PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Parks and Wildlife Code
Title 4
8/31/26

TITLE 4. WATER SAFETY

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TITLE 4. WATER SAFETY

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 4001. GENERAL PROVISIONS

Revised Law

Sec. 4001.0101. DEFINITIONS. In this title:

(1) "Boat" means a vessel not more than 65 feet in length, as measured from the tip of the bow in a straight line to the stern. This subdivision does not apply to Section 4901.0104.

(2) "Coast Guard" means the United States Coast Guard.

(3) "Dealer" means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels or outboard motors during a calendar year.

(4) "Distributor" means a person who offers for sale, sells, or processes for distribution new vessels or outboard motors to a dealer in this state.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) "Hull identification number" means the alphanumeric designation assigned to a vessel under 33 C.F.R. Part 181.

(7) "Manufacturer" means a person engaged in the business of manufacturing or importing new vessels and outboard motors for sale or trade.

(8) "Motorboat" means a vessel propelled or designed to be propelled by machinery that is permanently or temporarily affixed to the vessel, regardless of whether the machinery is the

vessel's principal source of propulsion.

(9) "New vessel or outboard motor" means a vessel or outboard motor during the period after the manufacture of the vessel or outboard motor and before the sale or other transfer of the vessel or outboard motor to a person other than a manufacturer or dealer.

(10) "Operate" means to navigate or otherwise use a vessel.

(11) "Outboard motor" means a self-contained internal combustion propulsion system, excluding fuel supply, that is used to propel a vessel and is detachable as a unit from the vessel.

(12) "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of legal title or equitable interest. This subdivision does not apply to Chapter 4151.

(13) "Owner of record" or "recorded owner" means an owner indicated in the files of the department.

(14) "Public water" means public water in the territorial limits of this state.

(15) "Record" means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

(16) "Vessel" means any watercraft that is used or capable of being used for transportation on water, except:

(A) a watercraft exempted by commission rule;

(B) a watercraft that operates only on a permanently fixed, manufactured course, the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;

(C) a seaplane; and

(D) a stationary floating structure that:

(i) does not have and is not designed to have a mode of propulsion of its own;

(ii) is dependent for utilities upon a continuous utility hookup to a source originating on shore; and

(iii) has a permanent, continuous hookup to a shoreside sewage system.

(17) "Vessel livery" means a person engaged in advertising, renting, or hiring out vessels for consideration. The term includes a recreational equipment timeshare business that leases or rents vessels for consideration. (Parks & Wild. Code, Secs. 31.003(1), (2), (3), (4), (5), (6), (7), (8), (11), (12), (13), (16), (17), (21), (22), (23), (26).)

Source Law

Sec. 31.003. DEFINITIONS. In this chapter:

(1) "Boat" means a vessel not more than 65 feet in length, measured from the tip of the bow in a straight line to the stern.

(2) "Vessel" means any watercraft used or capable of being used for transportation on water, except:

(A) a watercraft exempted by commission rule;

(B) a watercraft that operates only on a permanently fixed, manufactured course, the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;

(C) a seaplane; and

(D) a stationary floating structure that:

(i) does not have and is not designed to have a mode of propulsion of its own;

(ii) is dependent for utilities upon a continuous utility hookup to a source originating on shore; and

(iii) has a permanent, continuous hookup to a shoreside sewage system.

(3) "Motorboat" means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

(4) "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

(5) "Water of this state" means any public water within the territorial limits of this state.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Dealer" means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year.

(8) "Vessel livery" means a person engaged in advertising, renting, or hiring out vessels for consideration. The term includes a recreational equipment timeshare business that leases or rents vessels for consideration.

(11) "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels and outboard motors for the purpose of

sale or trade.

(12) "New" means every vessel or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.

(13) "Outboard motor" means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.

(16) "Distributor" means a person who offers for sale, sells, or processes for distribution new vessels or outboard motors to dealers in this state.

(17) "Coast Guard" means the United States Coast Guard.

(21) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(22) "Hull identification number" means the alphanumeric designation assigned to a vessel under 33 C.F.R. Part 181.

(23) "Owner of record" or "recorded owner" means an owner indicated in the files of the department.

(26) "Record" means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

Revisor's Note

(1) Section 31.003, Parks and Wildlife Code, provides definitions that apply in Chapter 31 of that code. Chapter 31 is revised in this title. Although this title also includes the revision of provisions not derived from Chapter 31, throughout this title, the revised law substitutes a reference to the entire title for references to Chapter 31 where appropriate because either the subject of the provisions not derived from Chapter 31 is by its own terms inapplicable to the substance of the provision of the revised law that includes the reference to Chapter 31 or the revised law is drafted to exclude from its application the provisions not derived from Chapter 31.

(2) Section 31.003(5), Parks and Wildlife Code, defines the term "water of this state." To more accurately reflect the substance of the definition and

for consistency in terminology used in this title, the revised law substitutes "public water" for "water of this state" or "public water of this state" throughout this title.

(3) Sections 31.003(6) and (7), Parks and Wildlife Code, refer respectively to a "motorboat or a vessel" and to "vessels, motorboats, or outboard motors." The revised law omits the references to "motorboat" and "motorboats" as redundant because under Section 31.003(3), Parks and Wildlife Code, revised as Subdivision (8) of this section, a "motorboat" is included in the meaning of the term "vessel."

(4) Section 31.003(11), Parks and Wildlife Code, refers to new "and unused" vessels and outboard motors. The revised law omits the quoted language as redundant because the meaning of "unused" is included in the definition of the term "new vessel or outboard motor" as defined in this title.

(5) Section 31.003(17), Parks and Wildlife Code, defines the term "Coast Guard" to mean "the United States Coast Guard." Throughout this title, the revised law substitutes "Coast Guard" for references to "United States Coast Guard" or "U.S. Coast Guard" for consistency in terminology used in this title and because the terms are synonymous and "Coast Guard" is the defined term in this title.

Revised Law

Sec. 4001.0102. APPLICABILITY OF TITLE. Except as otherwise provided by this title, this title applies to all public water and any vessel on public water. This title does not apply to privately owned water. (Parks & Wild. Code, Sec. 31.004; New.)

Source Law

Sec. 31.004. APPLICATION OF CHAPTER. The

provisions of this chapter apply to all public water of this state and to all vessels on public water. Privately owned water is not subject to the provisions of this chapter.

Revisor's Note

Section 31.004, Parks and Wildlife Code, provides that the provisions of Chapter 31 of that code apply to all public water of this state and all vessels on public water. Chapter 31 is revised in this title. For the convenience of the reader, the revised law adds "[e]xcept as otherwise provided by this title," to indicate to the reader that exceptions to the applicability provision are contained in other provisions in this title.

Revised Law

Sec. 4001.0103. STATE POLICY ON BOATING REGULATIONS. It is the policy of this state that the basic authority to enact boating regulations is reserved to the state. (Parks & Wild. Code, Sec. 31.091.)

Source Law

Sec. 31.091. UNIFORMITY OF BOATING REGULATIONS. In the interest of uniformity, it is the policy of the State of Texas that the basic authority for the enactment of boating regulations is reserved to the state.

Revisor's Note

Section 31.091, Parks and Wildlife Code, provides that "[i]n the interest of uniformity," it is the policy of the state that the basic authority to enact boating regulations is reserved to the state. The revised law omits the quoted language as unnecessary because the phrase does not add to the clear meaning of the law.

Revised Law

Sec. 4001.0104. STATE PROMOTION OF WATER SAFETY. The state shall promote:

(1) recreational water safety for persons and property connected with the use of recreational water facilities in this

state;

(2) safety in the operation and equipment of facilities; and

(3) uniformity of laws relating to water safety. (Parks & Wild. Code, Sec. 31.002.)

Source Law

> Sec. 31.002. STATE POLICY. It is the duty of this state to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the state, to promote safety in the operation and equipment of facilities, and to promote uniformity of laws relating to water safety.

Revisor's Note

Section 31.002, Parks and Wildlife Code, refers to persons and property "in and" connected with the use of certain facilities. The revised law omits the reference to "in and" because, in context, "in and" is included within the meaning of "connected with."

Revised Law

Sec. 4001.0105. CLASSES OF MOTORBOATS. Motorboats subject to the provisions of this title are divided into the following four classes according to length:

(1) Class A for a motorboat that is less than 16 feet in length;

(2) Class 1 for a motorboat that is 16 feet or more and less than 26 feet in length;

(3) Class 2 for a motorboat that is 26 feet or more and less than 40 feet in length; and

(4) Class 3 for a motorboat that is 40 feet in length or more. (Parks and Wild. Code, Sec. 31.063.)

Source Law

> Sec. 31.063. CLASSES OF MOTORBOATS. Motorboats subject to the provisions of this chapter are divided into four classes according to length as follows:
>
> Class A. Less than 16 feet in length.
>
> Class 1. 16 feet or over and less than 26 feet in length.
>
> Class 2. 26 feet or over and less than 40 feet in length.
>
> Class 3. 40 feet in length or over.

Revised Law

Sec. 4001.0106. CONTRACTS WITH FEDERAL GOVERNMENT. The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from a federal program relating to water safety, including:

(1) the acquisition, maintenance, and operating costs of facilities;

(2) the purchase of equipment and supplies;

(3) personnel salaries; and

(4) other federally approved reimbursable expenses, including:

(A) personnel training costs;

(B) public boat safety and education costs; and

(C) general administrative and enforcement costs. (Parks & Wild. Code, Sec. 31.005(a).)

Source Law

Sec. 31.005. CONTRACTS WITH FEDERAL GOVERNMENT. (a) The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program relating to water safety, including:

(1) the acquisition, maintenance, and operating costs of facilities;

(2) purchase of equipment and supplies;

(3) personnel salaries; and

(4) other federally approved reimbursable expenses, including personnel training costs, public boat safety and education costs, and general administrative and enforcement costs.

Revisor's Note

Section 31.005(b), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to contract with the United States to comply with requirements for the receipt of certain federal funds. The revised law omits that provision because it duplicates in substance Section 11.0171, Parks and Wildlife Code, revised as Section 2051.0106, which authorizes the department to contract with the United States. The omitted law reads:

(b) The department may contract with

the United States in order to comply with all necessary requirements for the receipt of funds made available under any federal legislation.

Revisor's Note
(End of Chapter)

Section 31.001, Parks and Wildlife Code, provides a short title for Chapter 31 of that code, which is revised in multiple chapters of this title. The revised law omits the short title as obsolete because the arrangement of this title also includes the revision of provisions not derived from Chapter 31 and the short title cannot be properly applied to those other provisions. The omitted law reads:

> Sec. 31.001. TITLE. This chapter may be cited as the Water Safety Act.

CHAPTER 4002. LOCAL REGULATION OF PUBLIC WATER

Revised Law

Sec. 4002.0101. REGULATION BY MUNICIPALITY. (a) This section applies only to:

(1) public water located within a municipality; and

(2) a lake owned by a municipality.

(b) The governing body of a municipality may:

(1) designate by ordinance an area as a bathing, fishing, swimming, or otherwise restricted area; and

(2) adopt rules the governing body considers necessary for public safety that relate to the operation and equipment of boats.

(c) Rules adopted under Subsection (b)(2) must be consistent with the provisions of this chapter. (Parks & Wild. Code, Sec. 31.092(a).)

Source Law

> Sec. 31.092. LOCAL REGULATIONS. (a) The governing body of an incorporated city or town, with respect to public water within its corporate limits and all lakes owned by it, may designate by ordinance certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the

provisions of this chapter.

Revisor's Note

(1) Section 31.092(a), Parks and Wildlife Code, refers to an "incorporated city or town." The revised law substitutes "municipality" for "city or town" because the meaning of "municipality" includes both cities and towns and because "municipality" is the term used in the Local Government Code. The revised law omits "incorporated" because under the Local Government Code, a municipality must be incorporated.

(2) Section 31.092(a), Parks and Wildlife Code, refers to public water within the "corporate limits" of a city or town. The revised law omits the reference to "corporate limits" as unnecessary because public water located within a city or town is necessarily within the corporate limits of the city or town.

(3) Section 31.092(a), Parks and Wildlife Code, refers to "rules and regulations." Throughout this chapter, the revised law substitutes "rules" for the quoted language because, in context, the terms are synonymous and under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation.

Revised Law

Sec. 4002.0102. REGULATION BY CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to public water impounded in a lake or reservoir owned or operated by a political subdivision that is created under Section 59, Article XVI, Texas Constitution, for the purpose of conserving and developing public water.

(b) The governing body of a political subdivision described by Subsection (a) may:

(1) designate by resolution or other order an area as a bathing, fishing, swimming, or otherwise restricted area; and

(2) adopt rules the governing body considers necessary for public safety that relate to the operation and equipment of boats.

(c) Rules adopted under Subsection (b)(2) must be consistent with the provisions of this chapter. (Parks & Wild. Code, Sec. 31.092(c).)

Source Law

> (c) The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

Revisor's Note

Section 31.092(c), Parks and Wildlife Code, refers to the "governing board" of a political subdivision created under Section 59, Article XVI, Texas Constitution. The revised law substitutes "governing body" for "governing board" because, in context, the terms are synonymous and "governing body" is more commonly used.

Revised Law

Sec. 4002.0103. REGULATION BY COUNTY. (a) This section applies only to public water that is:

(1) located within a county; and

(2) not described by Section 4002.0101(a) or 4002.0102(a).

(b) The commissioners court of a county may:

(1) designate by order an area as a bathing, fishing, swimming, or otherwise restricted area; and

(2) adopt rules the commissioners court considers necessary for public safety that relate to the operation and

equipment of boats.

(c) Rules adopted under Subsection (b)(2) must be consistent with the provisions of this chapter. (Parks & Wild. Code, Sec. 31.092(b).)

Source Law

> [Sec. 31.092. . . . (a) The governing body of an incorporated city or town, with respect to public water within its corporate limits and all lakes owned by it . . . .]
>
> (b) The commissioners court of a county, with respect to public water within the territorial limits of the county that is outside of the limits of an incorporated city or town or a political subdivision designated in Subsection (c) of this section and that are not lakes owned by an incorporated city or town, may enter an order on its books designating certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.
>
> [(c) The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision . . . .]

Revisor's Note

(1) Section 31.092(b), Parks and Wildlife Code, refers to public water within the "territorial limits" of a county. The revised law omits the reference to "territorial limits" as unnecessary because public water located within a county is necessarily within the territorial limits of the county.

(2) Section 31.092(b), Parks and Wildlife Code, authorizes the commissioners court of a county to take certain actions applicable to public water "outside of the limits of an incorporated city or town or a political subdivision designated in Subsection (c) of this section and that are not lakes owned by an incorporated city or town." Section 31.092(a), Parks and Wildlife Code, revised in pertinent part as Section 4002.0101(a), applies to public water within

an incorporated city or town and all lakes owned by that city or town. Section 31.092(c), Parks and Wildlife Code, revised in pertinent part as Section 4002.0102(a), applies to public water impounded within lakes and reservoirs owned or operated by certain political subdivisions. Therefore, to eliminate the unnecessary repetition of the substance of Sections 31.092(a) and (c), the revised law omits the quoted language and clarifies that the authority granted by this section applies only to public water located within a county and not described by Sections 4002.0101(a) and 4002.0102(a).

(3) Section 31.092(b), Parks and Wildlife Code, authorizes the commissioners court of a county to "enter an order on its books designating" certain restricted areas. The revised law substitutes "designate by order" for the quoted language because the phrases have the same meaning and "designate by order" is more consistent with modern usage.

Revised Law

Sec. 4002.0104. RULE FILING. A copy of a rule adopted under this chapter must be filed summarily with the department. (Parks & Wild. Code, Sec. 31.092(d).)

Source Law

(d) A copy of all rules and regulations adopted under this section shall be summarily filed with the department.

Revised Law

Sec. 4002.0105. CERTAIN FEES PROHIBITED. (a) A political subdivision may not impose a fee on the owner or operator of a vessel for the registration or inspection of a vessel to be used on public water.

(b) This section does not apply to:

(1) Chapter 321, Tax Code; or

(2) a recreational fee, including a launch fee,

docking fee, or entry fee, that is imposed by a political subdivision for the use of a facility afforded to the public by the political subdivision. (Parks & Wild. Code, Sec. 31.092(e).)

Source Law

> (e) No city, town, village, special district, or other political subdivision of the state may impose or collect a fee for the registration or inspection of vessels to be used on public water against the owner or operator of a vessel used on public water. This section does not apply to Chapter 321, Tax Code, nor to any launch fees, docking fees, entry fees, or other recreational fees which may be imposed or collected by any political subdivision of the State of Texas for the use of the facilities afforded by any such district to the public.

Revisor's Note

(1) Section 31.092(e), Parks and Wildlife Code, refers to a fee imposed or collected by a "city, town, village, special district, or other political subdivision." The revised law substitutes "political subdivision" for the quoted language because a city, town, village, or special district is a political subdivision included in the meaning of the term "political subdivision."

(2) Section 31.092(e), Parks and Wildlife Code, refers to a political subdivision "of the state" or "of the State of Texas." The revised law omits the quoted language as unnecessary because a political subdivision to which this code applies is necessarily a political subdivision of this state.

(3) Section 31.092(e), Parks and Wildlife Code, provides that a political subdivision may not "impose or collect" certain fees and refers to certain fees which may be "imposed or collected" by a political subdivision. The revised law omits the references to "collect" and "collected" because a fee that cannot be imposed by its nature cannot be collected.

(4) Section 31.092(e), Parks and Wildlife Code, prohibits the imposition or collection by certain

political subdivisions of a fee for the registration or inspection of a vessel to be used on public water and also includes a nonapplicability provision, which provides that Section 31.092, Parks and Wildlife Code, does not apply to Chapter 321, Tax Code, or certain other fees. It is clear from the context of Section 31.092 that the nonapplicability provision applies only to the fee prohibition provided in Subsection (e) of that section, and the revised law is drafted accordingly.

SUBTITLE B. IDENTIFICATION AND OWNERSHIP OF VESSELS AND OUTBOARD MOTORS

CHAPTER 4051. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 4051.0101. DEFINITIONS. In this subtitle:

(1) "Authorized agent" means a dealer authorized by the department under Subchapter B to collect fees and taxes and issue certificates of number.

(2) "Certificate of number" means the document issued by the department under Section 4052.0204 that assigns a vessel an identification number.

(3) "Certificate of title" means, with respect to a vessel or outboard motor, a record, created by the department under this title or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by the department or agency and is evidence of ownership of a vessel or outboard motor.

(4) "Identification number" means the number assigned to a vessel by the department in the vessel's certificate of number.

(5) "Purchase" means, with respect to a vessel or outboard motor, to take by any voluntary transaction that creates an interest in the vessel or outboard motor.

(6) "Purchaser" means a person who takes by purchase.

(Parks & Wild. Code, Secs. 31.003(15), (20), (24), (25); New.)

Source Law

Sec. 31.003. DEFINITIONS. In this chapter:

(15) "Authorized agent" means a dealer who is authorized by the department under Section 31.006 of this code to collect taxes and fees and issue certificates of number.

(20) "Certificate of title" means, with respect to a vessel or outboard motor, a record, created by the department under this chapter or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by the department or agency and is evidence of ownership of a vessel or outboard motor.

(24) "Purchase" means, with respect to a vessel or outboard motor, to take by any voluntary transaction that creates an interest in the vessel or outboard motor.

(25) "Purchaser" means a person who takes by purchase.

Revisor's Note

The definitions of "certificate of number" and "identification number" are added to the revised law for drafting convenience.

Revised Law

Sec. 4051.0102. FEE EXEMPTION FOR GOVERNMENT VESSEL OR OUTBOARD MOTOR. A fee imposed by this subtitle does not apply to a vessel or outboard motor purchased by, owned by, or used exclusively in the service of this state, a political subdivision of this state, or the federal government. (Parks & Wild. Code, Sec. 31.056.)

Source Law

Sec. 31.056. FEE EXEMPTION FOR GOVERNMENT VESSELS AND OUTBOARD MOTORS. A fee imposed by this chapter does not apply to a vessel or outboard motor purchased by, owned by, or used exclusively in the service of this state, a political subdivision of this state, or the federal government.

Revisor's Note

Section 31.056, Parks and Wildlife Code, exempts certain government vessels and outboard motors from a fee imposed by Chapter 31 of that code. The pertinent parts of Chapter 31 imposing a fee relating to a vessel

or outboard motor are revised in this subtitle, and the revised law is drafted accordingly.

SUBCHAPTER B. AUTHORIZED AGENTS

Revised Law

Sec. 4051.0201. APPOINTMENT AND CANCELLATION OF AUTHORIZED AGENT. (a) The department may authorize a dealer who holds a dealer's or manufacturer's number to act as the agent of the department under Chapter 4052 of this code and Chapter 160, Tax Code, for the issuance of certificates of number and the collection of fees and taxes for vessels and outboard motors sold by that dealer.

(b) The department may cancel the authorization of an agent on 30 days' written notice of the agent's violation of:

(1) this title, other than Chapter 4151 or Section 4901.0104;

(2) a department rule adopted under this title, other than Chapter 4151; or

(3) Chapter 160, Tax Code, or a rule adopted by the comptroller under that chapter. (Parks & Wild. Code, Secs. 31.006(a), (e).)

Source Law

Sec. 31.006. APPOINTMENT OF AUTHORIZED AGENT. (a) The department may authorize a dealer who holds a dealer's or manufacturer's number to act as the agent of the department under Subchapter B and under Chapter 160, Tax Code, for the issuance of certificates of number and the collection of fees and taxes for vessels and outboard motors sold by that dealer.

(e) The department may cancel the authorization of an agent on 30 days' written notice of the agent's violation of this chapter, a department rule adopted under this chapter, Chapter 160, Tax Code, or a rule adopted by the comptroller under that chapter.

Revisor's Note

Section 31.006(a), Parks and Wildlife Code, provides in part that the Parks and Wildlife Department may authorize certain dealers to act as agents of the department under Subchapter B, Chapter 31, of that code, for the issuance of certificates of

number for vessels sold by that dealer. The pertinent parts of Subchapter B relating to the issuance of certificates of number are revised in Chapter 4052 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 4051.0202. DUTIES OF AUTHORIZED AGENT. (a) An authorized agent must follow rules adopted by the commission and comptroller.

(b) An authorized agent shall send to the department not later than the 20th day after the date a certificate of number is issued and a fee or tax collected:

(1) the applications required by Sections 4052.0201 and 4053.0302;

(2) the fees required by Sections 4052.0208 and 4053.0311; and

(3) the taxes paid under Chapter 160, Tax Code.

(c) An authorized agent shall execute a surety bond in favor of the department in an amount set by the department to insure against loss to the department of fees and taxes. (Parks & Wild. Code, Secs. 31.006(b), (c), (d).)

Source Law

(b) An authorized agent must follow the rules of the commission and the rules of the comptroller.

(c) An authorized agent shall send the applications required by Sections 31.024 and 31.047 of this code, the fees required by Sections 31.026 and 31.048 of this code, and the tax paid under Chapter 160, Tax Code, to the department not later than 20 days after the date a certificate of number is issued and a fee or tax collected.

(d) An authorized agent shall execute a surety bond in an amount set by the department to insure against loss to the department of fees and taxes. The bond shall be in favor of the department.

Revisor's Note

(1) Section 31.006(c), Parks and Wildlife Code, refers to the applications required by Sections 31.024 and 31.047 of that code. Sections 31.024 and 31.047 are revised in pertinent part as Sections 4052.0201 and 4053.0302, respectively, and the revised law is

drafted accordingly.

(2) Section 31.006(c), Parks and Wildlife Code, refers to the fees required by Sections 31.026 and 31.048 of that code. Sections 31.026 and 31.048 are revised in pertinent part as Sections 4052.0208 and 4053.0311, respectively, and the revised law is drafted accordingly.

Revised Law

Sec. 4051.0203. COMMISSION PROGRAM. (a) The commission may adopt rules for the creation of a program for the continuing identification and classification of participants in the vessel and outboard motor industries doing business in this state.

(b) If the commission creates a program under this section:

(1) the department shall use information from the program:

(A) to appoint agents under this subchapter; or

(B) for any other purpose required by the commission's rules or this title, other than Chapter 4151 and Section 4901.0104; and

(2) the commission may set fees to administer the program. (Parks & Wild. Code, Sec. 31.006(f).)

Source Law

(f) The commission may adopt rules for the creation of a program for the continuing identification and classification of participants in the vessel and outboard motor industries doing business in this state. The commission may set fees to administer this subsection. The department shall use information from the program to appoint agents under this section or for any other purpose required by the commission's rules or this chapter.

Revisor's Note

(1) Section 31.006(f), Parks and Wildlife Code, requires the Parks and Wildlife Department to use information from the program authorized under that provision for certain purposes and authorizes the Parks and Wildlife Commission to set fees for the program. The revised law clarifies that the

requirement to use program information and the authority to set fees apply "[i]f the commission creates a program under this section" because it is clear from the context that program information will be used and program fees will be set only if the commission exercises its authority to create the program.

(2) Section 31.006(f), Parks and Wildlife Code, authorizes the Parks and Wildlife Commission to set fees to administer "this subsection." For clarity and the convenience of the reader, the revised law substitutes "the program" for the quoted language because, in this context, it is more precise to say that the program, rather than the subsection, will be administered.

SUBCHAPTER C. OWNERSHIP AND OTHER DEPARTMENT RECORDS

Revised Law

Sec. 4051.0301. PUBLIC RECORDS; FEE. (a) A department vessel or outboard motor ownership record made or kept under this subtitle is a public record, including the information required under Section 4053.0202, except the following information is not a public record:

(1) an owner identifier as prescribed by 33 C.F.R. Section 174.17;

(2) the phone number, e-mail address, social security number, or taxpayer identification number of an owner of a vessel or outboard motor; and

(3) any other information contained in an ownership record that is not subject to public disclosure under Chapter 552, Government Code, or other law.

(b) The commission by rule may charge a fee to access an ownership record or other record made or kept under this title, other than Chapter 4151 and Sections 4901.0101 and 4901.0104. The department may provide a record in any medium. If requested, the

department shall provide a record in a format that is self-authenticating under Rule 902, Texas Rules of Evidence. (Parks & Wild. Code, Sec. 31.039.)

Source Law

Sec. 31.039. PUBLIC RECORDS; FEES. (a) Ownership records of the department made or kept under this chapter are public records, including the information required under Section 31.049, except the following information is not a public record:

(1) an owner identifier as prescribed by 33 C.F.R. Section 174.17;

(2) the phone number, e-mail address, social security number, or taxpayer identification number of an owner of a vessel or outboard motor; and

(3) any other information contained in an ownership record that is not subject to public disclosure under Chapter 552, Government Code, or other law.

(b) The commission may by rule charge a fee for access to ownership records and other records made or kept under this chapter. The department may provide a record in any medium. If requested, the department shall provide a record in a format that is self-authenticating under Rule 902, Texas Rules of Evidence.

Revisor's Note

(1) Section 31.039(a), Parks and Wildlife Code, refers to "ownership records of the department" made or kept under "this chapter," meaning Chapter 31 of that code. The revised law substitutes "department vessel or outboard motor ownership record" for "ownership records of the department" to conform to the terminology used in Section 31.0391, Parks and Wildlife Code, revised as Section 4051.0302, and because it is clear from the context of Chapter 31 that the "ownership" referred to is ownership of a vessel or outboard motor. Additionally, the revised law substitutes a reference to "this subtitle" for the reference to "this chapter" because the pertinent parts of Chapter 31 relating to ownership of a vessel or outboard motor are revised in this subtitle.

(2) Section 31.039(a), Parks and Wildlife Code, refers to the information required under Section 31.049 of that code. Section 31.049 is revised in

pertinent part as Section 4053.0202, and the revised law is drafted accordingly.

Revised Law

Sec. 4051.0302. RELEASE OF CERTAIN INFORMATION FROM OWNERSHIP RECORD. (a) Except as provided by Subsection (b), the department or a county may not release the name or address of a person recorded in a department vessel or outboard motor ownership record unless the department or county receives a written request that:

(1) contains the requestor's name and address; and

(2) states that the use of the information is for a lawful purpose.

(b) This section does not apply to the release of information to:

(1) a peace officer, as defined by Article 2A.001, Code of Criminal Procedure, acting in an official capacity; or

(2) a state official or an official of a political subdivision of this state who requests the information for tax purposes. (Parks & Wild. Code, Sec. 31.0391.)

Source Law

Sec. 31.0391. RELEASE OF INFORMATION. (a) The department or a county may not release the name or address of a person recorded in the department vessel and outboard motor ownership records unless the department or county receives a written request that:

(1) contains the requestor's name and address; and

(2) states that the use of the information is for a lawful purpose.

(b) This section does not apply to the release of information to:

(1) a peace officer as defined by Article 2A.001, Code of Criminal Procedure, who is acting in an official capacity; or

(2) a state official or an official of a political subdivision of this state who requests the information for tax purposes.

CHAPTER 4052. IDENTIFICATION OF VESSELS

SUBCHAPTER A. GENERAL REQUIREMENTS

Revised Law

Sec. 4052.0101. REQUIRED NUMBERING OF VESSELS. (a) Each vessel on public water must be numbered in accordance with this

chapter unless specifically exempted.

(b) The numbering system must be consistent with the Federal Boating Act of 1958 and subsequent federal legislation.

(c) The numbering pattern used must consist of the prefix "TX" followed by four numerals and then a two-letter suffix. The four numerals must be separated from the prefix and suffix by hyphens or equivalent spaces.

(d) The four numerals of each series must begin with 1000. TX-1000-AA through TX-9999-AA are allotted to dealers, distributors, and manufacturers. TX-1000-AB through TX-9999-ZZ are allotted to all other vessel owners and vessel liveries.

(e) The letters "G", "I", "O", and "Q" may not be used in the suffix of the numbering pattern. (Parks & Wild. Code, Secs. 31.021(a), 31.031.)

Source Law

> Sec. 31.021. REQUIRED NUMBERING. (a) Each vessel on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent federal legislation.
>
> Sec. 31.031. NUMBERING PATTERN. (a) The numbering pattern used consists of the prefix "TX" followed by a combination of exactly four numerals and further followed by a suffix of two letters. The group of numerals appearing between the letters shall be separated from the letters by hyphens or equivalent spaces.
>
> (b) All basic numbers of each series shall begin with 1000. TX-1000-AA through TX-9999-AA will be allotted to dealers and manufacturers. TX-1000-AB through TX-9999-ZZ will be allotted to all other vessel owners and livery operators.
>
> (c) The letters "G", "I", "O", and "Q" shall be omitted from all letter sequences.

Revisor's Note

(1) Section 31.021(a), Parks and Wildlife Code, requires each vessel on water of this state to be numbered in accordance with the provisions of Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the numbering of vessels are revised in this chapter, and the revised law is drafted accordingly.

(2) Section 31.031(b), Parks and Wildlife Code, allots the series of the numbering pattern beginning with TX-1000-AA through TX-9999-AA to "dealers and manufacturers." Section 31.041(c), Parks and Wildlife Code, revised as Section 4054.0108(a), requires the Parks and Wildlife Department to issue a dealer, distributor, or manufacturer number to each "dealer, distributor, or manufacturer" licensed under Section 31.041 of that code in the manner provided by Section 31.031(b). Accordingly, the revised law adds a reference to "distributors" because it is clear from the context of Sections 31.031(b) and 31.041(c) that the series of the numbering pattern beginning with TX-1000-AA through TX-9999-AA is allotted to "dealers, distributors, and manufacturers."

(3) Section 31.031(b), Parks and Wildlife Code, refers to "livery operators." For consistency in terminology used in this title, the revised law substitutes "vessel liveries" for "livery operators" because, in context, the terms are synonymous and "vessel livery" is a defined term in this title.

(4) Section 31.031(c), Parks and Wildlife Code, requires that certain letters be omitted from "all letter sequences." The revised law substitutes "the suffix of the numbering pattern" for the quoted language because the prefix component of the numbering pattern must be "TX" under Section 31.031(a), Parks and Wildlife Code, revised as Subsection (c) of this section, so the referenced letter sequence is necessarily the suffix of the numbering pattern.

Revised Law

Sec. 4052.0102. EXEMPTIONS FROM NUMBERING REQUIREMENTS. (a) Section 4052.0101(a) does not apply to a vessel that is:

(1) operated within this state for a period not

exceeding 90 consecutive days and covered by a number assigned under federal law or a federally approved numbering system of another state;

(2) from a country other than the United States temporarily using public water;

(3) owned by the United States, a state, or a subdivision of a state;

(4) a ship's lifeboat;

(5) an amphibious vehicle for which a certificate of title is issued under Chapter 501, Transportation Code, or a similar law of another state;

(6) a canoe, kayak, punt, rowboat, rubber raft, or other vessel less than 14 feet in length when paddled, poled, oared, or windblown; or

(7) being used at a water ski competition or exhibition sanctioned in writing by the governing body of the governmental entity that has jurisdiction over the body of water on which the competition or exhibition occurs.

(b) The department may exempt from the application of Section 4052.0101(a):

(1) a class of vessels, if the department finds that numbering vessels of that class will not materially aid in identifying the vessels; and

(2) a vessel, if the department finds that the vessel belongs to a class of vessels that would be exempt from numbering under a numbering system of a federal agency if the vessel were subject to federal law. (Parks & Wild. Code, Sec. 31.022.)

Source Law

Sec. 31.022. EXEMPTIONS FROM REQUIRED NUMBERING. (a) A vessel is not required to be numbered under the provisions of this chapter if it is:

(1) operated within this state for a period not exceeding 90 consecutive days and is covered by a number in full force and effect which has been awarded under federal law or a federally approved numbering system of another state;

(2) from a country other than the United States temporarily using the water of this state;

(3) owned by the United States, a state, or

a subdivision of a state;

(4) a ship's lifeboat; or

(5) an amphibious vehicle for which a certificate of title is issued under Chapter 501, Transportation Code, or a similar law of another state.

(b) The department may exempt from numbering a class of vessels if it finds that the numbering of the vessels of that class will not materially aid in their identification. The department may also exempt a vessel if it finds that it belongs to a class of vessels that would be exempt from numbering under a numbering system of an agency of the federal government if it were subject to federal law.

(c) All canoes, kayaks, punts, rowboats, rubber rafts, or other vessels under 14 feet in length when paddled, poled, oared, or windblown are exempt from the numbering provisions of this chapter.

(d) A vessel in use at a water ski tournament, competition, or exhibition sanctioned in writing by the governing board of the governmental entity that has jurisdiction over the body of water on which the tournament, competition, or exhibition occurs is exempt from the numbering provisions of this chapter.

Revisor's Note

(1) Section 31.022, Parks and Wildlife Code, provides exemptions from the numbering provisions of Chapter 31 of that code. Section 31.021(a), Parks and Wildlife Code, revised in pertinent part as Section 4052.0101(a), requires each vessel on the water of this state to be numbered under the provisions of Chapter 31 unless specifically exempted. For clarity and the convenience of the reader, the revised law substitutes a cross-reference to Section 4052.0101(a) for references to "the numbering provisions of this chapter" and other similar references to the numbering requirements of Chapter 31.

(2) Section 31.022(a)(1), Parks and Wildlife Code, refers to a vessel covered by a number "in full force and effect" that has been awarded under federal law or a federally approved numbering system of another state. The revised law omits the quoted language as redundant because a number that covers a vessel under federal law or a federally approved numbering system of another state is necessarily "in full force and effect."

(3) Section 31.022(d), Parks and Wildlife Code, refers to a water ski "tournament, competition, or exhibition." The revised law omits the reference to "tournament" because, in context, "tournament" is included in the meaning of "competition."

(4) Section 31.022(d), Parks and Wildlife Code, refers to the "governing board" of the governmental entity that has jurisdiction over the body of water on which a tournament, competition, or exhibition occurs. The revised law substitutes "governing body" for "governing board" for the reason stated in the revisor's note to Section 4002.0102.

Revised Law

Sec. 4052.0103. CERTIFICATE OF NUMBER AND IDENTIFICATION NUMBER REQUIRED. A person may not operate or give permission for the operation of a vessel on public water and may not dock, moor, or store a vessel owned by the person on public water unless:

(1) the vessel is numbered as required by this chapter;

(2) the certificate of number issued for the vessel is in effect; and

(3) the vessel's identification number is displayed on the vessel as required by this chapter. (Parks & Wild. Code, Sec. 31.021(b).)

Source Law

(b) No person may operate or give permission for the operation of any vessel or may dock, moor, or store a vessel owned by the person on the water of this state unless:

(1) the vessel is numbered as required by this chapter;

(2) the certificate of number awarded to the vessel is in full force and effect; and

(3) the identifying number set forth in the certificate is properly displayed on the vessel as required by this chapter.

Revisor's Note

(1) Section 31.021(b)(1), Parks and Wildlife Code, requires for the operation of a vessel that the

vessel be numbered as required by "this chapter," meaning Chapter 31 of that code. The revised law retains the reference to "this chapter" for the reason stated in Revisor's Note (1) to Section 4052.0101.

(2) Section 31.021(b)(2), Parks and Wildlife Code, refers to a certificate of number awarded to the vessel being "in full force and effect." The revised law omits the reference to "full force" because "full force" is included in the meaning of "effect."

(3) Section 31.021(b)(3), Parks and Wildlife Code, refers to "the identifying number set forth in the certificate [of number]." The revised law substitutes "identification number" for the quoted language because Section 4051.0101(4) of this code defines "identification number" for purposes of this subtitle as "the number assigned to a vessel by the department in the vessel's certificate of number," and it is clear that the identifying number referred to in the quoted language is the vessel's identification number. For clarity and consistency in terminology used in this subtitle, the revised law also substitutes "identification number" throughout this subtitle for other similar references when it is clear from the context that the reference is to the number assigned to a vessel by the Parks and Wildlife Department in the vessel's certificate of number.

(4) Section 31.021(b)(3), Parks and Wildlife Code, requires an identification number to be "properly" displayed on a vessel as required by "this chapter," meaning Chapter 31 of that code. The revised law omits "properly" as unnecessary because an identification number that is displayed as required by Chapter 31 is necessarily displayed properly on the vessel. Additionally, the revised law retains the

reference to "this chapter" because the pertinent parts of Chapter 31 relating to the display of an identification number are revised in this chapter.

SUBCHAPTER B. CERTIFICATE OF NUMBER REQUIREMENTS

Revised Law

Sec. 4052.0201. APPLICATION FOR CERTIFICATE OF NUMBER. (a) The department shall prescribe the application form for a certificate of number.

(b) The owner of a vessel required to be numbered under this chapter shall submit an application for a certificate of number to:

(1) the department;

(2) an authorized agent; or

(3) a county tax assessor-collector.

(c) The application must be:

(1) signed by the owner of the vessel; and

(2) accompanied by the fee prescribed in Section 4052.0208.

(d) If the application is received by:

(1) an authorized agent, the application and the fee for the certificate of number must be sent to the department as required by Section 4051.0202; or

(2) a county tax assessor-collector, the application and the portion of the fee for the certificate of number not retained by the tax assessor-collector under Section 4052.0404 must be sent to the department. (Parks & Wild. Code, Secs. 31.024(a), (b), (d) (part), 31.026(a) (part).)

