, 1020 ''O'' Street, Sacramento, California 95814.

(1) SUBCHAPTER D—International Navigation Rules, Title 33, Code of Federal Regulations, Part 81-72 COLREGS: IMPLEMENTING RULES and Appendix A—Proclamation of January 19, 1977, and 72 COLREGS.

(2) SUBCHAPTER E—Inland Navigation Rules, Title 33 Code of Federal Regulations, Part 84, Part 85, Part 86, Part 87, Part 88, and Part 89.

(3) Public Law 96-591, December 24, 1980, known as the INLAND NAVIGATION RULES ACT OF 1980, Section 33, United States Code 2001.

(4) Subsequent modifications, amendments, and/or changes, to federal regulations pertaining to rules of the road and pilot rules shall be effective in this section upon adoption.

NOTE: These regulations and statutes are published by the U.S. Coast Guard in NAVIGATION RULES INTERNATIONAL—INLAND (COMMANDANT INSTRUCTION M16672.2. (Series.)) The public may purchase copies of this pamphlet from the Superintendent of Documents, U.S. Government Printing Office, 450 Golden Gate Avenue, San Francisco, California 94102. When ordering, give the name of the book and the number S/N050-012-00192-8 on a note or card attached to the check or money order for payment. Copies cost $6.50 each.

NOTE: Authority cited: Section 655.3, Harbors and Navigation Code. Reference: Sections 650 and 655.3, Harbors and Navigation Code.

6601. Invalidity of Provision or of Application to Particular Person or Circumstance.

If any provision of this article, or its application to any person or circumstances, is held invalid the remainder of this article, and the application of its provisions to any other person or circumstance, is not affected.

NOTE: Authority cited: Section 655.3, Harbors and Navigation Code. Reference: Sections 650 and 655.3, Harbors and Navigation Code.

6692. Visual Distress Signals-Required.

(a) Applicability. Except for Section 6692.1 of Title 14 of the California Code of Regulations, these rules apply to boats on coastal waters of California as defined in (b) (2) of this Section.

(b) Definitions.

(1) ‘‘Visual distress signal’’ means a device that is approved by the Commandant of the United States Coast Guard under Title 46, Code of Federal Regulations, Part 160, or certified by the manufacturer under Title 46, Code of Federal Regulations, Parts 160 and 161.

(2) ‘‘Coastal Waters’’ means the high seas of the State of California as defined in Section 6552(f) of Title 14 of the California Code of Regulations.

(3) ‘‘Passenger’’ means every person carried on board a vessel other than:

(A) The owner or his representative;

(B) The operator;

(C) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or

(D) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

(c) Visual distress signals required.

(1) No person may use a boat 16 feet or more in length or any boat carrying six or less passengers for hire unless visual distress signals selected from the list in paragraph (i) of this Section, or the alternatives in paragraph (j) of this Section in the number required are on board. Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use must be carried.

(2) Between sunset and sunrise, no person may use a boat less than 16 feet in length unless visual distress signals, suitable for night use, selected from the list in paragraph (i) of this Section, or paragraph (j) of this Section, in the number required are on board.

(d) Launchers. When a visual distress signal carried to meet the requirements of paragraph (c) of this Section requires a launcher to activate, then a launcher approved under Title 46, Code of Federal Regulations, Part 160.28, must also be carried.

(e) Exceptions. The following persons need not comply with paragraph (c) of this Section; however, each must carry on board visual distress signals suitable for night use, selected from the list in paragraph (i), or paragraph (j) of this Section, in the number required, between sunset and sunrise:

(1) A person competing in any organized marine parade, regatta, race, or similar event;

(2) A person using a manually propelled boat; or

(3) A person using a sailboat of completely open construction not equipped with propulsion machinery, under 26 feet in length.

(f) Stowage. No person may use a boat unless the visual distress signals required by paragraph (c) of this Section are readily accessible.

(g) Serviceability. No person may use a boat unless each signal required by paragraph (c) of this Section is in serviceable condition, and the service life of the signal, if indicated by a date marked on the signal, has not expired.

(h) Marking. No person may use a boat unless each signal required by paragraph (c) of this Section is legibly marked with the approval number or certification statement, as specified in Title 46, Code of Federal Regulations, Parts 160 and 161.

(i) Visual distress signals accepted. Any of the signals listed in the following table, when carried in the number required, can be used to meet the requirements of paragraph (c) of this Section.

(1) An electric distress light meeting the standards of 46 CFR 161.013. One is required to meet the night only requirement.

(2) An orange flag meeting the standards of 46 CFR 160.072. One is required to meet the day only requirement.

(3) Pyrotechnics meeting the standards noted in the following table.

Approved Number Under 46 CFR	*Pyrotechnic Signal Devices*	*Accepted For Use*	*Number Required To Be Carried*
160.021	Hand-Held Red Flare Distress Signal[3]	Day and night	3
160.022	Floating Orange Smoke Distress Signals	Days only	3
160.024	Pistol-Projected Parachute Red Flare Distress Signals	Day and night[1]	3
160.036	Hand-Held Rocket-Propelled Parachute Red Flare Distress Signals	Day and night	3
160.037	Hand-Held Orange Smoke Distress Signals	Day only	3
160.057	Floating Orange Smoke Distress Signals	Day only	3
160.066	Distress Signal for Boats, Red Aerial Pyrotechnic Flare	Day and night[2]	3

[1] These signals require use in combination with a suitable launching device approved under Title 46, Code of Federal Regulations, Part 160.028.

[2] These devices may be either self-contained or pistol launched, and either meteor or parachute assisted type. Some of these signals may require use in combination with a suitable launching device approved under Title 46, Code of Federal Regulations, Part 160.028.

[3] Must have manufacturers date of October 1, 1980 or later.

(j) Any combination of signal devices selected from the types noted in subdivision (i) paragraphs (1), (2), and (3) of this Section, when carried in the number required, may be used to meet both day and night requirements. Examples-the combination of the two hand-held red flares (160.021) and one parachute red flare (160.024 or 160.036) meets both day and night requirements. Three hand-held orange smoke (160.037) with one electric distress light (161.013) meet both day and night requirements.

(k) Existing equipment.

(*l*) Launchers manufactured before 1 January, 1981, which do not have approval numbers, are acceptable for use with meteor or parachute signals listed in table in Section (i)(3) as long as they remain in serviceable condition.

NOTE: Authority cited: Sections 652 and 655.3, Harbors and Navigation Code. Reference: Sections 650 and 652 Harbors and Navigation Code.

6692.1. Visual Distress Signals–Prohibited Use.

No person in a boat shall display a visual distress signal on waters of the State under any circumstance except a situation where assistance is needed because of immediate or potential danger to persons on board.

NOTE: Authority cited: 655.3, Harbors and Navigation Code. Reference: 650 and 655.3, Harbors and Navigation Code.

6695. Searchlights or Other Blinding Lights.

(a) Except for law enforcement or search and rescue activities, flashing a searchlight or other blinding light onto the bridge or onto the pilothouse of any vessel underway is prohibited.

(b) All floodlights or headlights which may interfere with the proper navigation of an approaching vessel shall be so shielded that the lights will not blind the pilot of such vessel.

NOTE: Authority cited: Section 655.3, Harbors and Navigation Code. Reference: Section 655.3, Harbors and Navigation Code.

6697. Prima-Facie Evidence of Negligent Operation.

Pursuant to the provisions of Section 655 of the Harbors and Navigation Code, the following described acts endanger life, limb or property and constitute evidence of reckless or negligent operation:

(a) Riding on the bow, gunwale or transom of a vessel propelled by machinery underway when such position is not protected by railing or other reasonable deterrent to falling overboard, or riding in a position or manner which is obviously dangerous. These provisions shall not apply to a vessel's crewmen in the act of anchoring, mooring or making fast to a dock or another vessel, or the necessary management of a sail.

(b) Maneuvering towed skiers, or other devices, so as to pass the towline over another vessel or its skier.

(c) Navigating a vessel, skis or other devices between a towing vessel and its tow or tows.

NOTE: Authority cited: Section 655, Harbors and Navigation Code. Reference: Sections 650, 655 and 655.3, Harbors and Navigation Code.

Article 5.1. Closure of Waterways to Recreational Boating

6698.1. Definitions.

The following definitions shall apply to the terminology used in this article:

(a) ''department'' means the Department of Boating and Waterways.

(b) ''director'' means the director of the Department of Boating and Waterways.

(c) ''Sacramento-San Joaquin Delta and its tributaries and distributaries'' means all or any part of the area identified in Section 12220 of the California Water Code and waterways flowing into and out of the Sacramento-San Joaquin Delta.

(d) ''recreational vessel'' means a vessel being used only for pleasure.

NOTE: Authority cited: Sections 63.9(e) and 660(b) and (c), Harbors and Navigation Code. Reference: Sections 33, 63.9(e), 650, 651 and 660(b) and (c), Harbors and Navigation Code; Section 8558(b) and (c), Government Code; Executive Order W-156–97; and Attorney General Opinion No. 97-307.

6698.2. Director's Authority for Restrictions or Closures.

(a) During emergency situations, such as actual or projected high water levels or flooding, and in the interest of preserving the safety of persons and property, the director, or his or her designee, may restrict or order the closure of all or any part of the waters in the Sacramento-San Joaquin Delta, its tributaries and distributaries, and Suisun Bay, Grizzly Bay, and Honker Bay and their tributaries and distributaries to recreational vessels.

(b) In accordance with Section 660 of the Harbors and Navigation Code, all emergency restrictions or closures issued by the Department shall be effective for no more than 60 days. However, the director, or his or her designee may issue new restrictions or closures when the emergency is expected to continue beyond the 60 day period, after a public hearing is held by the department to receive comments from the public.

(c) The director, or his or her designee, may rescind or modify the restrictions or closures based on the status of the emergency conditions and/or the information or testimony provided at the public hearing referenced in subsection (b) above.

(d) When the director, or his or her designee, determines that the emergency situation, such as high water levels or flooding, has diminished, a notice shall be issued to law enforcement agencies, marinas, and news organizations rescinding the restrictions or closure.

NOTE: Authority cited: Sections 63.9(e) and 660(b) and (c), Harbors and Navigation Code. Reference: Sections 33, 63.9(e), 650 and 660(b) and (c), Harbors and Navigation Code; Executive Order W-156-97; and Attorney General Opinion No. 97-307.

Article 6. Waterway Marking System

7000. Scope.

Pursuant to the authority vested in it by Section 659, Harbors and Navigation Code, the Department adopts rules and regulations for a uniform system for marking the State's waters; such rules and regulations to establish, (a) a system of regulatory markers for use on all waters of the State to meet needs not provided for by the U.S. Coast Guard system of navigational aids, and (b) a system of navigational aids for use on the waters of the State not marked by the U.S. Coast Guard and/or not determined to be United States navigable waters; provided that such rules and regulations shall not be in conflict with the markings prescribed by the U.S. Coast Guard.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7001. Definition (as used in this article).

(a) Waterway marker is any device designed to be placed in, on or near the water to convey an official message to a boat operator on matters which

may affect health, safety, or well being, except that such devices of the United States or an agency of the United States are excluded from the meaning of this definition.

(b) Regulatory Marker is a waterway marker which has no equivalent in the U.S. Coast Guard system of navigational aids.

(c) State Aid to Navigation is a waterway marker which is the equivalent of a U.S. Coast Guard aid to navigation.

(d) Buoy is any device designed to float which is anchored in the water and which is used to convey a message.

(e) Sign is any device for carrying a message which is attached to another object such as a piling, buoy, structure or the land itself.

(f) A Display Area is the area on a sign or buoy needed for display of a waterway marker symbol.

(g) Symbols are geometric figures such as a diamond, circle, rectangle, used to convey a basic message.

(h) ''Department'' means the Department of Boating and Waterways.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7002. Waterway Markers Used on the Waters of This State Shall Be As Follows.

(a) State Aids to Navigation.

(1) A red buoy or sign shall indicate that side of a channel to be kept to the right of a vessel when entering the channel from the main water body or when proceeding upstream; a green buoy or sign shall indicate that side of a channel to be kept to the left of a vessel when entering the channel from the main water body or when proceeding upstream.

These buoys or signs shall normally be used in pairs and only for the purpose of marking a clearly defined channel.

(2) A red and white vertically striped buoy or sign shall indicate the center of a navigable waterway.

(3) A red and green horizontally striped buoy or sign shall indicate a junction in the channel, or a wreck or obstruction which may be passed on either side. If the top band is red, the preferred channel is to the left when proceeding upstream or leaving the main water body. If the top band is green the preferred channel is to the right when proceeding upstream or leaving the main water body.

(4) White buoys shall indicate anchorage areas.

(5) The shapes of state aids to navigation shall be compatible with the shapes established by Coast Guard regulations for the equivalent Coast Guard aids to navigation.

(6) When lights are placed on buoys as an aid to navigation, their characteristics shall be compatible with those designated by Federal Regu-

lations for federal aids to navigation. Red lights for this purpose shall be used only on red buoys and green lights only on green buoys.

(b) Regulatory Markers.

