

## **FREQUENTLY ASKED QUESTIONS**

### **VIRGINIA BOATING SAFETY EDUCATION COMPLIANCE REQUIREMENT**

#### **QUESTION 1**

I have heard that the 2007 Session of the Virginia General Assembly passed a law that will require Virginia boaters to take a boating course. Why does Virginia need this law?

#### **ANSWER**

Virginia now has over 250,000 registered motorboats (including about 30,000 personal watercraft), and hopefully boating will continue to grow as a safe and enjoyable recreational leisure-time activity. Boating safety knowledge, gained through the successful completion of a boating course, provides the recreational boater with an excellent tool to help manage the risk involved in boating. Like most things in life, it is not a completely risk-free activity – in the past 5 years Virginia has recorded over 700 recreational boating accidents that resulted in nearly 100 fatalities. With boaters having more safety knowledge, a decrease should be expected in boating accidents, injuries, deaths, and property damage and there should also be less conflict on Virginia's increasingly congested waterways.

#### **QUESTION 2**

What else can you tell me about this requirement?

#### **ANSWER**

House Bill 1627 and Senate Bill 1241, which are identical to each other, were passed and have been signed into law by Governor Kaine, effective July 1, 2007. And although the law goes into effect this July, the first year will be committed to the development of the implementing regulations by the Department's Board of Game and Inland Fisheries. These regulations have to be in place by July 1, 2008. So, under this new law, there will be no new changes until July 1, 2008 that will affect Virginia's boaters.

### **QUESTION 3**

What can you tell me at this time about these “implementing regulations” that the Board of Game and Inland Fisheries will be adopting?

### **ANSWER**

The law specifically defines about 13 content areas that the regulations may include, and also allows for additional topics to be addressed if need be. These content areas include such items as issuance of a temporary operator’s certificate, equivalency exam criteria, requirements for course providers, requirements for motorboat rental and leasing businesses, and so forth. The law has an entire subsection that gives much more detail on the various content areas. Another important thing to know about the regulations is that the law requires the Board to consult and coordinate with the boating public, professional organizations for recreational boating safety, and the boating retail, leasing, and dealer business community in the development of the regulations.

### **QUESTION 4**

What boats are affected by this new law?

### **ANSWER**

Motorboats with a motor of **10 horsepower or greater** (including boats documented by the U. S. Coast Guard) and also personal watercraft (i.e. jet ski). Sailboats do not have to meet the requirement unless the sailboat has a motor that is 10 hp or greater (whether or not the engine is running). A canoe does not have to meet the requirement, nor does a kayak, rowboat, or other manually propelled boat.

### **QUESTION 5**

I’ve heard something about a “phased-in” approach for the implementation of this requirement. What does that mean?

### **ANSWER**

It means that the requirement is phased-in according to age category and it also means that the requirement is phased-in according to whether the type of boat being operated is a motorboat or a personal watercraft (PWC). For example, the first phase-in is for PWC operators 20 years of age and

younger and they will have to meet the requirement by **July 1, 2009**. Next is PWC operators 35 years of age or younger by **July 1, 2010**.

The remainder of the implementation schedule is:

- PWC operators 50 years of age or younger and motorboat operators 20 years of age or younger by **July 1, 2011**

- All personal watercraft operators, regardless of age, and motorboat operators 30 years of age or younger by **July 1, 2012**

- Motorboat operators 40 years of age or younger by **July 1, 2013**

- Motorboat operators 45 years of age or younger by **July 1, 2014**

- Motorboat operators 50 years of age or younger by **July 1, 2015**

- All motorboat operators, regardless of age, by **July 1, 2016**

## **QUESTION 6**

Does the requirement for boating safety education apply to all waters in Virginia?

## **ANSWER**

It applies to public waters of the Commonwealth. This includes the river systems (both fresh and tidal water), the Virginia portion of the Chesapeake Bay, waters up to 3 miles off the Virginia coast, the Virginia portion of any lakes shared with an adjoining state, and most of the lakes wholly located in Virginia. It should be noted, however, that there are some lakes in Virginia that are not public (Lake Caroline and Lake Monticello for example immediately come to mind) and the requirement would not apply on those lakes. The law also does not apply to private lakes and ponds on personal property.