Source Law

> Sec. 31.024. APPLICATION FOR NUMBER. (a) The owner of each vessel requiring numbering by this state shall file an application for a number with the department, an authorized agent, or a county tax assessor-collector.
>
> (b) The application shall be signed by the owner of the vessel and shall be accompanied by the fee prescribed in Section 31.026 of this code. If the application is received by a county tax assessor-collector, the application and the portion of the fee not retained by the tax assessor-collector as a collection fee shall be sent to the department. If the application is received by an authorized agent, the

application and the fee shall be sent to the department as required by Section 31.006 of this code.

(d) The application form, . . . shall be prescribed by the department.

Sec. 31.026. FEES. (a) Each application for [an original or renewal] certificate of number for a vessel shall be accompanied by a . . . fee . . .

Revisor's Note

(1) Section 31.024(a), Parks and Wildlife Code, refers to each vessel "requiring numbering by this state." For clarity and consistency in terminology used in this subtitle, the revised law substitutes "required to be numbered under this chapter" for the quoted language because the applicable provisions of law requiring a vessel to be numbered by this state are revised in this chapter.

(2) Section 31.024(a), Parks and Wildlife Code, requires certain vessel owners to file an application for a "number." The revised law substitutes "certificate of number" for "number" because "certificate of number" is a defined term in this subtitle and it is clear from the context that the application referred to is an application for a "certificate of number."

(3) Section 31.024(b), Parks and Wildlife Code, refers to the fee prescribed in Section 31.026 of that code. Section 31.026 is revised in pertinent part as Section 4052.0208, and the revised law is drafted accordingly.

(4) Section 31.024(b), Parks and Wildlife Code, refers to "the portion of the fee" and "the fee." The revised law adds "for a certificate of number" to clarify that the type of fee referenced is a fee for a certificate of number.

(5) Section 31.024(b), Parks and Wildlife Code, requires a county tax assessor-collector to send to

the Parks and Wildlife Department the portion of the fee for a certificate of number that is not retained by the county tax assessor-collector "as a collection fee." For the convenience of the reader and consistency in terminology used in this chapter, the revised law substitutes "under Section 4052.0404" for the quoted language because the portion of the fee retained by a county tax assessor-collector to which Section 31.024(b) refers is the portion described by Section 31.0341(b), Parks and Wildlife Code, which is revised as Section 4052.0404. Additionally, "collection fee" is not used elsewhere in Chapter 31, Parks and Wildlife Code, to describe that portion of the fee.

(6) Section 31.024(b), Parks and Wildlife Code, requires an authorized agent that receives an application for a certificate of number to send the application and fee to the Parks and Wildlife Department as required by Section 31.006 of that code. Section 31.006 is revised in pertinent part as Section 4051.0202, and the revised law is drafted accordingly.

Revised Law

Sec. 4052.0202. ADDITIONAL REQUIREMENTS FOR VESSEL LIVERY. (a) Before a vessel is rented for use as a motorboat, the owner or operator of the vessel livery must obtain a certificate of number for the vessel.

(b) An application for a certificate of number for a vessel livery must state that the applicant is a vessel livery. (Parks & Wild. Code, Secs. 31.040(a), (b) (part).)

Source Law

> Sec. 31.040. VESSEL LIVERIES. (a) Before the vessel is rented or let for hire, the owner or operator of a vessel livery shall obtain a certificate of number for a vessel being used as a motorboat prior to being rented.
>
> (b) The application for the certificate of number under Section 31.024 or . . . must state that

the applicant is a vessel livery within the meaning of this chapter.

Revisor's Note

Section 31.040(a), Parks and Wildlife Code, refers to a vessel being "rented or let for hire." The revised law omits "let for hire" as redundant because "let for hire" is synonymous with "rented" and "rented" is more consistent with modern usage.

Revised Law

Sec. 4052.0203. PROOF OF OWNERSHIP. (a) A certificate of title is required as proof of ownership of a vessel for which a certificate of number is sought.

(b) A certified statement of ownership is sufficient proof of ownership for a vessel of a type for which a certificate of title is not required. (Parks & Wild. Code, Sec. 31.036.)

Source Law

Sec. 31.036. PROOF OF OWNERSHIP. (a) A certificate of title is required as proof of ownership of a vessel for which a certificate of number is sought.

(b) A certified statement of ownership is sufficient proof of ownership for a vessel of a type for which a certificate of title is not required.

Revised Law

Sec. 4052.0204. ISSUANCE OF CERTIFICATE OF NUMBER. (a) On receipt of an application for a certificate of number in approved form, the department shall:

(1) enter the application in the department's records; and

(2) issue to the applicant a certificate of number stating:

(A) the identification number assigned to the vessel; and

(B) the name and address of the owner.

(b) A county tax assessor-collector may issue a certificate of number only in the manner prescribed by this chapter and department regulations.

(c) A copy of the rules and regulations adopted under this

title, other than Chapter 4151, must be provided at no cost with each certificate of number. (Parks & Wild. Code, Secs. 31.024(c), 31.0341(a), 31.035.)

Source Law

[Sec. 31.024]

(c) On receipt of the application in approved form, the department shall enter it on the records of its office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner.

Sec. 31.0341. ISSUANCE OF NUMBERS: COUNTY TAX ASSESSOR-COLLECTOR. (a) Each county tax assessor-collector shall award certificates of number under this chapter in the manner prescribed by this chapter and the regulations of the department.

Sec. 31.035. RULES AND REGULATIONS; COPIES. Copies of all rules and regulations formulated under this chapter shall be furnished without cost with each certificate of number issued.

Revisor's Note

(1) Section 31.0341(a), Parks and Wildlife Code, requires a county tax assessor-collector to issue certificates of number in the manner prescribed by Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the issuance of certificates of number are revised in this chapter, and the revised law is drafted accordingly.

(2) Section 31.035, Parks and Wildlife Code, refers to rules and regulations "formulated" under Chapter 31 of that code. The revised law substitutes "adopted" for "formulated" because, in context, the terms are synonymous and "adopted" is more commonly used.

Revised Law

Sec. 4052.0205. FORM OF CERTIFICATE OF NUMBER. The department shall prescribe the form of the certificate of number. The certificate of number must be pocket-size. (Parks & Wild. Code, Secs. 31.024(d) (part), 31.028 (part).)

Source Law

[Sec. 31.024]

(d) . . . the form of the certificate of number, and . . . shall be prescribed by the department.

Sec. 31.028. CERTIFICATE OF NUMBER. The certificate of number shall be pocket-size. . . .

Revised Law

Sec. 4052.0206. TERM OF CERTIFICATE OF NUMBER. A certificate of number is valid for two years. (Parks & Wild. Code, Sec. 31.029.)

Source Law

Sec. 31.029. TERM OF CERTIFICATE OF NUMBER. Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of two years unless sooner terminated or discontinued in accordance with the provisions of this chapter.

Revisor's Note

(1) Section 31.029, Parks and Wildlife Code, refers to a certificate of number awarded "pursuant to this chapter," meaning Chapter 31 of that code. The applicable provision of Chapter 31 under which a certificate of number is awarded is Section 31.024(c), which is revised in Section 4052.0204. The revised law omits the quoted language as unnecessary because Section 4051.0101(2) of this code defines "certificate of number" for purposes of this subtitle as "the document issued by the department under Section 4052.0204 that assigns a vessel an identification number."

(2) Section 31.029, Parks and Wildlife Code, provides that a certificate of number is "in full force and effect" for two years. The revised law substitutes "valid" for the quoted language because, in context, the terms are synonymous and "valid" is more consistent with modern usage.

(3) Section 31.029, Parks and Wildlife Code, provides that a certificate of number is in full force and effect for two years "unless sooner terminated or discontinued in accordance with the provisions of this

chapter." The revised law omits the quoted language as unnecessary because a provision relating to the termination or discontinuance of a certificate of number before the prescribed expiration date applies on its own terms.

Revised Law

Sec. 4052.0207. RENEWAL OF CERTIFICATE OF NUMBER. (a) The department shall prescribe the manner of renewal of a certificate of number.

(b) During the 90-day period before the expiration of a vessel's certificate of number, the department shall prepare an application for the renewal of the certificate of number and:

(1) mail the application to the owner of the vessel; or

(2) send the application electronically to the owner of the vessel, if the owner has agreed to receive department communications electronically.

(c) A completed application for the renewal of a certificate of number may be submitted to:

(1) the department;

(2) a county tax assessor-collector; or

(3) if permitted by the department, an authorized agent.

(d) A completed application for the renewal of a certificate of number received after the expiration date of the certificate of number must be treated in the same manner as an original application.

(e) The identification number assigned in a vessel's renewal certificate of number must be the same as the identification number assigned in the vessel's original certificate of number. (Parks & Wild. Code, Secs. 31.024(d) (part), 31.025(a), (b), (c).)

Source Law

[Sec. 31.024]

(d) . . . the manner of renewal shall be prescribed by the department.

Sec. 31.025. RENEWAL OF CERTIFICATES OF NUMBER. (a) An application for the renewal of each certificate of number shall be prepared by the department and mailed to the owner of the vessel, or sent electronically to the owner if the owner has agreed to receive department communications electronically, during the period of the last 90 days before the expiration date of the certificate. The same number shall be issued on renewal.

(b) The completed application for renewal may be returned to the department, to any county tax assessor-collector, or if permitted by the department, to an agent of the department.

(c) A completed application not received during the 90-day period shall be treated in the same manner as an original application.

Revisor's Note

(1) Section 31.024(d), Parks and Wildlife Code, provides in part that the Parks and Wildlife Department shall prescribe the "manner of renewal." For clarity and the convenience of the reader, the revised law adds "of a certificate of number" to the quoted language because it is clear from the context that the renewal referenced is the renewal of a certificate of number.

(2) Section 31.025(a), Parks and Wildlife Code, provides in part that "[t]he same number shall be issued on renewal." For clarity and consistency in terminology used in this chapter, the revised law substitutes "[t]he identification number assigned in a vessel's renewal certificate of number must be the same as the identification number assigned in the vessel's original certificate of number" for the quoted language because Section 4051.0101(4) of this code defines "identification number" for purposes of this subtitle as "the number assigned to a vessel by the department in the vessel's certificate of number," and it is clear that the number referred to in the quoted language is the vessel's identification number. Additionally, it is clear that the "renewal" referred to is a renewal certificate of number issued for an

original certificate of number.

(3) Section 31.025(b), Parks and Wildlife Code, authorizes a completed application for the renewal of a certificate of number to be returned to the Parks and Wildlife Department, a county tax assessor-collector, or if permitted by the department, an "agent of the department." For consistency in terminology used in this subtitle, the revised law substitutes "authorized agent" for "agent of the department" because, in context, the terms are synonymous and "authorized agent" is a defined term in this subtitle.

(4) Section 31.025(c), Parks and Wildlife Code, refers to a "completed application not received during the 90-day period." The revised law substitutes "completed application for the renewal of a certificate of number" for "completed application" because it is clear from the context that the application referred to is an application for the renewal of a certificate of number. Additionally, the revised law substitutes "received after the expiration date of the certificate of number" for "not received during the 90-day period" because under Section 31.025(a), Parks and Wildlife Code, revised in pertinent part as Subsection (b) of this section, the department is required to prepare an application for the renewal of a certificate of number "during the period of the last 90 days before the expiration date of the certificate." An application cannot be completed before it is prepared, so a completed application not received during the 90 days before the expiration of a certificate of number is necessarily received after the expiration of the certificate of number.

Revised Law

Sec. 4052.0208. FEE FOR ORIGINAL OR RENEWAL CERTIFICATE OF NUMBER. (a) In this section:

(1) "Class A vessel" means a vessel less than 16 feet in length.

(2) "Class 1 vessel" means a vessel 16 feet or more and less than 26 feet in length.

(3) "Class 2 vessel" means a vessel 26 feet or more and less than 40 feet in length.

(4) "Class 3 vessel" means a vessel 40 feet or more in length.

(b) Except as provided by Subsection (c), the fee for an original or renewal certificate of number is the following applicable amount or a greater amount set by the commission:

(1) $12 for a Class A vessel;

(2) $18 for a Class 1 vessel;

(3) $24 for a Class 2 vessel; or

(4) $30 for a Class 3 vessel.

(c) The fee for an original or renewal certificate of number for a vessel less than 16 feet in length that is owned by a vessel livery and used for rental purposes is $6 or a greater amount set by the commission. (Parks & Wild. Code, Secs. 31.026(a) (part), (b).)

Source Law

(a) [Each application for] an original or renewal [certificate of number for a vessel shall be accompanied by] a two-year fee determined by the following classification schedule or determined in the same classifications by the commission, whichever amount is more:

Class	Description of Vessel	Fee
Class A	less than 16 feet in length	$12
Class 1	16 feet or over and less than 26 feet in length	$18
Class 2	26 feet or over and less than 40 feet in length	$24
Class 3	40 feet or more in length	$30

(b) The fee for a vessel less than 16 feet in length owned by a vessel livery and used for rental purposes is $6 for each original and renewal application for a certificate of number or an amount set by the commission, whichever amount is more.

Revisor's Note

(1) Section 31.026(a), Parks and Wildlife Code, requires that each application for an original or renewal certificate of number be accompanied by a "two-year" fee. The revised law omits the quoted language as unnecessary because under Section 31.029, Parks and Wildlife Code, revised as Section 4052.0206, a certificate of number is valid for two years.

(2) Section 31.026(c), Parks and Wildlife Code, requires that the owner of a newly purchased vessel or a vessel not previously operated in this state pay the full registration fee for the vessel. The substance of Section 31.026, Parks and Wildlife Code, was originally enacted as Section 27, Chapter 971, Acts of the 62nd Legislature, Regular Session, 1971. At the time of enactment, Section 27 included a Subsection (d) that was later codified by Chapter 545, Acts of the 64th Legislature, Regular Session, 1975, as Section 31.026(d) and that authorized the Parks and Wildlife Department to charge a fee that would be less than the full fee prescribed by law for certain currently registered vessels in order to establish a two-year staggered registration period. Consequently, Section 27 also contained a provision, later codified as Section 31.026(c), making clear that owners of newly purchased vehicles and vehicles not previously operated in this state were not entitled to the reduced fee. Section 31.026(d) was repealed by Section 7, Chapter 450, Acts of the 73rd Legislature, Regular Session, 1993. Accordingly, it is no longer necessary to specify that owners of newly purchased vehicles and vehicles not previously operated in this state must pay the full registration fee, and the revised law omits Section 31.026(c) because the provision no

longer adds to the clear meaning of the law. The omitted law reads:

> (c) Owners of newly purchased vessels or other vessels not previously operated in this state shall pay the full registration fee.

Revised Law

Sec. 4052.0209. PAYMENT OF CERTAIN TAXES REQUIRED BEFORE ISSUANCE OF ORIGINAL OR RENEWAL CERTIFICATE OF NUMBER. The department, an authorized agent, or a county tax assessor-collector may not issue an original or renewal certificate of number unless the tax due on the vessel under Chapter 160, Tax Code, is paid. (Parks & Wild. Code, Secs. 31.024(e), 31.025(d).)

Source Law

> [Sec. 31.024]
> (e) The department, an authorized agent, or a county tax assessor-collector may not issue a certificate of number unless the tax due on the vessel under Chapter 160, Tax Code, is paid.
>
> [Sec. 31.025]
> (d) The department, an authorized agent, or a county tax assessor-collector may not issue a renewal certificate of number unless the tax due on the vessel under Chapter 160, Tax Code, is paid.

Revised Law

Sec. 4052.0210. CHANGE OF ADDRESS. (a) The holder of a certificate of number shall:

(1) notify the department within 15 days of the date that the certificate holder's address no longer conforms to the address that appears on the certificate of number; and

(2) inform the department of the certificate holder's new address.

(b) The department may adopt regulations for:

(1) the surrender of a certificate of number with the certificate holder's former address and replacement with a certificate of number with the new address; or

(2) the alteration of a certificate of number to show the new address of the certificate holder.

(c) The department shall enter a change of address of the

holder of a certificate of number in the department's records. (Parks & Wild. Code, Secs. 31.003(10), 31.038.)

Source Law

Sec. 31.003. DEFINITIONS. In this chapter:

(10) "Reasonable time" means 15 days.

Sec. 31.038. CHANGE OF ADDRESS; NOTICE TO DEPARTMENT. (a) The holder of a certificate of number shall notify the department within a reasonable time if his address no longer conforms to the address appearing on the certificate and shall inform the department of his new address.

(b) The department may provide in its regulations 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 the outstanding certificate to show the new address of the holder. Changes of address shall be noted on the records of the department.

Revisor's Note

(1) Section 31.038(a), Parks and Wildlife Code, requires that notification of the change of address of the holder of a certificate of number be made in a "reasonable time," which is defined in Section 31.003(10), Parks and Wildlife Code, as "15 days." The revised law substitutes "15 days" for "reasonable time" and omits the definition of "reasonable time" as unnecessary because "reasonable time" is used only in Section 31.038(a).

(2) Section 31.038(b), Parks and Wildlife Code, authorizes the Parks and Wildlife Department to "provide" in its regulations for the surrender and replacement of, or the alteration of, certain certificates of number. The revised law substitutes "adopt" for "provide" because, in context, the terms are synonymous and "adopt" is more commonly used.

(3) Section 31.038(b), Parks and Wildlife Code, refers to an "outstanding" certificate of number. The revised law omits "outstanding" as unnecessary because the word does not add to the clear meaning of the law.

Revised Law

Sec. 4052.0211. CERTIFICATE OF NUMBER TO BE CARRIED ON BOARD VESSEL AND EXHIBITED ON DEMAND. (a) Except as provided by Subsection (c), the operator of a vessel shall carry on board the vessel the vessel's certificate of number, a facsimile of the certificate of number, or an electronic version of the certificate provided by the department.

(b) The operator of a vessel required by this section to carry a certificate of number on board the vessel shall show the certificate to a marine safety enforcement officer on demand.

(c) The operator of a vessel is not required to carry the vessel's certificate of number on the operator's person if the operator can produce a valid certificate of number for examination before trial. (Parks & Wild. Code, Secs. 31.028 (part), 31.124(c).)

Source Law

> Sec. 31.028. . . . [The certificate of number] . . . . The certificate, a facsimile of the certificate, or an electronic version of the certificate provided by the department shall be carried on board the vessel at all times. It does not have to be on the person of the operator if prior to trial the operator can produce for examination a valid certificate of number.
>
> [Sec. 31.124. . . . (a) In order to enforce the provisions of this chapter, an enforcement officer may stop and board any vessel subject to this chapter . . . .]
>
> (c) The operator of a vessel required by this chapter to hold a certificate of number aboard the vessel shall show the certificate to the officer on demand, and failure to do so constitutes a violation of this chapter.

Revisor's Note

(1) Section 31.028, Parks and Wildlife Code, requires that a certificate of number or a facsimile of the certificate be carried on board the vessel "at all times" and further provides that the certificate is not required to be on the person of the operator of the vessel if the operator can produce a valid certificate of number for examination before trial. It is clear

from the context that the duty to carry a vessel's certificate of number on board the vessel is assigned to the vessel's operator, and the revised law is drafted accordingly. Additionally, the revised law omits "at all times" as unnecessary because, without an express limitation, the requirement that a certificate of number or a facsimile of the certificate be carried on board the vessel necessarily requires the certificate or facsimile to be carried on board the vessel at all times.

(2) Section 31.124(c), Parks and Wildlife Code, refers to the operator of a vessel required by Chapter 31 of that code to hold a certificate of number aboard the vessel. The pertinent part of Chapter 31 requiring an operator of a vessel to hold a certificate of number aboard a vessel is Section 31.028, Parks and Wildlife Code, revised in pertinent part as Subsection (a) of this section, and the revised law is drafted accordingly.

(3) Section 31.124(c), Parks and Wildlife Code, refers to an "[enforcement] officer." The revised law substitutes "marine safety enforcement officer" for the quoted language because, in this context, there is no substantive difference between the terms and "marine safety enforcement officer" is the more commonly used term in Chapter 31, Parks and Wildlife Code.

(4) Section 31.124(c), Parks and Wildlife Code, requires certain operators of a vessel to show the vessel's certificate of number to an enforcement officer on demand and further provides that the "failure to do so constitutes a violation of this chapter." The revised law omits the quoted language as unnecessary because Section 31.124(c) imposes a duty

on the operator to show the certificate of number and under the general penalty provision in Section 31.127(a), Parks and Wildlife Code, revised as Section 4951.0101, a person who violates or fails to comply with any provision of Chapter 31 of that code commits an offense. An operator who fails to show a vessel's certificate of number therefore violates this chapter.

Revised Law

Sec. 4052.0212. TAMPERING WITH CERTIFICATE OF NUMBER PROHIBITED. A person may not alter or deface a certificate of number. (Parks & Wild. Code, Sec. 31.033(b) (part).)

Source Law

(b) No person may deface or alter the certificate of number or . . . .

Revisor's Note
(End of Subchapter)

(1) Section 31.023, Parks and Wildlife Code, requires the owner of a vessel numbered under federal law or a federally approved numbering system of another state to apply for a certificate of number if the vessel is operated on the water of this state in excess of 90 consecutive days. Section 31.021(a), Parks and Wildlife Code, revised in pertinent part as Section 4052.0101(a), requires each vessel on the water of this state to be numbered under Chapter 31, Parks and Wildlife Code, unless specifically exempted. Section 31.022(a)(1), Parks and Wildlife Code, revised as Section 4052.0102(a)(1), exempts from the requirement of Section 31.021(a) a vessel numbered under federal law or a federally approved numbering system of another state that is operated in this state for less than 90 consecutive days. The revised law omits Section 31.023 as unnecessary because there is no reading of Sections 31.021(a) and 31.022(a)(1) that would exclude from the requirement of Section

31.021(a) a vessel described by Section 31.023. The omitted law reads:

> Sec. 31.023. VESSELS NUMBERED UNDER FEDERAL OR OTHER STATE LAW. The owner of any vessel for which a current certificate of number has been awarded under any federal law or a federally approved numbering system of another state shall, if the vessel is operated on the water of this state in excess of 90 consecutive days, make application for a certificate of number in the manner prescribed in this chapter for residents of this state.

(2) Section 31.034(a), Parks and Wildlife Code, provides that the Parks and Wildlife Department "may" issue a certificate of number. Section 31.024(c), Parks and Wildlife Code, revised as Section 4052.0204(a), provides that the Parks and Wildlife Department "shall" issue a certificate of number on approval by the department of an application for a certificate of number received by the department. The revised law omits Section 31.034(a) as unnecessary because under Section 311.016(2), Government Code (Code Construction Act), the word "shall" imposes a duty on the actor, and it is not necessary to authorize the performance of an act that is required to be performed. The omitted law reads:

> Sec. 31.034. ISSUANCE OF NUMBERS BY DEPARTMENT OR AUTHORIZED AGENT. (a) The department may award a certificate of number.

(3) Section 31.034(b), Parks and Wildlife Code, provides that a certificate of number issued by an authorized agent in conformity with Chapter 31 of that code and rules of the Parks and Wildlife Commission adopted under that chapter is valid as if awarded by the Parks and Wildlife Department directly. The revised law omits that provision as unnecessary because the provisions of Chapter 31 and rules of the commission apply on their own terms, and no provision

of that chapter limits the validity of a certificate of number on the basis that it is issued by an authorized agent. The omitted law reads:

> (b) A certificate of number issued and delivered by an authorized agent in conformity with this chapter and the rules of the commission adopted under this chapter is valid as if awarded by the department directly.

SUBCHAPTER C. IDENTIFICATION NUMBER AND REGISTRATION DECAL

Revised Law

Sec. 4052.0301. DISPLAY OF IDENTIFICATION NUMBER. (a) This section does not apply to the owner of a vessel required to be numbered under this chapter and documented by the Coast Guard.

(b) The owner of a vessel shall paint on or attach to each side of the forward half of the vessel the vessel's identification number in the manner prescribed by the department.

(c) An identification number painted on or attached to a vessel must:

(1) read from left to right; and

(2) be:

(A) in block characters of good proportion not less than three inches in height;

(B) a color that contrasts with the vessel's hull material; and

(C) maintained so as to be clearly visible and legible.

(d) If a vessel is configured in a manner that an identification number on the hull or superstructure of the vessel is not easily visible, the identification number must be painted on or attached to a backing plate attached to the forward half of the vessel so that the identification number is visible from each side of the vessel. (Parks & Wild. Code, Secs. 31.032(a) (part), (a-1), (b).)

Source Law

> Sec. 31.032. NUMBERING LOCATION AND VISIBILITY; EXEMPTION; DECAL. (a) The owner of a vessel shall

paint on or attach to each side of the forward half of the vessel the identification number and . . . in the manner prescribed by the department. The number shall read from left to right and shall be of block characters of good proportion of not less than three inches in height. The numbers shall be of a color which will contrast with the hull material of the vessel and so maintained as to be clearly visible and legible.

(a-1) On a vessel configured so that a number on the hull or superstructure is not easily visible, the number must 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.

(b) The owner of a vessel required to be numbered under this subchapter and documented by the United States Coast Guard is not required to attach an identification number as required by Subsection (a).

Revisor's Note

Section 31.032(b), Parks and Wildlife Code, refers to the owner of a vessel required to be numbered under Subchapter B, Chapter 31, of that code. The pertinent parts of Subchapter B relating to the numbering of vessels are revised in this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 4052.0302. UNAUTHORIZED NUMBER PROHIBITED. A person may not paint, attach, or otherwise display on the forward half of a vessel a number other than:

(1) the vessel's identification number; or

(2) a number granted reciprocity under this chapter.

(Parks & Wild. Code, Sec. 31.033(a).)

Source Law

Sec. 31.033. UNAUTHORIZED NUMBERS PROHIBITED. (a) No person may paint, attach, or otherwise display on the forward half of a vessel a number other than the number awarded to the vessel or granted reciprocity under this chapter.

Revisor's Note

Section 31.033(a), Parks and Wildlife Code, prohibits a person from displaying a number on a vessel other than a number awarded to the vessel or granted reciprocity under Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the

numbering of vessels are revised in this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 4052.0303. TAMPERING WITH IDENTIFICATION NUMBER PROHIBITED. A person may not alter or deface a vessel's identification number displayed on the vessel. (Parks & Wild. Code, Sec. 31.033(b) (part).)

Source Law

> (b) No person may deface or alter . . . the number assigned to and appearing on a vessel.

Revised Law

Sec. 4052.0304. DISPLAY OF REGISTRATION DECAL. (a) Except as provided by Subsection (c), the owner of a vessel shall attach to each side of the forward half of the vessel a registration decal in the manner prescribed by the department.

(b) A person may not display on a vessel a registration decal that is altered, fraudulent, or issued under a certificate of number issued to another vessel.

(c) The commission shall adopt rules for the placement of a registration decal in an alternate location for an antique boat. In this subsection, "antique boat" means a boat:

(1) manufactured at least 35 years before the date the registration decal is issued; and

(2) used primarily for recreational purposes. (Parks & Wild. Code, Secs. 31.032(a) (part), (c), 31.033(c).)

Source Law

> Sec. 31.032. NUMBERING LOCATION AND VISIBILITY; EXEMPTION; DECAL. (a) The owner of a vessel shall . . . attach to each side of the forward half of the vessel . . . a registration decal in the manner prescribed by the department. . . .
>
> (c) The commission shall adopt rules for the placement of the registration decal in an alternate location for antique boats. In this subsection, "antique boat" means a boat that:
>
> (1) is used primarily for recreational purposes; and
>
> (2) was manufactured 35 or more years before the date the registration decal is issued.

[Sec. 31.033]

(c) No person may display on a vessel a registration decal that is altered, fraudulent, or issued under a certificate of number assigned to another vessel.

SUBCHAPTER D. ADMINISTRATIVE MATTERS

Revised Law

Sec. 4052.0401. CANCELING CERTIFICATE OF NUMBER AND VOIDING IDENTIFICATION NUMBER. (a) The department may cancel a certificate of number and void the identification number assigned in the certificate of number before the certificate's expiration date, regardless of whether the certificate of number is surrendered to the department.

(b) Grounds for canceling a certificate of number and voiding the identification number assigned in the certificate of number include:

(1) surrendering the certificate of number for cancellation;

(2) assigning a new identification number for the vessel;

(3) including a false or fraudulent certification in an application for a certificate of number;

(4) failing to pay a prescribed fee; and

(5) dismantling, destroying, or other changing of the form or character of the vessel or outboard motor so that the vessel or outboard motor:

(A) is no longer correctly described in the certificate of number; or

(B) no longer meets the definition of a vessel or outboard motor. (Parks & Wild. Code, Sec. 31.042.)

Source Law

Sec. 31.042. CANCELLATION OF CERTIFICATES OF NUMBER; GROUNDS. (a) A certificate of number may be cancelled and the identification number voided by the department even though the action occurs before the expiration date on the certificate and even though the certificate is not surrendered to the department.

(b) Causes for cancellation of certificates and voiding of numbers include:

(1) surrender of the certificate for cancellation;

(2) issuance of a new number for the same

vessel;

(3) false or fraudulent certification in an application for number;

(4) failure to pay the prescribed fee; and

(5) dismantling, destruction, or other change in the form or character of the vessel or outboard motor so that it is no longer correctly described in the certificate or it no longer meets the definition of a vessel or outboard motor.

Revisor's Note

Section 31.042(b)(3), Parks and Wildlife Code, refers to an application for "number." The revised law substitutes "certificate of number" for "number" for the reasons stated in Revisor's Note (2) to Section 4052.0201.

Revised Law

Sec. 4052.0402. DUPLICATE CERTIFICATE OF NUMBER. The owner of a vessel for which the certificate of number is lost, mutilated, or illegible may obtain a duplicate certificate of number on application to the department and payment of a fee in an amount equal to the greater of:

(1) $2; or

(2) an amount set by the commission. (Parks & Wild. Code, Sec. 31.030(a).)

Source Law

Sec. 31.030. DUPLICATE CERTIFICATES AND DECALS. (a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the vessel for which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of $2 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 4052.0403. REPLACEMENT REGISTRATION DECAL. The owner of a vessel for which a registration decal is lost, mutilated, or illegible may obtain a replacement registration decal on application to the department and payment of a fee in an amount equal to the greater of:

(1) $2; or

(2) an amount set by the commission. (Parks & Wild. Code, Sec. 31.030(b).)

Source Law

(b) If a registration decal becomes lost, mutilated, or illegible, the owner of the vessel for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of $2 or an amount set by the commission, whichever amount is more.

Revised Law

Sec. 4052.0404. DISPOSITION AND USE OF FEES COLLECTED BY COUNTY TAX ASSESSOR-COLLECTOR. A county tax assessor-collector is entitled to retain an amount equal to 10 percent of the fee collected by the county tax assessor-collector for a certificate of number issued by the county tax assessor-collector. The amount retained by a county tax assessor-collector:

(1) shall be deposited to the credit of the officers' salary fund of the county; and

(2) may be used only to pay the salaries of persons issuing certificates of number. (Parks & Wild. Code, Sec. 31.0341(b).)

Source Law

(b) The county tax assessor-collector is entitled to a fee of 10 percent of the amount of the fee for each certificate. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing vessel certificates of number.

Revisor's Note

(1) Section 31.0341(b), Parks and Wildlife Code, entitles a county tax assessor-collector to "a fee of" 10 percent of the amount of the fee for each certificate of number issued. The revised law substitutes "retain an amount equal to" for "a fee of" to clarify that the portion of the fee for a certificate of number that a county tax assessor-collector is entitled to retain is not itself a separate fee.

(2) Section 31.0341(b), Parks and Wildlife Code, entitles the county tax assessor-collector to

retain a percentage of the fee for each certificate of number. The revised law adds "collected by the county tax assessor-collector" and "issued by the county tax assessor-collector" to clarify that the amount referred to is a portion of the fee collected by a county tax assessor-collector for a certificate of number issued by the county tax assessor-collector.

CHAPTER 4053. OWNERSHIP OF AND SECURITY INTERESTS IN VESSELS AND OUTBOARD MOTORS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 4053.0101. DEFINITIONS. In this chapter:

(1) "Barge" means a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.

(2) "Builder's certificate" means a certificate of the facts of build of a vessel described in 46 C.F.R. Section 67.99.

(3) "Buyer" includes, with respect to a vessel or outboard motor, a person who contracts to buy the vessel or outboard motor.

(4) "Cancel" means, with respect to a certificate of title, to make the certificate ineffective.

(5) "Certificate of origin" means a record created by a manufacturer or importer as proof of identity of a vessel or outboard motor. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.

(6) "Debtor" has the meaning assigned by Section 9.102, Business & Commerce Code.

(7) "Documented vessel" means a vessel covered by a certificate of documentation issued under 46 U.S.C. Section 12105. The term does not include a foreign-documented vessel.

(8) "Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable

form.

(9) "Foreign-documented vessel" means a vessel the ownership of which is recorded in a registry maintained by a country other than the United States that identifies each person that has an ownership interest in the vessel and includes a unique alphanumeric designation for the vessel.

(10) "Hull damaged" means, with respect to a vessel:

(A) the integrity of the vessel's hull is compromised by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence; or

(B) the sinking of the vessel in a manner that creates a significant risk to the integrity of the vessel's hull.

(11) "Lease" and "lessor" have the meanings assigned by Section 2A.103, Business & Commerce Code.

(12) "Lien creditor" has the meaning assigned by Section 9.102, Business & Commerce Code.

(13) "Notice" has the meaning assigned by Section 1.202, Business & Commerce Code.

(14) "Secured party" means, with respect to a vessel or outboard motor, a person:

(A) in whose favor a security interest is created or provided for under a security agreement, regardless of whether any obligation to be secured is outstanding;

(B) who is a consignor under Chapter 9, Business & Commerce Code; or

(C) who holds a security interest arising under Section 2.401, 2.505, 2.711(c), or 2A.508(e), Business & Commerce Code.

(15) "Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the department or, if the files indicate more than one secured party, the one first indicated.

(16) "Security interest" means, with respect to a vessel or outboard motor, an interest in the vessel or outboard

motor that secures payment or performance of an obligation if the interest is created by contract or arises under Section 2.401, 2.505, 2.711(c), or 2A.508(e), Business & Commerce Code, except that the retention or reservation of title by a seller of a vessel or outboard motor notwithstanding shipment or delivery to the buyer under Section 2.401 of that code is limited in effect to a reservation of a security interest. The term includes any interest of a consignor in a vessel or outboard motor in a transaction that is subject to Chapter 9, Business & Commerce Code. The term does not include:

(A) the special property interest of a buyer of a vessel or outboard motor on identification of that vessel or outboard motor to a contract for sale under Section 2.501, Business & Commerce Code, unless a buyer acquires a security interest by complying with Chapter 9 of that code;

(B) the right of a seller or lessor of a vessel or outboard motor under Chapter 2 or 2A, Business & Commerce Code, to retain or acquire possession of the vessel or outboard motor:

(i) except as otherwise provided by Section 2.505, Business & Commerce Code; or

(ii) unless a seller or lessor acquires a security interest by complying with Chapter 9, Business & Commerce Code; or

(C) an interest created by a transaction in the form of a lease, unless the transaction created a security interest under Section 1.203, Business & Commerce Code.

(17) "Title brand" means a designation of previous damage, use, or condition that must be indicated on a certificate of title.

(18) "Transfer of ownership" means a voluntary or involuntary conveyance of an interest in a vessel or an outboard motor.

(19) "Written certificate of title" means a certificate of title consisting of information inscribed on a

tangible medium. (Parks & Wild. Code, Secs. 31.003(19), (27), 31.0445.)

Source Law

[Sec. 31.003]

(19) "Cancel" means, with respect to a certificate of title, to make the certificate ineffective.

(27) "Security interest" means, with respect to a vessel or outboard motor, an interest in the vessel or outboard motor that secures payment or performance of an obligation if the interest is created by contract or arises under Section 2.401, 2.505, 2.711(c), or 2A.508(e), Business & Commerce Code, except that the retention or reservation of title by a seller of a vessel or outboard motor notwithstanding shipment or delivery to the buyer under Section 2.401 of that code is limited in effect to a reservation of a security interest. The term:

(A) includes any interest of a consignor in a vessel or outboard motor in a transaction that is subject to Chapter 9, Business & Commerce Code; and

(B) does not include:

(i) the special property interest of a buyer of a vessel or outboard motor on identification of that vessel or outboard motor to a contract for sale under Section 2.501, Business & Commerce Code, unless a buyer acquires a security interest by complying with Chapter 9 of that code;

(ii) the right of a seller or lessor of a vessel or outboard motor under Chapter 2 or 2A, Business & Commerce Code, to retain or acquire possession of the vessel or outboard motor:

(a) except as otherwise provided by Section 2.505, Business & Commerce Code; or

(b) unless a seller or lessor acquires a security interest by complying with Chapter 9, Business & Commerce Code; or

(iii) an interest created by a transaction in the form of a lease, unless the transaction created a security interest under Section 1.203, Business & Commerce Code.

Sec. 31.0445. DEFINITIONS. In this subchapter:

(1) "Barge" means a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device.

(2) "Builder's certificate" means a certificate of the facts of build of a vessel described in 46 C.F.R. Section 67.99.

(3) "Buyer" includes, with respect to a vessel or outboard motor, a person who contracts to buy the vessel or outboard motor.

(4) "Certificate of origin" means a record created by a manufacturer or importer as proof of identity of a vessel or outboard motor. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.

(5) "Debtor" has the meaning assigned by Section 9.102, Business & Commerce Code.

(6) "Documented vessel" means a vessel covered by a certificate of documentation issued under 46 U.S.C. Section 12105. The term does not include a foreign-documented vessel.

(7) "Electronic certificate of title" means a certificate of title consisting of information that is stored solely in an electronic medium and is retrievable in perceivable form.

(8) "Foreign-documented vessel" means a vessel the ownership of which is recorded in a registry maintained by a country other than the United States that identifies each person that has an ownership interest in the vessel and includes a unique alphanumeric designation for the vessel.

(9) "Hull damaged" means, with respect to a vessel:

(A) the integrity of the vessel's hull is compromised by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence; or

(B) the sinking of the vessel in a manner that creates a significant risk to the integrity of the vessel's hull.

(10) "Lease" and "lessor" have the meanings assigned by Section 2A.103, Business & Commerce Code.

(11) "Lien creditor" has the meaning assigned by Section 9.102, Business & Commerce Code.

(12) "Notice" has the meaning assigned by Section 1.202, Business & Commerce Code.

(13) "Secured party" means, with respect to a vessel or outboard motor, a person:

(A) in whose favor a security interest is created or provided for under a security agreement, regardless of whether any obligation to be secured is outstanding;

(B) who is a consignor under Chapter 9, Business & Commerce Code; or

(C) who holds a security interest arising under Section 2.401, 2.505, 2.711(c), or 2A.508(e), Business & Commerce Code.

(14) "Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the department or, if the files indicate more than one secured party, the one first indicated.

(15) "Title brand" means a designation of previous damage, use, or condition that must be indicated on a certificate of title.