(1) A diamond shape of international orange with white center shall indicate danger. The nature of the danger may be indicated by words or well-known abbreviations in black letters inside the diamond shape, or above and/or below it on white background.

(2) A diamond shape of international orange with a cross of the same color within it against a white center without qualifying explanation shall indicate a zone from which all vessels are excluded.

(3) A circle of international orange with white center will indicate a control or restriction. The nature of the control or restriction shall be indicated by words, numerals, and/or well-known abbreviations in black letters inside the circle. Additional explanation may be given above and/or below it in black letters on white background.

(4) A rectangular shape of international orange with white center will indicate information, other than a danger, control or restriction, which may contribute to health, safety or well-being. The message will be presented within the rectangle in black letters.

(c) Letters or Numbers on Waterway Markers.

(1) Numbers, letters or words on a state aid to navigation or regulatory marker shall be placed in a manner to enable them to be clearly visible to an approaching or passing vessel. They shall be block style, well proportioned and as large as the available space permits. Numbers and letters on red or black backgrounds shall be white; numbers and letters on white backgrounds shall be black.

(2) State aids to navigation shall be numbered or lettered for identification. Red buoys and signs marking channels shall be identified with even numbers, and green buoys and signs marking channels shall be identified with odd numbers, the numbers increasing from the main water body or proceeding upstream. Buoys and signs indicating the center of a waterway or a channel junction shall be identified by letters of the alphabet. All numbers and letters used to identify state aids to navigation shall be preceded by the letters "CF."

(d) Reflectorized Material. Where reflectorized materials are used, a red reflector will be used on a red buoy, a green reflector on a green buoy, and white reflectors only will be used on all other waterway markers, except that orange reflectors may be used on orange portions of regulatory markers, and yellow reflectors may be used on Special Markers, as defined in Section 7002.1.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7002.1. Special Markers.

Special markers are not primarily intended to assist navigation, but are used to indicate a special area or feature (i.e., traffic separation, anchorage areas, dredging, fish net areas, etc.) whose nature may be apparent from reference to a chart or other nautical document.

(a) Aids used to mark these areas or systems will be all yellow.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650, 655.3, and 659, Harbors and Navigation Code.

7003. Authority to Place Markers.

(a) No waterway marker shall be placed on, in, or near the waters of the State unless such placement is authorized by the agency or political subdivision of the State having power to give such authorization, except that the provisions of this section shall not apply to private aids to navigation under the jurisdiction of the U.S. Coast Guard.

(b) Such agency or political subdivision of the State will, prior to authorizing placement, obtain the necessary clearances of any federal and state agencies concerned. Nothing herein contained shall be construed to require such prior clearance with the Department.

(c) The agency or political subdivision of the State authorizing the placement of a waterway marker will inform the Department of the following:

(1) Exact location of the marker, expressed in latitude and longitude, or in distance and direction from one or more fixed objects whose precise location is known.

(2) The description and purpose of the marker, including its identifying number, if any, as required by Section 7002(a)(5), above.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7004. Maintenance of Waterway Markers.

Waterway markers shall be maintained in proper condition, or be replaced or removed.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7005. Display of Waterway Markers.

(a) A waterway marker may be displayed as a sign on a fixed support, as a buoy bearing a symbol on its surface, or as a sign mounted on a buoy.

(b) When a buoy is used to carry a symbol on its surface, it will be white, with a band of international orange at the top and a band of international orange above the water line at the bottom.

(c) A buoy whose sole purpose is to carry a sign above it will be marked with three bands of international orange alternating with two bands of white, each band occupying approximately one-fifth of the total area of the buoy

above the water line, except where the sign itself carries orange bands; however, nothing in these regulations will be construed to prohibit the mounting of a sign on a buoy which has been placed for a purpose other than that of carrying a sign.

(d) When symbols are placed on signs, a suitable white background may be used outside the symbol.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7006. Specifications for Waterway Markers.

(a) The size, shape, material, and construction of all markers, both fixed and floating, shall be such as to be observable under normal conditions of visibility at a distance such that the significance of the marker or aid will be recognizable in time to avoid danger.

(b) Waterway markers shall be made of materials which will retain, despite weather and other exposures, the characteristics essential to their basic significance, such as color, shape, legibility and position.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7007. Other Waterway Marking Devices.

(a) Mooring Buoys. In order that mooring buoys shall not be mistaken for aids to navigation or regulatory markers, they shall be white, with a blue band clearly visible above the waterline.

(b) Placement of markers such as mooring buoys and permanent race course markers will be processed in the same manner as waterway markers.

(c) Such markers shall not be of a color, shape, configuration or marking which could result in their confusion with any federal or state aid to navigation or any state regulatory marker, and shall not be placed where they will obstruct navigation, cause confusion, or constitute a hazard.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650 and 659, Harbors and Navigation Code.

7008. The Divers Flag.

(a) A red flag with a white diagonal running from the upper left hand corner to the lower right hand corner (from masthead to lower outside corner) and known as the ‘‘Divers Flag’’ shall when displayed on the water, indicate the presence of a person engaged in diving in the water in the immediate area.

(b) Recognition of this flag by regulation will not be construed as conferring any rights or privileges on its users, and its presence in a water area will not be construed in itself as restricting the use of the water area so marked.

(c) Operators of vessels will, however, exercise precaution commensurate with conditions indicated.

(d) This flag may be displayed only when diving is in progress, and its display in a water area when no diving is in progress is that area will constitute a violation of the regulation and of section 659 of the Harbors and Navigation Code.

(e) Nothing in this section will require the carriage of a divers flag for any purpose.

NOTE: Authority cited: Section 659, Harbors and Navigation Code. Reference: Sections 650, and 659, Harbors and Navigation Code.

7009. The Ski Flag.

(a) A red or orange flag measuring no less than 12 inches on each side, in the shape of a square or rectangle, mounted or displayed in such a manner as to be visible from every direction shall be known as a ski flag.

(b) The use of this flag will not be construed as conferring any rights or privileges on its users, and its display will not be construed in itself as restricting the use of the water in the vicinity of the vessel displaying the flag.

(c) Operators of vessels will, however, exercise precaution commensurate with conditions indicated.

(d) The ski flag shall be displayed when one or more of the following conditions exists:

(1) A downed skier.

(2) A skier in the water preparing to ski.

(3) A ski line extended from the vessel.

(4) A ski in the water in the vicinity of the vessel.

The ski flag shall not be displayed at any other time.

NOTE: Authority cited: Sections 652, 658, 658.7 and 659, Harbors and Navigation Code. Reference: Sections 650, 655.3, 658.7 and 659, Harbors and Navigation Code.

Article 7. For Hire Vessel Operator's License

7500. Definitions.

(a) As used in Article 2, (commencing with Section 760) Chapter 5 of Division 3, Harbors and Navigation Code, the terms ''carrying more than three passengers for hire'' and ''carrying passengers for hire'' mean the carriage of more than three persons by a vessel for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent or any other person interested in the vessel.

(b) ''Passenger'' means every person, other than the master and a member of the crew or other persons employed or engaged in any capacity on board a vessel in the business of that vessel.

(c) ''Department'' means the Department of Boating and Waterways.

NOTE: Authority cited: Section 770, Harbors and Navigation Code. Reference: Section 760, Harbors and Navigation Code.

7501. Requirements for Examination.

(a) Prior to the issuance of a For-Hire Vessel Operator's License, every applicant shall meet the following requirements:

(1) Have attained the age of eighteen (18) years.

(2) Show evidence of at least one year's experience in operating the type of motorboat or motor vessel for which the applicant requests license to operate, on the type of water for which applicant requests license to operate.

(A) (Reserved)

(B) Other experience or training, which in the judgment of the Department is a reasonable equivalent, may be substituted.

(3) Furnish information to the Department on forms provided by the Department regarding the following:

(A) Name, address, date and place of birth, and description of applicant.

(B) Type of vessel the applicant requests license to operate.

(C) Waters on which applicant requests license to operate.

(D) Statement as to physical defects.

(E) Statement of experience and training in vessel operation.

(F) Certified statements regarding applicant's boat handling ability and moral character from three persons having knowledge of these matters but who are not members of the applicant's family.

(G) Certification of the truth of the statements submitted in his application.

(H) Applicant's signature.

(4) Submit a report, on forms provided by the Department, of a medical examination by a licensed physician within sixty (60) days of the date of application indicating:

(A) Diseases and other physical or mental defects. Conditions such as epilepsy, insanity, senility, acute general disease or neurosyphilis, badly impaired hearing, or other defect that would render the applicant incompetent to perform the ordinary duties of a licensed operator are grounds for refusal to issue a license.

(B) Possession, either with or without glasses, of at least 20/20 vision in one eye and at least 20/40 in the other. The applicant who wears glasses, however, must also be able to pass a test without glasses of at least 20/100 in both eyes.

(C) Unimpaired color sense as tested by a test utilized by the U.S. Coast Guard to determine color sense, or a similar test. This requirement may be waived if the operation of vessels for which the license is sought will be limited to hours of daylight; provided that any license issued on the basis of such waiver will be limited to operation of vessels during hours of daylight.

(D) Any of the requirements of this subdivision (4) may be waived where the Department determines that because of exceptional and unusual experience and skill or because of other unusual qualifications, the applicant

evidences that he is a reliable and competent operator of the type of vessel for which he requests license to operate, on the water on which he requests license to operate. In granting any such waiver, the Department may impose such restrictions, limitations and conditions on the operation of for-hire vessels by such applicant as the Department deems necessary for the safety and protection of all persons carried on board such vessels.

(5) Successfully complete a written test of knowledge of factors affecting boat operation, including:

(A) State laws and regulations governing operation and equipment of undocumented vessels.

(B) Fire protection measures.

(C) Vessel and motor maintenance.

(D) Navigational aids.

(E) Safe operation of motorboats.

(F) First aid and life saving measures.

(6) In addition to the above requirements, an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a vessel may also be required.

(b) Upon presentation to the Department of a valid master's, mate's, or operator's license issued by the U.S. Coast Guard as authorized by 46 CFR 15.605 and 15.905, the Department may waive the requirements listed in subdivisions (2), (3) (F), (4), (5) and (6) of subsection 7501(a).

(c) The Department may at any time terminate restrictions, limitations and conditions placed on a license whenever the licensee furnishes evidence that the basis for the restrictions, limitations and conditions no longer exists.

NOTE: Authority cited: Section 770, Harbors and Navigation Code. Reference: Section 767, Harbors and Navigation Code.

7501.1. Time Periods for Processing For-Hire Vessel Operator's License.

(a) The Department shall notify the applicant, in writing, within 10 days from receipt of application that the application is complete, or that the application is deficient, and what specific information is required.

(b) The Department shall then process the completed application for license, as required by Sections 762 and/or 767 of the Harbors and Navigation Code, and reach a decision to issue a license within 30 to 90 days, the median being 60 days.

NOTE: Authority cited: Section 764, Harbors and Navigation Code. Reference: Sections 762, 765 and 766, Harbors and Navigation Code; and Section 15376(a)-(c), Government Code.

7502. Grounds for Refusal to Issue License.

The Department may refuse to issue a license for any of the following reasons:

(a) Failure of the applicant to meet the requirements set forth in Subdivisions (1) through (6) of Subsection 7501(a).

(b) Habitual use by the applicant of intoxicating liquor, or any narcotic drug, barbiturate or marijuana.

(c) Material misrepresentation or false statements in any application.

NOTE: Authority cited: Section 770, Harbors and Navigation Code. Reference: Section 766, Harbors and Navigation Code.

7503. Renewal of License.

Following are the requirements for renewal of licenses:

(a) Applicant must present evidence of satisfactory operation of vessels during the past five years, including at least one year of operation of the type of motorboat or motor vessel for which license was issued, on the type of water for which license was issued, or present other experience of training which, in the judgment of the Department, is a reasonable equivalent.

(b) Applicant must submit a report, on forms provided by the Department, of a medical examination by a licensed physician within 60 days of the date of the application for renewal indicating:

(1) Diseases and other defects. Conditions such as epilepsy, insanity, senility, acute general disease or neurosyphilis, badly impaired hearing, or other defect that would render the applicant incompetent to perform the ordinary duties of a licensed operator are grounds for refusal to renew a license.

(2) Possession, either with or without glasses, of at least 20/20 vision in one eye and at least 20/40 in the other. The applicant who wears glasses, however, must also be able to pass a test without glasses of at least 20/100 in both eyes.

(3) Unimpaired color sense as tested by a test utilized by the U.S. Coast Guard to determine color sense, or a similar test. This requirement may be waived if the operation of vessels under the license will be limited to hours of daylight; provided that any license renewed on the basis of such waiver will be limited to operation of vessels during hours of daylight.

(4) Any of the requirements of this subsection (b) may be waived where the Department determines that because of exceptional and unusual experience and skill or because of other unusual qualifications, the applicant evidences that he is a reliable and competent operator of the type of vessel for which he requests license to operate, on the water on which he requests license to operate. In granting any such waiver, the Department may impose such restrictions, limitations and conditions on the operations of for-hire vessels by such applicant as the Department deems necessary for the safety and protection of all persons carried on board such vessels.