## **QUESTION 7**

How do I go about meeting the requirement for boating safety education?

## **ANSWER**

There's a couple of different ways to do this. The first is to complete and pass a boating safety course approved by the National Association of State Boating Law Administrators (NASBLA). A course that is NASBLA approved will have course content that meets the National Boating Education Standards; a classroom-based course that is NASBLA approved will require 6-8 hours of time. The Virginia Department of Game and Inland Fisheries course called *Boat Virginia* (currently offered at no cost) is NASBLA approved, as are classroom courses offered by the [U. S. Coast Guard Auxiliary](#) and the [U. S. Power Squadrons](#). Also available are internet-based courses that are NASBLA approved. You should check the VDGIF web site at [www.dgif.virginia.gov](http://www.dgif.virginia.gov) for information about classroom and approved distance learning options.

For the experienced and knowledgeable boater, the law calls for the availability of a proctored equivalency exam. This exam will test the knowledge of information included in the curriculum of an approved course without the benefit of having taken a full course of instruction. Equivalency exam is often referred to as a "challenge" exam since you are actually challenging the need to take a full course through the assumption that you already possess the experience and knowledge to be a safer boater. It is important to note that an equivalency exam tends to be more extensive than the test that is provided at the end of a NASBLA approved classroom course.

## **QUESTION 8**

Does the law provide for any exemptions or exceptions to the boating safety education requirement?

## **ANSWER**

Yes, but only a few. Boaters in possession of a valid license to operate a vessel issued to maritime personnel by the U. S. Coast Guard or a marine certificate issued by the Canadian government are already covered. The law also allows for:

- a 90 day temporary operator's certificate for the operator of a newly acquired boat. This nonrenewable temporary operator's certificate would be issued along with the certificate of number (boat registration) and gives the operator of a newly acquired boat 90 days within which to successfully

complete a boater safety education course, or successfully complete the equivalency exam

- operation with a rental or lease agreement from a motorboat rental or leasing business. And remember that this is one of those areas where the requirements will have to be addressed by the Board regulations
- operation under onboard direct supervision of a person who already meets the education requirement (so you can teach your kids or other family members/friends how to more safely operate a boat)
- operation by non-residents for up to 90 days if they meet the applicable boating safety education requirements of their state of residency
- operation by registered commercial fishermen or a person under their direct supervision while operating the commercial fisherman's boat
- operation by law enforcement officers while they are engaged in the performance of their official duties
- operation of the motorboat due to the illness or physical impairment of the initial operator and is returning the boat to shore in order to provide assistance or care for the operator

## **QUESTION 9**

So if I rent or lease a boat, I'm exempt from the boating safety education requirement??

## **ANSWER**

No – what you have to do to meet the requirement just takes a little different track. As previously noted, the motorboat rental/lease program details are to be addressed through Board regulations and the Department expects to be working closely with some of the boat rental folks on these details. Some of the other states have what is known as a “Watercraft Rental Safety Check-List Program” that is delivered as dockside instruction and does a great job at helping the rental/lease business provide basic boating safety information to their rental customers. That should also serve as a sound approach here in Virginia.

## **QUESTION 10**

I think you've covered it already, but what's the requirement for non-residents of Virginia?

## **ANSWER**

You must demonstrate that you are not a resident of Virginia, that you are temporarily using the waters of Virginia for a period of 90 days or less (your boat is registered in another state as the "state of principal use"), and that you meet any applicable boating safety education requirements of your state of residency. As a word of caution however – if you are not a resident of Virginia but you are visiting in Virginia and will be operating, for example, a friend's boat that is registered in Virginia, then you are a Virginia boater and must meet the same boating safety education requirements as all other Virginia resident boaters. Since about 40 states have adopted a boating safety education requirement, the Department encourages non-resident boaters to ensure that they meet the requirements of their state of residency.

## **QUESTION 11**

Once I'm in one of the age categories where I have to meet this requirement and I am checked by a law enforcement officer for compliance, what do I have to show to the officer to demonstrate that I've complied with the law?