(16) "Transfer of ownership" means a voluntary or involuntary conveyance of an interest in a vessel or an outboard motor.

(17) "Written certificate of title" means a certificate of title consisting of information inscribed on a tangible medium.

Revised Law

Sec. 4053.0102. APPLICABILITY OF CHAPTER. This chapter does not apply to:

(1) a vessel with a valid marine document issued by:

(A) the Coast Guard's National Vessel Documentation Center; or

(B) a federal agency that is a successor to the National Vessel Documentation Center;

(2) a foreign-documented vessel;

(3) a barge;

(4) a vessel before delivery if the vessel is under construction or completed under contract; or

(5) an outboard motor that:

(A) is at least 40 years of age; and

(B) has a capacity of not more than 25 horsepower. (Parks & Wild. Code, Sec. 31.055.)

Source Law

Sec. 31.055. EXCEPTIONS. This subchapter does not apply to:

(1) a vessel with a valid marine document issued by the United States Coast Guard's National Vessel Documentation Center or a federal agency that is a successor to the National Vessel Documentation Center;

(2) a foreign-documented vessel;

(3) a barge;

(4) a vessel before delivery if the vessel is under construction or completed under contract; or

(5) an outboard motor that:

(A) is at least 40 years of age; and

(B) has a capacity of not more than 25 horsepower.

Revisor's Note

Section 31.055, Parks and Wildlife Code, exempts certain vessels from Subchapter B-1, Chapter 31, of that code. Subchapter B-1 is revised in pertinent part as this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0103. EFFECT OF CERTIFICATE OF TITLE ON INFORMATION IN CERTIFICATE. A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate. (Parks & Wild. Code, Sec. 31.0565.)

Source Law

Sec. 31.0565. EFFECT OF CERTIFICATE OF TITLE ON INFORMATION IN CERTIFICATE. A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate.

Revised Law

Sec. 4053.0104. EFFECT OF POSSESSION OF CERTIFICATE OF TITLE; JUDICIAL PROCESS. (a) Possession of a certificate of title does not provide a right to obtain possession of a vessel or outboard motor. Garnishment, attachment, levy, replevin, or other judicial process against the certificate is not effective to determine possessory rights to the vessel or outboard motor.

(b) This title does not prohibit enforcement under the laws of this state of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel or outboard motor. Absence of an indication of a statutory or common-law lien on a certificate of title does not invalidate the lien. (Parks & Wild. Code, Sec. 31.0567.)

Source Law

> Sec. 31.0567. EFFECT OF POSSESSION OF CERTIFICATE OF TITLE; JUDICIAL PROCESS. Possession of a certificate of title does not provide a right to obtain possession of a vessel or outboard motor. Garnishment, attachment, levy, replevin, or other judicial process against the certificate is not effective to determine possessory rights to the vessel or outboard motor. This chapter does not prohibit enforcement under the laws of this state of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel or outboard motor. Absence of an indication of a statutory or common-law lien on a certificate of title does not invalidate the lien.

Revised Law

Sec. 4053.0105. EFFECT OF MISSING OR INCORRECT INFORMATION. Except as otherwise provided by Section 9.337, Business & Commerce Code, a certificate of title or other record required or authorized by this title is effective, regardless of whether it contains incorrect information or does not contain required information. (Parks & Wild. Code, Sec. 31.0573.)

Source Law

> Sec. 31.0573. EFFECT OF MISSING OR INCORRECT INFORMATION. Except as otherwise provided by Section 9.337, Business & Commerce Code, a certificate of title or other record required or authorized by this chapter is effective, regardless of whether it contains incorrect information or does not contain required information.

SUBCHAPTER B. GENERAL REQUIREMENTS

Revised Law

Sec. 4053.0201. EVIDENCE OF OWNERSHIP. (a) The ownership of a vessel or outboard motor that is not a new vessel or outboard motor is evidenced by a certificate of title issued by the department.

(b) The ownership of a new vessel or outboard motor is evidenced by a manufacturer's or importer's certificate of origin executed on a form prescribed by the department.

(c) Each vessel and outboard motor must be evidenced by a separate certificate.

(d) Ownership of a vessel is not required to be evidenced by a certificate of title issued by the department for:

(1) a vessel exempted from numbering under Section 4052.0102(a)(6);

(2) a watercraft owned by the United States, a state, a foreign government, or a political subdivision of the United States, a state, or a foreign government;

(3) a watercraft used solely as a lifeboat on another watercraft; or

(4) an amphibious vehicle for which a certificate of title is issued under Chapter 501, Transportation Code, or a similar law of another state. (Parks & Wild. Code, Secs. 31.045(a), (b), (c), (d).)

Source Law

Sec. 31.045. OWNERSHIP OF VESSELS AND OUTBOARD MOTORS; CERTIFICATES OF TITLE. (a) The ownership of a vessel or of an outboard motor is evidenced by a certificate of title issued by the department, unless the vessel or the outboard motor is new.

(b) The ownership of a new vessel or a new outboard motor is evidenced by a manufacturer's or importer's certificate of origin executed on a form prescribed by the department.

(c) Separate certificates are required for vessels and for outboard motors.

(d) The ownership of a vessel is not required to be evidenced by a certificate of title issued by the department for:

(1) a vessel exempted from numbering under Section 31.022(c);

(2) a watercraft owned by the United

States, a state, a foreign government, or a political subdivision of the United States, a state, or a foreign government;

(3) a watercraft used solely as a lifeboat on another watercraft; or

(4) an amphibious vehicle for which a certificate of title is issued under Chapter 501, Transportation Code, or a similar law of another state.

Revised Law

Sec. 4053.0202. FORM OF CERTIFICATE OF TITLE. (a) A certificate of title must:

(1) be on a form prescribed by the department; and

(2) contain:

(A) the name and mailing address of the owner of the vessel or outboard motor and, if not all owners are listed, an indication that there are additional owners indicated in the files of the department;

(B) the name and mailing address of the owner of a security interest in the vessel or outboard motor, if any, and, if not all security interests are listed, an indication that there are additional security interests indicated in the files of the department;

(C) a description of the vessel or outboard motor, including, as appropriate, the hull identification number, motor number, outdrive number, make, year, length, vessel type, hull material, propulsion type, engine drive type, fuel type, and horsepower;

(D) the date the certificate was issued;

(E) all title brands indicated in the files of the department covering the vessel, including brands indicated on a certificate issued by a governmental agency of another jurisdiction and delivered to the department; and

(F) a form for the owner of record to indicate, in connection with a transfer of ownership interest, that the vessel is hull damaged.

(b) An original certificate of title bears an assigned title number.

(c) A replacement certificate of title consists of a new, printed title that bears a new title number. On issuance of the replacement certificate of title, the previous title number is void.

(d) For each title brand indicated on a certificate of title, the certificate must identify the jurisdiction under whose law the title brand was designated or the jurisdiction that issued the certificate on which the title brand was designated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate, the certificate may state: "Previously branded in (insert the jurisdiction under whose law the title brand was designated or that issued the certificate of title on which the title brand was designated)."

(e) If the files of the department indicate that a vessel was previously registered or titled in a foreign country, the department shall indicate on the certificate of title that the vessel was registered or titled in that country.

(f) This title does not preclude the department from noting on a certificate of title the name and mailing address of a secured party that is not a secured party of record. (Parks & Wild. Code, Secs. 31.049(a), (d), (f), (g), (h).)

Source Law

Sec. 31.049. FORM OF CERTIFICATE OF TITLE. (a) A certificate of title must be on a form prescribed by the department and must contain:

(1) the name and mailing address of the owner of the vessel or outboard motor and, if not all owners are listed, an indication that there are additional owners indicated in the files of the department;

(2) the name and mailing address of the owner of a security interest in the vessel or outboard motor and, if not all security interests are listed, an indication that there are additional security interests indicated in the files of the department;

(3) a description of the vessel or outboard motor, including, as appropriate, the hull identification number, motor number, outdrive number, make, year, length, vessel type, hull material, propulsion type, engine drive type, fuel type, and horsepower;

(4) the date the certificate was issued;

(5) all title brands indicated in the files of the department covering the vessel, including brands indicated on a certificate issued by a

governmental agency of another jurisdiction and delivered to the department; and

(6) a form for the owner of record to indicate, in connection with a transfer of ownership interest, that the vessel is hull damaged.

(d) An original certificate of title bears an assigned title number. A replacement certificate of title consists of a new, printed title that bears a new title number. The previous title number is void when the replacement certificate of title is issued.

(f) This chapter does not preclude the department from noting on a certificate of title the name and mailing address of a secured party that is not a secured party of record.

(g) For each title brand indicated on a certificate of title, the certificate must identify the jurisdiction under whose law the title brand was designated or the jurisdiction that issued the certificate on which the title brand was designated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate, the certificate may state: "Previously branded in (insert the jurisdiction under whose law the title brand was designated or that issued the certificate of title on which the title brand was designated)."

(h) If the files of the department indicate that a vessel was previously registered or titled in a foreign country, the department shall indicate on the certificate of title that the vessel was registered or titled in that country.

Revisor's Note

Section 31.049(a)(2), Parks and Wildlife Code, requires that a certificate of title contain "the name and mailing address of the owner of a security interest in the vessel or outboard motor." The revised law adds ", if any" to the quoted language to clarify that the requirement in the quoted language is applicable only if there is an owner of a security interest in the vessel or outboard motor because not all vessels or outboard motors have an owner of a security interest.

Revised Law

Sec. 4053.0203. FORM OF MANUFACTURER'S AND IMPORTER'S CERTIFICATE OF ORIGIN. (a) A manufacturer's or importer's certificate of origin must include:

(1) a description of the vessel or outboard motor, including, as appropriate, the manufacturer, make, model, year, length, construction material, manufacturer's or builder's number, hull identification number, motor number, outdrive number, primary

operation purpose, vessel type, propulsion type, engine drive type, fuel type, and horsepower;

(2) the name and place of construction or other origin;

(3) the signature of the manufacturer or an equivalent of the signature of the manufacturer; and

(4) the endorsement of the original and each subsequent transferee, including the applicant for the original certificate of title.

(b) A lien, security interest, or other encumbrance may not be shown on a manufacturer's or importer's certificate of origin. (Parks & Wild. Code, Secs. 31.050(a), (b).)

Source Law

Sec. 31.050. FORM OF MANUFACTURER'S AND IMPORTER'S CERTIFICATE OF ORIGIN. (a) A manufacturer's or importer's certificate of origin must include:

(1) a description of the vessel or outboard motor as required by Section 31.047(b)(2);

(2) the name and place of construction or other origin;

(3) the signature of the manufacturer or an equivalent of the signature of the manufacturer; and

(4) the endorsement of the original and each subsequent transferee, including the applicant for the original certificate of title.

(b) A lien, security interest, or other encumbrance may not be shown on a manufacturer's or importer's certificate of origin.

Revisor's Note

Section 31.050(a)(1), Parks and Wildlife Code, requires that a manufacturer's or importer's certificate include "a description of the vessel or outboard motor as required by Section 31.047(b)(2)." For the convenience of the reader, the revised law substitutes the description provision provided in Section 31.047(b)(2), Parks and Wildlife Code, revised as Section 4053.0302(b)(2)(A), for the quoted language.

SUBCHAPTER C. APPLICATION FOR AND ISSUANCE OF CERTIFICATE OF TITLE

Revised Law

Sec. 4053.0301. DUTY OF CERTAIN OWNERS TO APPLY FOR TITLE. (a) Except as provided by Section 4054.0203, the owner of a vessel or outboard motor for which this state is the state of principal use shall deliver to the department or to a county tax assessor-collector an application for a certificate of title for the vessel or outboard motor, with the applicable fee, not later than the 20th day after the later of:

(1) the date of purchase or transfer of ownership; or

(2) the date that this state becomes the state of principal use.

(b) For purposes of Subsection (a), the state of principal use of a vessel or outboard motor is the state on whose waters a vessel or outboard motor is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year. (Parks & Wild. Code, Secs. 31.046(a), (a-1).)

Source Law

Sec. 31.046. APPLICATION FOR CERTIFICATE OF TITLE. (a) Except as provided by Subsections (b) and (c), the owner of a vessel or outboard motor for which this state is the state of principal use shall deliver to the department or to a county tax assessor-collector an application for a certificate of title for the vessel or outboard motor, with the applicable fee, not later than the 20th day after the later of:

(1) the date of purchase or transfer of ownership; or

(2) the date that this state becomes the state of principal use.

(a-1) For purposes of Subsection (a), the state of principal use of a vessel or outboard motor is the state on whose waters a vessel or outboard motor is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year.

Revisor's Note

Section 31.046(a), Parks and Wildlife Code, requires the owner of a vessel or outboard motor for which Texas is the state of principal use to apply for a certificate of title within a certain period, except as provided by "Subsections (b) and (c)," meaning

Sections 31.046(b) and (c) of that code. The revised law substitutes "Section 4054.0203" for the quoted language because Sections 31.046(b) and (c) are revised in Section 4054.0203. Although Section 4054.0203 also includes the revision of Section 31.041(h), Parks and Wildlife Code, it is appropriate to refer to Section 4054.0203 in its entirety because Section 31.041(h) is also an exception to the requirement imposed by Section 31.046(a).

Revised Law

Sec. 4053.0302. APPLICATION FOR TITLE OR NOTATION OF SECURITY INTEREST. (a) A person may apply on a form prescribed by the department for:

(1) a certificate of title for a vessel or outboard motor; or

(2) the notation on a certificate of title of a security interest in a vessel or outboard motor.

(b) The form must contain:

(1) the owner's name, principal residence address, mailing address, and owner identifier as prescribed by 33 C.F.R. Section 174.17;

(2) a description of the vessel or outboard motor, including:

(A) as appropriate, the manufacturer, make, model, year, length, construction material, manufacturer's or builder's number, hull identification number, motor number, outdrive number, primary operation purpose, vessel type, propulsion type, engine drive type, fuel type, and horsepower; and

(B) any further description of items listed in Paragraph (A), as required by the department;

(3) the name and address of the purchaser;

(4) the date of purchase;

(5) the name and address of any security interest owner;

(6) the appropriate affidavit as required by Section 160.042, Tax Code;

(7) if the application is for a vessel:

(A) a statement that the vessel is not a documented vessel or a foreign-documented vessel; and

(B) a statement that the vessel is hull damaged, if the applicant knows that the vessel is hull damaged;

(8) if previously titled or registered:

(A) the transferor's name and address;

(B) when applicable, the name of the state in which the vessel or outboard motor was previously titled or registered; and

(C) any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was designated; and

(9) any other information required by the department to show:

(A) the ownership of the vessel or outboard motor; or

(B) a security interest in the vessel or outboard motor.

(c) The application must be accompanied by:

(1) other evidence reasonably required by the department to establish that the applicant or other person is entitled to a certificate of title or a noted security interest, which may include:

(A) a certificate of title issued by another state or jurisdiction;

(B) a manufacturer's or importer's certificate of origin;

(C) a bill of sale, assignment, or contract;

(D) a promissory note;

(E) a security agreement;

(F) an invoice;

(G) a bill of lading;

(H) an affidavit;

(I) a probate or heirship proceeding or information;

(J) a judgment of a court;

(K) evidence of an involuntary transfer, as defined by Section 4053.0702(b), which may be in affidavit form with attached copies of any pertinent underlying documents;

(L) if the vessel was a documented vessel, a record issued by the Coast Guard that shows the vessel is no longer documented and identifies the applicant as the owner, or is accompanied by a record that identifies the applicant as the owner;

(M) if the vessel was a foreign-documented vessel, a record issued by the foreign country that shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner, or is accompanied by a record that identifies the applicant as the owner; or

(N) other documents; and

(2) the fee required by Section 4053.0311.

(d) If administration of an estate is not required by law, an affidavit submitted under Subsection (c) must include:

(1) a showing that the administration is not required;

(2) identification of all heirs; and

(3) a statement by the heirs of the name in which to issue the certificate of title. (Parks & Wild. Code, Secs. 31.047(a), (b), (c), (d), (g).)

Source Law

Sec. 31.047. APPLICATION; FORM AND CONTENT; FEE. (a) A person may apply for a certificate of title on a form prescribed by the department.

(b) The form must contain:

(1) the owner's name, principal residence address, mailing address, and owner identifier as prescribed by 33 C.F.R. Section 174.17;

(2) a description of the vessel or outboard motor, including, as appropriate, the manufacturer, make, model, year, length, construction material, manufacturer's or builder's number, hull identification number, motor number, outdrive number, primary operation purpose, vessel type, propulsion

type, engine drive type, fuel type, and horsepower;

(3) name and address of purchaser;

(4) date of purchase;

(5) name and address of any security interest owner;

(6) the appropriate affidavit as required by Section 160.042, Tax Code;

(7) if the application is for a vessel:

(A) a statement that the vessel is not a documented vessel or a foreign-documented vessel; and

(B) a statement that the vessel is hull damaged, if the applicant knows that the vessel is hull damaged;

(8) if previously titled or registered:

(A) transferor's name and address;

(B) when applicable, name of the state in which the vessel or outboard motor was previously titled or registered; and

(C) any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was designated; and

(9) other information required by the department to show the ownership of the vessel or outboard motor, a security interest in the vessel or outboard motor, or a further description of items listed in the subdivision.

(c) The application must be accompanied by other evidence reasonably required by the department to establish that the applicant or other person is entitled to a certificate of title or a noted security interest. The evidence may include:

(1) a certificate of title issued by another state or jurisdiction;

(2) a manufacturer's or importer's certificate of origin;

(3) a bill of sale, assignment, or contract;

(4) a promissory note;

(5) a security agreement;

(6) an invoice;

(7) a bill of lading;

(8) an affidavit;

(9) a probate or heirship proceeding or information;

(10) a judgment of a court of competent jurisdiction;

(11) evidence of an involuntary transfer, as defined by Section 31.053(b), which may be in affidavit form attaching copies of any pertinent underlying documents;

(12) if the vessel was a documented vessel, a record issued by the Coast Guard that shows the vessel is no longer documented and identifies the applicant as the owner, or is accompanied by a record that identifies the applicant as the owner;

(13) if the vessel was a foreign-documented vessel, a record issued by the foreign country that shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner, or is accompanied by a record that identifies the applicant as the owner; or

(14) other documents.

(d) An application for a certificate of title must be accompanied by the fee required by Section 31.048 of this code.

(g) If administration of an estate is not

required by law, an affidavit submitted under Subsection (c) must include:

(1) a showing that the administration is not required;

(2) identification of all heirs; and

(3) a statement by the heirs of the name in which to issue the certificate.

Revisor's Note

(1) Section 31.047(a), Parks and Wildlife Code, provides that a person may apply for a certificate of title on a form prescribed by the department. The revised law adds that the person may also apply for "the notation on a certificate of title of a security interest in a vessel or outboard motor" for consistency with other provisions of Chapter 31, Parks and Wildlife Code, that imply that a person may use the application for that purpose. For example, Section 31.047(c), Parks and Wildlife Code, revised in pertinent part as Subsection (c)(1) of this section, requires that "[t]he application" be accompanied by evidence that "the applicant . . . is entitled to . . . a noted security interest." Similarly, Section 31.048(a), Parks and Wildlife Code, revised as Section 4053.0311, refers to the fee for a certificate of title "or for the notation of a security interest."

(2) Section 31.047(b)(9), Parks and Wildlife Code, requires an application form for a certificate of title for a vessel or outboard motor to contain a further description of items listed in "the subdivision." For clarity and the convenience of the reader, the revised law substitutes for the quoted language a reference to the provision in the revised law that requires a description of the vessel or outboard motor.

(3) Section 31.047(c)(10), Parks and Wildlife Code, refers to a court "of competent jurisdiction." The revised law omits the quoted language as

unnecessary. The determination of whether a particular court has jurisdiction over a matter is made under other law, and it is not necessary to refer to that determination in this section.

(4) Section 31.047(d), Parks and Wildlife Code, refers to the fee required by Section 31.048 of that code. Section 31.048 is revised in pertinent part as Section 4053.0311, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0303. ADDITIONAL APPLICATION REQUIREMENTS FOR HOMEMADE VESSEL. (a) An application for a certificate of title for a homemade vessel, the origin of which is based on the affidavit of the person building the vessel, proof of materials incorporated into the vessel, and similar information, must be accompanied by a certificate from a game warden commissioned by the department stating that the vessel:

(1) has been inspected by the game warden; and

(2) appears to be as applied for.

(b) The applicant shall pay to the department a fee of $25 or a greater amount set by the commission for the inspection required under Subsection (a). (Parks & Wild. Code, Sec. 31.047(f).)

Source Law

(f) An application for a certificate of title on a homemade vessel, the origin of which is based on the affidavit of the person building the vessel, proof of materials incorporated into the vessel, and the like, must be accompanied by a certificate from a game warden commissioned by the department that the vessel has been inspected by such officer and appears to be as applied for. The applicant shall pay a fee of $25, or an amount set by the commission, whichever is greater, to the department for this inspection.

Revised Law

Sec. 4053.0304. ADDITIONAL APPLICATION REQUIREMENT FOR VESSEL LIVERY. An application for a certificate of title for a vessel livery must state that the applicant is a vessel livery. (Parks & Wild. Code, Sec. 31.040(b) (part).)

Source Law

(b) The application . . . for a certificate of title under Section 31.046 must state that the applicant is a vessel livery within the meaning of this chapter.

Revisor's Note

Section 31.040(b), Parks and Wildlife Code, refers to an application for a certificate of title "under Section 31.046" of that code. The revised law omits the quoted language for consistency in phrasing in this chapter and because it is unnecessary in this context to reference the specific provision of the Parks and Wildlife Code under which an application for a certificate of title is filed.

Revised Law

Sec. 4053.0305. REJECTION OF APPLICATION FOR TITLE. (a) Except as provided by Subsection (b), the department may reject an application for a certificate of title only if:

(1) the application does not comply with this subtitle or other applicable law;

(2) the application does not contain documentation sufficient for the department to determine whether the applicant is entitled to a certificate of title; or

(3) the department finds a reasonable basis for concluding that the application is fraudulent or issuance of a certificate of title to the applicant would facilitate a fraudulent or illegal act.

(b) The department shall reject an application for a certificate of title for a vessel that is a documented vessel or a foreign-documented vessel. (Parks & Wild. Code, Secs. 31.0485(c), (d).)

Source Law

(c) Except as provided by Subsection (d), the department may reject an application for a certificate of title only if:

(1) the application does not comply with this chapter or other applicable law;

(2) the application does not contain

documentation sufficient for the department to determine whether the applicant is entitled to a certificate of title; or

(3) the department finds a reasonable basis for concluding that the application is fraudulent or issuance of a certificate of title to the applicant would facilitate a fraudulent or illegal act.

(d) The department shall reject an application for a certificate of title for a vessel that is a documented vessel or a foreign-documented vessel.

Revisor's Note

Section 31.0485(c)(1), Parks and Wildlife Code, refers to an application for a certificate of title that does not comply with Chapter 31 of that code. The pertinent parts of Chapter 31 relating to an application for a certificate of title are revised in this subtitle, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0306. ISSUANCE OF TITLE. (a) Unless an application for a certificate of title is rejected under Section 4053.0305, the department shall issue a certificate of title for the vessel or outboard motor in accordance with Subsection (b) not later than the 20th day after the date the department receives an application that complies with this subtitle.

(b) If the department issues electronic certificates of title, the department shall issue an electronic certificate of title unless in the application the secured party of record or, if none, the owner of record, requests that the department issue a written certificate of title.

(c) Before the department issues an electronic certificate of title, any written certificate of title for the vessel or outboard motor must be surrendered to the department. If the department issues an electronic certificate of title, the department shall destroy or otherwise cancel the written certificate of title for the vessel or outboard motor that has been surrendered to the department and maintain in the files of the department the date and time of destruction or other cancellation.

If a written certificate of title being canceled is not destroyed, the department shall indicate on the face of the certificate that it has been canceled.

(d) If the department issues a written certificate of title for a vessel or outboard motor, any electronic certificate of title for the vessel or outboard motor is canceled and replaced by the written certificate of title. The department shall maintain in the files of the department the date and time of cancellation. (Parks & Wild. Code, Secs. 31.0485(a), (b), (f), (g).)

Source Law

Sec. 31.0485. ISSUANCE, REJECTION, AND CANCELLATION OF CERTIFICATE OF TITLE. (a) Unless an application for a certificate of title is rejected under Subsection (c) or (d), the department shall issue a certificate of title for the vessel or outboard motor in accordance with Subsection (b) not later than the 20th day after the date the department receives an application that complies with this chapter.

(b) If the department issues electronic certificates of title, the department shall issue an electronic certificate of title unless in the application the secured party of record or, if none, the owner of record, requests that the department issue a written certificate of title.

(f) If the department issues a written certificate of title for a vessel or outboard motor, any electronic certificate of title for the vessel or outboard motor is canceled and replaced by the written certificate of title. The department shall maintain in the files of the department the date and time of cancellation.

(g) Before the department issues an electronic certificate of title, any written certificate of title for the vessel or outboard motor must be surrendered to the department. If the department issues an electronic certificate of title, the department shall destroy or otherwise cancel the written certificate of title for the vessel or outboard motor that has been surrendered to the department and maintain in the files of the department the date and time of destruction or other cancellation. If a written certificate of title being canceled is not destroyed, the department shall indicate on the face of the certificate that it has been canceled.

Revisor's Note

Section 31.0485(a), Parks and Wildlife Code, refers to an application for a certificate of title that complies with "this chapter," meaning Chapter 31 of that code. The revised law substitutes "this subtitle" for "this chapter" for the reason stated in

the revisor's note to Section 4053.0305.

Revised Law

Sec. 4053.0307. ISSUANCE OF TITLE ON ACCELERATED BASIS. (a) The department may issue a certificate of title on an accelerated basis on an applicant's payment of a fee that is in addition to the fees in Section 4053.0311.

(b) The department shall adopt regulations to periodically establish the amount of the fee under this section. (Parks & Wild. Code, Sec. 31.047(e).)

Source Law

> (e) The department shall be authorized to issue certificates of title on an accelerated basis upon the payment of a fee in addition to the fees provided in Section 31.048 of this code as determined periodically by the department based on regulations the department shall establish.

Revisor's Note

(1) Section 31.047(e), Parks and Wildlife Code, provides that the Parks and Wildlife Department "shall be authorized to" issue certificates of title on an accelerated basis. The revised law substitutes "may" for the quoted language because "may" is consistent with modern usage and the phrases have the same meaning when construed under Section 311.016(1), Government Code (Code Construction Act), which provides that "may" creates a discretionary authority or grants permission or a power.

(2) Section 31.047(e), Parks and Wildlife Code, provides that the Parks and Wildlife Department is authorized to issue a certificate of title on an accelerated basis "upon the payment of a fee." For clarity, the revised law substitutes "on an applicant's payment of a fee" for the quoted language because it is clear from the context that the applicant for the certificate of title will be the payor of the fee provided by that subsection.

(3) Section 31.047(e), Parks and Wildlife Code, refers to the fees provided in Section 31.048 of that code. Section 31.048 is revised in pertinent part as Section 4053.0311, and the revised law is drafted accordingly.

(4) Section 31.047(e), Parks and Wildlife Code, provides that the additional fee amount for accelerated applications is to be determined based on regulations the department shall "establish." The revised law substitutes "adopt" for "establish" because, in context, the terms are synonymous and "adopt" is more commonly used.

Revised Law

Sec. 4053.0308. ISSUANCE OF TITLE FOR HULL-DAMAGED VESSEL. Not later than the 20th day after the date of delivery to the department of an application under Section 4053.0705(a)(1) or (b) or a certificate of title under Section 4053.0705(a)(2), the department shall issue a new certificate of title that indicates that the vessel is title branded "Hull Damaged". (Parks & Wild. Code, Sec. 31.0505(c).)

Source Law

(c) Not later than the 20th day after the date of delivery to the department of an application under Subsection (a)(1) or (b) or a certificate of title under Subsection (a)(2), the department shall issue a new certificate of title that indicates that the vessel is title branded "Hull Damaged".

Revised Law

Sec. 4053.0309. PAYMENT OF CERTAIN TAXES REQUIRED BEFORE ISSUANCE OF TITLE. Notwithstanding any other provision of this subchapter, the department or a county tax assessor-collector may not issue a certificate of title unless the tax due on the vessel or outboard motor under Chapter 160, Tax Code, is paid. (Parks & Wild. Code, Sec. 31.046(d).)

Source Law

(d) The department or county tax assessor-collector may not issue a certificate of

title unless the tax due on the vessel or outboard motor under Chapter 160, Tax Code, is paid.

Revisor's Note

Section 31.046(d), Parks and Wildlife Code, prohibits the Parks and Wildlife Department or a county tax assessor-collector from issuing a certificate of title unless the tax due on the vessel or outboard motor under Chapter 160, Tax Code, is paid. Other provisions of Subchapter B-1, Chapter 31, Parks and Wildlife Code, revised in pertinent part in this subchapter, provide for the issuance of a certificate of title on certain conditions being met. For clarity and the convenience of the reader, the revised law adds "[n]otwithstanding any other provision of this subchapter" to indicate to the reader that this section limits the authority of the department or a tax assessor-collector under other provisions of this subchapter to issue a certificate of title.

Revised Law

Sec. 4053.0310. DELIVERY OF TITLE. (a) On issuance of an electronic certificate of title, the department shall promptly send a record evidencing the certificate of title to the owner of record and, if there is one, to the secured party of record, at the address indicated for that person in the files of the department. The department may send the record to the person's mailing address or, if indicated in the files of the department, an electronic address.

(b) On issuance of a written certificate of title, the department shall promptly send the certificate of title to the secured party of record or, if none, to the owner of record, at the address indicated for that person in the files of the department. (Parks & Wild. Code, Sec. 31.0485(e).)

Source Law

(e) On issuance of a written certificate of title, the department promptly shall send the certificate of title to the secured party of record or, if none, to the owner of record, at the address indicated for that person in the files of the

department. On issuance of an electronic certificate of title, the department promptly shall send a record evidencing the certificate of title to the owner of record and, if there is one, to the secured party of record, at the address indicated for that person in the files of the department. The department may send the record to the person's mailing address or, if indicated in the files of the department, an electronic address.

Revised Law

Sec. 4053.0311. FEE FOR CERTIFICATE OF TITLE OR NOTATION OF SECURITY INTEREST. The fee for the issuance of a certificate of title or for the notation of a security interest is:

(1) $5 or a greater amount set by the commission; and

(2) treated as a fee collected under Section 4052.0208. (Parks & Wild. Code, Sec. 31.048(a).)

Source Law

Sec. 31.048. FEE. (a) The fee for the issuance of a certificate of title or for the notation of a security interest, lien, or other encumbrance is $5 or an amount set by the commission, whichever amount is more, and is treated as fees collected under Section 31.026 of this code.

Revisor's Note

(1) Section 31.048(a), Parks and Wildlife Code, refers to the fee for the notation of a "security interest, lien, or other encumbrance." The revised law substitutes "security interest" for the quoted language for consistency with Section 31.047(c), Parks and Wildlife Code, revised in pertinent part as Section 4053.0302(c)(1), which refers to an applicant under Section 31.047, Parks and Wildlife Code, being entitled to a certificate of title or a "noted security interest." Additionally, no other provision in Chapter 31, Parks and Wildlife Code, distinguishes a "lien . . . or other encumbrance" from a security interest with respect to notation on a certificate of title.

(2) Section 31.048(a), Parks and Wildlife Code, refers to the fees collected under Section 31.026 of that code. Section 31.026 is revised in pertinent part

as Section 4052.0208, and the revised law is drafted accordingly.

SUBCHAPTER D. CERTIFICATE OF TITLE FOR ABANDONED VESSEL OR OUTBOARD MOTOR

Revised Law

Sec. 4053.0401. APPLICABILITY OF SUBCHAPTER. (a) For the purposes of this subchapter, a vessel or outboard motor is considered abandoned if the vessel or motor has remained on private property without the consent of the owner or person in charge of the property for more than seven consecutive days.

(b) This subchapter does not apply to a vessel or outboard motor that is subject to a contract or lien under Chapter 59 or 70, Property Code. (Parks & Wild. Code, Secs. 31.003(18), 31.0466(i).)

Source Law

Sec. 31.003. DEFINITIONS. In this chapter:

(18) "Abandoned vessel or outboard motor" means a vessel or outboard motor that has remained on private property without the consent of the owner or person in charge of the property for more than seven consecutive days.

[Sec. 31.0466]

(i) This section does not apply to a vessel or outboard motor that is subject to a contract or lien under Chapter 59 or 70, Property Code.

Revisor's Note

Section 31.003(18), Parks and Wildlife Code, defines the term "abandoned vessel or outboard motor." The revised law substitutes an applicability provision for the definition of "abandoned vessel or outboard motor" because the substance of the definition is more appropriately presented as a substantive provision. Although the term "abandoned vessel or outboard motor" is also used in Section 31.045(i)(2), Parks and Wildlife Code, revised as Section 4053.0704(g), it is appropriate to revise Section 31.003(18) only in this subchapter because it is clear from the context of Section 31.045(i)(2) that the reference to "abandoned

vessel or outboard motor" in that provision is being used exclusively in the context of Chapter 40, Natural Resources Code, and was not intended by the legislature to have the meaning assigned by Section 31.003(18).

Revised Law

Sec. 4053.0402. APPLICATION FOR AND ISSUANCE OF TITLE FOR ABANDONED VESSEL OR OUTBOARD MOTOR. (a) A person may apply for a certificate of title for an abandoned vessel or outboard motor found on the person's property.

(b) The department may cancel the certificate of title for the abandoned vessel or outboard motor and issue a new certificate of title to an applicant if the applicant:

(1) executes and files a bond with the department that meets the requirements of Section 4053.0403;

(2) proves to the satisfaction of the department that:

(A) the abandoned vessel or outboard motor is not stolen;

(B) issuance of a certificate of title would not defraud the owner or a lienholder of the abandoned vessel or outboard motor;

(C) at least 30 days before applying for the certificate of title, the applicant contacted the applicant's local law enforcement agency through certified mail to report that the vessel or outboard motor is abandoned; and

(D) the local law enforcement agency has not taken the abandoned vessel or outboard motor into custody or informed the applicant of the agency's intent to take the abandoned vessel or outboard motor into custody; and

(3) posts notice of the certificate of title application in the manner and for a period of time designated by department rule.

(c) The commission by rule may define acceptable situations in which a certificate of title may be issued after the filing of a

bond under this section that are in addition to the situation described by Subsection (b)(2). (Parks & Wild. Code, Secs. 31.0466(a), (b) (part), (h).)

Source Law

> Sec. 31.0466. TITLE FOR ABANDONED VESSEL; BOND. (a) A person may apply for a certificate of title for an abandoned vessel or outboard motor found on the person's property.
>
> (b) The department may cancel the certificate for the abandoned vessel or outboard motor and issue a new certificate to the applicant if the applicant:
>
> (1) executes and files a bond with the department:
>
> . . .
>
> (2) proves to the satisfaction of the department that:
>
> (A) the abandoned vessel or outboard motor is not stolen;
>
> (B) issuance of a certificate of title would not defraud the owner or a lienholder of the abandoned vessel or outboard motor;
>
> (C) at least 30 days before the applicant applied for the certificate, the applicant contacted the applicant's local law enforcement agency through certified mail to report that the vessel or outboard motor is abandoned; and
>
> (D) the local law enforcement agency has not taken the abandoned vessel or outboard motor into custody or informed the applicant of the agency's intent to take the abandoned vessel or outboard motor into custody; and
>
> (3) posts notice of the certificate of title application in the manner and for a period of time designated by rule by the department.
>
> (h) In addition to the situation described by Subsection (b)(2), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.

Revised Law

Sec. 4053.0403. BOND REQUIREMENTS. (a) A bond filed under Section 4053.0402 must be:

(1) in the form prescribed by the department;

(2) issued by a person authorized to act as a surety business in this state;

(3) in an amount equal to 1-1/2 times the value of the abandoned vessel or outboard motor as determined by the department; and

(4) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the abandoned vessel

or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:

(A) the issuance of the certificate of title for the abandoned vessel or outboard motor; or

(B) a defect or undisclosed security interest in the right, title, or interest of the applicant to or in the abandoned vessel or outboard motor.

(b) A person indemnified by the bond as provided by Subsection (a)(4) has a right of action to recover on the bond for a breach of a condition of the bond described by that provision. The aggregate liability of the surety to all indemnified persons may not exceed the amount of the bond. (Parks & Wild. Code, Secs. 31.0466(b)(1)(A), (B), (C), (D), (c).)

Source Law

> (b) [The department may cancel the certificate for the abandoned vessel or outboard motor and issue a new certificate to the applicant if the applicant:
>
> [(1) executes and files a bond with the department:]
>
> (A) in the form prescribed by the department;
>
> (B) issued by a person authorized to act as a surety business in this state;
>
> (C) in an amount equal to 1-1/2 times the value of the abandoned vessel or outboard motor as determined by the department; and
>
> (D) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the abandoned vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:
>
> (i) the issuance of the certificate of title for the abandoned vessel or outboard motor; or
>
> (ii) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the abandoned vessel or outboard motor;
>
> . . .
>
> (c) A person described by Subsection (b)(1)(D) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (b)(1)(D). The aggregate liability of the surety to all persons may not exceed the amount of the bond.

Revisor's Note

Section 31.0466(c), Parks and Wildlife Code, refers to a "person described by Subsection (b)(1)(D)." Section 31.0466(b)(1)(D), Parks and Wildlife Code, revised as Subsection (a)(4) of this section, provides that a bond must be conditioned to indemnify "all prior owners and lienholders and all subsequent purchasers of the abandoned vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest" against certain expenses, losses, or damage. For clarity and the convenience of the reader, the revised law substitutes "[a] person indemnified by the bond as provided by Subsection (a)(4)" for "[a] person described by Subsection (b)(1)(D)" because it is clear that the persons referenced are the persons indemnified by the bond.

Revised Law

Sec. 4053.0404. EXPIRATION AND RETURN OF BOND. (a) A bond filed under this subchapter expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(b) On return of a bond under Subsection (a), the department shall issue a certificate of title to the person to whom the bond is returned. (Parks & Wild. Code, Secs. 31.0466(d), (e).)

Source Law

(d) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(e) On return of a bond under Subsection (d), the department shall issue a certificate of title to the person to whom the bond is returned.

Revised Law

Sec. 4053.0405. EFFECTS OF ISSUANCE OF TITLE FOR ABANDONED

VESSEL OR OUTBOARD MOTOR. (a) If an abandoned vessel or outboard motor is not claimed before the department issues a certificate of title under this subchapter, each owner and lienholder:

(1) waives all rights and interests in the vessel or motor; and

(2) consents to the cancellation of the certificate of title for the vessel or motor.

(b) The applicant for the certificate of title for the abandoned vessel or outboard motor takes title free and clear of all liens and claims of ownership. (Parks & Wild. Code, Secs. 31.0466(f), (g).)