(c) Upon presentation to the Department of a valid master's, mate's or operator's license issued by the U.S. Coast Guard as authorized by 46 CFR

15.605 and 15.905, the Department may waive the requirements listed in subsection (b) of this section.

NOTE: Authority cited: Section 770, Harbors and Navigation Code. Reference: Section 767, Harbors and Navigation Code.

7504. Provisions Affecting Use of License.

(a) No licensee or holder of an operator's license shall operate any for-hire vessel in violation of the terms and conditions upon which such license is issued, nor shall operate any vessel carrying passengers for hire subject to the provisions of this article, other than of the type designated on his license nor operate such vessel on any waters other than those designated on his license.

(b) The licensee shall notify the Department of any change of address within 30 days of such change.

(c) The operator of any vessel subject to the provisions of this Article and Article 2 (commencing with Section 760) Chapter 2, Division 3, of the Harbors and Navigation Code, shall have his license as operator in his possession and available for examination at all times when the vessel is being operated.

NOTE: Authority cited: Section 770, Harbors and Navigation Code. Reference: Sections 761, 767 and 769, Harbors and Navigation Code.

7505. Investigations.

(a) The Department may make periodic or special investigation of any licensee to ascertain his competence and physical condition with respect to operating for-hire vessels.

(b) The Department may investigate the operation of any vessel subject to this Article and Article 2 (commencing with Section 760) Chapter 2, Division 3 of the Harbors and Navigation Code, for the sole purpose of ascertaining compliance therewith.

NOTE: Authority cited: Section 770, Harbors and Navigation Code. Reference: Sections 764, 765, 766, 767 and 769, Harbors and Navigation Code.

Article 8. Yacht and Ship Broker Licenses

7601. General Definitions.

Unless otherwise expressly indicated or compelled by the context in which used, words, phrases, and references appearing in this Chapter shall have meanings as ascribed herein.

(a) An "exclusive listing" is a written agreement between the owner of a vessel and a broker which provides that the commission is due the broker named in the contract if the boat is sold, traded, or exchanged within the time limit which must be specified in the contract by the said broker, by any other broker, or by the owner.

(b) An ''open listing'' is a written agreement between the owner of a vessel and a broker which authorizes the broker to negotiate the sale, trade, or exchange of the vessel, but reserves to the owner the right, without incurring a liability for the payment of a commission to said broker, to negotiate the sale, trade, or exchange of said vessel himself, or to enter into open listing agreements with other brokers respecting said vessel.

(c) ''Advertising'' is any written or printed communication or oral communication made in accordance with a text or outline that has been reduced to written form which is published for the purpose of inducing persons to sell or purchase a product or use a service.

(d) An ''applicant'' is a person applying to the Department of Boating and Waterways for a license.

(e) The ''Act'' is the Yacht and Ship Brokers Act and regulations pertaining thereto.

(f) The ''Code'' is the Harbors and Navigation Code.

(g) The ''Director'' is the Director of the Department of Boating and Waterways.

(h) The ''Department'' is the Department of Boating and Waterways.

(i) An ''examination'' is an examination to qualify for any license issued under authority of the Yacht and Ship Brokers Act.

(j) A ''license'' is any license issued under authority of the Yacht and Ship Brokers Act.

(k) The ''licensee'' is a licensed broker or salesman.

(l) A ''permanent license'' is a Yacht and Ship Broker's or Salesman's License originally issued for one year and renewable for one or two years, as opposed to a salesman's temporary license issued for sixty days.

(m) The ''Yacht and Ship Brokers Act'' is Chapter 5 of Division 3, Article 2 of the Code.

(n) ''Consummated'' means that buyer and seller shall have a signed purchase agreement, which agreement shall contain all the conditions of the sale, and said conditions have been met.

(o) ''Completed'' means all the conditions of the purchase agreement have been met and the bill of sale has been passed from seller to buyer.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 701, Harbors and Navigation Code.

7602. Advertising.

(a) Advertising of any service for which a license is required under the provisions of the Yacht and Ship Brokers Act shall disclose the name of the business as shown on the required license.

(b) In addition to the name of the broker on signs or in advertising, the words ''licensed yacht broker,'' ''yacht broker,'' ''ship broker,'' or ''boat

broker,'' or ''brokerage'' in each such context may be used to indicate that the broker is a licensed yacht broker.

(c) No person, firm, or corporation may use any of the designations set forth in subdivision (b) hereof unless duly licensed under the Yacht and Ship Brokers Act, or otherwise exempted by law.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 708, Harbors and Navigation Code.

7603. Investigative Authority.

(a) The department may, with reasonable cause to suspect that a person or business is acting in the capacity of a broker, investigate that person or business to ascertain whether a license is or is not required.

(b) The department shall have authority to investigate and take lawful action deemed advisable with regard to complaints against brokers or salesmen acting only in a capacity for which they must be licensed.

(c) Any person, including a partnership or corporation purchasing used yachts for resale or taking yachts in trade for resale, shall transfer actual title to any such yacht into his name, or have in his possession, subject to inspection by the department, a good and sufficient bill of sale or other fit evidence of title if such person or firm wishes to claim exemption from licensing requirements of the Yacht and Ship Brokers Act.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 703, 706, 720, 732, 733 and 734, Harbors and Navigation Code.

7604. Trust Accounts.

(a) In the absence of the broker, a licensed salesman authorized in writing by the broker, or other persons authorized by this section to make withdrawals from trust accounts, shall make deposits to trust accounts pursuant to section 714 of the Harbors and Navigation Code.

Withdrawals shall not be made from a trust account maintained as provided by section 714 of the Harbors and Navigation Code except upon the signature of at least one of the following:

(1) The broker;

(2) A salesman, or group of salesmen jointly who are in the employ of the broker and who have been authorized in writing by the broker to make withdrawals from such trust accounts. The broker shall not authorize more than one salesman or group of salesmen at any one time to make such withdrawals;

(3) Where the licensee is a corporation, any corporate officer who may be designated in writing by the corporation.

(b) Every broker required to maintain such trust fund account shall keep records of all funds deposited therein, which records shall clearly indicate the date and from whom he received the money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction.

(c) Failure to maintain a trust fund account when required, and to deposit trust funds received promptly in said account, may be construed to be commingling, in violation of section 732, subsection (e) of the Harbors and Navigation Code.

(d) Upon request, the above-written authorization shall be made available to the department for its inspection.

(e) A check received from the offeror may be held uncashed by the broker until acceptance of the offer if

(1) the check by its terms is not negotiable by the broker or if the offeror has given written instructions that the check shall not be deposited nor cashed until acceptance of the offer and

(2) the offeree is informed that the check is being so held before or at the time the offer is presented for acceptance.

(f) In these circumstances if the offeror's check was held by the broker in accordance with subdivision (e) until acceptance of the offer, the check shall be placed into a neutral escrow depository or the trust fund account or into the hands of the offeree if offeror and offeree expressly so provide in writing not later than the next business day following acceptance of the offer unless the broker receives written authorization from the offeree to continue to hold the check.

NOTE: Authority cited; Section 703, Harbors and Navigation Code. Reference: Sections 714 and 716, Harbors and Navigation Code.

7605. Shared Listings.

If a broker intends to or does share a listing with other brokers, he must obtain authorization in writing from his principal to do so in his authorization to sell (listing agreement).

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 716, Harbors and Navigation Code.

7606. Fees.

In addition to license examination fees required by Sections 717 and 718 of the Harbors and Navigation Code to accompany applications for licenses, all other appropriate fees prescribed by Section 736 shall accompany such applications.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 717, 718 and 736, Harbors and Navigation Code.

7606.1. Time Periods for Processing Yacht and Ship Broker, Salesman, and Associated Licenses.

(a) The Department shall notify the applicant, in writing, within 10 days from receipt of application, that the application is complete, or that the application is deficient, and what specific information is required.

(b) The Department shall then process the completed application for license(s), as required by Sections 717, 718, 722, 723, 724, 725, 727,728,

729, and/or 735, Harbors and Navigation Code, and reach a decision to issue a license within 30 to 90 days, the median being 60 days.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 717, 718 and 724, Harbors and Navigation Code; and Section 15376(a)-(c), Government Code.

7607. Written Examination.

An applicant who fails to appear for a scheduled written examination without notifying the Department prior to the exam date shall forfeit the examination fee and be required to pay an additional exam fee prior to taking any subsequent examination.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 717, 718 and 721, Harbors and Navigation Code.

7608. Broker Qualifications.

(a) In addition to those persons specified in Section 719 of the Harbors and Navigation Code, if an individual can show that department records are incorrect, and he can, in fact, prove that he has been employed as a licensed Yacht and Ship Broker or Salesman for at least one year within the preceding five years, such applicant shall be deemed qualified to take the Yacht Broker's examination for a Yacht and Ship Broker's License.

(b) In addition to applicants described in Section 719(d), every applicant for a broker's or salesman's license and every person entitled to act in the capacity of a broker on behalf of a corporation or partnership shall be at least 18 years of age.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 719, Harbors and Navigation Code.

7609. License Reinstatement.

Application for reinstatement of a license shall be on a form furnished by the department and must be accompanied by the appropriate fees.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 726 and 736, Harbors and Navigation Code.

7610. License Renewal (Failure to) Penalties.

(a) (Reserved)

(b) Any licensee who has failed to notify the department of a change of address, business structure, or in the case of a salesman, employing broker prior to renewal of license, and who does not submit the proper fee or fees for such change along with his renewal application and whose renewed or changed license is delayed beyond the expiration date of the license all or partly because of such failure, shall be subject to the penalty for reinstatement under provisions of Section 724(b) of the Harbors and Navigation Code.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 722, 723, 724, 726 and 738, Harbors and Navigation Code.

7611. Temporary Salesman's License.

(a) For purposes of Section 719(a) of the Harbors and Navigation Code, experience while holding a temporary license as a salesman shall not be considered as partial experience necessary to qualify for a broker's license.

(b) In the event a salesman having the only temporary license permitted by subsection 725(a) of the Harbors and Navigation Code does not obtain a permanent license, and two years have passed since the expiration date of such temporary license, the department may issue another temporary license, pursuant to provisions of subsection 726(a) of the Harbors and Navigation Code.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 719, 725 and 726, Harbors and Navigation Code.

7612. Salesman's License, Transfer of, Restrictions on Employment.

(a) A temporary license to act as a salesman will be issued only to an applicant who has valid employment as such salesman with a duly licensed broker.

(b) A salesman's license or temporary salesman's license shall become inoperative upon the termination of such salesman's employment by a licensed broker, or upon the suspension or revocation of the employing broker's license. However, such salesman's license may be transferred to another licensed broker upon the holder's request. Such request for transfer must be accompanied by an application, as prescribed by the department, in writing executed by the new broker and the appropriate fee.

(c) No salesman shall associate himself with more than one broker concurrently.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 719, 725 and 726, Harbors and Navigation Code.

7613. Corporation and Partnership Licenses.

(a) A broker's license issued to a corporation or partnership shall disclose the name and license number of the corporation or partnership, along with the name of the officer or partner entitled to act on behalf of the corporation or partnership. Additional licenses issued to other officers or partners acting on behalf of the corporation or partnership only shall disclose the name and license number of the corporation or partnership, followed by the name of such additional officers or partners. In the event the corporation or partnership is dissolved, all licenses disclosing the name and number of the corporation or partnership become invalid.

(b) In the event a licensed partner of a partnership, who is also licensed as a broker on his own behalf while acting on behalf of the partnership, violates any provision of the Yacht and Ship Brokers Act or regulations pertaining thereto, which is grounds for suspension or revocation of a license, both licenses may be suspended or revoked, and if necessary, either

or both bonds attached. If such licensed partner, while acting on his own behalf commits such violation, his licenses to act on his own behalf and on behalf of the partnership are both subject to such suspension or revocation, and if necessary, his bond is subject to attachment.

(c) In the event a licensed officer of a corporation, who is also licensed as a broker on his own behalf while acting on behalf of the corporation, violates any provision of the Act or regulations pertaining thereto which is grounds for suspension or revocation of a license, both licenses may be suspended or revoked, and if necessary, either or both bonds attached. If such licensed officer of a corporation, while acting on his own behalf commits such violation, his licenses to act on his own behalf and on behalf of the corporation are both subject to such suspension or revocation and his bond is subject to attachment.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 728 and 729, Harbors and Navigation Code.

HISTORY:

1. Editorial correction of NOTE filed 10-11-85 (Register 85, No. 41).

7614. Broker's Bond or Deposit.

(a) The Yacht and Ship Broker's Bond Endorsement used shall be of the form prescribed and provided by the department.

(b) The department may not release its interest in a cash deposit made pursuant to section 731 of the Harbors and Navigation Code until a surety bond, dated to include the period for which the cash deposit was made, is filed with the department.

(c) The period required by subsection (b) will not exceed four years.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 730 and 731, Harbors and Navigation Code.