## **ANSWER**

We're still early in the process and many of the details about the provisions for compliance will have to be addressed over the next year by the Board of Game and Inland Fisheries. But for now, it is safe to say that you would have to either fall into one of the exemption/exception provisions and be able to verify that you should be included in the exemption, or be able to present to the officer a card or certificate that indicates that you have completed and passed a NASBLA approved boating course, or that you have passed the equivalency exam. While not required by the law, an idea that the Department may explore is the development and issuance of an **optional** Virginia boater education card that could be issued to those boaters who want something more durable and long-lasting than their course completion cards or other compliance documents. There may be a fee associated with the optional cards and moving forward on this idea is pretty much dependent on whether or not boaters would be willing to pay a few dollars for the

optional card. That's something that would have to be determined as the regulations are developed.

### **QUESTION 12**

If I have already taken and passed a NASBLA approved course, do I have to do that again?

### **ANSWER**

Not as long as you can provide your course completion card or certificate. The Department has a pretty extensive student database that includes boaters who have taken our Department boating basic course, as well as a lot of the students who have taken Coast Guard Auxiliary or U. S. Power Squadrons courses over the years. But if there is not a record of your class completion and you cannot find your card or certificate, then you would have to take a course or you could try your hand at passing the challenge exam. Also important to note is that once you have met the requirement, it does not have to be renewed – it's good for your boating lifetime. And it's also ok to take a course ahead of the implementation schedule covered in question 5 – just remember not to misplace your course completion certificate/card.

### **QUESTION 13**

If I've lost my course completion certificate/card, how do I get a replacement?

### **ANSWER**

If the course was provided by the Department of Game and Inland Fisheries, your name should be in the Department's student database and issuance of a replacement card is not a problem. If the course was provided by the Coast Guard Auxiliary or the U.S. Power Squadrons, contact them to see if their records will allow the issuance of a replacement document. As previously noted, the Department's student database includes many students from Auxiliary and Power Squadrons courses, so you may also check with the Department about a replacement card for these courses. Internet course students should check with your original course provider. Duplicate certificates and replacement cards will be addressed in more detail in the Board of Game and Inland Fisheries regulations.

#### **QUESTION 14**

Is there a minimum age involved in completing and passing a boating safety education course and, by doing so, being able to operate a motorboat or personal watercraft?

#### **ANSWER**

For a personal watercraft, the minimum operator age continues to be age 16, except those 14 or 15 year olds who have completed and passed a course can operate. This has been the law since 1999 and has not changed. For a motorboat, there continues to be no minimum operator age and there is no minimum age requirement to attend a NASBLA approved boating safety course. However, it is fairly difficult for youngsters under the age of about 12 to complete and pass a course. Remember though that youngsters can operate a boat under onboard direct supervision of a person who meets the boating safety education requirement.

#### **QUESTION 15**

What's the penalty if I do not comply with this law?

#### **ANSWER**

Any person who violates any provision of this law or any regulation promulgated hereunder shall be subject to a civil penalty of \$100 that will be deposited in the Motorboat and Water Safety Fund of the Game Protection Fund. These dollars are used by the Department for boating safety work such as boating education and boating law enforcement.

#### **QUESTION 16**

How will this law make boating safer in Virginia?

#### **ANSWER**

In 2006, Virginia had 23 fatalities from recreational boating accidents, the most in the last 10 years. With this requirement, those of us involved in the boating safety area within the Department hope to see the number of accidents and the number of fatalities decline. The Department's long-standing message for boating has been ***Be Responsible, Be Safe...Have Fun!*** That's what boating is supposed to be about – safe and enjoyable.

## **Abbreviated Titles for the Questions**

**1 – Why Virginia needs this law?**

**2 – Where we currently stand?**

**3 – Development of the implementing regulations?**

**4 – What boats are affected?**

**5 - Phased-in approach?**

**6 – Which waters?**

**7 – Meeting the requirement?**

**8 – Exemptions or exceptions?**

**9 – Boat rental/lease?**

**10 – Non-residents?**

**11 – Checked by a law enforcement officer?**

**12 – Already taken a course?**

**13 – Replacement of course completion certificates/cards?**

**14 – Minimum age?**

**15 – Penalty?**

**16 – Making boating safer?**