Source Law

> (f) If an abandoned vessel or outboard motor is not claimed before the department issues a certificate of title under this section, the owner or lienholder waives all rights and interests in the abandoned vessel or outboard motor and consents to the cancellation of the certificate for the abandoned vessel or outboard motor.
>
> (g) The applicant for the certificate of title for the abandoned vessel or outboard motor takes title free and clear of all liens and claims of ownership.

SUBCHAPTER E. APPEAL FOLLOWING REFUSAL TO ISSUE CERTIFICATE OF TITLE

Revised Law

Sec. 4053.0501. APPEAL FOLLOWING REFUSAL TO ISSUE CERTIFICATE OF TITLE; BOND REQUIREMENTS. (a) An applicant for a certificate of title under Section 4053.0301 or 4054.0203 may appeal the department's refusal to issue the certificate of title by filing a bond with the department.

(b) The filed bond must be:

(1) in the form prescribed by the department;

(2) executed by the applicant;

(3) issued by a person authorized to act as a surety business in this state;

(4) in an amount equal to 1-1/2 times the value of the vessel or outboard motor as determined by the department; and

(5) conditioned to indemnify all prior owners and

lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:

(A) the issuance of the certificate of title for the vessel or outboard motor; or

(B) a defect or undisclosed security interest in the applicant's right, title, or interest to or in the vessel or outboard motor.

(c) A person indemnified by the bond as provided by Subsection (b)(5) has a right of action to recover on the bond for a breach of a condition of the bond described by that provision. The aggregate liability of the surety to all indemnified persons may not exceed the amount of the bond. (Parks & Wild. Code, Secs. 31.0465(a), (b), (d).)

Source Law

> Sec. 31.0465. APPEAL REGARDING CERTIFICATE OF TITLE; BOND; RULES. (a) An applicant for a certificate of title under Section 31.046 may appeal the department's refusal to issue the title by filing a bond with the department as provided by this section.
>
> (b) A bond filed under this section must be:
>
> (1) in the form prescribed by the department;
>
> (2) executed by the applicant;
>
> (3) issued by a person authorized to act as a surety business in this state;
>
> (4) in an amount equal to 1-1/2 times the value of the vessel or outboard motor as determined by the department; and
>
> (5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:
>
> (A) the issuance of the certificate of title for the vessel or outboard motor; or
>
> (B) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the vessel or outboard motor.
>
> (d) A person described by Subsection (b)(5) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (b)(5). The aggregate liability of the surety to all persons may not exceed the amount of the bond.

Revisor's Note

(1) Section 31.0465(a), Parks and Wildlife Code, refers to an applicant for a certificate of title under Section 31.046 of that code. Section 31.046 is revised in pertinent part as Sections 4053.0301 and 4054.0203. Although Section 4054.0203 includes the revision of Section 31.041(h), Parks and Wildlife Code, in addition to the revision of Sections 31.046(b) and (c), it is appropriate to refer to Section 4054.0203 in its entirety because the requirement under Section 31.041(h) to apply for a certificate of title on behalf of a purchaser of a vessel or outboard motor duplicates in substance the requirement under Sections 31.046(b) and (c). The revised law is drafted accordingly.

(2) Section 31.0465(a), Parks and Wildlife Code, authorizes certain applicants for a certificate of title to appeal the Parks and Wildlife Department's refusal to issue title by filing a bond with the department "as provided by this section," meaning Section 31.0465 of that code. The revised law omits the quoted language as unnecessary because the relevant provisions of Section 31.0465 relating to the filing of a bond under that section are revised in this section and apply on their own terms.

(3) Section 31.0465(d), Parks and Wildlife Code, refers to a "person described by Subsection (b)(5)." Section 31.0465(b)(5), Parks and Wildlife Code, revised as Subsection (b)(5) of this section, provides that a bond must be conditioned to indemnify "all prior owners and lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest"

against certain expenses, losses, or damage. For clarity and the convenience of the reader, the revised law substitutes "[a] person indemnified by the bond as provided by Subsection (b)(5)" for "[a] person described by Subsection (b)(5)" because it is clear that the persons referenced are the persons indemnified by the bond.

Revised Law

Sec. 4053.0502. ISSUANCE OF CERTIFICATE OF TITLE ON FILING OF BOND. (a) The department may issue a certificate of title for a vessel or outboard motor to a person filing a bond under this subchapter if the applicant proves to the satisfaction of the department that:

(1) the vessel or outboard motor is not stolen; and

(2) issuance of a certificate of title would not defraud the owner or a lienholder of the vessel or outboard motor.

(b) The commission by rule may define acceptable situations in which a certificate of title may be issued after the filing of a bond under this subchapter that are in addition to the situation described by Subsection (a). (Parks & Wild. Code, Secs. 31.0465(c), (g).)

Source Law

(c) The department may issue the certificate of title to the person filing the bond if the applicant proves to the satisfaction of the department that:

(1) the vessel or outboard motor is not stolen; and

(2) issuance of a certificate of title would not defraud the owner or a lienholder of the vessel or outboard motor.

(g) In addition to the situation described by Subsection (c), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.

Revised Law

Sec. 4053.0503. EXPIRATION AND RETURN OF BOND. (a) A bond filed under this subchapter expires on the third anniversary of the date the bond became effective. The department shall return an

expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(b) On return of a bond under Subsection (a), the department shall issue a certificate of title to the person to whom the bond is returned. (Parks & Wild. Code, Secs. 31.0465(e), (f).)

Source Law

(e) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.

(f) On return of a bond under Subsection (e), the department shall issue a certificate of title to the person to whom the bond is returned.

SUBCHAPTER F. ADMINISTRATIVE MATTERS

Revised Law

Sec. 4053.0601. AUTHORITY TO CANCEL CERTIFICATE OF TITLE. The department may cancel a certificate of title issued by the department only if the department:

(1) could have rejected the application for the certificate under Section 4053.0305(a);

(2) is required to cancel the certificate under Section 4053.0306(c) or (d) or another provision of this title; or

(3) receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel. (Parks & Wild. Code, Sec. 31.0485(h).)

Source Law

(h) The department may cancel a certificate of title issued by the department only if the department:

(1) could have rejected the application for the certificate under Subsection (c);

(2) is required to cancel the certificate under this section or another provision of this chapter; or

(3) receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

Revisor's Note

Section 31.0485(h), Parks and Wildlife Code, refers to the Parks and Wildlife Department being required to cancel a certificate of title under

Section 31.0485 of that code. The pertinent parts of Section 31.0485 are revised as Sections 4053.0306(c) and (d), and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0602. REPLACEMENT CERTIFICATES OF TITLE. The department shall adopt regulations providing for the replacement of certificates of title. (Parks & Wild. Code, Sec. 31.051.)

Source Law

> Sec. 31.051. REPLACEMENT CERTIFICATES OF TITLE. The department shall provide by regulation for the replacement of certificates of title.

Revised Law

Sec. 4053.0603. DISPOSITION AND USE OF FEES COLLECTED BY COUNTY TAX ASSESSOR-COLLECTOR. (a) A county tax assessor-collector who collects a fee under Section 4053.0311 shall:

(1) retain 10 percent of the fee collected; and

(2) send the remainder to the department.

(b) The amount retained by the county tax assessor-collector:

(1) shall be deposited to the credit of the officers' salary fund of the county; and

(2) may be used only to pay the salaries of persons issuing vessel and outboard motor certificates of title. (Parks & Wild. Code, Sec. 31.048(b).)

Source Law

> (b) If the fee is collected by a county tax assessor-collector, the tax assessor-collector shall retain 10 percent of the fee collected and send the remainder to the department. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing vessel and outboard motor certificates of title.

Revised Law

Sec. 4053.0604. RECORDS. (a) For each record relating to a certificate of title submitted to the department, the department shall maintain a file that includes:

(1) the hull identification number of the vessel or the serial number of the outboard motor;

(2) all the information submitted with the application, including the date and time the application was submitted to the department;

(3) the name of each secured party to the vessel or outboard motor; and

(4) the name of each person known to the department to be claiming an ownership interest in the vessel or outboard motor.

(b) In addition to the information described by Subsection (a), the department shall maintain a list of all title brands known to the department and stolen-property reports relating to vessels or outboard motors made known to the department.

(c) The department:

(1) shall maintain the information described by this section in a manner that is searchable by:

(A) hull identification number of the vessel;

(B) the motor number;

(C) the vessel number; and

(D) the name of the owner of record; and

(2) may maintain the information described by this section in a manner that is searchable by other methods.

(d) The department shall provide to federal, state, and local governmental entities the information described by this section, on request of the governmental entities and for the purposes of safety, security, or law enforcement.

(e) The department shall retain the evidence used to establish the accuracy of the information in its files relating to the ownership of a vessel or outboard motor and the information on the certificate of title in accordance with the record retention schedule established under the department's records management program.

(f) The department shall retain in its files all information regarding a security interest in a vessel or outboard motor for at

least 10 years after the department receives a termination statement regarding the security interest. The information must be accessible by:

(1) the hull identification number of the vessel or serial number of the outboard motor; and

(2) any other methods provided by the department.

(g) If a person submits a record to the department, or submits information that is accepted by the department, and requests an acknowledgment of the filing or submission, the department shall send to the person an acknowledgment showing:

(1) the hull identification number of the vessel or serial number of the outboard motor to which the record or submission relates;

(2) the information in the filed record or submission; and

(3) the date and time the record was received or the submission accepted.

(h) A request described by Subsection (g) must:

(1) contain the hull identification number of the vessel and serial number of the outboard motor; and

(2) be delivered by means authorized by the department. (Parks & Wild. Code, Sec. 31.0563.)

Source Law

Sec. 31.0563. RECORDS. (a) For each record relating to a certificate of title submitted to the department, the department shall maintain a file that includes:

(1) the hull identification number of the vessel or the serial number of the outboard motor;

(2) all the information submitted with the application under Section 31.046, including the date and time the application was submitted to the department;

(3) the name of each secured party to the vessel or outboard motor; and

(4) the name of each person known to the department to be claiming an ownership interest in the vessel or outboard motor.

(b) In addition to the information described by Subsection (a), the department shall maintain a list of all title brands known to the department and stolen-property reports relating to vessels or outboard motors made known to the department.

(c) The department shall maintain the

information described in this section in a manner that is searchable by hull identification number of the vessel, the motor number, the vessel number, and the name of the owner of record. The department may maintain the information described in this section in a manner that is searchable by other methods.

(d) The department shall provide to federal, state, and local governmental entities the information described by this section, on request of the governmental entities and for the purposes of safety, security, or law enforcement.

(e) The department shall retain the evidence used to establish the accuracy of the information in its files relating to the ownership of a vessel or outboard motor and the information on the certificate of title in accordance with the record retention schedule established under the department's records management program.

(f) The department shall retain in its files all information regarding a security interest in a vessel or outboard motor for at least 10 years after the department receives a termination statement regarding the security interest. The information must be accessible by the hull identification number of the vessel or serial number of the outboard motor and any other methods provided by the department.

(g) If a person submits a record to the department, or submits information that is accepted by the department, and requests an acknowledgment of the filing or submission, the department shall send to the person an acknowledgment showing the hull identification number of the vessel or serial number of the outboard motor to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission accepted. A request described by this subsection must contain the hull identification number of the vessel and serial number of the outboard motor and be delivered by means authorized by the department.

Revisor's Note

Section 31.0563(a)(2), Parks and Wildlife Code, refers to an application for a certificate of title "under Section 31.046" of that code. The revised law omits the quoted language for the reasons stated in the revisor's note to Section 4053.0304.

SUBCHAPTER G. TRANSFER, REMOVAL, OR OTHER DISPOSITION OF VESSEL OR OUTBOARD MOTOR

Revised Law

Sec. 4053.0701. TRANSFER OF TITLE. Title to a vessel or outboard motor may be transferred:

(1) by surrender of the original certificate of title properly endorsed to show the transfer;

(2) by evidence of an involuntary transfer, as defined

by Section 4053.0702(b); or

(3) in accordance with Section 4053.0702(d). (Parks & Wild. Code, Sec. 31.049(e).)

Source Law

(e) Title may be transferred by surrender of the original certificate of title properly endorsed to show the transfer, by evidence of an involuntary transfer as defined in Subdivision (5) of Subsection (a) of Section 31.053, or by following the provisions of Subsection (c) of Section 31.053 of this code.

Revisor's Note

(1) Section 31.049(e), Parks and Wildlife Code, specifies certain procedures by which "[t]itle" may be transferred. For clarity, the revised law adds "to a vessel or outboard motor" to the quoted language because it is clear from the context that "title" refers to "[t]itle to a vessel or outboard motor."

(2) Section 31.049(e), Parks and Wildlife Code, refers to evidence of an involuntary transfer as defined in "Subdivision (5) of Subsection (a) of Section 31.053," meaning Section 31.053(a)(5) of that code. Although Section 31.053(a)(5) refers to "evidence of an involuntary transfer," Section 31.053(b), Parks and Wildlife Code, revised as Section 4053.0702(b), defines the term "involuntary transfer" for purposes of Section 31.053(a)(5) and specifies what the evidence of an involuntary transfer must reflect. Accordingly, the revised law substitutes "Section 4053.0702(b)" for the quoted language for clarity and the convenience of the reader.

Revised Law

Sec. 4053.0702. REQUIREMENTS FOR TRANSFER OR OTHER DISPOSITION OF VESSEL OR OUTBOARD MOTOR. (a) A person may not sell, assign, transfer, or otherwise dispose of an interest in a vessel or an outboard motor without:

(1) if the transferee is not a manufacturer or a dealer

and the vessel or outboard motor is a new vessel or outboard motor, delivering to the department a manufacturer's or importer's certificate of origin showing the endorsement of the manufacturer and all intervening owners;

(2) if the transferee is a manufacturer or a dealer and the vessel or outboard motor is a new vessel or outboard motor, delivering to the transferee a manufacturer's or importer's certificate of origin showing the endorsement of the manufacturer and all intervening owners;

(3) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate of origin and the transferor is a manufacturer or dealer, delivering to the department sufficient evidence of title or other information to permit the issuance of a certificate of title for the vessel or outboard motor in the name of the transferee;

(4) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate of origin and the transferor is not a manufacturer or dealer, delivering to the transferee sufficient evidence of title or other information to permit the transferee to apply for and receive a certificate of title for the vessel or outboard motor in the name of the transferee; or

(5) delivering to the transferee a certificate of title for the vessel or outboard motor in the name of the transferor and properly endorsed to show the transfer or evidence of an involuntary transfer.

(b) For purposes of Subsection (a)(5):

(1) "involuntary transfer" means the transfer of ownership pursuant to a contractual or statutory lien that confers the power or right to the transfer; and

(2) the evidence of an involuntary transfer must reflect the proper exercise of the right conferred pursuant to the lien.

(c) For a voluntary transfer, if the transferor does not

have possession of the certificate of title, the person in possession of the certificate of title shall facilitate the transferor's compliance with this section, except that a secured party does not have a duty to facilitate the transferor's compliance with this section if the proposed transfer is prohibited by the security agreement.

(d) The transferor shall provide the documents or evidence required by Subsection (a) to the department or the transferee, as appropriate, in sufficient time to allow the transferee to register and obtain a certificate of title for the vessel or outboard motor not later than the 20th day after the date of the sale.

(e) If the certificate of title is an electronic certificate of title, the transferor shall promptly sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.

(f) The transferee shall provide the department with sufficient evidence of ownership for transfer of a vessel or outboard motor if the transferee:

(1) failed to obtain the title from the transferor or the title was lost, stolen, or mutilated before the transfer was made; and

(2) has made reasonable efforts to contact the transferor to obtain the required documentation.

(g) A person who is not licensed as a dealer, distributor, or manufacturer under Chapter 4054 must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title. (Parks & Wild. Code, Secs. 31.053(a), (a-1), (b), (c), (e), (f), (g).)

Source Law

Sec. 31.053. TRANSFERS OF VESSELS AND OUTBOARD MOTORS. (a) No person may sell, assign, transfer, or otherwise dispose of an interest in a vessel or an outboard motor without:

(1) if the transferee is not a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the department a

manufacturer's or importer's certificate of origin showing the endorsement of the manufacturer and all intervening owners;

(2) if the transferee is a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the transferee a manufacturer's or importer's certificate of origin showing the endorsement of the manufacturer and all intervening owners;

(3) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate of origin and if the transferor is a manufacturer or dealer, delivering to the department sufficient evidence of title or other information to permit the issuance of a certificate of title for the vessel or outboard motor in the name of the transferee;

(4) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate of origin and if the transferor is not a manufacturer or dealer, delivering to the transferee sufficient evidence of title or other information to permit the transferee to apply for and receive a certificate of title for the vessel or outboard motor in the name of the transferee; or

(5) delivering to the transferee a certificate of title for the vessel or outboard motor in the name of the transferor and properly endorsed to show the transfer or evidence of an involuntary transfer.

(a-1) For a voluntary transfer, if the transferor does not have possession of the certificate of title, the person in possession of the certificate of title shall facilitate the transferor's compliance with this section, except that a secured party does not have a duty to facilitate the transferor's compliance with this section if the proposed transfer is prohibited by the security agreement.

(b) For the purposes of Subsection (a)(5) of this section an involuntary transfer shall mean the transfer of ownership pursuant to a contractual or statutory lien which confers the power or right to the transfer. The evidence shall reflect the proper exercise of the right conferred pursuant to the lien.

(c) The transferor shall provide the documents or evidence required by Subsection (a) to the department or the transferee, as appropriate, in sufficient time to allow the transferee to register and obtain a certificate of title for the vessel or outboard motor not later than the 20th day after the date of the sale.

(e) The transferee shall provide the department with sufficient evidence of ownership for transfer of a vessel or outboard motor if the transferee:

(1) failed to obtain the title from the transferor or the title was lost, stolen, or mutilated before the transfer was made; and

(2) has made reasonable efforts to contact the transferor to obtain the required documentation.

(f) A person who is not licensed as a dealer, distributor, or manufacturer under this chapter must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title.

(g) If the certificate of title is an electronic certificate of title, the transferor shall promptly

sign and deliver to the transferee a record evidencing the transfer of ownership to the transferee.

Revisor's Note

(1) Section 31.053(a-1), Parks and Wildlife Code, refers to the transferor's compliance with Section 31.053 of that code. Section 31.053 is revised in pertinent part as this section, and the revised law is drafted accordingly.

(2) Section 31.053(f), Parks and Wildlife Code, refers to a person who is not licensed as a dealer, distributor, or manufacturer under Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the licensing of dealers, distributors, and manufacturers are revised in Chapter 4054 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0703. TRANSFEREE'S RIGHT TO SPECIFIC PERFORMANCE. The transferee has a right enforceable by specific performance to require the transferor comply with Section 4053.0702(a)(5), (c), or (e). (Parks & Wild. Code, Sec. 31.053(h).)

Source Law

(h) The transferee has a right enforceable by specific performance to require the transferor comply with Subsection (a)(5), (a-1), or (g).

Revised Law

Sec. 4053.0704. NOTIFICATION OF TRANSFER, REMOVAL, OR OTHER DISPOSITION REQUIRED. (a) The recorded owner of a vessel or outboard motor shall notify the department not later than the 20th day after the date of:

(1) the transfer by sale, donation, gift, or other means of all or any part of the owner's interest in the vessel or outboard motor, other than the creation of a security interest in a vessel numbered in this state; or

(2) the permanent removal of the vessel or outboard motor from this state to another state or country.

(b) The recorded owner of a vessel or outboard motor that

has been destroyed or disposed of in a manner not described by Subsection (a) shall:

(1) notify the department not later than the 20th day after the date of the destruction or disposal; and

(2) surrender to the department the certificate of title for the vessel or outboard motor if the department issued a certificate of title for the vessel or outboard motor.

(c) Notification under Subsection (a), or under Subsection (b) regarding a vessel numbered in this state, must be on a form prescribed by the department that includes, as applicable:

(1) the name and address of the new owner;

(2) the vessel's identification number; and

(3) the serial number of the outboard motor.

(d) On receipt of notice under Subsection (a) or (b), the department shall, as appropriate:

(1) cancel the certificate of title;

(2) cancel the certificate of number if the notice is for a vessel numbered in this state that has been destroyed, disposed of, or permanently moved to another state or country; and

(3) enter each cancellation in the department's records.

(e) The new owner of a vessel numbered in this state shall, not later than the 20th day after the date ownership was transferred, submit an application to the department with:

(1) evidence of ownership;

(2) the new owner's name and address;

(3) the vessel's identification number; and

(4) a fee in an amount equal to the greater of:

(A) $2; or

(B) an amount set by the commission.

(f) On receipt of the new owner's application and fee under Subsection (e), the department shall transfer the certificate of number issued for the vessel to the new owner. Unless the application is made and the fee is paid in the time provided by

Subsection (e):

(1) the vessel is without a certificate of number; and

(2) a person may not operate the vessel until a certificate of number is issued.

(g) A recorded owner of a vessel or outboard motor who fails to notify the department in accordance with this section is subject to the removal costs under Section 40.108, Natural Resources Code, and penalties under Chapter 40, Natural Resources Code, as the person considered responsible for an abandoned vessel or outboard motor. (Parks & Wild. Code, Secs. 31.037, 31.045(e), (f), (g), (h), (i).)

Source Law

Sec. 31.037. CHANGE IN OWNERSHIP INTEREST; NOTICE TO DEPARTMENT. (a) The recorded owner of a vessel numbered in this state shall notify the department not later than the 20th day after the date:

(1) of the transfer by sale, donation, gift, or other means of all or any part of the owner's interest in the vessel, other than the creation of a security interest in the vessel;

(2) of the destruction or disposal of the vessel; or

(3) of the permanent removal of the vessel from this state to another state or country.

(a-1) The notification under Subsection (a) must be on a form prescribed by the department that includes:

(1) the name and address of the new owner, as applicable; and

(2) the vessel's certificate of number.

(b) If the vessel is destroyed, disposed of, or permanently moved to another state or country, the department shall cancel the certificate of number and enter the cancellation in its records.

(c) The new owner of a vessel shall, not later than the 20th day after the date ownership was transferred, submit an application to the department with:

(1) evidence of ownership;

(2) the new owner's name and address;

(3) the number of the vessel; and

(4) a fee of $2 or an amount set by the commission, whichever amount is more.

(d) On receipt of the new owner's application and fee the department shall transfer the certificate of number issued for the vessel to the new owner. Unless the application is made and the fee is paid on time, the vessel is without a certificate of number, and it is unlawful for any person to operate the vessel until the certificate is issued.

[Sec. 31.045]

(e) The recorded owner of a vessel or outboard motor shall notify the department not later than the 20th day after the date:

(1) of the transfer by sale, donation, gift, or other means of all or any part of the owner's interest in the vessel or outboard motor; or

(2) of the permanent removal of the vessel or outboard motor from this state to another state or country.

(f) Notification of a transfer of interest or move to another state or country under Subsection (e) must be on a form prescribed by the department that includes the name and address of the new owner and, as applicable:

(1) the vessel's certificate of number; and

(2) the serial number of the outboard motor.

(g) If a vessel or outboard motor for which the department has issued a certificate of title is destroyed or disposed of in a manner not described by Subsection (e), the recorded owner shall notify the department not later than the 20th day after the date of the destruction or disposal and shall surrender to the department the certificate of title.

(h) On receipt of notice under Subsection (e) or (g), the department shall cancel the title and enter the cancellation in the department's records.

(i) A recorded owner who fails to file notification in accordance with Section 31.037 or this section:

(1) is subject to the penalties under Section 31.127; and

(2) is subject to the removal costs under Section 40.108, Natural Resources Code, and penalties under Chapter 40, Natural Resources Code, as the person considered responsible for an abandoned vessel or outboard motor.

Revisor's Note

(1) Section 31.037(d), Parks and Wildlife Code, provides that "it is unlawful for any person to" operate a vessel before a new certificate of number is issued for the vessel following the transfer of the vessel. The revised law substitutes "a person may not" for the quoted language because, in context, the phrases are synonymous, and "a person may not" is more consistent with modern usage. Additionally, under Section 31.127(a), Parks and Wildlife Code, revised as Section 4951.0101, a person who violates or fails to comply with any provision of Chapter 31 of that code commits an offense.

(2) Section 31.045(f)(1), Parks and Wildlife Code, provides that notification under Section 31.045(e) of that code must be on a form prescribed by

the department that includes the vessel's "certificate of number." The revised law substitutes "identification number" for the quoted language because Section 4051.0101 of this code defines "certificate of number" for purposes of this subtitle as "the document issued by the department under Section 4052.0204 that assigns a vessel an identification number" and defines "identification number" for purposes of this subtitle as "the number assigned to a vessel by the department in the vessel's certificate of number," and it is clear from the context that the reference to "certificate of number" in Section 31.045(f)(1) refers to the number assigned to the vessel in the vessel's certificate of number and not the document issued by the department that assigns the vessel a number.

(3) Section 31.045(i), Parks and Wildlife Code, refers to notification in accordance with Section 31.037 of that code or "this section," meaning Section 31.045 of that code. Section 31.037 and the pertinent parts of Section 31.045 are revised as this section, and the revised law is drafted accordingly.

(4) Section 31.045(i), Parks and Wildlife Code, provides in part that a person who fails to comply with the notification requirements of Section 31.037 or 31.045 of that code "is subject to the penalties under Section 31.127." The revised law omits the quoted language as unnecessary because the penalties provided by Section 31.127, Parks and Wildlife Code, revised in pertinent part as Section 4951.0101, apply on their own terms to a person who violates or fails to comply with any provision of Chapter 31 of that code.

Revised Law

Sec. 4053.0705. TRANSFER OF OWNERSHIP INTEREST IN

HULL-DAMAGED VESSEL. (a) Unless Subsection (b) applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title issued by the department, if the damage occurred while that person was an owner of the vessel and the person has notice of the damage at the time of the transfer, the owner shall:

(1) deliver to the department an application for a new certificate of title that complies with Section 4053.0301 or 4054.0203, as applicable, and includes the title brand "Hull Damaged"; or

(2) indicate on the certificate of title in the place designated for that purpose that the vessel is hull damaged and deliver the certificate to the transferee.

(b) Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title issued by the department, the insurer shall deliver to the department an application for a new certificate of title that complies with Section 4053.0301 or 4054.0203, as applicable, and includes the title brand "Hull Damaged". (Parks & Wild. Code, Secs. 31.0505(a), (b).)

Source Law

> Sec. 31.0505. HULL DAMAGED TITLE BRAND. (a) Unless Subsection (b) applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title issued by the department, if the damage occurred while that person was an owner of the vessel and the person has notice of the damage at the time of the transfer, the owner shall:
>
> (1) deliver to the department an application for a new certificate of title that complies with Section 31.046 and includes the title brand "Hull Damaged"; or
>
> (2) indicate on the certificate of title in the place designated for that purpose that the vessel is hull damaged and deliver the certificate to the transferee.
>
> (b) Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title issued by the department, the insurer shall deliver to the department an application for a new certificate of title that complies with Section 31.046 and includes the title brand "Hull Damaged".

Revisor's Note

Sections 31.0505(a)(1) and (b), Parks and Wildlife Code, require certain persons to deliver to the department an application for a new certificate of title that complies with Section 31.046 of that code. Section 31.046 is revised in pertinent part as Sections 4053.0301 and 4054.0203. Although Section 4054.0203 includes the revision of Section 31.041(h), Parks and Wildlife Code, in addition to the revision of Sections 31.046(b) and (c), it is appropriate to refer to Section 4054.0203 in its entirety because the requirement under Section 31.041(h) to apply for a certificate of title on behalf of a purchaser of a vessel or outboard motor duplicates in substance the requirement under Sections 31.046(b) and (c). The revised law is drafted accordingly.

Revised Law

Sec. 4053.0706. TRANSFER OF OWNERSHIP BY SECURED PARTY'S TRANSFER STATEMENT. (a) In this section, "secured party's transfer statement" means a record signed by the secured party of record stating:

(1) there has been a default on an obligation secured by the vessel or outboard motor;

(2) the secured party of record is exercising or has exercised post-default remedies with respect to the vessel or outboard motor;

(3) by reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;

(4) the name and last known mailing address of the owner of record and the secured party of record;

(5) the name of the transferee;

(6) other information required by Section 4053.0302(b); and

(7) one of the following:

(A) that the certificate of title is an electronic certificate of title;

(B) that the secured party does not have possession of the written certificate of title issued in the name of the owner of record; or

(C) that the secured party is delivering the written certificate of title to the department with the secured party's transfer statement.

(b) Unless the department rejects a secured party's transfer statement for a reason stated in Section 4053.0305(a), not later than the 20th day after the date of delivery to the department of the statement and payment of fees due under this chapter and taxes payable under Chapter 160, Tax Code, in connection with the statement or the acquisition or use of the vessel or outboard motor, the department shall:

(1) accept the statement;

(2) amend the files of the department to reflect the transfer; and

(3) if the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

(A) cancel the certificate of title, regardless of whether the certificate of title has been delivered to the department;

(B) issue a new certificate of title indicating the transferee as owner; and

(C) deliver the new certificate of title or a record evidencing an electronic certificate of title.

(c) The submission to the department of a secured party's transfer statement, or the issuance of a certificate of title under Subsection (b), is not a disposition of the vessel or outboard motor and does not relieve the secured party of the secured party's duties under Chapter 9, Business & Commerce Code. (Parks & Wild. Code, Sec. 31.0575.)

Source Law

Sec. 31.0575. TRANSFER OF OWNERSHIP BY SECURED PARTY'S TRANSFER STATEMENT. (a) In this section, "secured party's transfer statement" means a record signed by the secured party of record stating:

(1) there has been a default on an obligation secured by the vessel or outboard motor;

(2) the secured party of record is exercising or has exercised post-default remedies with respect to the vessel or outboard motor;

(3) by reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;

(4) the name and last known mailing address of the owner of record and the secured party of record;

(5) the name of the transferee;

(6) other information required by Section 31.047(b); and

(7) one of the following:

(A) that the certificate of title is an electronic certificate of title;

(B) that the secured party does not have possession of the written certificate of title issued in the name of the owner of record; or

(C) that the secured party is delivering the written certificate of title to the department with the secured party's transfer statement.

(b) Unless the department rejects a secured party's transfer statement for a reason stated in Section 31.0485(c), not later than the 20th day after the date of delivery to the department of the statement and payment of fees due under this chapter and taxes payable under Chapter 160, Tax Code, in connection with the statement or the acquisition or use of the vessel or outboard motor, the department shall:

(1) accept the statement;

(2) amend the files of the department to reflect the transfer; and

(3) if the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

(A) cancel the certificate of title, regardless of whether the certificate of title has been delivered to the department;

(B) issue a new certificate of title indicating the transferee as owner; and

(C) deliver the new certificate of title or a record evidencing an electronic certificate of title.

(c) The submission to the department of a secured party's transfer statement, or the issuance of a certificate of title under Subsection (b), is not a disposition of the vessel or outboard motor and does not relieve the secured party of the secured party's duties under Chapter 9, Business & Commerce Code.

Revised Law

Sec. 4053.0707. TRANSFER BY OPERATION OF LAW. (a) In this section:

(1) "By operation of law" means, with respect to a

vessel or outboard motor, in accordance with a law or judicial order affecting ownership of the vessel or outboard motor:

(A) because of death, divorce or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;

(B) through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or

(C) through other legal process.

(2) "Transfer-by-law statement" means a record signed by a transferee stating that by operation of law the transferee has acquired or has the right to acquire an ownership interest in a vessel or outboard motor.

(b) A transfer-by-law statement must contain:

(1) the name and last known mailing address of the owner of record and the transferee and the other information required by Section 4053.0302(b);

(2) documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;

(3) a statement that:

(A) the certificate of title is an electronic certificate of title;

(B) the transferee does not have possession of the written certificate of title issued in the name of the owner of record; or

(C) the transferee is delivering the written certificate of title to the department with the transfer-by-law statement; and

(4) except for a transfer described in Subsection (a)(1)(A), evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the department as having an interest, including a security interest, in the vessel or outboard motor.

(c) Unless the department rejects a transfer-by-law statement for a reason stated in Section 4053.0305(a) or because the statement does not include documentation satisfactory to the department as to the transferee's ownership interest or right to acquire the ownership interest, not later than the 20th day after the date of delivery to the department of the statement and payment of fees due under this chapter and taxes payable under Chapter 160, Tax Code, in connection with the statement or with the acquisition or use of the vessel or outboard motor, the department shall:

(1) accept the statement;

(2) amend the files of the department to reflect the transfer; and

(3) if the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

(A) cancel the certificate of title, regardless of whether the certificate of title has been delivered to the department;

(B) issue a new certificate of title indicating the transferee as owner;

(C) indicate on the new certificate of title any security interest indicated on the canceled certificate of title, unless a court order provides otherwise; and

(D) deliver the new certificate of title or a record evidencing an electronic certificate of title.

(d) This section does not apply to a transfer of an interest in a vessel or outboard motor by a secured party under Subchapter F, Chapter 9, Business & Commerce Code. (Parks & Wild. Code, Sec. 31.0577.)

Source Law

Sec. 31.0577. TRANSFER BY OPERATION OF LAW. (a) In this section:

(1) "By operation of law" means, with respect to a vessel or outboard motor, in accordance with a law or judicial order affecting ownership of the vessel or outboard motor:

(A) because of death, divorce or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;

(B) through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or

(C) through other legal process.

(2) "Transfer-by-law statement" means a record signed by a transferee stating that by operation of law the transferee has acquired or has the right to acquire an ownership interest in a vessel or outboard motor.

(b) A transfer-by-law statement must contain:

(1) the name and last known mailing address of the owner of record and the transferee and the other information required by Section 31.047(b);

(2) documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;

(3) a statement that:

(A) the certificate of title is an electronic certificate of title;

(B) the transferee does not have possession of the written certificate of title issued in the name of the owner of record; or

(C) the transferee is delivering the written certificate of title to the department with the transfer-by-law statement; and

(4) except for a transfer described in Subsection (a)(1)(A), evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the department as having an interest, including a security interest, in the vessel or outboard motor.

(c) Unless the department rejects a transfer-by-law statement for a reason stated in Section 31.0485(c) or because the statement does not include documentation satisfactory to the department as to the transferee's ownership interest or right to acquire the ownership interest, not later than the 20th day after the date of delivery to the department of the statement and payment of fees due under this chapter and taxes payable under Chapter 160, Tax Code, in connection with the statement or with the acquisition or use of the vessel or outboard motor, the department shall:

(1) accept the statement;

(2) amend the files of the department to reflect the transfer; and

(3) if the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

(A) cancel the certificate of title, regardless of whether the certificate of title has been delivered to the department;

(B) issue a new certificate of title indicating the transferee as owner;

(C) indicate on the new certificate of title any security interest indicated on the canceled certificate of title, unless a court order provides otherwise; and

(D) deliver the new certificate of title or a record evidencing an electronic certificate of title.

(d) This section does not apply to a transfer of an interest in a vessel or outboard motor by a secured party under Subchapter F, Chapter 9, Business & Commerce Code.

Revised Law

Sec. 4053.0708. RIGHTS OF PURCHASER OTHER THAN SECURED PARTY. (a) In this section, "buyer in ordinary course of business" has the meaning assigned by Section 1.201, Business & Commerce Code.

(b) Notwithstanding Section 4053.0702(a), a buyer of a new vessel or outboard motor in the ordinary course of business takes the interest free of security interests as provided in Section 9.320(a), Business & Commerce Code.

(c) A buyer in ordinary course of business has the protections afforded by Sections 2.403(b) and 9.320(a), Business & Commerce Code, regardless of whether:

(1) an existing certificate of title was signed and delivered to the buyer; or

(2) a new certificate of title listing the buyer as owner of record was issued.

(d) A buyer of a vessel or outboard motor that is not a new vessel or outboard motor is governed by Section 4053.0702(a).

(e) Except as provided by Subsection (d) and Section 4053.0804, the rights of a purchaser of a vessel or outboard motor that is not a buyer in ordinary course of business or a lien creditor are governed by the Business & Commerce Code. (Parks & Wild. Code, Secs. 31.053(d), 31.058.)

Source Law

[Sec. 31.053]

(d) Notwithstanding the provisions of Subsection (a) of this section, a buyer of a new vessel or a new outboard motor in the ordinary course of business as provided in Section 9.320(a), Business & Commerce Code, takes the interest free of security interests as provided in that section. A buyer of a vessel or outboard motor that is not new shall be governed by Subsection (a) of this section.

Sec. 31.058. RIGHTS OF PURCHASER OTHER THAN SECURED PARTY. (a) In this section, "buyer in ordinary course of business" has the meaning assigned by Section 1.201, Business & Commerce Code.

(b) A buyer in ordinary course of business has the protections afforded by Sections 2.403(b) and 9.320(a), Business & Commerce Code, regardless of whether:

(1) an existing certificate of title was

signed and delivered to the buyer; or

(2) a new certificate of title listing the buyer as owner of record was issued.

(c) Except as provided by Sections 31.053 and 31.0582, the rights of a purchaser of a vessel or outboard motor that is not a buyer in ordinary course of business or a lien creditor are governed by the Business & Commerce Code.

Revisor's Note

Section 31.058(c), Parks and Wildlife Code, provides that the rights of a purchaser of a vessel or outboard motor that is not a buyer in ordinary course of business or a lien creditor are governed by the Business & Commerce Code, except as provided by Sections 31.053 and 31.0582, Parks and Wildlife Code. The pertinent part of Section 31.053 providing an exception to the provisions of Section 31.058(c) is Section 31.053(d), Parks and Wildlife Code, revised in pertinent part as Subsection (d) of this section, and the revised law is drafted accordingly.

SUBCHAPTER H. SECURITY INTERESTS

Revised Law

Sec. 4053.0801. SECURITY INTEREST RECORDED ON TITLE; PRIORITY. (a) Except as otherwise provided by this subchapter, a security interest in a vessel or outboard motor, other than a statutory lien, must be noted on the certificate of title of the vessel or outboard motor to which the security interest applies.

(b) On recordation of a security interest on the certificate of title, the recorded security interest owner and assignees under Section 4053.0802(a) obtain priority over the rights of a lien creditor for as long as the security interest is recorded on the certificate of title. (Parks & Wild. Code, Sec. 31.052(a).)

Source Law

Sec. 31.052. SECURITY INTEREST LIENS. (a) Except as provided by this section and Section 31.050(c), and except for statutory liens, security interests in a vessel or outboard motor shall be noted on the certificate of title of the vessel or outboard motor to which the security interest applies. On recordation of a security interest on the certificate of title, the recorded security interest owner and assignees under Subsection (c) obtain priority over

the rights of a lien creditor for so long as the security interest is recorded on the certificate of title.

Revisor's Note

Section 31.052(a), Parks and Wildlife Code, refers to assignees under Section 31.052(c) of that code. Section 31.052(c) is revised in pertinent part as Section 4053.0802(a), and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0802. ASSIGNMENT OF SECURITY INTEREST. (a) A security interest owner may assign a security interest recorded under this chapter without making any filing or giving any notice under this chapter.

(b) An assigned security interest remains valid and perfected and retains its priority, securing the obligation assigned to the assignee, against transferees from and creditors of the debtor, including lien creditors.