7615. Coercive and Oppressive Methods.

It shall constitute coercive and oppressive methods within the meaning of Section 732, subsection (g) of the Harbors and Navigation Code, if a licensee who is also the owner, operator, or otherwise in charge of a landing pier or mooring place:

(a) Exacts or demands all or part of a broker's fee or commission from the sale by the owner or any other licensed broker or salesman of any yacht or boat moored at said landing pier or mooring place solely because said yacht or boat was or is moored at such pier or landing place;

(b) Expels or denies or refuses to permit the continued use or lease of such landing pier or mooring place by an owner of a boat or yacht for the reason that said boat or yacht is listed for sale with another licensee;

(c) Expels or denies or refuses to permit the continued use or lease of such landing pier or mooring place by the purchaser of a boat or yacht moored at

such landing pier or mooring place because another licensee had made the sale of such boat or yacht.

NOTE: Authority Cited: Section 703, Harbors and Navigation Code. Reference: Sections 732 and 733, Harbors and Navigation Code.

7616. Definite Place of Business.

A definite place of business shall mean premises owned, rented, or leased by the broker which premises shall be locatable at a street address or road intersection and/or slip number, if applicable. A post office box and/or telephone number shall not be considered a definite place of business.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 735, Harbors and Navigation Code.

7617. Branch Offices.

(a) Any broker who regularly transacts business at a location other than his established principal office, or who employs other brokers or salesmen to do so shall be deemed to be maintaining a branch office at such location.

(b) A temporary exhibit of less than three weeks duration at a county or state fair or an organized boat or sport show shall not be deemed a branch office.

(c) If a broker uses more than one fictitious business name at the same location, a separate branch office license shall be obtained in addition to the current principal or branch office license at that location.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections708 and 735, Harbors and Navigation Code.

7618. Identification Card.

(a) A broker's identification card shall be issued only to the person named on the license, and there shall also appear on such card the name of the corporation, partnership or association which he represents. The broker to whom such identification card is issued shall place his signature thereon.

(b) A salesman's identification card shall be issued only to a licensed salesman, and shall bear the name of the employing licensed broker. The salesman shall place his signature thereon.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 735, Harbors and Navigation Code.

7619. Broker-Salesman Relationship Agreement.

Every broker shall have a written agreement with each of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship between the parties.

Signed copies of the agreement shall be retained by the parties thereto, and shall be available for inspection by the department or its designated representative on request.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 703, Harbors and Navigation Code.

7620. Retention of Records.

A licensed broker shall retain for four years copies of all listings, deposit receipts, cancelled checks, trust records, and other documents executed by him or obtained by him in connection with a transaction for which a Yacht and Ship Broker's License is required. Upon request, these records shall be made available to the Department for their inspection.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 703, 714, 715 and 716, Harbors and Navigation Code.

7621. Government Office.

When the holder of a Yacht and Ship Broker or Salesman's License is required to relinquish his license to assume an office in local, state, or federal government, he may have it reinstated at any time within six months of termination of his service in such office upon payment of the appropriate renewal fee.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 724, Harbors and Navigation Code.

7622. Property Taxes.

Any agreement between a buyer and seller of a yacht negotiated by a broker to prorate personal property taxes for a twelve-month period shall specify the applicable tax year and the date of the commencement of such twelve-month period, and shall clearly state the actual amounts payable by the seller and buyer.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 703 and 716, Harbors and Navigation Code.

7623. Offers.

(a) The licensee must present or cause to be presented to the owner of the vessel any offer to purchase received prior to the completion of a sale, unless expressly instructed by the owner not to present such an offer.

(b) A licensee shall not present competing offers to purchase a vessel to the owner in such manner as to induce the owner to accept an offer which will provide the greatest compensation to the licensee, without regard to the benefits, advantages, and/or disadvantages to the owner.

NOTE: Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 709 and 716(c), Harbors and Navigation Code.

Article 10. Boating Safety Education Regulations

8000. Criteria for Required Boating Safety Course.

(a) The Department shall approve and maintain an approved listing of Boating safety education courses.

(b) Boating safety education courses approved by the Department shall be entry level courses. The courses shall contain at least the following elements or subjects:

(1) Boating laws and regulations
(2) Rules of the road and navigational lights
(3) Safety and responsibility
(4) Required equipment
(5) Basic boat handling
(6) Navigational aids (Uniform State Waterway Marking System)
(7) Boating operation emergencies and accidents
(8) Alcohol
(9) Weather

(c) The certificate for completion and passage of the course shall include:
(1) The name of the person passing the course.
(2) Date of course completion.
(3) The name of the organization that provided the course.
(4) A statement that the course has been approved by the California Department of Boating and Waterways.

(d) The fees for these approved boating education courses shall not exceed the expenses associated with providing the courses.

NOTE: Authority cited: Section 668.1, Harbors and Navigation Code. Reference: Sections 655, 655.2, 658, 658.5, 668.1, Harbors and Navigation Code; and Section 191.5, Penal Code.

CHAPTER 3. CONFLICT OF INTEREST CODE

8600. General Provisions.

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department of Boating and Waterways.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with their agencies. Upon receipt of the statements of the Director and Commissioners, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

EXCERPTS FROM

TITLE 23

CALIFORNIA CODE OF REGULATIONS

TITLE 23. WATERS

DIVISION 3. STATE WATER RESOURCES CONTROL BOARD

Chapter 20. Standards for the Removal of Sewage from Vessels

Chapter 20.1. Designation of Marine Terminals to Provide Adequate Sewage Retention Device Pumpout Facilities

Division 3. State Water Resources Control Board

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CHAPTER 20. STANDARDS FOR THE REMOVAL OF SEWAGE FROM VESSELS

Article 1. General

2815. Authority and Purpose.

The standards contained herein are prescribed by the State Board pursuant to Chapter 6 (commencing with Section 775) of Division 3 of the Harbors and Navigation Code. The purpose of these standards is to establish criteria for the design, construction, operation, and maintenance of pumpout facilities for the removal of sewage from vessel sewage retention devices.

NOTE: Authority cited: Sections 775, 775.5, 776, 778, 783 and 784, Harbors and Navigation Code. Reference: Chapter 6 (commencing with Section 775), Division 3, Harbors and Navigation Code.

2816. Definitions.

The following definitions shall apply to this subchapter.

(a) ''Pumpout facility'' means any facility or other means used to transfer sewage from a vessel sewage retention device aboard a vessel to storage and/or disposal facilities.

(b) ''Sewage retention device'' means any equipment on board a vessel which is designed to receive and retain sewage.

NOTE: Authority cited: Sections 775.5 and 778, Harbors and Navigation Code. Reference: Section 775.5, Harbors and Navigation Code.

Article 2. Design and Construction

2819. Pumpout Facility Design and Use.

The pumpout facility must be designed or utilized such that all sewage transferred from vessel marine sanitation devices is stored or disposed of in a manner approved by the appropriate Regional Water Quality Control Board and in accordance with local ordinances.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

2820. Prevention of Leakage and Spillage.

All pumpout facilities shall be designed and constructed in such a manner that there shall be no leakage or spillage of sewage.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

2821. Pump Design Requirements.

Pumps provided at the pumpout facility for the transfer of waste from vessel to the pumpout facility and from the pumpout facility to the disposal system shall:

(a) Be of self-priming and non-clogging design.

(b) Be of sufficient size and capacity to complete the transfer operation in a reasonable amount of time when operating against the maximum anticipated head.

(c) Be designed and installed to prevent leakage or spillage.

(d) Be designed and installed to meet all safety requirements.

(e) Be constructed of corrosion-resistant material.

The pumps may be either of fixed or portable type installation.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

2822. Storage Tank Design Requirements.

Storage tanks used to store pumpout waste shall:

(a) Be designed and constructed to allow for complete emptying of contents into a disposal system or waste haulers tank.

(b) Be equipped with a means of determining the amount of sewage in the tank.

(c) Be equipped with a means of preventing backflow from the storage tank into the pumpout system.

(d) Be designed and constructed to prevent overflow or spillage.

(e) Be designed and installed to protect against a 1-in-100 year flood.

(f) Be constructed of material capable of withstanding solar radiation and chemical action of freshwater, saltwater, chemical additives and sewage without excessive deterioration.

(g) Be designed and constructed such that the sewage enters the tank above maximum storage level.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

2823. Design Requirements for Piping and Hoses.

All piping/hosing used in the design and construction of a pumpout system shall:

(a) Be designed to withstand any pumping pressure or vacuum encountered without leakage; and

(b) Be constructed of material capable of withstanding solar radiation and chemical action of freshwater, saltwater, chemical additives, and sewage without excessive deterioration.

All fittings shall be of corrosion-resistant material and shall be so constructed and installed as to ensure a water-tight seal. All pumpout systems shall be designed and constructed to have a minimum capability of pumping out vessel marine sanitation devices having 1½-inch fittings. The system shall be designed and constructed to prevent leakage when transferring or when the system is disconnected. This would normally require a

minimum of four valves; one on each side of the pump, plus one at the storage tank, and one at the vessel holding tank connection.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

2824. Pumpout Facility Water Supply Required.

The pumpout facility shall be designed and constructed such that a water supply is available at appropriate locations for flushing and cleaning of vessel holding tanks and storage tanks. The water supply shall be protected against back-siphonage of waste into the water system by a backflow prevention device meeting the standards established by the State Board of Public Health in Group 4 (commencing with Section 7583), Subchapter 1, Chapter 5, Part 1 of Title 17 of the California Administrative Code.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

Article 3. Operation and Maintenance

2827. Operation and Maintenance Instructions.

A set of operation and maintenance instructions shall be prepared and used in the operation of the pumpout facility. The operation and maintenance instructions shall be available for inspection at the pumpout facility and if found to be deficient by the staff of the Regional Board, the instructions shall be corrected within 30 days.

(a) The operation instructions shall have a detailed explanation of valve positions when the system is transferring sewage and when the system is not being used.

(b) The operation and maintenance instructions shall include methods which will be used to isolate portions of the system for maintenance and repair.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

2828. Prevention of Leakage and Spillage.

All pumpout facilities shall be operated and maintained in such a manner that there shall be no leakage or spillage of sewage.

NOTE: Authority cited: Sections 777 and 778, Harbors and Navigation Code. Reference: Section 777, Harbors and Navigation Code.

2829. Inspection and Maintenance Requirements.

The entire pumpout system shall be inspected by the operator at regular intervals not exceeding six months and any worn components replaced. The Regional Board staff shall inspect the facility at regular intervals not to exceed one year.

NOTE: Authority cited: Sections 775, 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 775, 776, 777 and 778, Harbors and Navigation Code.

CHAPTER 20.1. DESIGNATION OF MARINE TERMINALS TO PROVIDE ADEQUATE SEWAGE RETENTION DEVICE PUMPOUT FACILITIES

Article 1. General Provisions

2831. General.

Pursuant to Chapter 6 (commencing with Section 775) of Division 3 of the Harbors and Navigation Code the State Board shall, as needed for the protection of water quality, require any person lawfully vested with the possession, management, or control of a marine terminal to provide adequate vessel sewage retention device pumpout capability, at locations which are convenient and accessible to vessel users.

It is the intent of these regulations to provide a standard method of determining which marine terminals shall be required to install and operate pumpout facilities.

NOTE: Authority cited: Sections 776 and 778, Harbors and Navigation Code. Reference: Section 776, Harbors and Navigation Code.

Article 2. Administrative Procedures

2833. Regional Board Request.

Each Regional Board, upon determining a need for additional pumpout facilities within its region, shall request the State Board to require specified marine terminals to install and operate pumpout facilities where necessary to protect water quality.

NOTE: Authority cited: Sections 776 and 778, Harbors and Navigation Code. Reference: Section 776, Harbors and Navigation Code.

2833.1. Contents of Regional Board Request for Pumpout Facilities.

Requests for requiring marine terminals to install and operate vessel waste pumpout facilities shall be forwarded to the State Board by the Regional Board. Each request shall be based upon the guidelines contained in Section 2834.1 and shall include the following as well as any other information requested by the State Board.

(a) Designation of the area where additional facilities are needed.

(b) Explanation of the need for additional pumpout facilities within the area including:

(1) An estimate of the number of vessels with sewage retention devices requiring pumpout facilities.

(2) The location of each marine terminal.

(3) The location and capacity of existing pumpout facilities.

(c) Recommendations as to which marine terminal or terminals should install and operate pumpout facilities, the capacity of the facilities which

should be installed, and reasons for such recommendations.

(d) The name, owner, and address of each marine terminal recommended pursuant to (c) above.

(e) An appropriate installation time schedule pursuant to Section 2835.

(f) Copies of any comments received as a result of the Notice of Pumpout Facility Need.

NOTE: Authority cited: Sections 775, 776, 777, 777.5 and 778, Harbors and Navigation Code. Reference: Section 776, Harbors and Navigation Code.

2833.2. Notice of Pumpout Facility Need.

Prior to requesting the State Board to require a marine terminal to install and operate pumpout facilities the Regional Board shall prepare a Notice of Pumpout Facility Need and shall forward a copy of the notice to known interested agencies and persons, including each marine terminal owner in the proposed area of pumpout facility need. The Regional Board shall publish the notice at least once in a newspaper of general circulation in the proposed area of pumpout facility need. Proof of publication of the notice shall be submitted to the State Board. The notice shall provide a 30-day comment period in which interested persons may comment upon the notice. The notice shall contain:

(a) A designation of the area considered by the Regional Board.

(b) The reason pumpout facilities are believed to be necessary for the protection of water quality in that area.

(c) The names, locations, and addresses (if available) of marine terminals which may be required to install or operate pumpout facilities.

NOTE: Authority cited: Sections 775, 775.5, 776, 777 and 778, Harbors and Navigation Code. Reference: Section 776, Harbors and Navigation Code.

2833.3. Hearings by Regional Boards.

Upon the request of the State Board, any interested person, or upon its own motion, the Regional Board may hold a public hearing prior to requesting the State Board to require a marine terminal to install pumpout facilities. The Regional Board shall transmit any comments received together with their request to the State Board.

NOTE: Authority cited: Sections 776, 777 and 778, Harbors and Navigation Code. Reference: Section 13000, Water Code; and Sections 776, 777 and 778, Harbors and Navigation Code.

2833.4. Hearings by State Board.

Upon the request of any interested person, or upon its own motion, the State Board may hold a public hearing regarding a proposed requirement that a marine terminal install pumpout facilities.

NOTE: Authority cited: Sections 776, 777 and 778, Harbors and Navigation Code. Reference: Sections 183 and 13000, Water Code.

2834. Further Procedures.

The State Board may require marine terminals to install and operate vessel waste pumpout facilities after consideration of the request of the Regional Board, the record of any Regional Board or State Board hearing and the following guidelines. Copies of the order requiring installation and operation of pumpout facilities shall be sent to the Regional Board, the marine terminal owner, and to other marine terminals within the area of activity.

NOTE: Authority cited: Sections 776 and 778, Harbors and Navigation Code. Reference: Section 776, Harbors and Navigation Code.

2834.1. Guidelines for Marine Terminal Selection.

(a) Upon a determination that an area needs additional pumpout facilities, such need should be met by public marine terminals, if possible.

(b) Upon a determination by any Regional Board that there is no public marine terminal within an area in which additional pumpout facilities are needed for protection of water quality, the State Board shall hold a hearing to determine whether private marine terminals should be designated to provide sewage retention device pumpout facilities.

(c) In addition, the State Board and Regional Boards shall, as a minimum, consider at least the following factors in determining which marine terminals should be required to provide pumpout facilities:

(1) Availability of private marine terminals with pumpout facilities not available to the general public.

(2) Priority consideration should be given to marine terminals with fuel docking capability.

(3) The number of vessels with sewage retention devices berthed at each marine terminal in the area.

(4) The depth of water required for the vessels that will be using the pumpout facility.

(5) The expense of installing a pumpout facility and access to a means of disposing of or treating the sewage.

NOTE: Authority cited: Sections 776, 777 and 778, Harbors and Navigation Code. Reference: Section 776, Harbors and Navigation Code.

2835. Installation Time.

Since the time necessary for the installation of pumpout facilities may vary, when the State Board requires a marine terminal to install a pumpout facility, an appropriate time schedule shall be included in the order.

NOTE: Authority cited: Sections 776, 777 and 778, Harbors and Navigations Code. Reference: Section 776, Harbors and Navigation Code.

FEDERAL INLAND NAVIGATION

RULES

Pursuant to Title 14, California Code of Regulations, Section 6600.1, the Federal Inland Navigation Rules have been incorporated by reference to California law.

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ANNEX 305

Public Law 96-591
96th Congress

An Act

To unify the rules for preventing collisions on the inland waters of the United States, and for other purposes.

Dec. 24, 1980
[H.R. 6671]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Inland Navigational Rules Act of 1980''.

Inland Navigational Rules Act 1980.
33 USC 2001 note.

SEC. 2. Inland Navigational Rules:

PART A—GENERAL

RULE 1

Application

(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.

33 USC 2001.

(b)(i) These Rules constitute special rules made by an appropriate authority within the meaning of Rule 1(b) of the International Regulations.

(ii) All vessels complying with the construction and equipment requirements of the International Regulations are considered to be in compliance with these Rules.

(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Secretary of the Navy with respect to additional station or signal lights and shapes or whistle signals for ships of war and vessels proceeding under convoy, or by the Secretary with respect to additional station or signal lights and shapes for fishing vessels engaged in fishing as a fleet. These additional station or signal lights and shapes or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light, shape, or signal authorized elsewhere under these Rules. Notice of such special rules shall be published in the Federal Register and, after the effective date specified in such notice, they shall have effect as if they were a part of these Rules.

(d) Traffic separation schemes may be established for the purpose of these Rules. Vessel traffic service regulations may be in effect in certain areas.

(e) Whenever the Secretary determines that a vessel or class of vessels of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, the vessel shall comply with such other provisions in regard to the number, position, range, or arc of visibility of lights or shapes, as

well as to the disposition and characteristics of sound-signaling appliances, as the Secretary shall have determined to be the closest possible compliance with these Rules. The Secretary may issue a certificate of alternative compliance for a vessel or class of vessels specifying the closest possible compliance with these Rules. The Secretary of the Navy shall make these determinations and issue certificates of alternative compliance for vessels of the Navy.

(f) The Secretary may accept a certificate of alternative compliance issued by a contracting party to the International Regulations if he determines that the alternative compliance standards of the contracting party are substantially the same as those of the United States.

RULE 2

Responsibility

33 USC 2002.

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

RULE 3

General Definitions

33 USC 2003.

For the purpose of these Rules and this Chapter, except where the context otherwise requires:

(a) The word ''vessel'' includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(b) The term ''power-driven vessel'' means any vessel propelled by machinery;

(c) The term ''sailing vessel'' means any vessel under sail provided that propelling machinery, if fitted, is not being used;

(d) The term ''vessel engaged in fishing'' means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability;

(e) The word ''seaplane'' includes any aircraft designed to maneuver on the water;

(f) The term ''vessel not under command'' means a vessel which through some exceptional circumstance is unable to maneuver as

required by these Rules and is therefore unable to keep out of the way of another vessel;

(g) The term ''vessel restricted in her ability to maneuver'' means a vessel which from the nature of her work is restricted in her ability to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

(i) a vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(ii) a vessel engaged in dredging, surveying, or underwater operations;

(iii) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(iv) a vessel engaged in the launching or recovery of aircraft;

(v) a vessel engaged in mineclearance operations; and

(vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The word ''underway'' means that a vessel is not at anchor, or made fast to the shore, or aground;

(i) The words ''length'' and ''breadth'' of a vessel mean her length overall and greatest breadth;

(j) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other;

(k) The term ''restricted visibility'' means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes;

(*l*) ''Western Rivers'' means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River.

(m) ''Great Lakes'' means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock;

(n) ''Secretary'' means the Secretary of the department in which the Coast Guard is operating;

(o) ''Inland Waters'' means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States and the waters of the Great Lakes on the United States side of the International Boundary;

(p) "Inland Rules" or "Rules" mean the Inland Navigational Rules and the annexes thereto, which govern the conduct of vessels and specify the lights, shapes, and sound signals that apply on inland waters; and

33 USC 1602 note.

(q) "International Regulations" means the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the Unites States.

PART B—STEERING AND SAILING RULES

SUBPART 1—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

RULE 4

Application

33 USC 2004.

Rules in this subpart apply in any condition of visibility.

RULE 5

Look-out

33 USC 2005.

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

RULE 6

Safe Speed

33 USC 2006.

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) the state of visibility;

(ii) the traffic density including concentration of fishing vessels or any other vessels;

(iii) the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) at night the presence of background light such as from shores lights or from back scatter of her own lights;

(v) the state of wind, sea, and current, and the proximity of navigational hazards;

(vi) the draft in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(i) the characteristics, efficiency and limitations of the radar equipment;

(ii) any constraints imposed by the radar range scale in use;

(iii) the effect on radar detection of the sea state, weather, and other sources of interference;

(iv) the possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) the number, location, and movement of vessels detected by radar; and

(vi) the more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

RULE 7

Risk of Collision

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist. 33 USC 2007.

(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change; and

(ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

RULE 8

Action To Avoid Collision

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship. 33 USC 2008.

(b) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.

RULE 9

Narrow Channels

33 USC 2009.

(a)(i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(ii) Notwithstanding paragraph (a)(i) and Rule 14(a), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e)(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound

the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

RULE 10

Vessel Traffic Services

Each vessel required by regulation to participate in a vessel traffic service shall comply with the applicable regulations. 33 USC 2010.

(a) This Rule applies to traffic separation schemes and does not relieve any vessel of her obligation under any other Rule.

(b) A vessel using a traffic separation scheme shall:

(i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

(ii) so far as practicable keep clear of a traffic separation line or separation zone;

(iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.

(c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.

(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than twenty meters in length, sailing vessels, and vessels engaged in fishing may use the inshore traffic zone.

(ii) Notwithstanding subparagraph (d)(i), a vessel may use an inshore traffic zone when en route to or from a port, offshore installation or structure, pilot station, or any other place situated within the inshore traffic zone, or to avoid immediate danger.

(e) A vessel other than a crossing vessel or a vessel joining or leaving a lane shall not normally enter a separation zone or cross a separation line except:

(i) in cases of emergency to avoid immediate danger; or

(ii) to engage in fishing within a separation zone.

(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

(j) A vessel of less than twenty meters in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

(k) A vessel restricted in her ability to maneuver when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

(*l*) A vessel restricted in her ability to maneuver when engaged in an operation for the laying, servicing, or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this Rule to the extent necessary to carry out the operation.

Subpart II—Conduct of Vessels in Sight of One Another

RULE 11

Application

33 USC 2011.

Rules in this subpart apply to vessels in sight of one another.

RULE 12

Sailing Vessels

33 USC 2012.

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward; and

(iii) if a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purpose of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

RULE 13

Overtaking

(a) Notwithstanding anything contained in Rules 4 through 18, any vessel overtaking any other shall keep out of the way of the vessel being overtaken. 33 USC 2013.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam; that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

RULE 14

Head-on Situation

(a) Unless otherwise agreed, when two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other. 33 USC 2014.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

RULE 15

Crossing Situation

(a) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel. 33 USC 2015.

(b) Notwithstanding paragraph (a), on the Great Lakes, Western Rivers, or water specified by the Secretary, a power-driven vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

RULE 16

Action by Give-Way Vessel

33 USC 2016. Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

RULE 17

Action by Stand-on Vessel

33 USC 2017. (a)(i) Where one of the two vessels is to keep out of the way, the other shall keep her course and speed.

(ii) The latter vessel may, however, take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with subparagraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

RULE 18

Responsibilities Between Vessels

33 USC 2018. Except where Rules 9, 10, and 13 otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

(i) a vessel not under command;

(ii) a vessel restricted in her ability to maneuver;

(iii) a vessel engaged in fishing; and

(iv) a sailing vessel.

(b) A sailing vessel underway shall keep out of the way of:

(i) a vessel not under command;

(ii) a vessel restricted in her ability to maneuver; and

(iii) a vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

(i) a vessel not under command; and

(ii) a vessel restricted in her ability to maneuver.

(d) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

Subpart III—Conduct of Vessels in Restricted Visibility

RULE 19

Conduct of Vessels in Restricted Visibility

(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility. 33 USC 2019.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with Rules 4 through 10.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(i) an alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken; and

(ii) an alteration of course toward a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk, of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on course. She shall if necessary take all her way off and, in any event, navigate with extreme caution until danger of collision is over.

PART C—LIGHTS AND SHAPES

RULE 20

Application

(a) Rules in this Part shall be complied with in all weathers. 33 USC 2020.

(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The Rules concerning shapes shall be complied with by day.

(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I of these Rules.

RULE 21

Definitions

33 USC 2021.

(a) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(b) "Sidelights" mean a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this Rule.

(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

(g) "Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

RULE 22

Visibility of Lights

33 USC 2022.

The lights prescribed in these Rules shall have an intensity as specified in Annex I to these Rules, so as to be visible at the following minimum ranges:

(a) In a vessel of 50 meters or more in length:

a masthead light, 6 miles;
a sidelight, 3 miles;
a sternlight, 3 miles;

a towing light, 3 miles;
a white, red, green, or yellow all-round light, 3 miles; and
a special flashing light, 2 miles.

(b) In a vessel of 12 meters or more in length but less than 50 meters in length:

a masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;
a sidelight, 2 miles;
a sternlight, 2 miles;
a towing light, 2 miles;
a white, red, green or yellow all-round light, 2 miles; and
a special flashing light, 2 miles.

(c) In a vessel of less than 12 meters in length:

a masthead light, 2 miles;
a sidelight, 1 mile;
a sternlight, 2 miles;
a towing light, 2 miles;
a white, red, green or yellow all-around light, 2 miles; and
a special flashing light, 2 miles.

(d) In an inconspicuous, partly submerged vessel or object being towed:

a white all-round light, 3 miles.