(c) An assignee or assignor:

(1) may, as evidence of the assignment of the security interest recorded under this chapter, apply to the department or a county tax assessor-collector for the assignee to be named as security interest owner on the certificate of title and notify the debtor of the assignment; and

(2) is not required to apply under Subdivision (1) to retain the validity, perfection, and priority of the assigned security interest.

(d) Failure to apply for the assignee to be named on the certificate of title or to notify a debtor of an assignment does not:

(1) create a cause of action against the recorded security interest owner, the assignor, or the assignee; or

(2) affect the continuation of the perfected status of the assigned security interest in favor of the assignee against transferees from and creditors of the debtor, including lien

creditors. (Parks & Wild. Code, Secs. 31.052(c), (d).)

Source Law

> (c) A security interest owner may assign a security interest recorded under this chapter without making any filing or giving any notice under this chapter. The security interest assigned remains valid and perfected and retains its priority, securing the obligation assigned to the assignee, against transferees from and creditors of the debtor, including lien creditors.
>
> (d) An assignee or assignor may, but need not to retain the validity, perfection, and priority of the security interest assigned, as evidence of the assignment of the security interest recorded under this chapter, apply to the department or a county assessor-collector for the assignee to be named as security interest owner on the certificate of title and notify the debtor of the assignment. Failure to make application under this subsection or notify a debtor of an assignment does not create a cause of action against the recorded security interest owner, the assignor, or the assignee or affect the continuation of the perfected status of the assigned security interest in favor of the assignee against transferees from and creditors of the debtor, including lien creditors.

Revisor's Note

Section 31.052(c), Parks and Wildlife Code, provides that a security interest recorded under Chapter 31 of that code may be transferred without making any filing or giving any notice under that chapter. Section 31.052(d), Parks and Wildlife Code, refers to a security interest recorded under Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the recording of security interests and the filing and notice required for security interests are revised in this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0803. PERFECTION OF SECURITY INTEREST. (a) Except as provided by Subsection (l), this section does not apply to a security interest:

(1) issued for a vessel or outboard motor by a person during any period in which the vessel or outboard motor is inventory held for sale or lease by the person or is leased by the person as

lessor if the person is in the business of selling vessels or outboard motors;

(2) in a barge for which no application for a certificate of title has been delivered to the department; or

(3) in a vessel or outboard motor before delivery if the vessel or outboard motor is under construction or completed under contract and for which no application for a certificate of title has been delivered to the department.

(b) A security interest in a vessel or outboard motor may be perfected only by delivery to the department of an application for a certificate of title that identifies the secured party and otherwise complies with Section 4053.0202. The security interest is perfected on the later of:

(1) delivery to the department of the application and the applicable fee; or

(2) attachment of the security interest under Section 9.203, Business & Commerce Code.

(c) If the interest of a person named as owner, lessor, consignor, or bailor in an application for a certificate of title delivered to the department is a security interest, the application sufficiently identifies the person as a secured party. Identification on the application for a certificate of title of a person as owner, lessor, consignor, or bailor is not by itself a factor in determining whether the person's interest is a security interest.

(d) If the department has issued a certificate of title for a vessel or outboard motor, a security interest in the vessel or outboard motor may be perfected by delivery to the department of an application, on a form prescribed by the department, to have the security interest added to the certificate of title. The application must:

(1) be signed by an owner of the vessel or outboard motor or by the secured party; and

(2) include:

(A) the name of the owner of record;

(B) the name and mailing address of the secured party;

(C) the hull identification number of the vessel and serial number of the outboard motor, as applicable; and

(D) the certificate of title, if the department has issued a written certificate of title for the vessel or outboard motor.

(e) A security interest perfected under Subsection (d) is perfected on the later of:

(1) delivery to the department of the application and all applicable fees; or

(2) attachment of the security interest under Section 9.203, Business & Commerce Code.

(f) On delivery of an application that complies with Subsection (d) and payment of all applicable fees, the department shall issue a new certificate of title under Section 4053.0306 and deliver the new certificate of title or a record evidencing an electronic certificate of title as required by Section 4053.0310. The department shall maintain in the files of the department the date and time of delivery of the application to the department.

(g) If a secured party assigns a perfected security interest in a vessel or outboard motor, the receipt by the department of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. A purchaser of a vessel or outboard motor subject to a security interest who obtains a release from the secured party indicated in the files of the department or on the certificate of title takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the department or on the certificate of title.

(h) If a certificate of documentation for a documented vessel is deleted or canceled, a security interest in the vessel

that was valid immediately before deletion or cancellation against a third party as a result of compliance with 46 U.S.C. Section 31321 is and remains perfected until the earlier of:

(1) four months after deletion or cancellation of the certificate of documentation; or

(2) the perfection of the security interest under this section.

(i) A security interest in a vessel or outboard motor arising under Section 2.401, 2.505, 2.711(c), or 2A.508(e), Business & Commerce Code, is perfected when it attaches but becomes unperfected when the debtor obtains possession of the vessel or outboard motor, unless before the debtor obtains possession the security interest is perfected under Subsection (b) or (d).

(j) A security interest in a vessel or outboard motor as proceeds of other collateral is perfected to the extent provided in Section 9.315, Business & Commerce Code.

(k) A security interest in a vessel or outboard motor perfected under the law of another jurisdiction is perfected to the extent provided in Section 9.316(d), Business & Commerce Code.

(l) A security interest in a vessel or outboard motor held as inventory by a person who is in the business of selling or leasing goods of that kind may be perfected only by complying with Chapter 9, Business & Commerce Code. (Parks & Wild. Code, Secs. 31.050(c), 31.0569.)

Source Law

[Sec. 31.050]

(c) A security interest in a vessel or outboard motor held as inventory by a person who is in the business of selling or leasing goods of that kind may be perfected only by complying with Chapter 9, Business & Commerce Code.

Sec. 31.0569. PERFECTION OF SECURITY INTEREST. (a) A security interest in a vessel or outboard motor may be perfected only by delivery to the department of an application for a certificate of title that identifies the secured party and otherwise complies with Section 31.049. The security interest is perfected on the later of delivery to the department of the application and the applicable fee or attachment of the security interest under Section 9.203, Business & Commerce Code.

(b) If the interest of a person named as owner, lessor, consignor, or bailor in an application for a certificate of title delivered to the department is a security interest, the application sufficiently identifies the person as a secured party. Identification on the application for a certificate of title of a person as owner, lessor, consignor, or bailor is not by itself a factor in determining whether the person's interest is a security interest.

(c) If the department has issued a certificate of title for a vessel or outboard motor, a security interest in the vessel or outboard motor may be perfected by delivery to the department of an application, on a form prescribed by the department, to have the security interest added to the certificate of title. The application must be signed by an owner of the vessel or outboard motor or by the secured party and must include:

(1) the name of the owner of record;

(2) the name and mailing address of the secured party;

(3) the hull identification number of the vessel and serial number of the outboard motor, as applicable; and

(4) the certificate of title, if the department has issued a written certificate of title for the vessel or outboard motor.

(d) A security interest perfected under Subsection (c) is perfected on the later of:

(1) delivery to the department of the application and all applicable fees; or

(2) attachment of the security interest under Section 9.203, Business & Commerce Code.

(e) On delivery of an application that complies with Subsection (c) and payment of all applicable fees, the department shall issue a new certificate of title under Section 31.0485 and deliver the new certificate of title or a record evidencing an electronic certificate of title as required by Subsection (e) of that section. The department shall maintain in the files of the department the date and time of delivery of the application to the department.

(f) If a secured party assigns a perfected security interest in a vessel or outboard motor, the receipt by the department of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. A purchaser of a vessel or outboard motor subject to a security interest who obtains a release from the secured party indicated in the files of the department or on the certificate of title takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the department or on the certificate of title.

(g) This section does not apply to a security interest:

(1) issued for a vessel or outboard motor by a person during any period in which the vessel or outboard motor is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels or outboard motors;

(2) in a barge for which no application for a certificate of title has been delivered to the department; or

(3) in a vessel or outboard motor before delivery if the vessel or outboard motor is under

construction or completed under contract and for which no application for a certificate of title has been delivered to the department.

(h) If a certificate of documentation for a documented vessel is deleted or canceled, a security interest in the vessel that was valid immediately before deletion or cancellation against a third party as a result of compliance with 46 U.S.C. Section 31321 is and remains perfected until the earlier of:

(1) four months after deletion or cancellation of the certificate of documentation; or

(2) the perfection of the security interest under this section.

(i) A security interest in a vessel or outboard motor arising under Section 2.401, 2.505, 2.711(c), or 2A.508(e), Business & Commerce Code, is perfected when it attaches but becomes unperfected when the debtor obtains possession of the vessel or outboard motor, unless before the debtor obtains possession the security interest is perfected under Subsection (a) or (c).

(j) A security interest in a vessel or outboard motor as proceeds of other collateral is perfected to the extent provided in Section 9.315, Business & Commerce Code.

(k) A security interest in a vessel or outboard motor perfected under the law of another jurisdiction is perfected to the extent provided in Section 9.316(d), Business & Commerce Code.

Revisor's Note

(1) Section 31.0569(a), Parks and Wildlife Code, refers to an application for a certificate of title that identifies the secured party and otherwise complies with Section 31.049 of that code. Section 31.049 is revised in pertinent part as Section 4053.0202, and the revised law is drafted accordingly.

(2) Section 31.0569(e), Parks and Wildlife Code, requires the Parks and Wildlife Department to issue a new certificate of title under Section 31.0485 of that code under certain circumstances. Section 31.0485 is revised in pertinent part as Section 4053.0306, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0804. RIGHTS OF SECURED PARTY. (a) In this section, "good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(b) Subject to Subsection (c), the effect of perfection and nonperfection of a security interest and the priority of a

perfected or unperfected security interest with respect to the rights of a purchaser or creditor, including a lien creditor, is governed by the Business & Commerce Code.

(c) If, while a security interest in a vessel or outboard motor is perfected by any method under this chapter, the department issues a certificate of title that does not indicate that the vessel or outboard motor is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate of title:

(1) a buyer of the vessel or outboard motor, other than a person in the business of selling or leasing vessels or outboard motors of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the vessel or outboard motor; and

(2) the security interest is subordinate to a conflicting security interest in the vessel or outboard motor that is perfected under Section 4053.0803, after creation of the certificate and without the conflicting secured party's knowledge of the security interest. (Parks & Wild. Code, Sec. 31.0582.)

Source Law

Sec. 31.0582. RIGHTS OF SECURED PARTY. (a) In this section, "good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(b) Subject to Subsection (c), the effect of perfection and nonperfection of a security interest and the priority of a perfected or unperfected security interest with respect to the rights of a purchaser or creditor, including a lien creditor, is governed by the Business & Commerce Code.

(c) If, while a security interest in a vessel or outboard motor is perfected by any method under this chapter, the department issues a certificate of title that does not indicate that the vessel or outboard motor is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate of title:

(1) a buyer of the vessel or outboard motor, other than a person in the business of selling or leasing vessels or outboard motors of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the vessel or outboard motor; and

(2) the security interest is subordinate

to a conflicting security interest in the vessel or outboard motor that is perfected under Section 31.0569, after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

Revisor's Note

(1) Section 31.0582(c), Parks and Wildlife Code, refers to a security interest in a vessel or outboard motor that is perfected by any method under Chapter 31 of that code. The pertinent parts of Chapter 31 relating to the perfection of a security interest in a vessel or outboard motor are revised in this chapter, and the revised law is drafted accordingly.

(2) Section 31.0582(c)(2), Parks and Wildlife Code, refers to a security interest in a vessel or outboard motor that is perfected under Section 31.0569 of that code. Section 31.0569 is revised in Section 4053.0803. Although Section 4053.0803 also includes the revision of Section 31.050(c), Parks and Wildlife Code, it is appropriate to refer to Section 4053.0803 in its entirety because a security interest in a vessel or outboard motor is not perfected under Section 31.050(c).

Revised Law

Sec. 4053.0805. TERMINATION STATEMENT. (a) A secured party indicated in the files of the department as having a security interest in a vessel or outboard motor shall deliver a termination statement to the department and, on the debtor's request, to the debtor, not later than the earlier of:

(1) the 20th day after the date the secured party receives a signed demand from an owner for a termination statement and there is no obligation secured by the vessel or outboard motor subject to the security interest and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel or outboard motor; or

(2) if the vessel or outboard motor is used or bought for use primarily for personal, family, or household purposes, the 30th day after the date that no obligation is secured by the vessel or outboard motor and no commitment exists to make an advance, incur an obligation, or otherwise give value secured by the vessel or outboard motor.

(b) If a written certificate of title has been issued and delivered to a secured party and a termination statement is required under Subsection (a), the secured party, not later than the date required by Subsection (a), shall deliver the certificate of title to the debtor or to the department with the statement. If the certificate of title is lost, stolen, mutilated, destroyed, or otherwise unavailable or illegible, the secured party shall deliver with the statement, not later than the date required by Subsection (a), an application for a replacement certificate of title meeting the requirements prescribed in the regulations adopted under Section 4053.0602.

(c) On delivery to the department of a termination statement authorized by the secured party, and, if applicable, an application for a replacement certificate of title meeting the requirements prescribed in the regulations adopted under Section 4053.0602, the security interest to which the statement relates ceases to be perfected. If the security interest to which the statement relates was indicated on the certificate of title, the department shall issue a new certificate of title and deliver the new certificate of title or a record evidencing an electronic certificate of title. The department shall maintain in its files the date and time of delivery to the department of the termination statement.

(d) A secured party that fails to comply with this section is liable for:

(1) any loss that the secured party had reason to know might result from the secured party's failure to comply and which could not reasonably have been prevented; and

(2) the cost of an application for a certificate of

title under Section 4053.0302 or a replacement certificate of title under the regulations adopted under Section 4053.0602. (Parks & Wild. Code, Sec. 31.057.)

Source Law

Sec. 31.057. TERMINATION STATEMENT. (a) A secured party indicated in the files of the department as having a security interest in a vessel or outboard motor shall deliver a termination statement to the department and, on the debtor's request, to the debtor, not later than the earlier of:

(1) the 20th day after the date the secured party receives a signed demand from an owner for a termination statement and there is no obligation secured by the vessel or outboard motor subject to the security interest and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel or outboard motor; or

(2) if the vessel or outboard motor is used or bought for use primarily for personal, family, or household purposes, the 30th day after the date that no obligation is secured by the vessel or outboard motor and no commitment exists to make an advance, incur an obligation, or otherwise give value secured by the vessel or outboard motor.

(b) If a written certificate of title has been issued and delivered to a secured party and a termination statement is required under Subsection (a), the secured party, not later than the date required by Subsection (a), shall deliver the certificate of title to the debtor or to the department with the statement. If the certificate of title is lost, stolen, mutilated, destroyed, or is otherwise unavailable or illegible, the secured party shall deliver with the statement, not later than the date required by Subsection (a), an application for a replacement certificate of title meeting the requirements prescribed in the regulations adopted under Section 31.051.

(c) On delivery to the department of a termination statement authorized by the secured party, and, if applicable, an application for a replacement certificate of title meeting the requirements prescribed in the regulations adopted under Section 31.051, the security interest to which the statement relates ceases to be perfected. If the security interest to which the statement relates was indicated on the certificate of title, the department shall issue a new certificate of title and deliver the new certificate of title or a record evidencing an electronic certificate of title. The department shall maintain in its files the date and time of delivery to the department of the termination statement.

(d) A secured party that fails to comply with this section is liable for:

(1) any loss that the secured party had reason to know might result from the secure party's failure to comply and which could not reasonably have been prevented; and

(2) the cost of an application for a certificate of title under Section 31.047 or a replacement certificate of title under the regulations adopted under Section 31.051.

Revisor's Note

Section 31.057(d)(2), Parks and Wildlife Code, refers to an application for a certificate of title under Section 31.047 of that code. Section 31.047 is revised in pertinent part as Section 4053.0302, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0806. APPLICATION FOR TERMINATION OF SECURITY INTEREST WITHOUT CERTIFICATE OF TITLE. (a) Except as provided by Sections 4053.0706 and 4053.0707, if the department receives, unaccompanied by a signed certificate of title, an application for a new certificate of title that includes an indication of a termination statement, the department may issue a new certificate of title under this section only if:

(1) all other requirements under Sections 4053.0302 and 4053.0306 are met;

(2) the applicant provides an affidavit stating facts showing the applicant is entitled to a termination statement;

(3) the applicant provides the department with satisfactory evidence that notification of the application has been sent to all persons indicated in the files of the department as having a security interest in the vessel or outboard motor, not earlier than the 45th day after the date the notification was sent, and the department has not received an objection from any of those persons; and

(4) the applicant submits any other information required by the department as evidence of the applicant's right to terminate the security interest, and the department has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel or outboard motor.

(b) The department may indicate in a certificate of title issued under Subsection (a) that the certificate of title was issued without submission of a termination statement. Unless

credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel or outboard motor is delivered to the department not later than the first anniversary of the date of the issuance of the certificate of title under Subsection (a), on request in a form and manner required by the department, the department shall remove the indication from the certificate of title.

(c) Unless the department determines that the value of a vessel or outboard motor is less than $5,000, the department may require the applicant to post a bond or provide an equivalent source of indemnity or security before the department issues a certificate of title under Subsection (a). The bond, indemnity, or other security:

(1) may not exceed twice the value of the vessel or outboard motor as determined by the department;

(2) must be in a form required by the department; and

(3) must provide for indemnification of any owner, purchaser, or other claimant for any expense, loss, delay, or damage, including reasonable attorney's fees and costs, but not including incidental or consequential damages, resulting from issuance or amendment of the certificate of title.

(d) Unless the department receives a claim for indemnity not later than the first anniversary of the date of the issuance of a certificate of title under Subsection (a), on request in a form and manner required by the department, the department shall release any bond, indemnity, or other security. (Parks & Wild. Code, Sec. 31.0579.)

Source Law

Sec. 31.0579. APPLICATION FOR TERMINATION OF SECURITY INTEREST WITHOUT CERTIFICATE OF TITLE. (a) Except as provided by Sections 31.0575 and 31.0577, if the department receives, unaccompanied by a signed certificate of title, an application for a new certificate of title that includes an indication of a termination statement, the department may issue a new certificate of title under this section only if:

(1) all other requirements under Sections 31.047 and 31.0485 are met;

(2) the applicant provides an affidavit

stating facts showing the applicant is entitled to a termination statement;

(3) the applicant provides the department with satisfactory evidence that notification of the application has been sent to all persons indicated in the files of the department as having a security interest in the vessel or outboard motor, not earlier than the 45th day after the date the notification was sent, and the department has not received an objection from any of those persons; and

(4) the applicant submits any other information required by the department as evidence of the applicant's right to terminate the security interest, and the department has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel or outboard motor.

(b) The department may indicate in a certificate of title issued under Subsection (a) that the certificate of title was issued without submission of a termination statement. Unless credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel or outboard motor is delivered to the department not later than the first anniversary of the date of the issuance of the certificate of title under Subsection (a), on request in a form and manner required by the department, the department shall remove the indication from the certificate of title.

(c) Unless the department determines that the value of a vessel or outboard motor is less than $5,000, the department may require the applicant to post a bond or provide an equivalent source of indemnity or security before the department issues a certificate of title under Subsection (a). The bond, indemnity, or other security may not exceed twice the value of the vessel or outboard motor as determined by the department. The bond, indemnity, or other security must be in a form required by the department and provide for indemnification of any owner, purchaser, or other claimant for any expense, loss, delay, or damage, including reasonable attorney's fees and costs, but not including incidental or consequential damages, resulting from issuance or amendment of the certificate of title.

(d) Unless the department receives a claim for indemnity not later than the first anniversary of the date of the issuance of a certificate of title under Subsection (a), on request in a form and manner required by the department, the department shall release any bond, indemnity, or other security.

Revisor's Note

Section 31.0579(a), Parks and Wildlife Code, provides that the Parks and Wildlife Department may issue a new certificate of title under Section 31.0579 of that code only if all other requirements under Sections 31.047 and 31.0485 of that code are met. Sections 31.047 and 31.0485 are revised in pertinent part as Sections 4053.0302 and 4053.0306,

respectively, and the revised law is drafted accordingly.

Revised Law

Sec. 4053.0807. CONFLICTS OF LAW. To the extent of any conflict between this code and Chapters 1 through 9, Business & Commerce Code, the provisions of the Business & Commerce Code control. (Parks & Wild. Code, Sec. 31.052(b).)

Source Law

(b) In case of any conflict between this code and Chapters 1 through 9 of the Business & Commerce Code, the provisions of the Business & Commerce Code control.

CHAPTER 4054. VESSEL AND OUTBOARD MOTOR DEALERS, DISTRIBUTORS, AND MANUFACTURERS

SUBCHAPTER A. LICENSE REQUIREMENTS

Revised Law

Sec. 4054.0101. COMMISSION RULES. The commission may adopt rules regarding licenses issued under this chapter, including rules:

(1) regarding license transfer procedures;

(2) prescribing application and license agreement forms;

(3) regarding application and renewal procedures;

(4) prescribing reporting and recordkeeping requirements for license holders;

(5) setting fees to be charged for:

(A) a transferred license; or

(B) a replacement license;

(6) prescribing license requirements; and

(7) establishing license revocation and suspension procedures. (Parks & Wild. Code, Sec. 31.0412.)

Source Law

Sec. 31.0412. LICENSING RULES. The commission may adopt rules regarding licenses issued under Section 31.041, including rules:

(1) regarding license transfer procedures;

(2) prescribing application and license

agreement forms;

(3) regarding application and renewal procedures;

(4) prescribing reporting and recordkeeping requirements for license holders;

(5) setting fees to be charged for:

(A) a transferred license; or

(B) a replacement license;

(6) prescribing license requirements; and

(7) establishing license revocation and suspension procedures.

Revisor's Note

Section 31.0412, Parks and Wildlife Code, refers to licenses issued under Section 31.041 of that code. Throughout this chapter, the revised law substitutes references to licenses issued under "this chapter" for references to licenses issued under Section 31.041 because Section 31.041 is revised as various provisions of this chapter, and it is appropriate to reference the entire chapter even though the chapter also contains provisions not derived from Section 31.041 because those other provisions do not authorize the issuance of a license.

Revised Law

Sec. 4054.0102. LICENSE REQUIRED. (a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person:

(1) holds a license issued under this chapter; and

(2) enters into a license agreement with the department.

(b) A dealer must hold a license for each place of business owned and operated by the dealer.

(c) The department may not issue a license until the requirements of this chapter have been satisfied. (Parks & Wild. Code, Secs. 31.041(a), (e) (part).)

Source Law

Sec. 31.041. DUTIES OF DEALERS, DISTRIBUTORS, AND MANUFACTURERS; LICENSE REQUIRED. (a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person holds a license issued under this section and enters into a license agreement with the department. A dealer must

have a license for each place of business owned and operated by the person.

(e) . . . A license may not be issued until the provisions of this section have been satisfied.

Revisor's Note

Section 31.041(e), Parks and Wildlife Code, provides that a license may not be issued until the provisions of Section 31.041 of that code have been satisfied. The revised law clarifies that "the department" may not issue licenses until the requirements are met because it is clear from the context of Section 31.041 that the Parks and Wildlife Department is the body authorized to issue the relevant licenses.

Revised Law

Sec. 4054.0103. EXEMPTION FROM DEALER LICENSING REQUIREMENTS. The dealer licensing provisions of this chapter do not apply to the sale of:

(1) a canoe, kayak, punt, rowboat, rubber raft, paddleboat, or other vessel that:

(A) is less than 12 feet in length; and

(B) has a horsepower rating of five horsepower or less; or

(2) an outboard motor with a manufacturer's rating of five horsepower or less. (Parks & Wild. Code, Sec. 31.0413.)

Source Law

Sec. 31.0413. EXEMPTION FROM DEALER LICENSING REQUIREMENTS. The dealer licensing provisions of this subchapter do not apply to the sale of a canoe, kayak, punt, rowboat, rubber raft, paddleboat, or other vessel that is less than 12 feet in length and has a horsepower rating of five horsepower or less or to the sale of an outboard motor with a manufacturer's rating of five horsepower or less.

Revisor's Note

Section 31.0413, Parks and Wildlife Code, refers to the dealer licensing provisions of Subchapter B, Chapter 31, of that code. The pertinent parts of Subchapter B relating to dealer licensing are revised

in this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 4054.0104. LICENSE APPLICATION. (a) An application for a license under this chapter must:

(1) state that the applicant is a dealer, distributor, or manufacturer;

(2) be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit; and

(3) if the applicant is a dealer, be accompanied by photographs of the dealer's business sufficient to show:

(A) any sign the business is required to display; and

(B) the extent of the space the business is required to maintain.

(b) Facts stated on an application for a license under this chapter must be sworn before an officer authorized to administer oaths. (Parks & Wild. Code, Sec. 31.041(e) (part).)

Source Law

> (e) The application for a license under this section must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. . . .

Revised Law

Sec. 4054.0105. FORM AND DISPLAY OF LICENSE. The commission shall establish the form and manner for display of a license issued under this chapter. (Parks & Wild. Code, Sec. 31.041(b).)

Source Law

(b) The commission shall establish the form and manner for display of a license issued under this section.

Revised Law

Sec. 4054.0106. LICENSE TERM. A license issued under this chapter is valid for two years from the date of issuance. (Parks & Wild. Code, Sec. 31.0411(a)(1).)

Source Law

(a) . . . a license issued under Section 31.041:

(1) is valid for two years from the date of issuance; and

. . .

Revised Law

Sec. 4054.0107. LICENSE TRANSFER. (a) Except as provided by Subsection (b), a license issued under this chapter may not be transferred to another person.

(b) A license issued under this chapter in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.

(c) A license issued under this chapter may be transferred to a new address if:

(1) a business moves to another location; and

(2) a change of ownership has not occurred. (Parks & Wild. Code, Secs. 31.0411(a)(2), (b), (c).)

Source Law

Sec. 31.0411. TERM OF LICENSE; TRANSFER. (a) Except as provided by Subsection (b), a license issued under Section 31.041:

. . .

(2) may not be transferred to another person.

(b) A license issued under Section 31.041 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.

(c) A license issued under Section 31.041 may be transferred to a new address if:

(1) a business moves to another location; and

(2) a change of ownership has not occurred.

Revised Law

Sec. 4054.0108. ISSUANCE OF DEALER, DISTRIBUTOR, OR

MANUFACTURER NUMBER; FEE. (a) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this chapter in the manner provided by Section 4052.0101(d).

(b) The two-year fee for a dealer's, distributor's, or manufacturer's number is $500. (Parks & Wild. Code, Secs. 31.041(c), (e) (part).)

Source Law

(c) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this section in the manner provided by Section 31.031(b).

(e) . . . The two-year fee for a dealer's, distributor's, or manufacturer's number is $500. . . .

SUBCHAPTER B. POWERS AND DUTIES OF DEALERS, DISTRIBUTORS, AND MANUFACTURERS

Revised Law

Sec. 4054.0201. USE OF DEALER, DISTRIBUTOR, OR MANUFACTURER NUMBER. (a) In this section, "show, demonstrate, or test" does not include the use of a vessel for:

(1) recreational purposes; or

(2) participation in a contest or event.

(b) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on public water instead of securing a certificate of number for each vessel. The dealer, distributor, or manufacturer shall attach the number to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water.

(c) The commission may establish rules concerning the issuance and price of validation cards that permit the limited and temporary use of vessels for recreational purposes or participation in contests or events. Fees collected by the department under this subsection shall be deposited in the game, fish, and water safety account established under Section 2052.0301.

(d) A dealer, distributor, or manufacturer may issue a

reasonable temporary facsimile of the number issued under Section 4054.0108(a) that may be used by any person authorized by the dealer, distributor, or manufacturer to use the number. The department shall prescribe the form of the facsimile and the manner of display of the number.

(e) A person purchasing a vessel may use and shall retain on the vessel the temporary facsimile number issued under Subsection (d) for a period not to exceed 20 days from the date the dealer, distributor, or manufacturer applies for a certificate of number or a certificate of title under Section 4054.0203. (Parks & Wild. Code, Secs. 31.041(d), (f), (i).)

Source Law

> (d) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event. The commission, however, may establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events. Any fees collected by the department under this subsection shall be deposited in the game, fish, and water safety account established under Section 11.032.
>
> (f) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may issue a reasonable temporary facsimile of the number issued under Subsection (c), which may be used by any authorized person. The form of the facsimile and the manner of display of the number shall be prescribed by the department.
>
> (i) A person purchasing a vessel may use the temporary facsimile number issued under Subsection (f) for a period not to exceed 20 days from the date the dealer, distributor, or manufacturer applies for a certificate of number or a certificate of title under Subsection (h). The person shall retain the facsimile number on the vessel for the period described by this subsection.

Revisor's Note

(1) Section 31.041(d), Parks and Wildlife Code, refers to fees collected by the Parks and Wildlife

Department under Section 31.041(d) of that code. Section 31.041(d) is revised in pertinent part as Subsection (c) of this section, and the revised law is drafted accordingly.

(2) Section 31.041(d), Parks and Wildlife Code, refers to the game, fish, and water safety account established under Section 11.032 of that code. Section 11.032 is revised in pertinent part as Section 2052.0301, and the revised law is drafted accordingly.

(3) Section 31.041(f), Parks and Wildlife Code, refers to a dealer, distributor, or manufacturer "holding a dealer's, distributor's, or manufacturer's license." Throughout this subchapter, the revised law omits the quoted language as unnecessary because Section 31.041(a), Parks and Wildlife Code, revised in pertinent part as Section 4054.0102(a), prohibits a person from engaging in business as a dealer, distributor, or manufacturer unless the person holds a license issued under Section 31.041, Parks and Wildlife Code, revised as various provisions of this chapter.

(4) Section 31.041(f), Parks and Wildlife Code, provides that a dealer, distributor, or manufacturer may issue a temporary facsimile of the dealer's, distributor's, or manufacturer's number that may be used by "any authorized person." For clarity, the revised law substitutes "any person authorized by the dealer, distributor, or manufacturer to use the number" for the quoted language because it is clear from the context that an "authorized person" would receive authorization from the dealer, distributor, or manufacturer who issues the facsimile.

(5) Section 31.041(i), Parks and Wildlife Code, refers to the date the dealer, distributor, or

manufacturer applies for a certificate of number or a certificate of title under Section 31.041(h) of that code. Section 31.041(h) is revised in Section 4054.0203. Although Section 4054.0203 also includes the revision of Sections 31.046(b) and (c), Parks and Wildlife Code, it is appropriate to refer to Section 4054.0203 in its entirety because Sections 31.046(b) and (c) do not contain any provisions relating to applying for a certificate of number, and the provisions of Sections 31.046(b) and (c) relating to applying for a certificate of title duplicate in substance the requirement under Section 31.041(h) relating to applying for a certificate of title. The revised law is drafted accordingly.

Revised Law

Sec. 4054.0202. TRANSFER OF CERTAIN CERTIFICATES OF NUMBER OR CERTIFICATES OF TITLE. A dealer, distributor, or manufacturer may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or manufacturer's business. (Parks & Wild. Code, Sec. 31.041(g).)

Source Law

(g) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or manufacturer's business.

Revised Law

Sec. 4054.0203. DUTY OF DEALER, DISTRIBUTOR, OR MANUFACTURER TO APPLY FOR CERTIFICATE OF NUMBER OR CERTIFICATE OF TITLE. (a) A dealer, distributor, or manufacturer shall, not later than the 20th day after the date that the dealer, distributor, or

manufacturer sells a vessel or outboard motor:

(1) apply in the name of the purchaser for a certificate of number or a certificate of title, as applicable, for the vessel or outboard motor; and

(2) file with the department each document necessary to transfer the certificate of number or certificate of title to the purchaser.

(b) Subsection (a) does not apply to a dealer or manufacturer who sells a vessel or outboard motor to a dealer or manufacturer.

(c) A dealer who acquires a vessel or outboard motor that is not a new vessel or outboard motor is not required to apply for a certificate of title in the name of the dealer, but on resale of the vessel or outboard motor the dealer shall:

(1) apply for a certificate of title for the vessel or outboard motor in the name of the purchaser under Subsection (a); and

(2) submit to the department or a county tax assessor-collector the endorsed certificate of title acquired by the dealer. (Parks & Wild. Code, Secs. 31.041(h), 31.046(b), (c).)

Source Law

[Sec. 31.041]

(h) Not later than the 20th day after a dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license sells at the first or a subsequent sale a vessel or outboard motor, the dealer, distributor, or manufacturer shall apply, in the name of the purchaser of the vessel or outboard motor, for a certificate of number or a certificate of title for the vessel or outboard motor, as applicable, and file with the department each document necessary to transfer the certificate of number or certificate of title.

[Sec. 31.046]

(b) A manufacturer or a dealer who sells a vessel or an outboard motor to a person other than a manufacturer or a dealer shall apply to the department or to a county tax assessor-collector for a certificate of title for the vessel or outboard motor in the name of the purchaser not later than the 20th day after the date of the sale.

(c) A dealer who acquires a vessel or an outboard motor, other than a new vessel or outboard motor, is not required to apply for a certificate of title in the name of the dealer, but on resale of the

vessel or outboard motor shall apply for the subsequent purchaser under Subsection (b) of this section and shall submit to the department or to a county tax assessor-collector the endorsed certificate of title acquired by the dealer.

Revisor's Note

(1) Section 31.041(h), Parks and Wildlife Code, requires that a dealer, distributor, or manufacturer apply for a certificate of number or a certificate of title in the name of the purchaser of the vessel or outboard motor and "file with the department each document necessary to transfer the certificate of number or certificate of title." The revised law adds "to the purchaser" to the quoted language to clarify that the transfer will be made to the purchaser in whose name the certificate of number or title was applied.

(2) Section 31.041(h), Parks and Wildlife Code, requires a dealer, distributor, or manufacturer to take certain actions "at the first or a subsequent" sale of a vessel or outboard motor. The revised law omits the quoted language because it does not add to the clear meaning of the law. Every sale is either a first or subsequent sale.

Revised Law

Sec. 4054.0204. INSPECTIONS. (a) A dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or records relating to the possession, origination, ownership, or transfer of a vessel or outboard motor at a dealership or the distributor's or manufacturer's place of business during normal business hours.

(b) The commission by rule shall adopt a policy to guide the prioritization of inspections of license holders holding a license issued under this chapter based on risk to water safety.

(c) The policy adopted under this section must require that the department:

(1) determine the conditions under which an on-site inspection of a license holder by the department is appropriate;

(2) develop an assessment tool for determining the appropriate frequency and intensity of department inspections of license holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all license holder inspections and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of license holders.

(d) The policy adopted under this section may be combined with a policy adopted under Section 2952.9801. (Parks & Wild. Code, Sec. 31.044.)

Source Law

Sec. 31.044. INSPECTIONS. (a) A dealer, distributor, or manufacturer may not refuse to allow the department or a peace officer to inspect a vessel, outboard motor, or records relating to the possession, origination, ownership, or transfer of a vessel or outboard motor at a dealership or distributor's or manufacturer's place of business during normal business hours.

(b) The commission by rule shall adopt a policy to guide the prioritization of inspections of license holders holding a license issued under Section 31.041 based on risk to water safety.

(c) The policy adopted under this section must require that the department:

(1) determine the conditions under which an on-site inspection of a license holder by the department is appropriate;

(2) develop an assessment tool for determining the appropriate frequency and intensity of department inspections of license holders, based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and

(3) document all license holder inspections and the results of those inspections and make the documentation available to all employees whose job descriptions include the regulation of license holders.

(d) The policy adopted under this section may be combined with a policy adopted under Section 12.1025.

CHAPTER 4055. HULL IDENTIFICATION NUMBER AND OUTBOARD MOTOR SERIAL NUMBER

Revised Law

Sec. 4055.0101. APPLICABILITY OF CHAPTER. This chapter does not apply to a vessel with a valid marine document issued by:

(1) the Coast Guard's National Vessel Documentation Center; or

(2) a federal agency that is a successor to the National Vessel Documentation Center. (Parks & Wild. Code, Sec. 31.043(e).)

Source Law

> (e) This section does not apply to vessels with a valid marine document issued by the United States Coast Guard's National Vessel Documentation Center or a federal agency that is a successor to the National Vessel Documentation Center.

Revised Law

Sec. 4055.0102. MANUFACTURER'S HULL IDENTIFICATION NUMBER REQUIRED; EXEMPTION. (a) Except as provided by Subsection (b), a vessel manufactured in this state for sale or sold, numbered, or titled in this state must have a manufacturer's hull identification number clearly imprinted on the structure of the vessel or displayed on a plate permanently attached to the vessel.

(b) Except as required to comply with Section 4052.0201 or 4053.0302, this section does not apply to a vessel that is not required by the Coast Guard to have a hull identification number. (Parks & Wild. Code, Sec. 31.043(a).)

Source Law

> Sec. 31.043. MANUFACTURER'S IDENTIFICATION NUMBER. (a) All vessels manufactured in Texas for sale and all vessels sold, numbered, or titled in Texas shall carry a manufacturer's hull identification number clearly imprinted on the structure of the vessel or displayed on a plate permanently attached to the vessel. Except as required to comply with Section 31.024 or 31.047, this subsection does not apply to a vessel that is not required by the United States Coast Guard to have a hull identification number.

Revisor's Note

Section 31.043(a), Parks and Wildlife Code,

refers to a requirement that a vessel comply with Section 31.024 or 31.047 of that code. Sections 31.024 and 31.047 are revised in pertinent part as Sections 4052.0201 and 4053.0302, respectively, and the revised law is drafted accordingly.

Revised Law

Sec. 4055.0103. DEPARTMENT ASSIGNMENT OF HULL IDENTIFICATION NUMBER WHEN VESSEL HAS NO MANUFACTURER'S HULL IDENTIFICATION NUMBER. (a) The owner of a vessel that does not have a manufacturer's hull identification number may submit an application to the department for a hull identification number.

(b) An application submitted under this section must:

(1) be on a form approved by the department;

(2) include a sworn statement that:

(A) describes the vessel;

(B) proves legal ownership of the vessel; and

(C) states the reason, if known, for the lack of a manufacturer's hull identification number;

(3) be signed by the owner of the vessel; and

(4) be accompanied by:

(A) a fee of $25 or a greater amount set by the commission; and

(B) a certificate from a game warden commissioned by the department stating that the vessel:

(i) has been inspected by the game warden; and

(ii) appears to be as applied for.

(c) On receipt of an application under this section in approved form, the department shall:

(1) enter the information provided in the application in the department's records; and

(2) assign a hull identification number to the vessel. (Parks & Wild. Code, Sec. 31.043(b).)

Source Law

(b) The owner of a vessel that does not have a manufacturer's hull identification number may file an application for a hull identification number with the department on forms approved by it. The application must include a sworn statement describing the vessel, proving legal ownership, and, if known, stating the reason for the lack of hull identification number. The application must be signed by the owner of the vessel and must be accompanied by a fee of $25, or an amount set by the commission, whichever is greater, and a certificate from a game warden commissioned by the department stating that the vessel has been inspected by the officer and appears to be as applied for. On receipt of the application in approved form, the department shall enter the information on the records of its office and shall issue to the applicant a hull identification number.

Revisor's Note

Section 31.043(b), Parks and Wildlife Code, requires that the Parks and Wildlife Department enter "the information" in department records on receipt of the application in approved form. The revised law adds "provided in the application" to the quoted language because it is clear from the context that the information referred to is information provided in the application for a hull identification number.

Revised Law

Sec. 4055.0104. ALTERED, COVERED, OR REMOVED HULL IDENTIFICATION NUMBER OR OUTBOARD MOTOR SERIAL NUMBER PROHIBITED. (a) A person may not intentionally or knowingly alter, cover, deface, destroy, or remove:

(1) a manufacturer's hull identification number or a plate bearing the hull identification number;

(2) a hull identification number or serial number assigned by the department; or

(3) an outboard motor serial number.

(b) A person may not possess:

(1) a vessel with a hull identification number that has been altered, defaced, or removed; or

(2) an outboard motor with a serial number that has been altered, defaced, or removed. (Parks & Wild. Code, Sec.

31.043(c).)

Source Law

(c) No person may intentionally or knowingly destroy, remove, alter, cover, or deface an outboard motor serial number, the manufacturer's hull identification number or plate bearing the hull identification number, or the hull identification number or serial number issued by the department. No person may possess a vessel with a hull identification number or an outboard motor with a serial number that has been altered, defaced, mutilated, or removed.

Revisor's Note

Section 31.043(c), Parks and Wildlife Code, refers to a vessel with a hull identification number or an outboard motor with a serial number that has been "altered, defaced, mutilated, or removed." Throughout this chapter, the revised law omits "mutilated" from provisions that include a reference to both "mutilated" and "altered" because "mutilated" is included in the meaning of "altered."

Revised Law

Sec. 4055.0105. SALE OR PURCHASE OF VESSEL OR OUTBOARD MOTOR WITH ALTERED OR REMOVED HULL IDENTIFICATION OR SERIAL NUMBER PROHIBITED. A person may not intentionally sell, offer to sell, or purchase:

(1) a vessel with a hull identification number that has been altered, defaced, or removed; or

(2) an outboard motor with a serial number that has been altered, defaced, or removed. (Parks & Wild. Code, Sec. 31.043(c-1).)

Source Law

(c-1) No person may intentionally sell, offer to sell, or purchase a vessel with a hull identification number, or an outboard motor with a serial number, that has been altered, defaced, mutilated, or removed.

Revised Law

Sec. 4055.0106. DEPARTMENT ASSIGNMENT OF HULL IDENTIFICATION OR OUTBOARD MOTOR SERIAL NUMBER AFTER NUMBER ALTERED OR REMOVED. (a) A person who has a vessel with an altered, defaced,

or removed hull identification number or an outboard motor with an altered, defaced, or removed serial number shall submit a sworn statement to the department for a hull identification number or outboard motor serial number.

(b) A sworn statement submitted under this section must:

(1) include:

(A) a description of the vessel or outboard motor;

(B) proof of the legal ownership of the vessel or outboard motor; and

(C) the reason, if known, for the alteration, defacement, or removal of the number; and

(2) be accompanied by:

(A) a fee of $25 or a greater amount set by the commission; and

(B) a certificate from a game warden commissioned by the department stating that the vessel or outboard motor:

(i) has been inspected by the game warden; and

(ii) appears to be as applied for.

(c) On receipt of a sworn statement under this section in approved form, the department shall:

(1) enter the information provided in the statement in the department's records; and

(2) assign a hull identification number to the vessel or serial number to the outboard motor, as appropriate. (Parks & Wild. Code, Sec. 31.043(d).)

Source Law

> (d) A person who has a vessel with an altered, defaced, mutilated, or removed hull identification number or an outboard motor with an altered, defaced, mutilated, or removed serial number shall file a sworn statement with the department describing the vessel or outboard motor, proving legal ownership, and, if known, stating the reason for the destruction, removal, or defacement of the number. The statement must be accompanied by a fee of $25, or an amount set by the commission, whichever is greater, and a certificate from a game warden commissioned by the

department that the vessel or outboard motor has been inspected by the officer and appears to be as applied for. On receipt of the statement in approved form, the department shall enter the information on records of its office and shall issue to the applicant a hull identification number or outboard motor serial number.

Revisor's Note

Section 31.043(d), Parks and Wildlife Code, requires the Parks and Wildlife Department to enter "the information" in department records on receipt of the sworn statement in approved form. The revised law adds "provided in the statement" to the quoted language because it is clear from the context that the information referred to is information provided in the sworn statement for a hull identification number or outboard motor serial number.

SUBTITLE C. BOATING EQUIPMENT AND OPERATION

CHAPTER 4101. GENERAL PROVISIONS

Revised Law

Sec. 4101.0101. DEFINITION. In this subtitle, "personal watercraft" means a motorboat specifically designed to be operated by a person sitting, standing, or kneeling on the motorboat rather than sitting or standing inside the motorboat. (Parks & Wild. Code, Sec. 31.003(14).)

Source Law

Sec. 31.003. DEFINITIONS. In this chapter:

(14) "Personal watercraft" means a type of motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

Revisor's Note

Section 31.003(14), Parks and Wildlife Code, defines the term "personal watercraft" as a type of "motorboat" 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." The revised law substitutes "motorboat" for "vessel" for clarity and

consistency in terminology used in this section and because under Section 31.003(3), Parks and Wildlife Code, revised as Section 4001.0101(8), a "motorboat" is a type of "vessel." Additionally, the revised law omits "in the conventional manner of" as unnecessary because the phrase does not add to the clear meaning of the law.

Revised Law

Sec. 4101.0102. APPLICABILITY OF COAST GUARD INLAND NAVIGATION RULES. The Coast Guard Inland Navigation Rules apply to all public water to the extent that the rules are applicable. (Parks & Wild. Code, Sec. 31.093.)

Source Law

Sec. 31.093. RULES OF THE ROAD. The United States Coast Guard Inland Rules apply to all public water of this state to the extent they are applicable.

Revisor's Note

Section 31.093, Parks and Wildlife Code, refers to the United States Coast Guard "Inland Rules." The revised law substitutes "Inland Navigation Rules" for "Inland Rules" to reflect the official name of the rules.

CHAPTER 4102. BOATING EQUIPMENT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 4102.0101. DEFINITIONS. In this chapter, "throwable personal flotation device" and "wearable personal flotation device" have the meanings prescribed by the regulations of the commandant of the Coast Guard. (Parks & Wild. Code, Secs. 31.066(a) (part), (b) (part), (c)(2) (part), (d) (part), 31.073(a)(1) (part), (a-1) (part), 31.106(a)(1) (part); New.)

Source Law

[Sec. 31.066]

(a) . . . wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard . . . .

(b) . . . wearable personal flotation device of

the sort prescribed by the regulations of the commandant of the Coast Guard. . . .

(c) . . .

(2) . . . Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(d) . . . wearable personal flotation device of the sort prescribed by the commandant of the Coast Guard . . . .

[Sec. 31.073]

(a) . . .

(1) . . . Coast Guard approved wearable personal flotation device . . . .

(a-1) . . . Type IV personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

[Sec. 31.106]

(a) . . .

(1) . . . U.S. Coast Guard approved Type I, II, III, or V personal flotation device;

. . .

Revisor's Note

(1) The definitions of "throwable personal flotation device" and "wearable personal flotation device" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

(2) Sections 31.066(c)(2), 31.073(a-1), and 31.106(a)(1), Parks and Wildlife Code, refer to a "Type IV throwable flotation device," a "Type IV personal flotation device," and a "Type I, II, III, or V personal flotation device," respectively. In 2014, 33 C.F.R. Section 175.13 was adopted defining the terms "throwable personal flotation device" and "wearable personal flotation device." Throughout this subtitle, the revised law substitutes "throwable personal flotation device" for "Type IV throwable flotation device" and "Type IV personal flotation device" and substitutes "wearable personal flotation device" for "Type I, II, III, or V personal flotation device" to conform to the terminology used in the federal regulations.

Revised Law

Sec. 4102.0102. STATE POLICY ON EQUIPMENT RULES. It is the policy of this state that all equipment rules adopted under the authority of this title be uniform and consistent with the equipment provisions of this subtitle. (Parks & Wild. Code, Sec. 31.061.)

Source Law

> Sec. 31.061. UNIFORMITY OF EQUIPMENT REGULATIONS; STATE POLICY. It is the policy of the state that all equipment rules and regulations enacted under the authority granted in this chapter be uniform and consistent with the equipment provisions of this chapter.

Revisor's Note

(1) Section 31.061, Parks and Wildlife Code, refers to equipment "rules and regulations enacted" under the authority granted in Chapter 31 of that code. The revised law substitutes "rules" for "rules and regulations" for the reasons stated in Revisor's Note (3) to Section 4002.0101. Additionally, the revised law substitutes "adopted" for "enacted" because, in context, the terms are synonymous and "adopted" is more commonly used.

(2) Section 31.061, Parks and Wildlife Code, refers to the equipment provisions of Chapter 31 of that code. The pertinent parts of Chapter 31 relating to equipment provisions are revised in this subtitle, and the revised law is drafted accordingly.

SUBCHAPTER B. VESSEL EQUIPMENT REQUIREMENTS

Revised Law

Sec. 4102.0201. OPERATION OF VESSELS WITHOUT REQUIRED EQUIPMENT PROHIBITED. A person may not operate or give permission to operate a vessel that does not have the equipment required by this subtitle. (Parks & Wild. Code, Sec. 31.062.)

Source Law

> Sec. 31.062. OPERATION OF VESSELS WITHOUT REQUIRED EQUIPMENT PROHIBITED. No person may operate

or give permission for the operation of a vessel that is not provided with the equipment required by this chapter.

Revisor's Note

Section 31.062, Parks and Wildlife Code, refers to the equipment required by Chapter 31 of that code. The pertinent parts of Chapter 31 relating to equipment provisions are revised in this subtitle, and the revised law is drafted accordingly.

Revised Law

Sec. 4102.0202. LIGHTS. (a) A vessel not at dock between sunset and sunrise must have and exhibit at least one bright light, lantern, or flashlight.

(b) A vessel under way between sunset and sunrise must have and exhibit the lights prescribed by the commandant of the Coast Guard for boats of its class.

(c) A vessel may not exhibit a light that may be mistaken for a light required by this section.

(d) Only the department or a police water safety vessel may use a rotating or flashing blue beacon light. (Parks & Wild. Code, Secs. 31.064, 31.122.)

Source Law

Sec. 31.064. LIGHTS. A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by the commandant of the Coast Guard for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

Sec. 31.122. WATER SAFETY VESSELS: LIGHTS. Only the department and police water safety vessels may use rotating or flashing blue beacon lights.

Revisor's Note

(1) Section 31.064, Parks and Wildlife Code, refers to a "vessel or motorboat." The revised law omits the reference to "motorboat" for the reason stated in Revisor's Note (3) to Section 4001.0101.

(2) Section 31.064, Parks and Wildlife Code,

requires a vessel or motorboat to have and exhibit certain lights "in all weather." The revised law omits the quoted language as unnecessary because the phrase does not add to the clear meaning of the law.

Revised Law

Sec. 4102.0203. PERSONAL FLOTATION DEVICES FOR RECREATIONAL VESSELS. A person may not operate a recreational vessel that is 16 feet or more in length unless the vessel is equipped with at least:

(1) one wearable personal flotation device for each person on board; and

(2) one immediately accessible throwable personal flotation device. (Parks & Wild. Code, Sec. 31.066(c) (part).)

Source Law

[Sec. 31.066. . . . (a) A motorboat . . . must carry at least one wearable personal flotation device . . . for each person on board . . . .]

(c) A person may not operate a recreational vessel 16 feet or more in length unless the vessel is equipped with:

(1) the number of wearable personal flotation devices required under Subsection (a); and

(2) additionally, at least one immediately accessible Type IV throwable flotation device . . . .

Revisor's Note

Section 31.066(c), Parks and Wildlife Code, requires certain recreational vessels to be equipped with "the number of wearable personal flotation devices required under Subsection (a)," meaning Section 31.066(a) of that code. For the reader's convenience, the revised law substitutes the substance of the requirement in Section 31.066(a), which requires a motorboat to be equipped with at least one wearable personal flotation device for each person on board, for the quoted language.

Revised Law

Sec. 4102.0204. VISUAL DISTRESS SIGNALS. (a) In this section:

(1) "Coastal water" means the water that lies within nine nautical miles of the coastline of this state.

(2) "Uninspected passenger vessel" has the meaning assigned by 46 C.F.R. Section 24.10-1.

(3) "Visual distress signal" means a device that is approved and required by the commandant of the Coast Guard for the purpose of indicating a vessel in distress, including a flare, smoke signal, or non-pyrotechnic signal.

(b) A person may not operate on coastal water:

(1) a vessel that is 16 feet or more in length, or operating as an uninspected passenger vessel, unless the vessel is equipped with readily accessible visual distress signals that are:

(A) approved for day and night use; and

(B) in the number required by the commandant of the Coast Guard; or

(2) between sunset and sunrise, a vessel that is less than 16 feet in length unless the vessel is equipped with readily accessible visual distress signals that are:

(A) approved for night use; and

(B) in the number required by the commandant of the Coast Guard.

(c) A person may not operate a vessel on coastal water unless:

(1) each visual distress signal required under this section is in serviceable condition; and

(2) the service life of the signal, if indicated by a date marked on the signal, has not expired. (Parks & Wild. Code, Sec. 31.074.)

Source Law

Sec. 31.074. VISUAL DISTRESS SIGNAL. (a) In this section:

(1) "Coastal waters" means the water that lies within nine nautical miles from the coastline of this state.

(2) "Uninspected passenger vessel" has the meaning assigned by 46 C.F.R. Section 24.10-1.

(3) "Visual distress signal" means a device that is approved and required by the commandant

of the United States Coast Guard for the purpose of indicating a vessel in distress, including flares, smoke signals, and non-pyrotechnic signals.

(b) No person may operate on the coastal waters a vessel that is 16 feet or more in length, or any vessel operating as an uninspected passenger vessel, unless the vessel is equipped with readily accessible visual distress signals approved for day and night use in the number required by the commandant of the United States Coast Guard.

(c) Between sunset and sunrise, no person may operate on the coastal waters a vessel less than 16 feet in length unless the vessel is equipped with readily accessible visual distress signals approved for night use in the number required by the commandant of the United States Coast Guard.

(d) No person may operate a vessel on coastal waters unless each visual distress signal required under 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.

Revised Law

Sec. 4102.0205. REARVIEW MIRRORS. (a) A vessel used on public water to tow a person on water skis, an aquaplane, or a similar device must have a rearview mirror that is:

(1) not less than four inches wide and four inches tall; and

(2) mounted firmly so as to give the operator a complete view beyond the rear of the vessel at all times.

(b) This section does not apply to a vessel:

(1) used in a water ski competition or exhibition; or

(2) that has on board a person who is:

(A) at least 13 years of age;

(B) not the operator of the vessel; and

(C) observing the progress of the person being towed. (Parks & Wild. Code, Sec. 31.071.)

Source Law

Sec. 31.071. REARVIEW MIRRORS. (a) A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the water of this state must have a rearview mirror of a size no less than four inches from bottom to top and across from one side to the other. The mirror must be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.

(b) Subsection (a) of this section does not apply to vessels used in water ski tournaments, competitions, or exhibitions, or to a vessel that, in addition to its operator, has on board a person 13 years of age or older observing the progress of the person being towed.

Revisor's Note

(1) Section 31.071(a), Parks and Wildlife Code, provides that a "vessel" used to tow a person on certain devices must have a rearview mirror mounted firmly so as to give "the boat" operator a full and complete view beyond the rear of "the boat" at all times. The revised law substitutes "vessel" for "boat" for consistency in terminology used in this section and because it is clear from the context that the requirement for a rearview mirror to be mounted firmly applies to all vessels and not just boats.

(2) Section 31.071(b), Parks and Wildlife Code, refers to water ski "tournaments, competitions, or exhibitions." The revised law omits the reference to "tournaments" for the reason stated in Revisor's Note (3) to Section 4052.0102.

Revised Law

Sec. 4102.0206. VENTILATORS. A vessel, other than an open boat, that uses a liquid of a volatile nature as fuel must have the equipment prescribed by the commandant of the Coast Guard designed to properly and efficiently ventilate the bilges of the engine and fuel tank compartments so as to remove any explosive or flammable gases. (Parks & Wild. Code, Sec. 31.069.)

Source Law

Sec. 31.069. VENTILATORS. Each motorboat and vessel, except an open boat, using as fuel any liquid of a volatile nature must have the equipment prescribed by the commandant of the Coast Guard designed to ventilate properly and efficiently the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

Revisor's Note

Section 31.069, Parks and Wildlife Code, refers to each "motorboat and vessel." The revised law omits the reference to "motorboat" for the reason stated in Revisor's Note (3) to Section 4001.0101.

SUBCHAPTER C. MOTORBOAT EQUIPMENT REQUIREMENTS

Revised Law

Sec. 4102.0301. PERSONAL FLOTATION DEVICES FOR MOTORBOATS. (a) A motorboat must carry at least one readily accessible wearable personal flotation device for each person on board.

(b) The operator of a motorboat less than 26 feet in length shall require each passenger younger than 13 years of age to wear a wearable personal flotation device while the motorboat is under way. A life belt or ring buoy does not satisfy the requirement of this subsection. (Parks & Wild. Code, Secs. 31.066(a) (part), (b) (part).)

Source Law

> Sec. 31.066. LIFE PRESERVING DEVICES. (a) A motorboat, including a motorboat carrying passengers for hire, must carry at least one wearable personal flotation device . . . for each person on board, so placed as to be readily accessible.
>
> (b) The operator of a motorboat less than 26 feet in length, while underway, shall require every passenger under 13 years of age to wear a wearable personal flotation device . . . . A life belt or ring buoy does not satisfy this requirement.

Revisor's Note

Section 31.066(a), Parks and Wildlife Code, requires a motorboat, "including a motorboat carrying passengers for hire," to have at least one wearable personal flotation device for each person on board. The revised law omits the quoted language as unnecessary because the meaning of "motorboat" necessarily includes "a motorboat carrying passengers for hire."

Revised Law

Sec. 4102.0302. SOUND-PRODUCING DEVICE. Except as provided by Section 4102.0306, a motorboat must have an efficient whistle or other sound-producing device if a whistle or sound-producing device is required by the commandant of the Coast Guard. (Parks & Wild. Code, Sec. 31.065.)

Source Law

Sec. 31.065. SOUND-PRODUCING DEVICES. A motorboat must have an efficient whistle or other sound-producing device if one is required by the commandant of the Coast Guard.

Revisor's Note

Section 31.065, Parks and Wildlife Code, requires a motorboat to have an efficient whistle or other sound-producing device if one is required by the commandant of the United States Coast Guard. Section 31.072, Parks and Wildlife Code, revised as Section 4102.0306, exempts motorboats used for racing from certain equipment requirements, including the requirements of Section 31.065. Throughout this subchapter, in this and similar contexts, the revised law adds the phrase "[e]xcept as provided by Section 4102.0306" to indicate to the reader that an exception to the applicable equipment requirement is included in that section.

Revised Law

Sec. 4102.0303. FIRE EXTINGUISHERS. (a) Except as provided by Section 4102.0306, a motorboat must have the number, size, and type of fire extinguishers prescribed by the commandant of the Coast Guard.

(b) A fire extinguisher required under this section must be:

(1) capable of promptly and effectively extinguishing burning gasoline;

(2) kept in condition for immediate and effective use at all times; and

(3) readily accessible. (Parks & Wild. Code, Sec. 31.067.)

Source Law

Sec. 31.067. FIRE EXTINGUISHERS. (a) A motorboat must have the number, size, and type of fire extinguishers prescribed by the commandant of the Coast Guard.

(b) The fire extinguishers must be capable of promptly and effectively extinguishing burning

gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

Revised Law

Sec. 4102.0304. FLAME ARRESTOR, BACKFIRE TRAP, OR SIMILAR DEVICE. A motorboat must have the carburetor of each engine using gasoline as fuel, other than an outboard motor, equipped with an efficient flame arrestor, backfire trap, or similar device prescribed by the regulations of the commandant of the Coast Guard. (Parks & Wild. Code, Sec. 31.068.)

Source Law

Sec. 31.068. FLAME ARRESTORS; BACKFIRE TRAPS. A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by the regulations of the commandant of the Coast Guard.

Revised Law

Sec. 4102.0305. EXHAUST WATER MANIFOLD OR MUFFLER. Except as provided by Section 4102.0306, a motorboat operating on public water must have an exhaust water manifold or a factory-type muffler installed on the motorboat's engine. (Parks & Wild. Code, Sec. 31.070.)

Source Law

Sec. 31.070. EXHAUST WATER MANIFOLD; MUFFLER. A motorboat operating on the water of this state must have an exhaust water manifold or a factory-type muffler installed on the engine.

Revised Law

Sec. 4102.0306. RACING BOAT EXEMPTIONS. (a) A motorboat designed and intended solely for racing is exempt from the requirements of Sections 4102.0302 and 4102.0303 while the motorboat is competing in a race or engaged in navigation incidental to tuning up for a race conducted in accordance with this title.

(b) A racing craft is exempt from the requirements of Section 4102.0305 if:

(1) the craft is engaged in a race sanctioned by the governing body of any public water; and

(2) the governing body of the water body grants written permission for the exemption. (Parks & Wild. Code, Sec. 31.072.)

Source Law

Sec. 31.072. RACING BOATS; EQUIPMENT EXEMPTIONS. (a) A motorboat designed and intended solely for racing need not have a whistle or other sound-producing mechanical appliance or a bell as required by Section 31.065 of this code or a fire extinguisher as required by Section 31.067 of this code while competing in a race or while engaged in navigation that is incidental to tuning up for a race conducted in accordance with the provisions of this chapter.

(b) A racing craft engaged in a race sanctioned by the governing board of any public water of this state need not have an exhaust water manifold or factory-type muffler installed on the engine as required by Section 31.070 of this code if written permission is granted by the governing board of the water body.

Revisor's Note

Section 31.072(b), Parks and Wildlife Code, refers to the "governing board" of any public water of this state. The revised law substitutes "governing body" for "governing board" for the reason stated in the revisor's note to Section 4002.0102.

SUBCHAPTER D. CERTAIN NONMOTORIZED VESSELS

Revised Law

Sec. 4102.0401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the following vessels:

(1) a canoe, kayak, punt, rowboat, sailboat, rubber raft, or other paddle craft when paddled, poled, oared, or windblown; and

(2) a racing shell, rowing scull, or racing kayak:

(A) that is:

(i) participating in or practicing for an officially sanctioned race;

(ii) a manually propelled boat;

(iii) recognized by a national or international racing association for use in competitive racing; and

(iv) not designed or used to carry

equipment serving any purpose other than competitive racing; and

(B) in which each occupant other than a coxswain rows, sculls, or paddles. (Parks & Wild. Code, Secs. 31.073(a) (part), (b) (part), (c).)

Source Law

> Sec. 31.073. CANOES, PUNTS, ROWBOATS, SAILBOATS, RUBBER RAFTS, RACING SHELLS, ROWING SCULLS, KAYAKS, AND OTHER PADDLE CRAFT; EQUIPMENT EXEMPTIONS. (a) All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown . . . .
>
> (b) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race . . . .
>
> (c) In this section, "racing shell," "rowing scull," or "racing kayak" means a manually propelled boat:
>
> (1) recognized by a national or international racing association for use in competitive racing;
>
> (2) not designed or used to carry equipment serving any purpose other than competitive racing; and
>
> (3) in which each occupant, except a coxswain, rows, sculls, or paddles.

Revised Law

Sec. 4102.0402. EXEMPTION FOR CERTAIN NONMOTORIZED VESSELS. Except as otherwise provided by this subchapter, a vessel described by Section 4102.0401 is exempt from all safety equipment requirements. (Parks & Wild. Code, Secs. 31.073(a) (part), (a-1) (part), (b) (part).)

Source Law

> (a) [All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown] are exempt from all safety equipment requirements except . . . .
>
> (a-1) Notwithstanding Subsection (a), ...
>
> (b) [Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race] are exempt from all safety equipment requirements except . . . .

Revised Law

Sec. 4102.0403. LIGHTS FOR CERTAIN NONMOTORIZED VESSELS. A vessel described by Section 4102.0401 must have the lights required by Section 4102.0202(b). (Parks & Wild. Code, Secs. 31.073(a)(2), (b) (part).)

Source Law

(a) [All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements except] each vessel must have the following:

. . .

(2) the lights prescribed by the commandant of the Coast Guard for vessels and required under Section 31.064.

(b) [Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except] the lights prescribed by the commandant of the Coast Guard for vessels and required under Section 31.064.

Revisor's Note

Sections 31.073(a)(2) and (b), Parks and Wildlife Code, refer to the lights "prescribed by the commandant of the Coast Guard for vessels and required under Section 31.064" of that code. The revised law substitutes "required by Section 4102.0202(b)" for the quoted language because the pertinent part of Section 31.064 relating to lights prescribed by the commandant of the United States Coast Guard is revised as Section 4102.0202(b), and it is unnecessary to state that the lights are "prescribed by the commandant of the Coast Guard" because that language duplicates the language in Section 4102.0202(b).

Revised Law

Sec. 4102.0404. FLOTATION DEVICES FOR CERTAIN NONMOTORIZED VESSELS. (a) A vessel described by Section 4102.0401(1) must be equipped with:

(1) one wearable personal flotation device for each person on board; and

(2) at least one throwable personal flotation device unless the vessel is:

(A) a canoe or kayak; or

(B) less than 16 feet in length.

(b) A person younger than 13 years of age on board a vessel

described by Section 4102.0401 must wear a wearable personal flotation device while the vessel is under way.

(c) An adult operator of a vessel described by Section 4102.0401 may not allow a person younger than 13 years of age to be on board the vessel while the vessel is under way unless the person is wearing a wearable personal flotation device. (Parks & Wild. Code, Secs. 31.066(d) (part), (e), 31.073(a)(1) (part), (a-1) (part).)

Source Law

[Sec. 31.066]

(d) A person under 13 years of age on board a vessel described by Section 31.073(a) or (b) must wear a wearable personal flotation device . . . while the vessel is under way.

(e) An adult operator of a vessel described by Section 31.073 may not permit a person under 13 years of age to be on board the vessel while the vessel is under way if the person under 13 years of age is not wearing a wearable personal flotation device required by Subsection (d).

[Sec. 31.073]

(a) [All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements except] each vessel must have the following:

(1) one . . . wearable personal flotation device for each person aboard; and

. . .

(a-1) . . . a vessel described by that subsection, except a canoe or kayak, that is 16 feet or more in length must be equipped with at least one Type IV personal flotation device . . . .

Revisor's Note

Sections 31.066(d) and (e), Parks and Wildlife Code, refer respectively to "a vessel described by Section 31.073(a) or (b)" and to "a vessel described by Section 31.073." Section 31.073, Parks and Wildlife Code, is revised in pertinent part as Section 4102.0401, and the revised law is drafted accordingly.

CHAPTER 4103. BOATING OPERATION

SUBCHAPTER A. BOATER EDUCATION AND REQUIRED DOCUMENTATION

Revised Law

Sec. 4103.0101. BOATER EDUCATION COURSES AND EXAMINATIONS. (a) The commission shall adopt rules to:

(1) administer a boater education program that is designed to educate persons about the safe operation of vessels;

(2) approve boater education courses that meet or exceed the minimum instruction requirement established by the National Association of State Boating Law Administrators on or after January 1, 2016, and adopted by commission rule;

(3) create an equivalency examination that may be taken, as the commission determines is consistent with promoting public safety in the operation of vessels, instead of a boater education course; and

(4) ensure that the courses and examinations are available in each county.

(b) A boater education course or equivalency examination under this section must include information on methods for preventing the spread of exotic harmful or potentially harmful aquatic plants, fish, and shellfish, including department-approved methods for cleaning:

(1) a boat;

(2) a boat's motor;

(3) a boat trailer; and

(4) fishing and other equipment.

(c) The department may appoint agents to administer a boater education course or equivalency examination. (Parks & Wild. Code, Secs. 31.108(a), (a-1), (d)(1).)

Source Law

Sec. 31.108. BOATER EDUCATION PROGRAM. (a) The commission shall adopt rules to:

(1) administer a boater education program that is designed to educate persons about the safe operation of vessels;

(2) approve boater education courses that meet or exceed the minimum instruction requirement established by the National Association of State Boating Law Administrators on or after January 1, 2016, and adopted by commission rule;

(3) create an equivalency examination that may be taken, as the commission determines is consistent with promoting public safety in the operation of vessels, instead of the boater education course; and

(4) ensure that boater education courses and examinations are available in each county.

(a-1) A boater education course or equivalency examination under this section must include information on how to prevent the spread of exotic harmful or potentially harmful aquatic plants, fish, and shellfish, including department-approved methods for cleaning:

(1) a boat;

(2) a boat's motor;

(3) fishing and other equipment; and

(4) a boat trailer.

(d) The department may appoint agents to:

(1) administer a boater education course or course equivalency examination; and

. . .

Revisor's Note

Section 31.108, Parks and Wildlife Code, refers to an "equivalency examination" and a "course equivalency examination." Throughout this subchapter, the revised law substitutes "equivalency examination" for "course equivalency examination" to provide consistency in terminology used in this subchapter.

Revised Law

Sec. 4103.0102. POSSESSION OF BOATING DOCUMENTS REQUIRED FOR CERTAIN PERSONS. (a) This section applies only to a person who is:

(1) born on or after September 1, 1993; and

(2) operating on public water:

(A) a vessel powered by a motor with a manufacturer's rating of more than 15 horsepower; or

(B) a windblown vessel that is more than 14 feet in length.

(b) A person subject to this section must have in the person's possession a photographic identification card and either:

(1) a boater identification card issued by the department; or

(2) proof of completion of the requirements to obtain a vessel operator's license issued by the Coast Guard.

(c) A person is not required to comply with this section if the person:

(1) holds a master's, mate's, or operator's license

issued by the Coast Guard;

(2) is supervised by a person who:

(A) is at least 18 years of age;

(B) is on board the watercraft while the watercraft is under way; and

(C) possesses a boater identification card as required by this section or is exempt from the requirements of this section;

(3) is not a resident of this state and has proof that the person has successfully completed a boater education course or equivalency examination in another state that is approved by the department;

(4) is exempt by commission rule as a customer of a business engaged in renting, showing, demonstrating, or testing boats; or

(5) is otherwise exempt by commission rule. (Parks & Wild. Code, Secs. 31.109(a), (b), 31.110(a), (b).)

Source Law

Sec. 31.109. BOATER EDUCATION COURSE REQUIRED FOR CERTAIN PERSONS. (a) This section applies only to a person who is:

(1) born on or after September 1, 1993; and

(2) operating on the public water of this state:

(A) a vessel powered by a motor with a manufacturer's rating of more than 15 horsepower; or

(B) a windblown vessel over 14 feet in length.

(b) A person subject to this section must have in the person's possession a photographic identification card and either:

(1) a boater identification card issued by the department; or

(2) proof of completion of the requirements to obtain a vessel operator's license issued by the United States Coast Guard.

Sec. 31.110. EXEMPTION FROM BOATER EDUCATION COURSE REQUIREMENT; DEFERRAL PROGRAM. (a) A person is not required to comply with Section 31.109 if the person:

(1) holds a master's, mate's, or operator's license issued by the United States Coast Guard;

(2) is supervised by a person who is at least 18 years of age and who is otherwise exempt from the requirements of Section 31.109 or possesses a boater identification card as required by Section 31.109;

(3) is not a resident of this state and has

proof that the person has successfully completed a boater education course or equivalency examination in another state that is approved by the department;

(4) is exempt by rule of the commission as a customer of a business engaged in renting, showing, demonstrating, or testing boats; or

(5) is exempt by rule of the commission.

(b) For purposes of this section, to be considered to be supervising the operator of a watercraft, the person must be on board the watercraft when under way.

Revisor's Note

Section 31.109(a), Parks and Wildlife Code, provides that Section 31.109 of that code applies only to certain persons, Section 31.109(b) of that code refers to a person subject to Section 31.109, and Section 31.110(a) of that code exempts certain persons from complying with Section 31.109. The pertinent parts of Section 31.109 are revised in this section, and the revised law is drafted accordingly.

Revised Law

Sec. 4103.0103. ISSUANCE AND EXPIRATION OF BOATER IDENTIFICATION CARD. (a) The department shall issue a boater identification card to a person who has successfully completed:

(1) a boater education course approved by the department; or

(2) an equivalency examination approved by the department.

(b) The department may appoint agents to issue boater identification cards under guidelines established by the commission.

(c) The commission by rule shall create a standard form for a boater identification card to be issued to a person who has successfully completed a boater education course or equivalency examination described by Subsection (a).

(d) A boater identification card issued under this section does not expire. (Parks & Wild. Code, Secs. 31.108(c), (d)(2), 31.109(c), (d).)

Source Law

[Sec. 31.108]

(c) The commission by rule shall create a standard form for a boater identification card to be issued to a person who successfully completes a boater education course or course equivalency examination.

(d) The department may appoint agents to:

. . .

(2) issue boater identification cards under guidelines established by the commission.

[Sec. 31.109]

(c) The department shall issue a boater identification card to a person who has successfully completed:

(1) a boater education course approved by the department; or

(2) a course equivalency examination approved by the department.

(d) A boater identification card issued to a person who has successfully completed a boater education course or course equivalency examination does not expire.

Revised Law

Sec. 4103.0104. FEES FOR BOATER EDUCATION COURSES AND EQUIVALENCY EXAMINATIONS. (a) An officer or employee of the department shall:

(1) collect a $5 fee for a boater education course or equivalency examination; and

(2) forward the fee and any examination documentation to the department not later than the 30th day after the date the course or examination is administered.

(b) An agent appointed by the department under Section 4103.0101(c) who administers a boater education course or equivalency examination:

(1) shall:

(A) collect a $10 fee for the course or examination; and

(B) forward the fee and any examination documentation to the department not later than the 30th day after the date the course or examination is administered; and

(2) may collect and keep a service fee in an amount equal to the greater of:

(A) $3; or

(B) an amount set by the commission.

(c) Money received by the department under Subsections (a) and (b)(1) shall be deposited to the credit of the game, fish, and water safety account established under Section 2052.0301 and may be used only for the administration of the boater education program established under Section 4103.0101. (Parks & Wild. Code, Secs. 31.108(e), (f), (g).)

Source Law

(e) An officer or employee of the department shall collect a $5 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered.

(f) An agent acting under authority of Subsection (d):

(1) shall collect a $10 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered; and

(2) may collect and keep a $3 service fee, or an amount set by the commission, whichever is greater.

(g) Money received by the department under Subsections (e) and (f)(1) shall be deposited in the state treasury to the credit of the game, fish, and water safety account established under Section 11.032 and may be used only for the administration of the boater education program established under this section.

Revisor's Note

(1) Section 31.108(f), Parks and Wildlife Code, requires an agent "acting under authority of Subsection (d)," meaning Section 31.108(d) of that code, to collect certain fees. Section 31.108(d) is revised in pertinent part as Section 4103.0101(c), and the revised law is drafted accordingly. Additionally, the revised law substitutes "appointed by the department" for "acting under authority" to conform to the terminology used in Section 31.108(d).

(2) Section 31.108(g), Parks and Wildlife Code, refers to the boater education program established under Section 31.108 of that code. The pertinent parts of Section 31.108 are revised as Section 4103.0101,

and the revised law is drafted accordingly.

(3) Section 31.108(g), Parks and Wildlife Code, refers to the game, fish, and water safety account established under Section 11.032 of that code. Section 11.032 is revised in pertinent part as Section 2052.0301, and the revised law is drafted accordingly.

Revised Law

Sec. 4103.0105. EXEMPTION FROM BOATER EDUCATION REQUIREMENTS. The commission by rule may create exemptions from the boater education requirements imposed by statute to the extent the exemptions are consistent with promoting public safety in the operation of vessels. (Parks & Wild. Code, Sec. 31.108(b).)

Source Law

(b) The commission by rule may create exemptions from boater education requirements imposed by statute to the extent the exemptions are consistent with promoting public safety in the operation of vessels.

Revised Law

Sec. 4103.0106. BOATER EDUCATION DEFERRAL PROGRAM. (a) The commission by rule shall establish a boater education deferral program.

(b) The deferral program must be available at no cost to boat dealers, manufacturers, and distributors.

(c) Money received by the department in connection with a boater education deferral program established by the commission under this section shall be deposited to the credit of the game, fish, and water safety account established under Section 2052.0301 and may be used only for the administration of the boater education program established under Section 4103.0101. (Parks & Wild. Code, Secs. 31.110(c), (d).)

Source Law

(c) The commission by rule shall establish a boater education deferral program. The deferral program must be available at no cost to boat dealers, manufacturers, and distributors.

(d) Money received by the department in connection with a boater education deferral program established by the commission under Subsection (c) shall be deposited in the state treasury to the credit

of the game, fish, and water safety account established under Section 11.032 and may be used only for the administration of the boater education program established under Section 31.108.

Revisor's Note

(1) Section 31.110(d), Parks and Wildlife Code, refers to the game, fish, and water safety account established under Section 11.032 of that code. Section 11.032 is revised in pertinent part as Section 2052.0301, and the revised law is drafted accordingly.

(2) Section 31.110(d), Parks and Wildlife Code, refers to the boater education program established under Section 31.108 of that code. Section 31.108 is revised in pertinent part as Section 4103.0101, and the revised law is drafted accordingly.

SUBCHAPTER B. PROHIBITED AND REQUIRED CONDUCT

Revised Law

Sec. 4103.0201. EXCESSIVE SPEED. A person may not operate a boat at a rate of speed that is greater than:

(1) is reasonable and prudent when accounting for existing actual and potential conditions and hazards, including weather and density of traffic; or

(2) would allow the person, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead. (Parks & Wild. Code, Sec. 31.095(a).)

Source Law

Sec. 31.095. EXCESSIVE SPEED. (a) No person may operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

Revised Law

Sec. 4103.0202. RECKLESS OR NEGLIGENT OPERATION. A person may not operate a vessel or manipulate water skis, an aquaplane, or a similar device in a wilfully or wantonly reckless or negligent manner that endangers any person or property. (Parks & Wild. Code,

Sec. 31.094.)

Source Law

Sec. 31.094. RECKLESS OR NEGLIGENT OPERATION. No person may operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a wilfully or wantonly reckless or negligent manner that endangers the life, limb, or property of any person.

Revisor's Note

(1) Section 31.094, Parks and Wildlife Code, refers to any "motorboat or vessel." The revised law omits the reference to "motorboat" for the reason stated in Revisor's Note (3) to Section 4001.0101.

(2) Section 31.094, Parks and Wildlife Code, prohibits a person from operating any motorboat or vessel or manipulating water skis, an aquaplane, or a similar device in a manner that endangers "the life, limb, or property of any person." The revised law substitutes "any person or property" for the quoted language because, in context, the phrases are synonymous and "any person or property" is more consistent with modern usage.