RULE 23

Power-Driven Vessels Underway

(a) A power-driven vessel underway shall exhibit: 33 USC 2023.

(i) a masthead light forward;

(ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so:

(iii) sidelights; and

(iv) a sternlight.

(b) An air-cushion vessel when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

(c) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

(d) A power-driven vessel when operating on the Great Lakes may carry an all-round white light in lieu of the second masthead light and sternlight prescribed in paragraph (a) of this Rule. The light shall be carried in the position of the second masthead light and be visible at the same minimum range.

RULE 24

Towing and Pushing

33 USC 2024.

(a) A power-driven vessel when towing astern shall exhibit:

(i) instead of the light prescribed either in Rule 23 (a)(i) or 23(a)(ii), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

(ii) sidelights;

(iii) a sternlight;

(iv) a towing light in a vertical line above the sternlight; and

(v) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.

(c) A power-driven vessel when pushing ahead or towing alongside, except as required by paragraphs (b) and (i) of this Rule, shall exhibit:

(i) instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii), two masthead lights in a vertical line;

(ii) sidelights; and

(iii) two towing lights in a vertical line.

(d) A power-driven vessel to which paragraphs (a) or (c) of this Rule apply shall also comply with Rule 23(a)(i) and 23(a)(ii).

(e) A vessel or object other than those referred to in paragraph (g) of this Rule being towed shall exhibit:

(i) sidelights;

(ii) a sternlight; and

(iii) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

(g) An inconspicuous, partly submerged vessel or object being towed shall exhibit:

(i) if it is less than 25 meters in breadth, one all-round white light at or near each end;

(ii) if it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

(iii) if it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in subparagraphs (i) and (ii) so that the distance between the lights shall not exceed 100 meters: *Provided,* That any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

(iv) a diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

(v) the towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(i) Notwithstanding paragraph (c), on the Western Rivers and on waters specified by the Secretary, a power-driven vessel when pushing ahead or towing alongside, except as paragraph (b) applies, shall exhibit:

(i) sidelights; and

(ii) two towing lights in a vertical line.

(j) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized by Rule 36 may be used to illuminate the tow.

RULE 25

Sailing Vessels Underway and Vessels Under Oars

(a) A sailing vessel underway shall exhibit: 33 USC 2025.

(i) sidelights; and

(ii) a sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at our near the top of the mast where it can best be seen.

(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights

shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.

(d)(i) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

RULE 26

Fishing Vessels

33 USC 2026.

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.

(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(c) A vessel engaged in fishing, other than trawling, shall exhibit:

(i) two all-around lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(ii) when there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(d) A vessel engaged in fishing in close proximity to other vessels engaged in fishing may exhibit the additional signals described in Annex II to these Rules.

(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

RULE 27

Vessels Not Under Command or Restricted in Their Ability To Maneuver

(a) A vessel not under command shall exhibit: 33 USC 2027.

(i) two all-round red lights in a vertical line where they can best be seen;

(ii) two balls or similar shapes in a vertical line where they can best be seen; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to maneuver, except a vessel engaged in minesweeping operations, shall exhibit:

(i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(iii) when making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (b)(i); and

(iv) when at anchor, in addition to the lights or shapes prescribed in subparagraphs (b)(i) and (ii), the light, lights or shapes prescribed in Rule 30.

(c) A vessel engaged in a towing operation which severely restricts the towing vessel and her tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24.

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in subparagraphs (b) (i), (ii), and (iii) of this Rule and shall in addition, when an obstruction exists, exhibit:

(i) two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(ii) two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and

(iii) when at anchor, the lights or shape prescribed by this paragraph, instead of the lights or shapes prescribed in Rule 30 for anchored vessels.

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in paragraph (d) of this Rule, the following shall instead be exhibited:

(i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white.

(ii) A rigid replica of the international Code flag "A" not less than 1 meter in height. Measures shall be taken to insure its all-round visibility.

(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.

(g) A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this Rule.

(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Rules.

33 USC 2028.

RULE 28

[Reserved]

RULE 29

Pilot Vessels

33 USC 2029.

(a) A vessel engaged on pilotage duty shall exhibit:

(i) at or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(ii) when underway, in addition, sidelights and a sternlight; and

(iii) when at anchor, in addition to the lights prescribed in subparagraph (i), the anchor light, lights, or shape prescribed in Rule 30 for anchored vessels.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of her length.

RULE 30

Anchored Vessels and Vessels Aground

33 USC 2030.

(a) A vessel at anchor shall exhibit where it can best be seen:

(i) in the fore part, an all-round white light or one ball; and

(ii) at or near the stern and at a lower level than the light prescribed in subparagraph (i), an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, if practicable, where they can best be seen:

(i) two all-round red lights in a vertical line; and

(ii) three balls in a vertical line.

(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

(f) A vessel of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in subparagraphs (d)(i) and (ii) of this Rule.

(g) A vessel of less than 20 meters in length, when at anchor in a special anchorage area designated by the Secretary, shall not be required to exhibit the anchor lights and shapes required by this Rule.

RULE 31

Seaplanes

Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible. 33 USC 2031.

PART D—SOUND AND LIGHT SIGNALS

RULE 32

Definitions

(a) The word ''whistle'' means any sound signaling appliance capable of producing the prescribed blasts and which complies with specifications in Annex III to these Rules. 33 USC 2032.

(b) The term ''short blast'' means a blast of about 1 second's duration.

(c) The term ''prolonged blast'' means a blast of from 4 to 6 seconds' duration.

RULE 33

Equipment for Sound Signals

(a) A vessel of 12 meters or more in length shall be provided with a whistle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Rules. The bell or gong or both may be replaced by other equipment 33 USC 2033.

having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

RULE 34

Maneuvering and Warning Signals

33 USC 2034.

(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these Rules:

(i) shall indicate that maneuver by the following signals on her whistle: one short blast to mean ''I intend to leave you on my port side''; two short blasts to mean ''I intend to leave you on my starboard side''; and three short blasts to mean ''I am operating astern propulsion''.

(ii) upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this Rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals:

(i) These signals shall have the following significance: one flash to mean ''I intend to leave you on my port side''; two flashes to mean ''I intend to leave you on my starboard side''; three flashes to mean ''I am operating astern propulsion'';

(ii) The duration of each flash shall be about 1 second; and

(iii) The light used for this signal shall, if fitted, be one all-round white or yellow light, visible at a minimum range of 2 miles, synchronized with the whistle, and shall comply with the provisions of Annex I to these Rules.

(c) When in sight of one another:

(i) a power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle: one short blast to mean ''I intend to overtake you on your starboard side''; two short blasts to mean ''I intend to overtake you on your port side''; and

(ii) the power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d).

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the

intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(g) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

RULE 35

Sound Signals in Restricted Visibility

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows: 33 USC 2035.

(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

(b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

(c) A vessel not under command; a vessel restricted in her ability to maneuver, whether underway or at anchor; a sailing vessel; a vessel engaged in fishing, whether underway or at anchor; and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes, three blasts in succession; namely, one prolonged followed by two short blasts.

(d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession; namely, one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a

power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

(f) A vessel at anchor shall at intervals of not more than 1 minute ring the bell rapidly for about 5 seconds. In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession; namely, one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(h) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

(j) The following vessels shall not be required to sound signals as prescribed in paragraph (f) of this Rule when anchored in a special anchorage area designated by the Secretary:

(i) a vessel of less than 20 meters in length; and

(ii) a barge, canal boat, scow, or other nondescript craft.

RULE 36

Signals to Attract Attention

33 USC 2036.

If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

RULE 37

Distress Signals

33 USC 2037.

When a vessel is in distress and requires assistance she shall use or exhibit the signals described in Annex IV to these Rules.

PART E—EXEMPTIONS

RULE 38

Exemptions

Any vessel or class of vessels, the keel of which is laid or which is at a corresponding stage of construction before the date of enactment of this Act, provided that she complies with the requirements of— 33 USC 2038.

(a) The Act of June 7, 1897 (30 Stat. 96), as amended (33 U.S.C. 154–232) for vessels navigating the waters subject to that statute;

(b) Section 4233 of the Revised Statutes (33 U.S.C. 301–356) for vessels navigating the waters subject to that statute;

(c) The Act of February 8, 1895 (28 Stat. 645), as amended (33 U.S.C. 241–295) for vessels navigating the waters subject to that statute; or

(d) Sections 3, 4, and 5 of the Act of April 25, 1940 (54 Stat. 163), as amended (46 U.S.C. 526 b, c, and d) for motorboats navigating the waters subject to that statute; shall be exempted from compliance with the technical Annexes to these Rules as follows:

(i) the installation of lights with ranges prescribed in Rule 22, until 4 years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;

(ii) the installation of lights with color specifications as prescribed in Annex I to these Rules, until 4 years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;

(iii) the repositioning of lights as a result of conversion to metric units and rounding off measurement figures, are permanently exempt; and

(iv) the horizontal repositioning of masthead lights prescribed by Annex I to these Rules:

(1) on vessels of less than 150 meters in length, permanent exemption.

(2) on vessels of 150 meters or more in length, until 9 years after the effective date of these Rules.

(v) the restructuring or repositioning of all lights to meet the prescriptions of Annex I to these Rules, until 9 years after the effective date of these Rules;

(vi) power-driven vessels of 12 meters or more but less than 20 meters in length are permanently exempt from the provisions of Rule 23(a)(i) and 23(a)(iv) provided that, in place of these lights, the vessel exhibits a white light aft visible all round the horizon; and

(vii) the requirements for sound signal appliances prescribed in Annex III to these Rules, until 9 years after the effective date of these Rules.

Regulations.
33 USC 2071.

SEC. 3. The Secretary may issue regulations necessary to implement and interpret this Act. The Secretary shall establish the following technical annexes to these Rules: Annex I, Positioning and Technical Details of Lights and Shapes; Annex II, Additional Signals for Fishing Vessels Fishing in Close Proximity; Annex III, Technical Details of Sound Appliances; and Annex IV, Distress Signals. These annexes shall be as consistent as possible with the respective annexes to the International Regulations. The Secretary may establish other technical annexes, including local pilot rules.

Violations.
33 USC 2072.

SEC. 4. (a) Whoever operates a vessel in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than $5,000 for each violation.

Civil penalties.

(b) Every vessel subject to this Act, other than a public vessel being used for noncommercial purposes, that is operated in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than $5,000 for each violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which the vessel may be found.

(c) The Secretary may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(d) The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91) of any vessel the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

TITLE 33 CODE OF FEDERAL REGULATIONS

SUBCHAPTER E—INLAND NAVIGATION RULES

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

Sec.
84.01 Definitions.
84.03 Vertical positioning and spacing of lights.
84.05 Horizontal positioning and spacing of lights.
84.07 Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations.
84.09 Screens
84.11 Shapes.
84.13 Color specification of lights.
84.15 Intensity of lights.
84.17 Horizontal sectors.
84.19 Vertical sectors.
84.21 Intensity of non-electric lights.
84.23 Maneuvering light.
84.25 Approval. [Reserved]

AUTHORITY: 33 U.S.C. 2071; 49 CFR 1.46.

SOURCE: CGD 81-008, 46 FR 62447, Dec. 24, 1981, unless otherwise noted.

§ 84.01 Definitions.

(a) The term ''height above the hull'' means height above the uppermost continuous deck. This height shall be measured from the position vertically beneath the location of the light.

(b) High-speed craft means a craft capable of maximum speed in meters per second (m/s) equal to or exceeding: 3.7 (inverted delta) super0.1667; where (inverted delta) = displacement corresponding to the design waterline (meters sub3).

Note to paragraph (b): The same formula expressed in pounds and knots is maximum speed in knots (kts) equal to exceeding 1.98 (lbs) (inverted delta) super0.1667; where (inverted delta) = displacement corresponding to design waterline in pounds.

(c) The term ''practical cut-off'' means, for vessels 20 meters or more in length, 12.5 percent of the minimum luminous intensity (Table 84.15(b)) corresponding to the greatest range of visibility for which the requirements of Annex I are met.

(d) The term ''Rule'' or ''Rules'' means the Inland Navigation Rules contained in sec. 2 of the Inland Navigational Rules Act of 1980 (Pub. L. 96-591, 94 Stat. 3415, 33 U.S.C. 2001, December 24, 1980) as amended.

§ 84.03 Vertical positioning and spacing of lights.

(a) On a power-driven vessel of 20 meters or more in length the masthead lights shall be placed as follows:

(1) The forward masthead light, or if only one masthead light is carried, then that light, at a height above the hull of not less than 5 meters, and, if the breadth of the vessel exceeds 5 meters, and, if the breadth of the vessel exceeds 5 meters, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 8 meters;

(2) When two masthead lights are carried the after one shall be at least 2 meters vertically higher than the forward one.

(b) The vertical separation of the masthead lights of power-driven vessels shall be such that in all normal conditions of trim the after light will be seen over and separate from the forward light at a distance of 1000 meters from the stem when viewed from water level.

(c) The masthead light of a power-driven vessel of 12 meters but less than 20 meters in length shall be placed at a height above the gunwale of not less than 2.5 meters.