Revised Law

Sec. 4103.0203. RECKLESS OPERATION AND EXCESSIVE SPEED. A person may not operate a vessel or manipulate water skis, an aquaplane, or a similar device on public water:

(1) in wilful or wanton disregard of the rights or safety of others or without due caution or circumspection; and

(2) at a speed or in a manner that endangers, or is likely to endanger, any person or property. (Parks & Wild. Code, Sec. 31.096.)

Source Law

Sec. 31.096. RECKLESS OPERATION AND EXCESSIVE SPEED. No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water of this state in wilful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.

Revised Law

Sec. 4103.0204. HAZARDOUS WAKE OR WASH. A person may not operate a motorboat in a manner that creates a hazardous wake or wash. (Parks & Wild. Code, Sec. 31.098.)

Source Law

> Sec. 31.098. HAZARDOUS WAKE OR WASH. No person may operate a motorboat so as to create a hazardous wake or wash.

Revised Law

Sec. 4103.0205. OPERATION OF MOTORBOAT IN CIRCULAR COURSE AROUND INDIVIDUALS ENGAGED IN WATER ACTIVITIES. (a) A person may not operate a motorboat in a circular course around:

(1) another boat or personal watercraft if an occupant of the boat or watercraft is fishing, waterskiing, or engaged in a similar activity; or

(2) a person swimming.

(b) This section does not apply to a person operating a motorboat in a circular course to retrieve a downed or fallen water-skier or another person engaged in a similar activity. (Parks & Wild. Code, Secs. 31.099(a), (a-1).)

Source Law

> Sec. 31.099. PROHIBITION ON CIRCULAR COURSE AROUND INDIVIDUALS ENGAGED IN WATER ACTIVITIES. (a) No person may operate a motorboat in a circular course around:
>
> (1) any other boat or personal watercraft any occupant of which is engaged in fishing, waterskiing, or a similar activity; or
>
> (2) any person swimming.
>
> (a-1) Subsection (a) does not apply to a person operating a motorboat in a circular course to retrieve a downed or fallen water-skier or other person engaged in a similar activity.

Revised Law

Sec. 4103.0206. SWIMMING OR DIVING NEAR SIGHTSEEING OR EXCURSION BOAT. A swimmer or diver may not come within 200 yards of a sightseeing or excursion boat unless the swimmer or diver:

(1) has a maintenance purpose; or

(2) is swimming or diving in an enclosed area. (Parks & Wild. Code, Sec. 31.099(b).)

Source Law

(b) No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

Revised Law

Sec. 4103.0207. INTERFERENCE WITH MARKERS OR OTHER AIDS TO SAFE OPERATION. A person may not:

(1) moor or attach a boat to a buoy, beacon, light marker, stake, flag, or other aid to safe operation placed in public water by or under the authority of this state or the United States; or

(2) move, remove, displace, tamper with, damage, or destroy a marker or other aid to safe operation described by Subdivision (1). (Parks & Wild. Code, Sec. 31.100(a).)

Source Law

Sec. 31.100. INTERFERENCE WITH MARKERS OR RAMPS. (a) No person may moor or attach a boat to a buoy, beacon, light marker, stake, flag, or other aid to safe operation placed upon the public water of this state by or under the authority of the United States or the State of Texas. No person may move, remove, displace, tamper with, damage, or destroy the markers or aids to safe operation.

Revised Law

Sec. 4103.0208. INTERFERENCE WITH STATE-OWNED BOAT RAMP. A person may not:

(1) moor or attach a vessel to a state-owned boat ramp except in connection with launching or retrieving a boat from the water; or

(2) anchor a vessel near a state-owned boat ramp in a manner that prevents, impedes, or interferes with the use of the boat ramp. (Parks & Wild. Code, Secs. 31.100(b), 31.101(b).)

Source Law

[Sec. 31.100]

(b) No person may moor or attach a vessel to a state-owned boat launching ramp except in connection with the launching or retrieving of a boat from the water.

[Sec. 31.101]

(b) No person may anchor a vessel near a state-owned boat ramp so as to prevent, impede, or

interfere with the use of the boat ramp.

Revisor's Note

Section 31.100(b), Parks and Wildlife Code, refers to a state-owned "boat launching ramp." The revised law substitutes "boat ramp" for the quoted language for consistency in terminology used in this section and because, in context, the terms are synonymous and "boat ramp" is more commonly used.

Revised Law

Sec. 4103.0209. INTERFERENCE WITH SAFE PASSAGE OF ANOTHER BOAT IN RIVER OR CHANNEL. A person may not anchor a boat in the traveled portion of a river or channel in a manner that prevents, impedes, or interferes with the safe passage of another boat through the same area. (Parks & Wild. Code, Sec. 31.101(a).)

Source Law

Sec. 31.101. OBSTRUCTING PASSAGE. (a) No person may anchor a boat in the traveled portion of a river or channel so as to prevent, impede, or interfere with the safe passage of any other boat through the same area.

Revised Law

Sec. 4103.0210. OPERATION OF BOAT IN RESTRICTED AREA. (a) A person may not operate a boat in a water area that has been clearly marked, by buoys or another distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area by the department or a political subdivision of this state.

(b) This section does not apply:

(1) to a person who is operating a patrol or rescue craft; or

(2) in an emergency. (Parks & Wild. Code, Sec. 31.102.)

Source Law

Sec. 31.102. OPERATING BOATS IN RESTRICTED AREAS. No person may operate a boat within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area by the department or by a political subdivision of the state. This section does not apply to a patrol or rescue craft or in the case of an emergency.

Revisor's Note

Section 31.102, Parks and Wildlife Code, prohibits a person from operating a boat in certain areas but provides that the section does not apply to "a patrol or rescue craft." The revised law substitutes "a person who is operating a patrol or rescue craft" for the quoted language to provide consistency in phrasing in the revised code and because the subject of the prohibition is a person.

Revised Law

Sec. 4103.0211. OPERATION OF VESSEL IN SCUBA DIVING OR SNORKELING AREA. (a) In this section, "diver down flag" means a square or rectangular red flag that:

(1) is at least 15 inches by 15 inches;

(2) has a diagonal white stripe; and

(3) marks an area in which a person is scuba diving or snorkeling.

(b) A person may not operate a vessel:

(1) within 50 feet of a buoy or vessel from which a diver down flag is prominently displayed unless the person:

(A) was already operating the vessel when another person displayed the diver down flag within 150 feet of the vessel;

(B) is operating the vessel in a waterway that is less than 300 feet wide; or

(C) has permission to enter the area from:

(i) the person who placed the buoy; or

(ii) the person operating the vessel that is displaying the diver down flag; or

(2) at a speed greater than the minimum speed necessary to maintain steerageway and headway while the vessel is within 150 feet of a buoy or vessel prominently displaying a diver down flag.

(c) This section does not apply:

(1) to a person who is operating a patrol or rescue

craft; or

(2) in an emergency. (Parks & Wild. Code, Sec. 31.1021.)

Source Law

Sec. 31.1021. OPERATING VESSELS IN SCUBA DIVING OR SNORKELING AREAS. (a) No person may operate a vessel within 50 feet of a buoy or of another vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(b) No person may operate a vessel at a speed greater than the minimum speed necessary to maintain steerageway and headway while the vessel is within 150 feet of a buoy or a vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(c) To be entitled to the protections of this section, a scuba diver or snorkeler must prominently display a "diver down" flag from a buoy or vessel.

(d) This section does not apply:

(1) to a person who is operating a patrol or rescue craft; or

(2) in an emergency.

(e) Subsection (a) of this section does not apply:

(1) to a person who is already operating a vessel in an area when another person displays a "diver down" flag within 150 feet of that vessel;

(2) to a person who is operating a vessel in a waterway that is less than 300 feet wide; or

(3) to a person who has permission to enter the area from the person who placed the buoy or the person who is operating the vessel displaying the "diver down" flag.

(f) In this section, "'diver down' flag" means a square or rectangular red flag, at least 15 inches by 15 inches, that has a diagonal white stripe.

Revisor's Note

Section 31.1021(c), Parks and Wildlife Code, provides that "[t]o be entitled to the protections of this section," a scuba diver or snorkeler must prominently display a diver down flag. The "protections of this section" referred to in that provision are contained in Sections 31.1021(a) and (b), Parks and Wildlife Code, which provide that a person may not operate a vessel within 50 feet of a diver down flag or operate a vessel at a certain speed within 150 feet of a diver down flag. The revised law omits the phrase "[t]o be entitled to the protections of this section," because the requirement to display

the flag "prominently" is incorporated in Subsection (b) of this section, which revises Sections 31.1021(a) and (b).

Revised Law

Sec. 4103.0212. OPERATION OF VESSEL TOWING PERSON ON WATER SKIS, SURFBOARD, AQUAPLANE, OR SIMILAR DEVICE. (a) During the period from one-half hour after sunset to one-half hour before sunrise, a person may not:

(1) operate a vessel on public water while towing a person on water skis, a surfboard, or a similar device; or

(2) engage in waterskiing, surfboarding, or similar activity while being towed by a vessel on public water.

(b) Subsection (a) does not apply to a vessel used in a water ski competition or an exhibition or trial therefor if adequate lighting is provided.

(c) A person shall operate a motorboat that is towing or assisting in towing a person on water skis, an aquaplane, or a similar device in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

(d) A person being towed on water skis, an aquaplane, or a similar device by a vessel is considered an occupant of the vessel. (Parks & Wild. Code, Sec. 31.103.)

Source Law

> Sec. 31.103. WATER SKIS, AQUAPLANES, ETC.: TIME AND MANNER OF OPERATION. (a) No person may operate a vessel on any water of this state towing a person or persons on water skis, surfboards, or similar devices and no person while being towed may engage in water-skiing, surfboarding or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise. This subsection does not apply to motorboats or vessels used in water ski tournaments, competitions, or exhibitions or trials therefor if adequate lighting is provided.
>
> (b) All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplanes, or similar contrivances shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.
>
> (c) A person being towed on water skis, aquaplanes, or similar devices by a vessel is

considered an occupant of the vessel.

Revisor's Note

(1) Section 31.103(a), Parks and Wildlife Code, refers to "motorboats or vessels." The revised law omits the reference to "motorboats" for the reason stated in Revisor's Note (3) to Section 4001.0101.

(2) Section 31.103(a), Parks and Wildlife Code, refers to water ski "tournaments, competitions, or exhibitions or trials therefor." The revised law omits the reference to "tournaments" for the reason stated in Revisor's Note (3) to Section 4052.0102.

(3) Section 31.103(b), Parks and Wildlife Code, refers to a person being towed on water skis, aquaplanes, or similar "contrivances." The revised law substitutes "device" for "contrivances" because, in context, the terms are synonymous and "device" is more commonly used.

Revised Law

Sec. 4103.0213. DUTIES OF OPERATOR FOLLOWING SIGHTING OF WATER SAFETY VESSEL. On the sighting of a rotating or flashing blue beacon light, the operator of a vessel under way shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood. (Parks & Wild. Code, Sec. 31.123.)

Source Law

Sec. 31.123. REQUIRED RESPONSE TO POLICE WATER SAFETY VESSEL. The operator of a vessel underway, on sighting a rotating or flashing blue beacon light, shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

Revised Law

Sec. 4103.0214. REFUSAL TO OBEY MARINE SAFETY ENFORCEMENT OFFICER. A person operating a boat on public water may not refuse to obey the directions of a marine safety enforcement officer when the officer is acting under the provisions of this title, other than Chapter 4151 or Section 4901.0104. (Parks & Wild. Code, Sec.

31.124(d).)

Source Law

(d) No person operating a boat on the water of this state may refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this chapter.

Revisor's Note

Section 31.124(d), Parks and Wildlife Code, prohibits a person from refusing to obey the directions of an "enforcement officer." The revised law substitutes "marine safety enforcement officer" for "enforcement officer" for the reason stated in Revisor's Note (3) to Section 4052.0211.

Revised Law

Sec. 4103.0215. OPERATION OF PERSONAL WATERCRAFT. (a) A person may not operate a personal watercraft:

(1) unless each person riding on or towed behind the watercraft is wearing a wearable personal flotation device as defined by Section 4102.0101;

(2) during the period between sunset and sunrise;

(3) within 50 feet of a vessel, person, stationary platform or other object, or shore, unless the watercraft is being operated:

(A) at headway speed; or

(B) on a body of water that is less than 100 feet in width;

(4) within any area prohibited for operation of a motorboat by state law or local rule;

(5) while towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the watercraft is designed to carry on board a minimum of two persons; or

(6) in a manner that requires the operator to swerve at the last possible moment to avoid collision.

(b) A person younger than 13 years of age may not operate a

personal watercraft unless the person is supervised by another person who:

(1) is at least 18 years of age;

(2) can lawfully operate the watercraft; and

(3) is on board the watercraft when the watercraft is under way.

(c) If a manufacturer equips a personal watercraft with a lanyard type engine cutoff switch, a person may not operate the watercraft unless the lanyard is attached to the operator's person, clothing, or personal flotation device, as appropriate for the vessel involved.

(d) A person operating a personal watercraft may not jump the wake of another vessel recklessly or unnecessarily close to that vessel.

(e) This section does not apply to a person operating a personal watercraft while participating in a professional exhibition or an officially sanctioned race, tournament, or exhibition.

(f) An owner of a personal watercraft who allows a person younger than 18 years of age to operate the watercraft in a manner prohibited by this section may be notified of the violation. (Parks & Wild. Code, Secs. 31.106(a), (b), (c), (d).)

Source Law

Sec. 31.106. PERSONAL WATERCRAFT. (a) No person shall operate a personal watercraft in the following manner or under the following circumstances:

(1) unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V personal flotation device;

(2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing, or personal flotation device of the operator as appropriate for the vessel involved;

(3) during the period between sunset and sunrise;

(4) within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed;

(5) if the operator is under 13 years of age unless the operator is supervised by another person who:

(A) is at least 18 years of age;

(B) can lawfully operate the watercraft; and

(C) is on board the watercraft when under way;

(6) if the personal watercraft is a motorboat, within any area prohibited for operation of a motorboat by state law or local rule or regulation;

(7) while towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the towing vessel is designed to carry on board a minimum of two persons;

(8) by jumping the wake of another vessel recklessly or unnecessarily close to that vessel; or

(9) in a manner that requires the operator to swerve at the last possible moment to avoid collision.

(b) The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament, or exhibition.

(c) Subsection (a)(4) of this section does not prohibit the operation of personal watercraft on bodies of water less than 100 feet in width.

(d) An owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a manner prohibited by this section may be notified of the violation.

Revisor's Note

(1) Sections 31.106(a)(2) and (7), Parks and Wildlife Code, refer to a personal watercraft as a "vessel." The revised law substitutes "personal watercraft" for "vessel" for consistency in terminology used in this section and because Section 31.106(a), Parks and Wildlife Code, applies only to a person operating a personal watercraft.

(2) Section 31.106(a)(6), Parks and Wildlife Code, provides that a person may not operate a personal watercraft within any area prohibited for operation of a motorboat by state law or local rule or regulation "if the personal watercraft is a motorboat." The revised law omits the quoted language as unnecessary because under Section 31.003(14), Parks and Wildlife Code, revised as Section 4101.0101, a "personal watercraft" is a type of "motorboat."

(3) Section 31.106(a)(6), Parks and Wildlife Code, refers to a local "rule or regulation." The revised law substitutes "rule" for the quoted language for the reasons stated in Revisor's Note (3) to Section

4002.0101.

(4) Section 31.106(b), Parks and Wildlife Code, provides that Section 31.106 of that code does not apply to a professional exhibition or an officially sanctioned race, tournament, or exhibition. The revised law clarifies that Section 31.106(b) exempts a "person" participating in a professional exhibition or an officially sanctioned race, tournament, or exhibition from the provisions of Section 31.106 because the prohibitions in Subsection (a) of that section apply to persons.

(5) Section 31.106(e), Parks and Wildlife Code, provides that for the purposes of Section 31.106 of that code, a person is considered to be accompanying the operator of a personal watercraft if the person is on board while the watercraft is under way. The revised law omits that provision as unnecessary because the term "accompanying" is no longer used in Section 31.106. The omitted law reads:

> (e) For the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.

Revised Law

Sec. 4103.0216. OPERATION OF MOTORBOAT BY MINOR. A person may not operate on public water a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower unless the person is:

(1) at least 13 years of age; or

(2) supervised by another person who:

(A) is at least 18 years of age;

(B) can lawfully operate the motorboat; and

(C) is on board the motorboat when the motorboat is under way. (Parks & Wild. Code, Sec. 31.107.)

Source Law

Sec. 31.107. OPERATION OF MOTORBOAT. No person may operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of this state unless the person is at least 13 years of age or is supervised by another person who:

(1) is at least 18 years of age;

(2) can lawfully operate the motorboat; and

(3) is on board the motorboat when under way.

Revised Law

Sec. 4103.0217. OPERATION OF MOTORBOAT WITH ENGINE CUTOFF SWITCH. (a) In this section, "engine cutoff switch" means an emergency switch installed on a motorboat that:

(1) is designed to shut off the engine if:

(A) the motorboat operator using a lanyard attachment activates the switch by falling overboard or otherwise moving beyond the length of the lanyard; or

(B) the motorboat operator or a passenger using a wireless attachment activates the switch by falling overboard and submerging a man-overboard transmitter; and

(2) attaches:

(A) physically to the motorboat operator through the use of a lanyard worn by the operator; or

(B) wirelessly through the use of a water-activated man-overboard transmitter worn by the motorboat operator or any similarly equipped passenger on the motorboat.

(b) This section applies only to a motorboat that is:

(1) less than 26 feet in length; and

(2) equipped by the manufacturer with an engine cutoff switch.

(c) A person may not operate a motorboat described by Subsection (b) while the motorboat is under way and moving at a speed greater than headway speed unless the person:

(1) verifies that the engine cutoff switch is operational and fully functional; and

(2) properly attaches the lanyard or wireless

attachment, as appropriate for the specific motorboat, to the person's body or to the clothing or personal flotation device worn by the person. (Parks & Wild. Code, Sec. 31.1071.)

Source Law

Sec. 31.1071. OPERATION OF MOTORBOAT WITH EMERGENCY ENGINE CUTOFF SWITCH. (a) In this section, "engine cutoff switch" means an emergency switch installed on a motorboat that:

(1) is designed to shut off the engine if:

(A) the motorboat operator using a lanyard attachment activates the switch by falling overboard or otherwise moving beyond the length of the lanyard; or

(B) the motorboat operator or a passenger using a wireless attachment activates the switch by falling overboard and submerging a man-overboard transmitter; and

(2) attaches:

(A) physically to the motorboat operator through the use of a lanyard worn by the operator; or

(B) wirelessly through the use of a water-activated man-overboard transmitter worn by the motorboat operator or any similarly equipped passenger on the motorboat.

(b) A motorboat operator may not operate a motorboat less than 26 feet in length and equipped by the manufacturer with an engine cutoff switch while the motorboat is under way and moving at greater than headway speed without first verifying that the switch is operational and fully functional and properly attaching the lanyard or wireless attachment, as appropriate for the specific motorboat, to the operator's body or to the clothing or personal flotation device being worn by the operator.

SUBCHAPTER C. COLLISION, ACCIDENT, OR OTHER CASUALTY INVOLVING VESSEL

Revised Law

Sec. 4103.0301. DUTIES OF OPERATOR FOLLOWING COLLISION, ACCIDENT, OR OTHER CASUALTY. (a) The operator of a vessel involved in a collision, accident, or other casualty shall:

(1) render such assistance to an affected person as may be practicable and necessary to minimize danger to that person or save that person from danger; and

(2) provide the operator's name, address, and vessel identification in writing to:

(A) any person injured in the incident; and

(B) the owner of any property damaged in the incident.

(b) The operator is required to render assistance under Subsection (a)(1) only to the extent that the operator can do so without serious danger to the operator's vessel, crew, and passengers. (Parks & Wild. Code, Sec. 31.104.)

Source Law

> Sec. 31.104. ACCIDENTS: DUTY OF OPERATORS. The operator of a vessel involved in a collision, accident, or casualty shall:
>
> (1) render to other persons affected such assistance as may be practicable and necessary in order to save them from or minimize any danger insofar as he can do so without serious danger to his own vessel, crew, and passengers; and
>
> (2) give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

Revisor's Note

Section 31.104, Parks and Wildlife Code, refers to a "collision, accident, or casualty" and Subdivision (2) of that section refers to "the collision, accident, or other casualty." The revised law substitutes "other casualty" for "casualty" for consistency in terminology used in this section and because Sections 31.127(d) and (e), Parks and Wildlife Code, revised as Section 4951.0109, provide the criminal penalty for a person who fails to comply with Section 31.104 after being involved in a "collision, accident, or other casualty."

Revised Law

Sec. 4103.0302. INCIDENT REPORT. (a) This section applies only to an incident that is a collision, accident, or other casualty that results in:

(1) the death of a person;

(2) injury to a person that requires medical treatment beyond the provision of first aid; or

(3) damage to property in excess of an amount set by the commission of not less than $2,000.

(b) Not later than the 30th day after the date of an incident

to which this section applies, the operator of a vessel involved in the incident shall provide to a marine safety enforcement officer or game warden commissioned by the department a full description of the incident in accordance with department regulations.

(c) A marine safety enforcement officer who in the regular course of duty investigates an incident to which this section applies shall electronically file a written report of the incident with the department:

(1) in a form prescribed by the department; and

(2) not later than the 15th day after the date the officer initially became aware of the incident.

(d) On request by an authorized official or agency of the United States, information available to the department under Subsection (b) shall be sent to the official or agency. (Parks & Wild. Code, Sec. 31.105.)

Source Law

Sec. 31.105. INCIDENT REPORTS. (a) This section applies only to an incident that is a collision, accident, or other casualty that results in:

(1) the death of a person;

(2) injury to a person that requires medical treatment beyond the provision of first aid; or

(3) damage to property in excess of an amount set by the commission of not less than $2,000.

(b) Not later than the 30th day after the date of an incident to which this section applies, the operator of a vessel involved in the incident shall provide to a marine safety enforcement officer or game warden commissioned by the department a full description of the incident in accordance with regulations established by the department.

(c) A marine safety enforcement officer who in the regular course of duty investigates an incident to which this section applies shall electronically file a written report of the incident with the department:

(1) in a form prescribed by the department; and

(2) not later than the 15th day after the date the officer initially became aware of the incident.

(d) On request made by an authorized official or agency of the United States, any information available to the department under Subsection (b) of this section shall be sent to the official or agency.

Revised Law

Sec. 4103.0303. RELEASE OF INCIDENT REPORT. (a) In this

section:

(1) "Incident" means an incident described by Section 4103.0302(a).

(2) "Incident report" means a written report required under Section 4103.0302(c).

(b) This section applies only to an incident report that is held by the department or another governmental entity.

(c) Except as otherwise provided by this section, an incident report is confidential and for the use of:

(1) the department; and

(2) an authorized official or agency of the United States or a state or local governmental entity.

(d) On written request, the department or the governmental entity shall release an incident report to:

(1) an entity described by Subsection (c);

(2) the law enforcement agency that employs the marine safety enforcement officer who investigated the incident and filed the incident report with the department, including an agent of the law enforcement agency authorized by contract to obtain the information;

(3) the court in which a case involving a person involved in the incident is pending if the incident report is subpoenaed; or

(4) a person directly concerned in the incident or having an interest in the incident as:

(A) a person involved in the incident;

(B) the authorized representative of a person involved in the incident;

(C) a vessel operator involved in the incident;

(D) an employer, parent, or legal guardian of a vessel operator involved in the incident;

(E) the owner of a vessel or property damaged in the incident;

(F) a person who has established financial

responsibility for a vessel involved in the incident, including a policyholder of a liability insurance policy covering the vessel;

(G) an insurance company that issued an insurance policy covering a vessel involved in the incident;

(H) an insurance company that issued a policy covering any person involved in the incident;

(I) a person under contract to provide claims or underwriting information to a person described by Paragraph (F), (G), or (H);

(J) a radio or television station that holds a license issued by the Federal Communications Commission;

(K) a newspaper that is:

(i) a free newspaper of general circulation or qualified under Section 2051.044, Government Code, to publish legal notices;

(ii) published at least once a week; and

(iii) available and of interest to the general public in connection with the dissemination of news; or

(L) a person who may sue because of death resulting from the incident.

(e) In addition to the information required to be released under Subsection (d), the department shall publish at least annually statistics derived from incident reports that relate to the number, cause, and location of the reported incidents.

(f) The department when releasing information under Subsection (d)(4)(J) or (K):

(1) may not release the personal identifying information, as defined by Section 521.002(a), Business & Commerce Code, of an individual included in an incident report; and

(2) shall withhold or redact:

(A) the address, other than zip code, and telephone number of a person included in an incident report;

(B) the registration or hull identification number of a vessel included in an incident report;

(C) the badge number or identification number of the investigating officer;

(D) the date of death of a person who died as a result of the incident; and

(E) the location to which a person injured or killed in the incident was transported or the person that provided the transportation.

(g) The amount that may be charged for information provided under Subsection (d) shall be calculated in the manner specified by Chapter 552, Government Code, for public information provided by a governmental body under that chapter. (Parks & Wild. Code, Sec. 31.1055.)

Source Law

Sec. 31.1055. RELEASE OF INCIDENT REPORTS. (a) This section applies only to an incident report that is held by the department or another governmental entity.

(b) In this section:

(1) "Incident" means an incident described by Section 31.105(a).

(2) "Incident report" means a written report required under Section 31.105(c).

(c) Except as otherwise provided by this section, an incident report is confidential and for the use of:

(1) the department; and

(2) an authorized official or agency of the United States or a state or local governmental entity.

(d) On written request, the department or the governmental entity shall release an incident report to:

(1) an entity described by Subsection (c);

(2) the law enforcement agency that employs the marine safety enforcement officer who investigated the incident and filed the incident report with the department, including an agent of the law enforcement agency authorized by contract to obtain the information;

(3) the court in which a case involving a person involved in the incident is pending if the incident report is subpoenaed; or

(4) a person directly concerned in the incident or having an interest in the incident as:

(A) a person involved in the incident;

(B) the authorized representative of a person involved in the incident;

(C) a vessel operator involved in the incident;

(D) an employer, parent, or legal guardian of a vessel operator involved in the incident;

(E) the owner of a vessel or property damaged in the incident;

(F) a person who has established financial responsibility for a vessel involved in the incident, including a policyholder of a liability insurance policy covering the vessel;

(G) an insurance company that issued an insurance policy covering a vessel involved in the incident;

(H) an insurance company that issued a policy covering any person involved in the incident;

(I) a person under contract to provide claims or underwriting information to a person described by Paragraph (F), (G), or (H);

(J) a radio or television station that holds a license issued by the Federal Communications Commission;

(K) a newspaper that is:

(i) a free newspaper of general circulation or qualified under Section 2051.044, Government Code, to publish legal notices;

(ii) published at least once a week; and

(iii) available and of interest to the general public in connection with the dissemination of news; or

(L) a person who may sue because of death resulting from the incident.

(e) In addition to the information required to be released under Subsection (d), the department shall publish at least annually statistics derived from incident reports that relate to the number, cause, and location of the reported incidents.

(f) The department when releasing information under Subsection (d)(4)(J) or (K):

(1) may not release the personal identifying information, as defined by Section 521.002(a), Business & Commerce Code, of an individual included in an incident report; and

(2) shall withhold or redact:

(A) the address, other than zip code, and telephone number of a person included in an incident report;

(B) the registration or hull identification number of a vessel included in an incident report;

(C) the badge number or identification number of the investigating officer;

(D) the date of death of a person who died as a result of the incident; and

(E) the location to which a person injured or killed in the incident was transported or the person that provided the transportation.

(g) The amount that may be charged for information provided under Subsection (d) shall be calculated in the manner specified by Chapter 552, Government Code, for public information provided by a governmental body under that chapter.

SUBCHAPTER D. DUTIES OF VESSEL LIVERIES

Revised Law

Sec. 4103.0401. REQUIRED INSTRUCTION FOR OPERATOR OF RENTED VESSEL. (a) Before releasing possession of a rented vessel, a vessel livery shall provide each operator of the rented vessel instruction relating to:

(1) the provisions of this title, other than Chapter 4151 and Section 4901.0104;

(2) operational characteristics of the rented vessel; and

(3) boating regulations that apply in the area of operation of the rented vessel.

(b) After providing the instruction required by Subsection (a) and before releasing possession of the rented vessel, the vessel livery shall require each operator to sign an acknowledgment form indicating that the operator has received the required instruction.

(c) The vessel livery shall retain the form required by Subsection (b) for at least six months. (Parks & Wild. Code, Secs. 31.111(b), (c).)

Source Law

> (b) Before releasing possession of a rented vessel, a vessel livery shall provide each operator of the rented vessel instruction relating to:
>
> (1) the provisions of this chapter;
>
> (2) operational characteristics of the rented vessel; and
>
> (3) boating regulations that apply in the area of operation of the vessel.
>
> (c) After providing the instruction required by Subsection (b) and before releasing possession of the rented vessel, the vessel livery shall require each operator to sign an acknowledgment form indicating that the operator has received the required instruction. The vessel livery shall retain the form for at least six months.

Revised Law

Sec. 4103.0402. RECORD OF HIRED VESSELS. The owner of a vessel livery shall keep a record of the following information for six months:

(1) the name and address of each person hiring a vessel used as a motorboat;

(2) the vessel's certificate of number, as defined by Section 4051.0101;

(3) the time and date of the vessel's departure; and

(4) the expected time of the vessel's return. (Parks & Wild. Code, Sec. 31.040(c); New.)

Source Law

(c) The owner of a vessel livery shall keep a record of the name and address of the persons hiring any vessel operated as a motorboat, the vessel's certificate of number, the time and date of departure, and the expected time of return. The record shall be kept for six months.

Revisor's Note

Section 31.040(c), Parks and Wildlife Code, refers to a vessel's "certificate of number." For clarity and the convenience of the reader, the revised law adds a reference to the definition of that term in Section 4051.0101.

Revised Law

Sec. 4103.0403. REQUIRED INSURANCE FOR VESSEL LIVERY. A vessel livery must purchase liability insurance from an insurer licensed to do business in this state. (Parks & Wild. Code, Sec. 31.111(a).)

Source Law

Sec. 31.111. OPERATING VESSEL LIVERY. (a) A vessel livery must purchase liability insurance from an insurer licensed to do business in this state.

SUBCHAPTER Y. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 4103.9801. STANDARDIZATION OF SPEED LIMITS. (a) The commission may provide for the standardization of speed limits for moving vessels.

(b) A state agency or political subdivision may not impose a speed limit that is not in conformity with the commission's standards. (Parks & Wild. Code, Sec. 31.095(b).)

Source Law

(b) The commission may provide for the standardization of speed limits for moving vessels. No political subdivision or state agency may impose a speed limit not in conformity with the commission's standards.

SUBTITLE D. REGULATION OF CERTAIN VESSELS AND FLOATING STRUCTURES

CHAPTER 4151. FLOATING CABINS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 4151.0101. DEFINITIONS. In this chapter:

(1) "Coastal water" means those public waters east and south of the coastal waters boundary established in 31 T.A.C. Section 65.3(10), as that section existed on June 15, 2001.

(2) "Floating cabin" means a structure, including all mooring lines, anchors, anchor lines, spuds, and pilings and any other tethering devices, that is:

(A) securely moored in coastal water of this state;

(B) used for habitation or shelter;

(C) not routinely used for transportation; and

(D) not a structure permitted by the General Land Office under Chapter 33, Natural Resources Code.

(3) "Permit holder" means a person who holds a permit issued under this chapter. (Parks & Wild. Code, Sec. 32.001; New.)

Source Law

Sec. 32.001. DEFINITIONS. In this chapter:

(1) "Coastal water" means those waters east and south of the coastal waters boundary established in 31 T.A.C. Section 65.3(10).

(2) "Floating cabin" means a structure securely moored in the coastal water of this state used for habitation or shelter and not routinely used for transportation. The term includes all mooring lines, anchors, anchor lines, spuds, and pilings and any other tethering devices. The term does not include a structure permitted by the General Land Office under Chapter 33, Natural Resources Code.

Revisor's Note

(1) The definition of "permit holder" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

(2) Section 32.001(1), Parks and Wildlife Code, as added by Chapter 1273, Acts of the 77th Legislature,

Regular Session, 2001, defines the term "coastal water" as "those waters east and south of the coastal waters boundary established in 31 T.A.C. Section 65.3(10)." On the date that act took effect, June 15, 2001, the provisions of 31 T.A.C. Section 65.3(10) defined "coastal waters boundary." In 2010, Rule 65.3 was amended in part by removing the definition of "coastal waters boundary" and the current rule does not include a definition for that term. For clarity and the convenience of the reader, the revised law adds language clarifying that the applicable definition of "coastal waters boundary" is found in the version of 31 T.A.C. Section 65.3(10) that existed on the date Section 32.001(1) took effect. Additionally, the revised law substitutes "those public waters" for "those waters" for clarity and the convenience of the reader because the definition of "coastal waters boundary" in former 31 T.A.C. Section 65.3(10) applies only to "public waters."

Revised Law

Sec. 4151.0102. APPLICABILITY OF OTHER LAW. (a) Subtitle Z does not apply to a violation, or the enforcement of a violation, of this chapter.

(b) Chapter 33, Natural Resources Code, does not apply to a floating cabin regulated under this chapter.

(c) The contested case provisions of Chapter 2001, Government Code, do not apply to this chapter. (Parks & Wild. Code, Secs. 32.003, 32.006; New.)

Source Law

Sec. 32.003. APPLICABILITY OF OTHER LAW. Chapter 33, Natural Resources Code, does not apply to a floating cabin regulated under this chapter.

Sec. 32.006. NONAPPLICABILITY OF CHAPTER 2001, GOVERNMENT CODE. The contested case provisions of the Administrative Procedure Act (Sections 2001.051-2001.178, Government Code) do not apply to this chapter.

Revisor's Note

Chapter 32, Parks and Wildlife Code, is revised as this chapter. Subchapter E, Chapter 31, Parks and Wildlife Code, revised as Subtitle Z of this title, provides penalty and enforcement provisions for violations of Chapter 31, Parks and Wildlife Code, which is revised in this title. The revised law adds language clarifying that the penalty and enforcement provisions in Subtitle Z of this title, applicable only to violations of provisions derived from Chapter 31, Parks and Wildlife Code, do not apply to this chapter, which is derived from Chapter 32 of that code.

Revised Law

Sec. 4151.0103. COMMISSION RULES. The commission may adopt rules to implement this chapter. (Parks & Wild. Code, Sec. 32.005.)

Source Law

Sec. 32.005. RULES. The commission may adopt rules to implement this chapter.

Revisor's Note
(End of Subchapter)

Section 32.002, Parks and Wildlife Code, provides that Chapter 32 of that code applies only to floating cabins moored in coastal water. The revised law omits that provision because it duplicates in substance the definition of floating cabin in Section 32.001(2), Parks and Wildlife Code, revised as Section 4151.0101(2), which applies throughout this chapter and defines floating cabins as certain structures that are securely "moored in the coastal water of this state." The omitted law reads:

> Sec. 32.002. APPLICABILITY TO COASTAL WATER. This chapter applies only to floating cabins moored in coastal water.

SUBCHAPTER B. FLOATING CABIN PERMITS

Revised Law

Sec. 4151.0201. APPLICABILITY OF SUBCHAPTER. This

subchapter does not apply to a floating cabin owned by a state agency. (Parks & Wild. Code, Sec. 32.004.)

Source Law

> Sec. 32.004. EXEMPTION. Subchapter B does not apply to a floating cabin owned by a state agency.

Revisor's Note

Section 32.004, Parks and Wildlife Code, provides that Subchapter B, Chapter 32, of that code does not apply to a floating cabin owned by a state agency. Subchapter B is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

Revised Law

Sec. 4151.0202. PERMIT REQUIRED. A person may not own, maintain, or use a floating cabin unless a permit has been issued under this chapter for the floating cabin. (Parks & Wild. Code, Sec. 32.051.)

Source Law

> Sec. 32.051. PERMIT REQUIRED. A person may not own, maintain, or use a floating cabin in the public coastal water of this state unless a permit has been issued under this chapter for the floating cabin.

Revisor's Note

Section 32.051, Parks and Wildlife Code, refers to a floating cabin "in the public coastal water of this state." The revised law omits the quoted language for the reason stated in the revisor's note at the end of Subchapter A of this chapter.

Revised Law

Sec. 4151.0203. ELIGIBILITY FOR PERMIT. A person may apply for a floating cabin permit if:

(1) the person owns the floating cabin;

(2) the floating cabin floats at high tide; and

(3) the owner owned and moored the floating cabin before August 31, 2001. (Parks & Wild. Code, Sec. 32.052.)

Source Law

Sec. 32.052. ELIGIBILITY FOR PERMIT. A person may apply for a floating cabin permit if:

(1) the person owns the floating cabin;

(2) the floating cabin floats at high tide; and

(3) the owner owned and moored the floating cabin before August 31, 2001.

Revised Law

Sec. 4151.0204. APPLICATION FOR ORIGINAL PERMIT. (a) An applicant for an original floating cabin permit must apply for the permit on a form prescribed by the department.

(b) The department shall issue an original permit to an applicant who:

(1) meets the eligibility requirements of Section 4151.0203;

(2) provides the name, mailing address, and telephone number of the applicant;

(3) describes the exact location of the floating cabin in terms of longitude, latitude, degrees, minutes, and seconds as determined by the global positioning system;

(4) describes the height, length, and width of the floating cabin;

(5) provides the department a color photograph with a full view of the floating cabin;

(6) not later than August 31, 2001, pays a fee of $1,500 or a lesser amount set by the commission; and

(7) provides the department with any other information that the department reasonably requires.

(c) In addition to the fee provided by Subsection (b)(6), an application for an original permit under this section must be accompanied by a permit application fee of $300.

(d) Each owner of the floating cabin must sign the application under penalty of perjury. (Parks & Wild. Code, Secs. 32.053(a), (b), 32.055(a).)

Source Law

Sec. 32.053. APPLICATION FOR PERMIT; REFUND.

(a) An applicant must apply for a permit on a form prescribed by the department. The department shall issue a floating cabin permit to an applicant who:

(1) meets the eligibility requirements of Section 32.052;

(2) provides the name, mailing address, and telephone number of the applicant;

(3) describes the exact location of the floating cabin in terms of longitude, latitude, degrees, minutes, and seconds as determined by the global positioning system;

(4) describes the height, length, and width of the floating cabin;

(5) provides the department with a color photograph with a full view of the floating cabin;

(6) not later than August 31, 2001, pays a fee of $1,500 or a lesser amount set by the commission; and

(7) provides the department with any other information that the department reasonably requires.

(b) The applicant and each owner of the floating cabin must sign the application under penalty of perjury.

Sec. 32.055. ORIGINAL PERMIT AND PERMIT RENEWAL FEE. (a) An original application for permit under Section 32.053 must be accompanied by a permit application fee of $300.