(d) The masthead light, or the all-round light described in Rule 23(c), of a power-driven vessel of less than 12 meters in length shall be carried at least one meter higher than the sidelights.

(e) One of the two or three masthead lights prescribed for a power-driven vessel when engaged in towing or pushing another vessel shall be placed in the same

position as either the forward masthead light or the after masthead light, provided that the lowest after masthead light shall be at least 2 meters vertically higher than the highest forward masthead light.

(f)(1) The masthead light or lights prescribed in Rule 23(a) shall be so placed as to be above and clear of all other lights and obstructions except as described in paragraph (f)(2) of this section.

(2) When it is impracticable to carry the all-round lights prescribed in Rule 27(b)(i) below the masthead lights, they may be carried above the after masthead light(s) or vertically in between the forward masthead light(s) and after masthead light(s), provided that in the latter case the requirement of § 84.05(d) shall be complied with.

(g) The sidelights of a power-driven vessel shall be placed at least one meter lower than the forward masthead light. They shall not be so low as to be interfered with by deck lights.

(h) [Reserved]

(i) When the rules prescribe two or three lights to be carried in a vertical line, they shall be spaced as follows:

(1) On a vessel of 20 meters in length or more such lights shall be spaced not less than 1 meter apart, and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 4 meters above the hull;

(2) On a vessel of less than 20 meters in length such lights shall be spaced not less than 1 meter apart and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 2 meters above the gunwale;

(3) When three lights are carried they shall be equally spaced.

(j) The lower of the two all-round lights prescribed for a vessel when engaged in fishing shall be a height above the sidelights not less than twice the distance between the two vertical lights.

(k) The forward anchor light prescribed in Rule 30(a)(i), when two are carried, shall not be less than 4.5 meters above the after one. On a vessel of 50 meters or more in length this forward anchor light shall be placed at a height of not less than 6 meters above the hull.

[CGD 81-008, 46 FR 62447, Dec. 24, 1981, as amended by CGD 89-024, 55 FR 3947, Feb. 6, 1990]

§ 84.05 Horizontal positioning and spacing of lights.

(a) Except as specified in paragraph (e) of this section, when two masthead lights are prescribed for a power-driven vessel, the horizontal distance between them shall not be less than one quarter of the length of the vessel but need not be more than 50 meters. The forward light shall be placed not more than one half of the length of the vessel from the stem.

(b) On a power-driven vessel of 20 meters or more in length the sidelights shall not be placed in front of the forward masthead lights. They shall be placed at or near the side of the vessel.

(c) When the lights prescribed in Rule 27(b)(i) are placed vertically between the forward masthead light(s) and the after masthead light(s) these all-round lights shall be placed at a horizontal distance of not less than 2 meters from the fore and aft centerline of the vessel in the athwartship direction.

(d) When only one masthead light is prescribed for a power-driven vessel, this light must be exhibited forward of amidships. For a vessel of less than 20 meters in length, the vessel shall exhibit one masthead light as far forward as is practicable.

(e) On a power-driven vessel 20 meters but less than 60 meters in length operated on the Western Rivers, and those waters specified in § 89.25, the horizontal distance between masthead lights shall not be less than 10 meters.

[CGD 81-008, 46 FR 62447, Dec. 24, 1981, as amended by CGD 88-07, 53 FR 10533, April 1, 1988]

§ 84.07 Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations.

(a) The light indicating the direction of the outlying gear from a vessel engaged in fishing as prescribed in Rule 26(c)(ii) shall be placed at a horizontal distance of not less than 2 meters and not more than 6 meters away from the two all-round red and white lights. This light shall be placed not higher than the all-round white light prescribed in Rule 26(c)(i) and not lower than the sidelights.

(b) The lights and shapes on a vessel engaged in dredging or underwater operations to indicate the obstructed side and/or the side on which it is safe to pass, as prescribed in Rule 27(d)(i) and (ii), shall be placed at the maximum practical horizontal distance, but in no case less than 2 meters, from the lights or shapes prescribed in Rule 27(b)(i) and (ii). In no case shall the upper of these lights or shapes be at a greater height than the lower of the three lights or shapes prescribed in Rule 27(b)(i) and (ii).

§ 84.09 Screens.

(a) The sidelights of vessels of 20 meters or more in length shall be fitted with mat black inboard screens and meet the requirements of § 84.17. On vessels of less than 20 meters in length, the sidelights, if necessary to meet the requirements of § 84.17, shall be fitted with mat black inboard screens. With a combined lantern, using a single vertical filament and a very narrow division between the green and red sections, external screens need not be fitted.

(b) On power-driven vessels less than 12 meters in length constructed after July 31, 1983, the masthead light, or the all-round light described in Rule 23(c) shall be screened to prevent direct illumination of the vessel forward of the operator's position.

§ 84.11 Shapes.

(a) Shapes shall be black and of the following sizes:

(1) A ball shall have a diameter of not less than 0.6 meter;

(2) A cone shall have a base diameter of not less than 0.6 meter and a height equal to its diameter;

(3) A diamond shape shall consist of two cones (as defined in paragraph (a)(2) of this section) having a common base.

(b) The vertical distance between shapes shall be at least 1.5 meter.

(c) In a vessel of less than 20 meters in length shapes of lesser dimensions but commensurate with the size of the vessel may be used and the distance apart may be correspondingly reduced.

§ 84.13 Color specification of lights.

(a) The chromaticity of all navigation lights shall conform to the following standards, which lie within the boundaries of the area of the diagram specified for each color by the International Commission on Illumination (CIE), in the "Colors of Light Signals", which is incorporated by reference. It is Publication CIE No. 2.2. (TC-1.6), 1975, and is available from the Illumination Engineering Society, 345 East 47th Street, New York, NY 10017. It is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street N.W., Washington, DC 20408. This incorporation by reference was approved by the Director of the Federal Register.

(b) The boundaries of the area for each color are given by indicating the corner co-ordinates, which are as follows:

(1) *White:*

x	0.525	0.525	0.452	0.310	0.310	0.443
y	0.382	0.440	0.440	0.348	0.283	0.382

(2) *Green:*

x	0.028	0.009	0.300	0.203
y	0.385	0.723	0.511	0.356

(3) *Red:*

x	0.680	0.660	0.735	0.721
y	0.320	0.320	0.265	0.259

(4) *Yellow:*

x	0.612	0.618	0.575	0.575
y	0.382	0.382	0.425	0.406

§ 84.15 Intensity of lights.

(a) The minimum luminous intensity of lights shall be calculated by using the formula:

$I = 3.43 \times 10^6 \times T \times D^2 \times K^{-D}$

where I is luminous intensity in candelas under service conditions,

T is threshold factor 2×10^{-7} lux,

D is range of visibility (luminous range) of the light in nautical miles,

K is atmospheric transmissivity. For prescribed lights the value of K shall be 0.8, corresponding to a meteorological visibility of approximately 13 nautical miles.

(b) A selection of figures derived from the formula is given in Table 84.15(b):

TABLE 84.15(b)

Range of visibility (luminous range) of light in nautical miles D	Minimum luminous intensity of light in candelas for K=0.8 I
1	0.9
2	4.3
3	12
4	27
5	52
6	94

§ 84.17 Horizontal sectors.

(a)(1) In the forward direction, sidelights as fitted on the vessel shall show the minimum required intensities. The intensities shall decrease to reach practical cut-off between 1 and 3 degrees outside the prescribed sectors.

(2) For sternlights and masthead lights and at 22.5 degrees abaft the beam for sidelights, the minimum required intensities shall be maintained over the arc of the horizon up to 5 degrees within the limits of the sectors prescribed in Rule 21. From 5 degrees within the prescribed sectors the intensity may decrease by 50 percent up to the prescribed limits; it shall decrease steadily to reach practical cutoff at not more than 5 degrees outside the prescribed sectors.

(b) All-round lights shall be so located as not to be obscured by masts, topmasts or structures within angular sectors of more than 6 degrees, except anchor lights prescribed in Rule 30, which need not be placed at an impracticable height above the hull, and the all-round white light described in Rule 23(d), which may not be obscured at all.

(c) If it is impracticable to comply with paragraph (b) of this section by exhibiting only one all-round light, two all-round lights shall be used suitably positioned or screened to appear, as far as practicable, as one light at a minimum distance of one nautical mile.

Note to paragraph (c): Two unscreened all-round lights that are 1.28 meters apart or less will appear as one light to the naked eye at a distance of one nautical mile.

§ 84.19 Vertical sectors.

(a) The vertical sectors of electric lights as fitted, with the exception of lights on sailing vessels underway and on unmanned barges, shall ensure that:

(1) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(2) At least 60 percent of the required minimum intensity is maintained from 7.5 degrees above to 7.5 degrees below the horizontal.

(b) In the case of sailing vessels underway the vertical sectors of electric lights as fitted shall ensure that:

(1) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(2) At least 50 percent of the required minimum intensity is maintained from 25 degrees above to 25 degrees below the horizontal.

(c) In the case of unmanned barges the minimum required intensity of electric lights as fitted shall be maintained on the horizontal.

(d) In the case of lights other than electric lights these specifications shall be met as closely as possible.

[CGD 81-008, 46 FR 62447, Dec. 24, 1981, as amended by CGD 89-024, 55 FR 3947, Feb. 6, 1990]

§ 84.21 Intensity of non-electric lights.

Non-electric lights shall so far as practicable comply with the minimum intensities, as specified in the Table given in § 84.15.

§ 84.23 Maneuvering light.

Notwithstanding the provisions of § 84.03(f), the maneuvering light described in Rule 34(b) shall be placed approximately in the same fore and aft vertical plane as the masthead light or lights and, where practicable, at a minimum height of one-half meter vertically above the forward masthead light, provided that it shall be carried not less than one-half meter vertically above or below the after masthead light. On a vessel where only one masthead light is carried the maneuvering light, if fitted, shall be carried where it can best be seen, not less than one-half meter vertically apart from the masthead light.

§ 84.25 Approval. [Reserved]

PART 85—ANNEX II: ADDITIONAL SIGNALS FOR FISHING VESSELS FISHING IN CLOSE PROXIMITY

Sec.
85.1 General.
85.3 Signals for trawlers.
85.5 Signals for purse seiners.

AUTHORITY: Sec. 3, Pub. L. 96-591; 49 CFR 1.46(n)(14).

SOURCE: CGD 81-006, 46 FR 61845, Dec. 21, 1981, unless otherwise noted.

§ 85.1 General.

The lights mentioned herein shall, if exhibited in pursuance of Rule 26(d), be placed where they can best be seen. They shall be at least 0.9 meter apart but at a lower level than lights prescribed in Rule 26(b)(i) and (c)(i) contained in the Inland Navigational Rules Act of 1980, as amended (33 U.S.C. 2001 et seq.). The lights shall be visible all around the horizon at a distance of at least 1 mile but at a lesser distance from the lights prescribed by these Rules for fishing vessels.

§ 85.3 Signals for trawlers.

(a) Vessels when engaged in trawling, whether using demersal or pelagic gear, may exhibit:

(1) When shooting their nets: two white lights in a vertical line;

(2) When hauling their nets: one white light over one red light in a vertical line;

(3) When the net has come fast upon an obstruction: two red lights in a vertical line.

(b) Each vessel engaged in pair trawling may exhibit:

(1) By night, a searchlight directed forward and in the direction of the other vessel of the pair;

(2) When shooting or hauling their nets or when their nets have come fast upon an obstruction, the lights prescribed in paragraph (a) of this section.

§ 85.5 Signals for purse seiners.

Vessels engaged in fishing with purse seine gear may exhibit two yellow lights in a vertical line. These lights shall flash alternately every second and with equal light and occultation duration. These lights may be exhibited only when the vessel is hampered by its fishing gear.

PART 86—ANNEX III: TECHNICAL DETAILS OF SOUND SIGNAL APPLIANCES

Subpart A—Whistles

Sec.
86.01 Frequencies and range of audibility.
86.03 Limits of fundamental frequencies.
86.05 Sound signal intensity and range of audibility.
86.07 Directional properties.
86.09 Positioning of whistles.
86.11 Fitting of more than one whistle.
86.13 Combined whistle systems.
86.15 Towing vessel whistles.

Subpart B—Bell or Gong

86.21 Intensity of signal.
86.23 Construction.

Subpart C—Approval

86.31 Approval. [Reserved]

AUTHORITY: Sec. 3, Pub. L. 96-591; 49 CFR 1.46(n)(14).

SOURCE: CGD 81-009, 46 FR 61848, Dec. 21, 1981, unless otherwise noted.

Subpart A—Whistles

§ 86.01 Frequencies and range of audibility.

The fundamental frequency of the signal shall lie within the range 70–525 Hz. The range of audibility of the signal from a whistle shall be determined by those frequencies, which may include the fundamental and/or one or more higher frequencies, which lie within the frequency ranges and provide the sound pressure levels specified in § 86.05.

§ 86.03 Limits of fundamental frequencies.

To ensure a wide variety of whistle characteristics, the fundamental frequency of a whistle shall be between the following limits:

(a) 70–200 Hz, for a vessel 200 meters or more in length;

(b) 130–350 Hz, for a vessel 75 meters but less than 200 meters in length;

(c) 250–525 Hz, for a vessel less than 75 meters in length.

§ 86.05 Sound signal intensity and range of audibility.

A whistle on a vessel shall provide, in the direction of the forward axis of the whistle and at a distance of 1 meter from it, a sound pressure level in at least one ⅓-octave band of not less than the appropriate figure given in Table 86.05 within the following frequency ranges (±1 percent):

(a) 130–1200 Hz, for a vessel 75 meters or more in length;

(b) 250–1600 Hz, for a vessel 20 meters but less than 75 meters in length;

(c) 250–2100 Hz, for a vessel 12 meters but less than 20 meters in length.

TABLE 86.05

Length of vessel in meters	Fundamental frequency range (Hz)	For measured frequencies (Hz)	⅓-octave band level at 1 meter in dB referred to 2×10^{-5}N/m^2	Audibility range in nautical miles
	.....	130–180	145	
200 or more	70–200	180–250	143	2
		250–1200	140	
		130–180	140	
75 but less than 200	130–350	180–250	138	1.5
		250–1200	134	
		250–450	130	
20 but less than 75	250–525	450–800	125	1.0
		800–1600	121	
		250–450	120	
12 but less than 20	250–525	450–800	115	0.5
		800–2100	111	

NOTE. The range of audibility in the table above is for information and is approximately the range at which a whistle may usually be heard on its forward axis in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centered on 250 Hz and 63 dB in the octave band centered on 500 Hz).

In practice the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listing post the range may be much reduced.

§ 86.07 Directional properties.

The sound pressure level of a directional whistle shall be not more than 4 dB below the sound pressure level specified in § 86.05 in any direction in the horizontal plane within ±45 degrees of the forward axis. The sound pressure level of the whistle in any other direction in the horizontal plane shall not be more than 10 dB less than the sound pressure level specified for the forward axis, so that the range of audibility in any direction will be at least half the range required on the forward axis. The sound pressure level shall be measured in that one-third octave band which determines the audibility range.

§ 86.09 Positioning of whistles.

(a) When a directional whistle is to be used as the only whistle on the vessel and is permanently installed, it shall be installed with its forward axis directed forward.

(b) A whistle shall be placed as high as practicable on a vessel, in order to reduce interception of the emitted sound by obstructions and also to minimize hearing damage risk to personnel. The sound pressure level of the vessel's own signal at listening posts shall not exceed 110 dB(A) and so far as practicable should not exceed 100 dB(A).

§ 86.11 Fitting of more than one whistle.

If whistles are fitted at a distance apart of more than 100 meters, they shall not be sounded simultaneously.

§ 86.13 Combined whistle systems.

(a) A combined whistle system is a number of whistles (sound emitting sources) operated together. For the pur-

poses of the Rules a combined whistle system is to be regarded as a single whistle.

(b) The whistles of a combined system shall:

(1) Be located at a distance apart of not more than 100 meters,

(2) Be sounded simultaneously,

(3) Each have a fundamental frequency different from those of the others by at least 10 Hz, and

(4) Have a tonal characteristic appropriate for the length of vessel which shall be evidenced by at least two-thirds of the whistles in the combined system having fundamental frequencies falling within the limits prescribed in § 86.03, or if there are only two whistles in the combined system, by the higher fundamental frequency falling within the limits prescribed in § 86.03.

NOTE: If due to the presence of obstructions the sound field of a single whistle or of one of the whistles referred to in § 86.11 is likely to have a zone of greatly reduced signal level, a combined whistle system should be fitted so as to overcome this reduction.

§ 86.15 Towing vessel whistles.

A power-driven vessel normally engaged in pushing ahead or towing alongside may, at all times, use a whistle whose characteristic falls within the limits prescribed by § 86.03 for the longest customary composite length of the vessel and its tow.

Subpart B—Bell or Gong

§ 86.21 Intensity of signal.

A bell or gong, or other device having similar sound characteristics shall produce a sound pressure level of not less than 110 dB at 1 meter.

§ 86.23 Construction.

Bells and gongs shall be made of corrosion-resistant material and designed to give a clear tone. The diameter of the mouth of the bell shall be not less than 300 mm for vessels of more than 20 meters in length, and shall be not less than 200 mm for vessels of 12 to 20 meters in length. The mass of the striker shall be not less than 3 percent of the mass of the bell. The striker shall be capable of manual operation. Note: When practicable, a power-driven bell striker is recommended to ensure constant force.

Subpart C—Approval

§ 86.31 Approval. [Reserved]

PART 87—ANNEX IV: DISTRESS SIGNALS

Sec.
87.1 Need of assistance.
87.3 Exclusive use.
87.5 Supplemental signals.

AUTHORITY: 33 U.S.C. 2071; 49 CFR 1.46.

§ 87.1 Need of assistance.

The following signals, used or exhibited either together or separately, indicate distress and need of assistance:

(a) A gun or other explosive signal fired at intervals of about a minute.

(b) A continuous sounding with any fog-signaling apparatus;

(c) Rockets or shells, throwing red stars fired one at a time at short intervals;

(d) A signal made by radiotelegraphy or by any other signaling method consisting of the group . . . — — — . . . (SOS) in the Morse Code;

(e) A signal sent by radiotelephony consisting of the spoken word "Mayday";

(f) The International Code Signal of distress indicated by N.C.

(g) A signal consisting of a square flag having above or below it a ball or anything resembling a ball;

(h) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.);

(i) A rocket parachute flare or a hand flare showing a red light;

(j) A smoke signal giving off orange-colored smoke;

(k) Slowly and repeatedly raising and lowering arms outstretched to each side;

(*l*) The radiotelegraph alarm signal;

(m) The radiotelephone alarm signal;

(n) Signals transmitted by emergency position-indicating radio beacons;

(o) Signals transmitted by radiocommunication systems, including survival craft radar transponders meeting the requirements of 47 CFR 80.1095.

(p) A high intensity white light flashing at regular intervals from 50 to 70 times per minute.

[CGD 81-007, 47 FR 16174, Apr. 15, 1982, as amended by CGD 89-024, 55 FR 3947, Feb. 6, 1990]

§ 87.3 Exclusive use.

The use or exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

[CGD 81-007, 47 FR 16174, Apr. 15, 1982]

§ 87.5 Supplemental signals.

Attention is drawn to the relevant sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual, the International Telecommunication Union Radio Regulations and the following signals:

(a) A piece of orange-colored canvas with either a black square and circle or other appropriate symbol (for identification from the air);

(b) A dye marker.

[CGD 81-007, 47 FR 16174, Apr. 15, 1982, as amended by CGD 89-024, 55 FR 3947, Feb. 6, 1990]

PART 88—ANNEX V: PILOT RULES

Sec.
88.01 Purpose and applicability.
88.03 Definitions.
88.05 Copy of rules.
88.09 Temporary exemption from light and shape requirements when operating under bridges.
88.11 Law enforcement vessels.
88.13 Lights on barges at bank or dock.
88.15 Lights on dredge pipelines.

AUTHORITY: Sec. 3, Pub. L. 96-591 (33 U.S.C. 2071); 49 CFR 1.46(n)(14).

SOURCE: CGD 80-158, 47 FR 16175, Apr. 15, 1982, unless otherwise noted.

§ 88.01 Purpose and applicability.

This part applies to all vessels operating on United States inland waters and to United States vessels operating on the Canadian waters of the Great Lakes to the extent there is no conflict with Canadian law.

§ 88.03 Definitions.

The terms used in this part have the same meaning as defined in the Inland Navigational Rules Act of 1980.

§ 88.05 Copy of rules.

After January 1, 1983, the operator of each self-propelled vessel 12 meters or more in length shall carry on board and maintain for ready reference a copy of the Inland Navigation Rules.

§ 88.09 Temporary exemption from light and shape requirements when operating under bridges.

A vessel's navigation lights and shapes may be lowered if necessary to pass under a bridge.

§ 88.11 Law enforcement vessels.

(a) Law enforcement vessels may display a flashing blue light when engaged in direct law enforcement or public safety activities. This light must be located so that it does not interfere with the visibility of the vessel's navigation lights.

(b) The blue light described in this section may be displayed by law enforcement vessels of the United States and their political subdivisions.

§ 88.12 Public Safety Activities.

(a) Vessels engaged in government sanctioned public safety activities, and commercial vessels performing similar functions, may display an alternately flashing red and yellow light signal. This identification light signal must be located so that it does not interfere with the visibility of the vessel's navigation lights. The identification light signal may be used only as an identification signal and conveys no special privilege. Vessels using the identification light signal during

public safety activities must abide by the Inland Navigation Rules, and must not presume that the light or the exigency gives them precedence or right of way.

(b) Public safety activities include but are not limited to patrolling marine parades, regattas, or special water celebrations; traffic control; salvage; firefighting; medical assistance; assisting disabled vessels; and search and rescue.

§ 88.13 Lights on barges at bank or dock.

(a) The following barges shall display at night and if practicable in periods of restricted visibility the lights described in paragraph (b) of this section:

(1) Every barge projecting into a buoyed or restricted channel.

(2) Every barge so moored that it reduces the available navigable width of any channel to less than 80 meters.

(3) Barges moored in groups more than two barges wide or to a maximum width of over 25 meters.

(4) Every barge not moored parallel to the bank or dock.

(b) Barges described in paragraph (a) of this section shall carry two unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile and meeting the technical requirements as prescribed in § 84.15 of this chapter.

(c) A barge or group of barges at anchor or made fast to one or more mooring buoys or other similar device, in lieu of the provisions of Inland Navigation Rule 30, may carry unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile that meet the requirements of § 84.15 of this chapter and shall be arranged as follows:

(1) Any barge that projects from a group formation, shall be lighted on its outboard corners.

(2) On a single barge moored in water where other vessels normally navigate on both sides of the barge, lights shall be placed to mark the corner extremities of the barge.

(3) On barges moored in group formation, moored in water where other vessels normally navigate on both sides of the group, lights shall be placed to mark the corner extremities of the group.

(d) The following are exempt from the requirements of this section:

(1) A barge or group of barges moored in a slip or slough used primarily for mooring purposes.

(2) A barge or group of barges moored behind a pierhead.

(3) A barge less than 20 meters in length when moored in a special anchorage area designated in accordance with § 109.10 of this chapter.

(e) Barges moored in well-illuminated areas are exempt from the lighting requirements of this section. These areas are as follows:

Chicago Sanitary Ship Canal

(1) Mile 293.2 to 293.9
(3) Mile 295.2 to 296.1
(5) Mile 297.5 to 297.8
(7) Mile 298 to 298.2
(9) Mile 298.6 to 298.8
(11) Mile 299.3 to 299.4
(13) Mile 299.8 to 300.5
(15) Mile 303 to 303.2
(17) Mile 303.7 to 303.9
(19) Mile 305.7 to 305.8
(21) Mile 310.7 to 310.9
(23) Mile 311 to 311.2
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(45) Mile 320 to 320.3
(47) Mile 320.6
(49) Mile 322.3 to 322.4
(51) Mile 322.8
(53) Mile 322.9 to 327.2

Calumet Sag Channel

(61) Mile 316.5

LITTLE CALUMET RIVER

(71) Mile 321.2
(73) Mile 322.3

CALUMET RIVER

(81) Mile 328.5 to 328.7
(83) Mile 329.2 to 329.4
(85) Mile 330 west bank to 330.2
(87) Mile 331.4 to 331.6
(89) Mile 332.2 to 332.4
(91) Mile 332.6 to 332.8

CUMBERLAND RIVER

(101) Mile 126.8
(103) Mile 191

§ 88.15 Lights on dredge pipelines.

Dredge pipelines that are floating or supported on trestles shall display the following lights at night and in periods of restricted visibility.

(a) One row of yellow lights. The lights must be:

(1) Flashing 50 to 70 times per minute,

(2) Visible all around the horizon,

(3) Visible for at least 2 miles on a clear dark night,

(4) Not less than 1 and not more than 3.5 meters above the water,

(5) Approximately equally spaced, and

(6) Not more than 10 meters apart where the pipeline crosses a navigable channel. Where the pipeline does not cross a navigable channel the lights must be sufficient in number to clearly show the pipeline's length and course.

(b) Two red lights at each end of the pipeline, including the ends in a channel where the pipeline is separated to allow vessels to pass (whether open or closed). The lights must be:

(1) Visible all around the horizon, and

(2) Visible for at least 2 miles on a clear dark night, and

(3) One meter apart in a vertical line with the lower light at the same height above the water as the flashing yellow light.

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H&SC—Health and Safety Code
PRC—Public Resources Code
WC—Water Code
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PC—Penal Code
B&P—Business and Professions Code
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PC—Penal Code
EC—Education Code
GC—Government Code
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PC—Penal Code
B&PC—Business and Professions Code
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PC—Penal Code
GC—Government Code
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PC—Penal Code
H&SC—Health and Safety Code
VC—Vehicle Code
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PC—Penal Code
F&GC—Fish and Game Code
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