Revisor's Note

(1) Section 32.053(a), Parks and Wildlife Code, provides the procedure for applying for a floating cabin permit and Section 32.055(a) of that code, revised as Subsection (c) of this section, refers to an original application for permit under Section 32.053. The revised law substitutes "original floating cabin permit" or "original permit," as appropriate, for references to "floating cabin permit" or "permit" for clarity and consistency in terminology used in this section and because it is clear from the context that the application procedure established under Section 32.053(a) applies only to an application for an original floating cabin permit.

(2) Section 32.053(b), Parks and Wildlife Code, requires "[t]he applicant and each owner of the floating cabin" to sign the floating cabin permit application under penalty of perjury. Under Section 32.052, Parks and Wildlife Code, a person may apply for a floating cabin permit only if the person owns the

floating cabin. The revised law omits the reference to "[t]he applicant" as redundant because, in this context, "[t]he applicant" is included in the meaning of "each owner of the floating cabin."

(3) Section 32.055(a), Parks and Wildlife Code, requires that an original application for permit under Section 32.053 of that code be accompanied by a permit application fee of $300. Section 32.053(a), Parks and Wildlife Code, requires the department to issue a floating cabin permit to an applicant who meets certain requirements, including paying the fee provided by Subsection (a)(6) of that section. The revised law adds language to clarify that the fee required by Section 32.055(a) is in addition to the fee provided by Section 32.053(a)(6).

(4) Section 32.055(a), Parks and Wildlife Code, refers to an original application for permit under Section 32.053 of that code. Section 32.053 is revised in pertinent part in this section, and the revised law is drafted accordingly.

Revised Law

Sec. 4151.0205. PERMIT TERM. A floating cabin permit issued under this chapter has a one-year term. (Parks & Wild. Code, Sec. 32.054.)

Source Law

Sec. 32.054. TERM OF PERMIT. A floating cabin permit issued under this chapter has a term of one year.

Revised Law

Sec. 4151.0206. RENEWAL OF PERMIT. To renew a floating cabin permit, a permit holder must:

(1) apply in the manner prescribed by commission rule; and

(2) pay a permit renewal fee of $300. (Parks & Wild. Code, Sec. 32.055(b).)

Source Law

(b) To renew a floating cabin permit, a permit holder must apply in the manner prescribed by commission rule and pay a permit renewal fee of $300.

Revised Law

Sec. 4151.0207. LOCATION AND INSPECTION OF PERMIT. A permit holder shall:

(1) keep a copy of the permit in the floating cabin; and

(2) make the copy available for inspection by the department on request. (Parks & Wild. Code, Sec. 32.056.)

Source Law

Sec. 32.056. LOCATION OF PERMIT; INSPECTION ALLOWED. A permit holder shall keep a copy of the permit in the floating cabin and available for inspection by the department on request.

Revised Law

Sec. 4151.0208. TRANSFER OF PERMIT. (a) A permit holder may in writing transfer the permit to a new owner of the floating cabin.

(b) Not later than the 60th day after the date of transfer, the new permit holder shall provide to the department:

(1) the name, mailing address, and telephone number of the new permit holder;

(2) any other information the department reasonably requires; and

(3) a $300 transfer fee.

(c) The new permit holder must sign under penalty of perjury the information provided to the department under Subsection (b).

(d) If the permit holder consists of more than one person, the withdrawal of a person from ownership may not, on renewal of the permit, be considered a transfer to a remaining owner for purposes of the transfer fee payment. (Parks & Wild. Code, Sec. 32.057.)

Source Law

Sec. 32.057. TRANSFER OF PERMIT. (a) A permit holder may in writing transfer the permit to a new owner of the floating cabin.

(b) Not later than the 60th day after the date of

transfer, the new permit holder shall provide to the department:

(1) the name, mailing address, and telephone number of the new permit holder;

(2) any other information the department reasonably requires; and

(3) a $300 transfer fee.

(c) In the event that the permit holder consists of more than one person, the withdrawal of persons from ownership shall not, on renewal, be considered a transfer to the remaining owner or owners for purpose of payment of the transfer fee.

(d) The new permit holder must sign the information provided to the department under Subsection (b) under penalty of perjury.

Revised Law

Sec. 4151.0209. DISPOSITION OF CERTAIN FEES. The department shall remit all fees collected under Section 4151.0204(c) or 4151.0206 to the comptroller for deposit to the credit of the game, fish, and water safety account. (Parks & Wild. Code, Sec. 32.055(d).)

Source Law

(d) The department shall remit all fees collected under this section to the comptroller for deposit to the credit of the game, fish, and water safety account in the general revenue fund.

Revisor's Note

(1) Section 32.055(d), Parks and Wildlife Code, refers to fees collected under Section 32.055 of that code. Section 32.055 is revised in pertinent part as Sections 4151.0204(c) and 4151.0206, and the revised law is drafted accordingly.

(2) Section 32.055(d), Parks and Wildlife Code, refers to the game, fish, and water safety account "in the general revenue fund." The revised law omits the quoted language as unnecessary because Section 11.032(a), Parks and Wildlife Code, revised as Section 2052.0301, establishes the game, fish, and water safety account in the general revenue fund.

Revised Law

Sec. 4151.0210. REFUND OF ORIGINAL PERMIT FEE. If a permit holder elects to retire a floating cabin permit, the department shall refund the fee paid under Section 4151.0204(b)(6) on

confirmation of proper removal of the floating cabin. (Parks & Wild. Code, Sec. 32.053(d).)

Source Law

> (d) If the permit holder elects to retire the permit, the department shall refund the fee under this section on confirmation of proper removal of the floating cabin.

Revisor's Note

Section 32.053(d), Parks and Wildlife Code, refers to the fee under Section 32.053 of that code. The pertinent part of Section 32.053 providing for a fee is Section 32.053(a)(6), revised as Section 4151.0204(b)(6), and the revised law is drafted accordingly.

Revisor's Note
(End of Subchapter)

Section 32.053(c), Parks and Wildlife Code, as added by Chapter 1273, Acts of the 77th Legislature, Regular Session, 2001, created the floating cabins cleanup account in the general revenue fund and dedicated the money in the account to be used only for certain purposes. During the same legislative session, the legislature enacted Chapter 1466, Acts of the 77th Legislature, Regular Session, 2001, under which many funds, accounts, and dedications of revenue created by other Acts of the 77th Legislature, Regular Session, were abolished. The revised law omits Section 32.053(c) because the fund and dedication created by that provision were abolished under Chapter 1466. The omitted law reads:

> (c) The department shall remit all fees collected under this section to the comptroller for deposit to the credit of the floating cabins cleanup account in the general revenue fund. Money in the account may be used only for the cleanup of illegal or abandoned floating cabins and related debris in the coastal water.

SUBCHAPTER C. FLOATING CABIN REQUIREMENTS AND PROHIBITED CONDUCT

Revised Law

Sec. 4151.0301. IDENTIFICATION REQUIREMENTS. (a) This section applies to each floating cabin owner.

(b) A floating cabin must be marked and identified by numbers, reflective tape, paint, or other means as the commission by rule may require.

(c) From sunset to sunrise, a floating cabin must exhibit at least one white light that is visible from a 360-degree angle. (Parks & Wild. Code, Sec. 32.101.)

Source Law

> Sec. 32.101. IDENTIFICATION OF FLOATING CABIN. (a) A floating cabin must be marked and identified by numbers, reflective tape, paint, or other means as the commission may by rule require.
>
> (b) From sunset to sunrise, a floating cabin shall exhibit at least one white light that is visible from a 360-degree angle.
>
> (c) This section applies to each owner of a floating cabin.

Revised Law

Sec. 4151.0302. SANITATION DEVICE REQUIRED. (a) A floating cabin must be equipped with a portable marine sanitation device capable of holding and retaining human body waste.

(b) Each floating cabin owner is liable for a violation of this section. (Parks & Wild. Code, Sec. 32.105.)

Source Law

> Sec. 32.105. SANITATION DEVICE. (a) A floating cabin shall be equipped with a portable marine sanitation device capable of holding and retaining human body waste.
>
> (b) Each owner of a floating cabin is liable for a violation of this section.

Revised Law

Sec. 4151.0303. SEWAGE DISCHARGE PROHIBITED. A person may not discharge treated or untreated human body waste from a floating cabin into or adjacent to coastal water or state land. (Parks & Wild. Code, Sec. 32.106.)

Source Law

> Sec. 32.106. SEWAGE DISCHARGE PROHIBITED. A person may not discharge human body waste, treated or

untreated, from a floating cabin into or adjacent to coastal water or state land.

Revised Law

Sec. 4151.0304. CERTAIN FLOATING CABIN LOCATIONS PROHIBITED. (a) A floating cabin may not be located in a:

(1) state park;

(2) state wildlife refuge;

(3) state wildlife sanctuary; or

(4) state coastal preserve.

(b) Each floating cabin owner is liable for a violation of this section. (Parks & Wild. Code, Sec. 32.107.)

Source Law

Sec. 32.107. LOCATION OF FLOATING CABIN IN CERTAIN SITES PROHIBITED. (a) A floating cabin may not be located in a state park, state wildlife refuge, state wildlife sanctuary, or state coastal preserve.

(b) Each owner of a floating cabin is liable for a violation of this section.

Revised Law

Sec. 4151.0305. INCREASE IN SIZE OF FLOATING CABIN PROHIBITED. A person may not increase the height, length, or width of a floating cabin. (Parks & Wild. Code, Sec. 32.104.)

Source Law

Sec. 32.104. INCREASE IN SIZE OF CABIN PROHIBITED. A person may not increase the height, length, or width of a floating cabin.

Revised Law

Sec. 4151.0306. CERTAIN CONDUCT PROHIBITED. A floating cabin owner may not allow the cabin to:

(1) obstruct navigation;

(2) damage an oyster reef, serpulid reef, or seagrass bed; or

(3) rest on a bottom or shoreline at high tide. (Parks & Wild. Code, Sec. 32.108.)

Source Law

Sec. 32.108. OTHER PROHIBITED CONDUCT. An owner of a floating cabin may not allow the cabin to:

(1) obstruct navigation;

(2) damage an oyster reef, serpulid reef, or seagrass bed; or

(3) rest on a bottom or shoreline at high

tide.

SUBCHAPTER D. ADMINISTRATIVE MATTERS

Revised Law

Sec. 4151.0401. RELOCATION OF FLOATING CABIN. (a) Subject to department approval, a permit holder may relocate a floating cabin.

(b) The commission by rule shall specify criteria for department approval under this section. (Parks & Wild. Code, Sec. 32.102.)

Source Law

Sec. 32.102. RELOCATION OF FLOATING CABIN. A permit holder may relocate the floating cabin, subject to department approval, and the commission shall by rule specify criteria for allowing relocation.

Revisor's Note

Section 32.102, Parks and Wildlife Code, provides that a permit holder may relocate a floating cabin subject to department approval and that the commission shall by rule specify criteria for "allowing relocation." For clarity and consistency in terminology used in this section, the revised law substitutes "department approval under this section" for the quoted language because it is clear from the context that the commission's rules shall specify criteria for department approval of the relocation under that section.

Revised Law

Sec. 4151.0402. REPLACEMENT OF FLOATING CABIN. A permit holder may replace the floating cabin if:

(1) the replacement cabin does not exceed the height, length, or width of the original cabin; and

(2) the department approves the replacement. (Parks & Wild. Code, Sec. 32.103.)

Source Law

Sec. 32.103. REPLACEMENT OF FLOATING CABIN. The permit holder may replace the floating cabin if:

(1) the replacement cabin does not exceed

the height, length, or width of the original cabin; and

(2) the department approves the replacement.

Revised Law

Sec. 4151.0403. FLOATING CABIN PURCHASE PROGRAM. (a) The commission by rule may establish a program to purchase a floating cabin for which a permit has been issued.

(b) Notwithstanding Section 4151.0205, the permit issued for a floating cabin expires on transfer of ownership under this section.

(c) A floating cabin owner is not required to sell the cabin to the department under this section.

(d) Money from the game, fish, and water safety account may not be used to purchase a floating cabin under this section. (Parks & Wild. Code, Secs. 32.058(a), (b), (c), (e).)

Source Law

Sec. 32.058. PURCHASE PROGRAM; PERMIT EXPIRES. (a) The commission by rule may establish a program to purchase a floating cabin for which a permit has been issued.

(b) On transfer of ownership under this section, the permit issued for the floating cabin expires.

(c) The owner of a floating cabin is not required to sell the cabin to the department under this section.

(e) Money from the game, fish, and water safety account may not be used to purchase a floating cabin under this section.

Revisor's Note

Section 32.058(b), Parks and Wildlife Code, provides that a permit issued for a floating cabin expires on transfer of ownership under Section 32.058 of that code. For the convenience of the reader, the revised law adds language to clarify that a floating cabin permit expires on transfer of ownership under Section 32.058 notwithstanding the general permit term provided in Section 32.054, Parks and Wildlife Code, revised as Section 4151.0205.

SUBCHAPTER E. REMOVAL OF FLOATING CABIN

Revised Law

Sec. 4151.0501. REQUIRED REMOVAL OF FLOATING CABIN. (a) The department may by written notice require the removal of a floating cabin from the coastal water not later than the 90th day after the date of notice if:

(1) the floating cabin does not meet the criteria for issuance of an original permit under this chapter; or

(2) an owner of the floating cabin violates a provision of Section 4151.0304, 4151.0305, or 4151.0306.

(b) Notice under this section is valid if:

(1) a floating cabin owner has held a permit issued under this chapter and the department sent the notice by certified mail to the owner at the last address provided to the department under this chapter; or

(2) as to a floating cabin that has not been identified and for which the owner has not been issued a permit, the notice is affixed to the cabin. (Parks & Wild. Code, Secs. 32.154(a) (part), (e).)

Source Law

> Sec. 32.154. REMOVAL OF FLOATING CABIN; CRIMINAL PENALTY; CIVIL PENALTY; HEARING. (a) If a person owns a floating cabin that does not meet the criteria for issuance of an original permit under this chapter or if an owner violates a provision of Section 32.104, 32.107, or 32.108, the department may by written notice require the removal of the floating cabin from the coastal water not later than the 90th day after the date of notice. . . .
>
> (e) Notice under this section is valid if:
>
> (1) a person who owns a floating cabin has held a permit issued under this chapter and the notice is sent by certified letter from the department to the owner at the last address supplied to the department under this chapter; or
>
> (2) as to a floating cabin that has not been identified and for which the owner has not been issued a permit, the notice is affixed to the floating cabin.

Revisor's Note

(1) Section 32.154(e), Parks and Wildlife Code, refers to notice under Section 32.154 of that code.

Section 32.154 is revised in pertinent part as this section, and the revised law is drafted accordingly.

(2) Section 32.154(e)(1), Parks and Wildlife Code, refers to notice sent by "certified letter." The revised law substitutes "certified mail" for "certified letter" because, in context, the terms are synonymous and "certified mail" is more commonly used.

(3) Section 32.154(e)(1), Parks and Wildlife Code, provides that notice under Section 32.154 of that code is valid if it is sent to the floating cabin owner at the last address "supplied" to the department under Chapter 32 of that code. The revised law substitutes "provided" for "supplied" because, in context, the terms are synonymous and "provided" is more commonly used.

Revised Law

Sec. 4151.0502. OBJECTION TO REMOVAL NOTICE. (a) A floating cabin owner who receives notice under Section 4151.0501(a) may, not later than the 30th day after the date of receipt of the notice, object to the revocation and show good cause why the permit should not be revoked.

(b) Good cause under Subsection (a) includes:

(1) force majeure, including a hurricane or tropical storm;

(2) circumstances resulting in a change of criteria for a reason not attributable to the actions of the owner; or

(3) any other reason that the department adopts by rule. (Parks & Wild. Code, Sec. 32.154(a) (part).)

Source Law

> (a) . . . [the department may by written notice require the removal of the floating cabin] . . . . The owner may, not later than 30 days after receipt of notice of removal, object to the revocation and show good cause why the permit should not be revoked. Good cause includes:
>
> (1) force majeure, including a hurricane or tropical storm;
>
> (2) circumstances resulting in a change of

criteria for reasons not attributable to the actions of the owner; or

(3) any other reasons that the department adopts by rule.

Revisor's Note

Section 32.154(a), Parks and Wildlife Code, provides that the Parks and Wildlife Department may by written notice require the removal of a floating cabin under certain circumstances and further provides that the owner of the floating cabin may "object to the revocation and show good cause why the permit should not be revoked." Although the quoted language refers to the revocation of a permit, no other provision of Section 32.154, Parks and Wildlife Code, refers to the revocation of a permit, and Section 32.154(a) otherwise only refers to removal of a floating cabin. Because it is unclear whether Section 32.154(a) authorizes a floating cabin owner to object to a notice of removal and show good cause regarding that notice, the revised law retains the references to revocation of a permit to preserve any ambiguity.

Revised Law

Sec. 4151.0503. REMOVAL BY DEPARTMENT. If a person does not remove the floating cabin during the period provided by Section 4151.0501(a), the department or a person authorized by the department may remove and dispose of the floating cabin and any associated personal property in any manner without further notice. (Parks & Wild. Code, Sec. 32.154(d).)

Source Law

(d) If a person does not remove the floating cabin during the period provided by Subsection (a), the department or a person or entity authorized by the department may remove and dispose of the floating cabin and any associated personal property in any manner without further notice.

Revisor's Note

(1) Section 32.154(d), Parks and Wildlife Code, refers to the removal of a floating cabin during the

period provided by Section 32.154(a) of that code. Throughout this chapter, the revised law substitutes "Section 4151.0501(a)" for a reference to Section 32.154(a) when the reference is in the context of the notice period provided by Section 32.154(a) or a violation of that notice period.

(2) Section 32.154(d), Parks and Wildlife Code, refers to a "person or entity." The revised law substitutes "person" for the quoted language because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include any legal entity.

Revised Law

Sec. 4151.0504. DEPARTMENT NOT LIABLE. The department is not liable to a person for the value of a floating cabin, or any personal property associated with the cabin, removed under this subchapter. (Parks & Wild. Code, Sec. 32.154(f).)

Source Law

(f) The department is not liable to a person for the value of a floating cabin, or any personal property associated with the cabin, removed under this section.

Revisor's Note

Section 32.154(f), Parks and Wildlife Code, refers to a floating cabin removed under Section 32.154 of that code. Section 32.154 is revised in pertinent part as this subchapter, and the revised law is drafted accordingly.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 4151.9901. DISCIPLINARY ACTION. For a violation of this chapter, the department may:

(1) suspend or revoke a floating cabin permit; or

(2) place the permit holder on probation. (Parks & Wild. Code, Sec. 32.151.)

Source Law

> Sec. 32.151. DISCIPLINARY ACTION. The department may suspend or revoke a person's floating cabin permit or place the permit holder on probation for a violation of this chapter.

Revised Law

Sec. 4151.9902. CIVIL ACTION BY DEPARTMENT. (a) The department may bring an action for damages, injunctive relief, or any other appropriate civil relief for a violation of this chapter, other than a violation of Section 4151.0303.

(b) A court shall award the department attorney's fees if the department prevails in an action brought under this section.

(c) Each floating cabin owner is jointly and severally liable for a violation under this section. (Parks & Wild. Code, Sec. 32.152.)

Source Law

> Sec. 32.152. CIVIL ACTIONS ALLOWED; CIVIL PENALTY. (a) The department may bring an action for damages, injunctive relief, and any other appropriate civil relief for a violation of this chapter, except for Section 32.106.
>
> (b) A court shall award the department attorney's fees if the department prevails in a suit filed under this section.
>
> (c) Each owner of the floating cabin is jointly and severally liable for a violation under this section.

Revised Law

Sec. 4151.9903. GENERAL CRIMINAL PENALTIES. (a) A person commits an offense if the person violates any of the following provisions:

(1) Section 4151.0202;

(2) Section 4151.0204(d);

(3) Section 4151.0207;

(4) Section 4151.0208(c); or

(5) Subchapter C.

(b) Except as provided by Subsection (c), an offense under this section is a Class C Parks and Wildlife Code misdemeanor.

(c) Except for a violation of Section 4151.0301(c), if it is shown on the trial of an offense under this section that the

defendant has previously been convicted two or more times under this section, the offense is a Class B Parks and Wildlife Code misdemeanor, except that the offense is not punishable by confinement in jail.

(d) Each day of a violation under this section is a separate offense. (Parks & Wild. Code, Sec. 32.153.)

Source Law

Sec. 32.153. CRIMINAL PENALTIES. (a) A person commits an offense if the person violates:

(1) Section 32.051;
(2) Section 32.053(b);
(3) Section 32.056;
(4) Section 32.057(d);
(5) Section 32.101;
(6) Section 32.104;
(7) Section 32.105;
(8) Section 32.106;
(9) Section 32.107; or
(10) Section 32.108.

(b) Except as provided by Subsection (c), an offense under Subsection (a) is a Class C Parks and Wildlife Code misdemeanor.

(c) Except for a violation of Section 32.101(b), if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section, the offense is a Class B Parks and Wildlife Code misdemeanor, except that the offense is not punishable by confinement in jail.

(d) Each day of a violation under this section is a separate offense.

Revised Law

Sec. 4151.9904. CRIMINAL PENALTY FOR FAILURE TO REMOVE FLOATING CABIN. (a) A person commits an offense if the person does not remove the floating cabin during the period provided by Section 4151.0501(a) or an extended period prescribed by department rule.

(b) An offense under this section is a Class B Parks and Wildlife Code misdemeanor, except that the offense is not punishable by confinement in jail. (Parks & Wild. Code, Sec. 32.154(b).)

Source Law

(b) A person commits an offense if the person does not remove the floating cabin during the period provided by Subsection (a) or such extended period as may be prescribed by department rule. An offense under this subsection is a Class B Parks and Wildlife Code misdemeanor, except that the offense is not punishable by confinement in jail.

Revised Law

Sec. 4151.9905. CIVIL PENALTY FOR FAILURE TO REMOVE FLOATING CABIN. (a) The department may assess a civil penalty of not more than $1,000 for each day after the notice period that the owner fails to remove the floating cabin in violation of Section 4151.0501(a).

(b) Each floating cabin owner is jointly and severally liable for the civil penalty and the reasonable costs of removal and cleanup of the floating cabin and related materials at that location. (Parks & Wild. Code, Sec. 32.154(c).)

Source Law

> (c) The department may assess a civil penalty for a violation of Subsection (a) of not more than $1,000 for each day after the notice period that the owner fails to remove the floating cabin. Each owner is jointly and severally liable for the civil penalty and the reasonable costs of removal and cleanup of the floating cabin and related materials at that location.

Revised Law

Sec. 4151.9906. REFUSAL TO ISSUE, TRANSFER, OR RENEW LICENSE, PERMIT, OR TAG FOLLOWING CERTAIN NONCOMPLIANCE. The department may refuse to issue or transfer an original or renewal license, permit, or tag if the permittee has:

(1) failed to comply with a notice issued under Section 4151.0501(a);

(2) been finally convicted of a violation of Section 4151.9904; or

(3) failed to pay a civil penalty assessed under Section 4151.9905. (Parks & Wild. Code, Sec. 32.055(c).)

Source Law

> (c) The department may refuse to issue or transfer an original or renewal license, permit, or tag if the permittee has:
>
> (1) been finally convicted of a violation of Section 32.154;
>
> (2) failed to comply with a notice issued under Section 32.154; or
>
> (3) failed to pay a civil penalty assessed under Section 32.154.

Revisor's Note

Section 32.055(c), Parks and Wildlife Code,

refers to Section 32.154 of that code. Section 32.154 is revised in pertinent part as Sections 4151.0501(a), 4151.9904, and 4151.9905, and the revised law is drafted accordingly.

Revised Law

Sec. 4151.9907. VENUE. The department may file suit under this chapter in:

(1) Travis County; or

(2) the county in which the floating cabin that is the subject of the suit is located. (Parks & Wild. Code, Sec. 32.155.)

Source Law

Sec. 32.155. VENUE. The department may file any suit under this chapter in Travis County or the county in which the floating cabin that is the subject of the suit is located.

CHAPTER 4152. PARTY BOATS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 4152.0101. DEFINITIONS. In this chapter:

(1) "Licensed party boat operator" means a person issued a license by the department under this chapter.

(2) "Party boat" means a vessel:

(A) operated by the owner of the vessel or an employee of the owner; and

(B) rented or leased by the owner for a group recreational event for more than six passengers. (Parks & Wild. Code, Sec. 31.171.)

Source Law

Sec. 31.171. DEFINITIONS. In this subchapter:
(1) "Licensed party boat operator" means a person issued a license by the department under this subchapter.
(2) "Party boat" means a vessel:
(A) operated by the owner of the vessel or an employee of the owner; and
(B) rented or leased by the owner for a group recreational event for more than six passengers.

Revised Law

Sec. 4152.0102. APPLICABILITY OF CHAPTER. (a) This

chapter applies only to a party boat that operates on inland public water.

(b) This chapter does not apply to:

(1) a boat that is less than 30 feet in length; or

(2) a sailboat. (Parks & Wild. Code, Sec. 31.172.)

Source Law

Sec. 31.172. APPLICABILITY; EXCEPTION. (a) This subchapter applies only to a party boat that operates on the inland waters of this state.

(b) This subchapter does not apply to a boat that is less than 30 feet in length or to a sailboat.

Revised Law

Sec. 4152.0103. COMMISSION RULES. The commission shall adopt and enforce rules necessary to implement this chapter. (Parks & Wild. Code, Sec. 31.180.)

Source Law

Sec. 31.180. RULES. The commission shall adopt and enforce rules necessary to implement this subchapter.

SUBCHAPTER B. PARTY BOAT REQUIREMENTS

Revised Law

Sec. 4152.0201. PARTY BOAT OPERATOR LICENSE. (a) The commission by rule shall establish, as necessary to protect the public health and safety, the requirements and procedures for the issuance and renewal of a party boat operator license under this chapter.

(b) Except as provided by Subsection (c), the rules for obtaining a party boat operator license must require at a minimum that the applicant:

(1) be at least 21 years of age;

(2) observe for at least four hours a licensed party boat operator operating a party boat on open water;

(3) operate for at least four hours a party boat on open water while being supervised and observed by a licensed party boat operator; and

(4) pass a written examination covering:

(A) onboard safety procedures; and

(B) the applicable provisions of this title.

(c) An applicant is not required to comply with Subsections (b)(2) and (3) if the applicant has:

(1) at least 25 hours of experience operating a party boat as shown by appropriate documentation; and

(2) no record of boating violations. (Parks & Wild. Code, Sec. 31.176.)

Source Law

Sec. 31.176. PARTY BOAT OPERATOR LICENSE. (a) The commission by rule shall establish, as necessary to protect the public health and safety, the requirements and procedures for the issuance and renewal of a party boat operator license under this subchapter.

(b) Except as provided by Subsection (c), the rules for obtaining a license as a party boat operator must require at a minimum that the applicant:

(1) be at least 21 years of age;

(2) observe for at least four hours a licensed party boat operator operating a party boat on open water;

(3) operate for at least four hours a party boat on open water while being supervised and observed by a licensed party boat operator; and

(4) pass a written examination covering onboard safety procedures and the applicable provisions of this chapter.

(c) An applicant is not required to comply with Subsections (b)(2) and (3) if the applicant has:

(1) at least 25 hours of experience operating a party boat as shown by appropriate documentation; and

(2) no record of boating violations.

Revised Law

Sec. 4152.0202. STAFF REQUIREMENTS. (a) Except as provided by Subsection (c), a party boat owner shall provide staff members, including a licensed party boat operator, who:

(1) operate and staff the party boat for the duration of a rental or lease for a group recreational event as follows:

(A) for a boat with not more than 25 passengers, one staff member who is an operator;

(B) for a boat with at least 26 but not more than 50 passengers, two staff members, including one operator; and

(C) for a boat with more than 50 passengers, three staff members, including one operator; and

(2) have each successfully completed a boater

education course approved under Section 4103.0101.

(b) At least one staff member on the party boat must be certified to conduct cardiopulmonary resuscitation.

(c) This section does not apply to a party boat rented or leased for an overnight or longer period for which the party boat owner, or the owner's staff, does not intend to remain in constant possession, command, and control of the party boat. (Parks & Wild. Code, Sec. 31.173.)

Source Law

Sec. 31.173. PARTY BOAT OPERATOR AND STAFF. (a) Except as provided by Subsection (c), the party boat owner shall provide staff members, including a licensed party boat operator, who:

(1) operate and staff the party boat for the duration of a rental or lease for a group recreational event as follows:

(A) for a boat with not more than 25 passengers, one staff member who is an operator;

(B) for a boat with at least 26 but not more than 50 passengers, two staff members, including one operator; and

(C) for a boat with more than 50 passengers, three staff members, including one operator; and

(2) have each successfully completed a boater safety course approved under this chapter.

(b) At least one staff member on the boat must be certified to conduct cardiopulmonary resuscitation.

(c) This section does not apply to a party boat rented or leased for an overnight or longer period for which the owner, or the owner's staff, does not intend to remain in constant possession, command, and control of the party boat.

Revisor's Note

Section 31.173(a)(2), Parks and Wildlife Code, refers to a "boater safety course approved under this chapter," meaning Chapter 31 of that code. The revised law substitutes "boater education course approved under Section 4103.0101" for the quoted language because "boater education course" is the term used in Section 31.108, Parks and Wildlife Code, revised in pertinent part as Section 4103.0101, which requires the Parks and Wildlife Commission to approve boater education courses under the boater education program required by that section, and no other provision of

Chapter 31 uses the term "boater safety course" or provides for the approval of any other type of boating course other than a "boater education course."

Revised Law

Sec. 4152.0203. PARTY BOAT REQUIREMENTS. A party boat:

(1) may not carry more than the maximum number of passengers the boat may safely accommodate as determined by the department on inspection;

(2) must have a direct and reliable communication connection by cellular telephone or very high frequency radio to:

(A) the land-based office of the party boat owner; and

(B) law enforcement and emergency services; and

(3) must pass an annual water safety inspection conducted by the department or a person under contract with the department. (Parks & Wild. Code, Sec. 31.174.)

Source Law

Sec. 31.174. BOAT REQUIREMENTS. A party boat:

(1) may not carry more than the maximum number of passengers the boat may safely accommodate as determined by the department on inspection;

(2) must have a direct and reliable communication connection to the land-based office of the owner and law enforcement and emergency services by cellular telephone or very high frequency radio; and

(3) must pass an annual water safety inspection conducted by the department or a person under contract with the department.

Revised Law

Sec. 4152.0204. PASSENGER SAFETY INFORMATION. (a) A party boat owner shall:

(1) provide each passenger with verbal and written safety information; and

(2) require each passenger to sign a form acknowledging that the passenger reviewed and understood the information.

(b) The verbal and written safety information must disclose that a lifeguard is not present on the party boat if there is not at

least one staff member on the boat who is certified as a lifeguard by:

(1) the American Red Cross;

(2) the American Lifeguard Association; or

(3) another comparable nationally recognized organization. (Parks & Wild. Code, Secs. 31.175(a), (b).)

Source Law

> Sec. 31.175. PASSENGER SAFETY INFORMATION; INSURANCE. (a) The owner of a party boat shall provide each passenger with written and verbal safety information and require each passenger to sign a form acknowledging that the passenger reviewed and understands the information.
>
> (b) The verbal and written safety information must disclose that no lifeguard is present on the party boat if there is not at least one staff member on the boat who is certified as a lifeguard by the American Red Cross, the American Lifeguard Association, or another comparable nationally recognized organization.

Revised Law

Sec. 4152.0205. DRUG AND ALCOHOL TESTING. If a party boat is involved in an accident causing serious personal injury or death, each staff member on board is subject to mandatory drug and alcohol testing. (Parks & Wild. Code, Sec. 31.178.)

Source Law

> Sec. 31.178. DRUG AND ALCOHOL TESTING. If a party boat is involved in an accident causing serious personal injury or death, each staff member on board is subject to mandatory drug and alcohol testing.

Revised Law

Sec. 4152.0206. LIABILITY INSURANCE. (a) A party boat owner must obtain at least the minimum amount of liability insurance from an insurer licensed to do business in this state.

(b) The commission shall set the amount of the insurance coverage. (Parks & Wild. Code, Sec. 31.175(c).)

Source Law

> (c) The owner of a party boat must obtain at least a minimum amount of liability insurance from an insurer licensed to do business in this state. The commission shall set the amount.

SUBCHAPTER C. ADMINISTRATIVE MATTERS

Revised Law

Sec. 4152.0301. ESTABLISHMENT AND COLLECTION OF FEES. The commission by rule shall establish and collect a reasonable fee for:

(1) the issuance of a party boat operator license under this chapter; and

(2) the annual water safety inspection of a party boat required by this chapter. (Parks & Wild. Code, Sec. 31.177(a).)

Source Law

Sec. 31.177. FEES. (a) The commission by rule shall establish and collect a reasonable fee for:

(1) the issuance of a party boat operator license under this subchapter; and

(2) the annual water safety inspection of a party boat required by this subchapter.

Revised Law

Sec. 4152.0302. DISPOSITION OF FEES. A fee collected by the department under this chapter and any interest that accrues on the fee shall be deposited to the credit of the game, fish, and water safety account established under Section 2052.0301. (Parks & Wild. Code, Sec. 31.177(b).)

Source Law

(b) A fee collected by the department under this subchapter and any interest that accrues on the fee shall be deposited to the credit of the game, fish, and water safety account established under Section 11.032.

Revisor's Note

Section 31.177(b), Parks and Wildlife Code, refers to the game, fish, and water safety account established under Section 11.032 of that code. Section 11.032 is revised in pertinent part as Section 2052.0301, and the revised law is drafted accordingly.

SUBCHAPTER Z. ENFORCEMENT

Revised Law

Sec. 4152.9901. ENFORCEMENT BY CERTAIN PEACE OFFICERS. In addition to a game warden, any peace officer of a political subdivision who is certified as a marine safety enforcement officer

by the department may enforce this chapter:

(1) in the area of a navigable body of water that is in the jurisdiction of the political subdivision; or

(2) in any part of a lake that is partly or wholly inside the boundaries of:

(A) the political subdivision; or

(B) if the political subdivision is a municipality, the extraterritorial jurisdiction of the municipality. (Parks & Wild. Code, Sec. 31.179(a).)

Source Law

Sec. 31.179. ENFORCEMENT. (a) In addition to a game warden, any peace officer of a municipality or other political subdivision of this state who is certified as a marine safety enforcement officer under Section 31.121 may enforce this subchapter:

(1) in the area of a navigable body of water that is in the jurisdiction of the municipality or other political subdivision; or

(2) in any part of a lake that is partly or wholly inside the boundaries of:

(A) the municipality or its extraterritorial jurisdiction; or

(B) the political subdivision.

Revisor's Note

(1) Section 31.179(a), Parks and Wildlife Code, refers to a peace officer of a "municipality or other political subdivision of this state." The revised law omits "municipality or other" as unnecessary because a municipality is a political subdivision included in the meaning of the term "political subdivision." Additionally, the revised law omits "of this state" as unnecessary because a peace officer to whom this code applies is necessarily a peace officer of a municipality or other political subdivision of this state.

(2) Section 31.179(a), Parks and Wildlife Code, refers to a peace officer certified as a marine safety enforcement officer "under Section 31.121" of that code. The revised law substitutes "by the department" for the quoted language because Section 31.121(a-1),

Parks and Wildlife Code, revised as Section 4951.0201(c), requires marine safety enforcement officers to be certified by the department.

Revisor's Note
(End of Subchapter)

Section 31.179(b), Parks and Wildlife Code, provides that a party boat is subject to enforcement inspections conducted under Section 31.124 of that code. The revised law omits that provision as unnecessary because Section 31.124, revised in pertinent part as Section 4951.0205, provides that an enforcement officer may stop and board any vessel subject to Chapter 31, Parks and Wildlife Code, and may inspect the vessel to determine compliance with applicable provisions. The omitted law reads:

> (b) A party boat is subject to enforcement inspections conducted under Section 31.124.

SUBTITLE Y. MISCELLANEOUS PROVISIONS

CHAPTER 4901. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 4901.0101. RECREATIONAL WATER SAFETY VIDEO. (a) The department shall produce a video on recreational water safety that is suitable for use with high school students.

(b) The recreational water safety video must include instruction on safe participation in recreational activities in, on, or around the lakes, rivers, and coastal waters of this state.

(c) The department shall notify the Texas Education Agency in writing when the recreational water safety video is available for the agency's use.

(d) The department may edit the content of the recreational water safety video to produce a boater education video that complies with federal standards for boating education courses published by the National Association of State Boating Law Administrators. (Parks & Wild. Code, Sec. 12.012.)

Source Law

Sec. 12.012. RECREATIONAL WATER SAFETY VIDEO. (a) The department shall produce a video suitable for use with high school students on recreational water safety. The video must include instruction on safe participation in recreational activities in, on, or around the lakes, rivers, and coastal waters of this state.

(b) The department shall notify the Texas Education Agency in writing when the recreational water safety video is available for the agency's use.

(c) The department may edit the content of the recreational water safety video to produce a boater education video that complies with federal standards for boating education courses published by the National Association of State Boating Law Administrators.

Revised Law

Sec. 4901.0102. BOAT RAMPS AND ACCESS ROADS. (a) The department may use department services or facilities to construct and maintain boat ramps and access roads.

(b) On the completion of the work, the department shall prepare and send vouchers to the comptroller payable to the department or any other person for reimbursement for the work. The comptroller shall issue warrants on the game, fish, and water safety account to reimburse the department or any other person for the work performed.

(c) The department may remove or contract for the removal of sand, silt, and other materials from state-owned submerged land to provide access to boat ramps. (Parks & Wild. Code, Sec. 31.141.)

Source Law

Sec. 31.141. BOAT RAMPS. (a) The department may construct and maintain boat ramps and access roads by the use of existing or additional services or facilities of the department.

(b) On the completion of the work, the department shall prepare and send vouchers to the comptroller of public accounts payable to the department or to any person, firm, or corporation for reimbursement for the work, and the comptroller shall issue warrants on the game, fish, and water safety account to reimburse the department or any person, firm, or corporation for the work performed.

(c) The department may remove sand, silt, and other materials from state-owned submerged land and may contract for the removal of sand, silt, and other materials from state-owned submerged land to provide access to boat ramps.

Revisor's Note

(1) Section 31.141(a), Parks and Wildlife Code, provides that the department may construct and maintain boat ramps and access roads by using "existing or additional" departmental services or facilities. The revised law omits the quoted language as unnecessary because the phrase does not add to the clear meaning of the law.

(2) Section 31.141(b), Parks and Wildlife Code, refers to the "comptroller of public accounts." The revised law substitutes "comptroller" for the quoted language because Section 403.001, Government Code, defines "comptroller" in any state statute to mean the comptroller of public accounts of the State of Texas.

(3) Section 31.141(b), Parks and Wildlife Code, refers to any "person, firm, or corporation." The revised law substitutes "person" for the quoted language for the reason stated in Revisor's Note (2) to Section 4151.0503.

Revised Law

Sec. 4901.0103. BUOYS AND MARKERS. The department may:

(1) provide for a standardized buoy-marking program for inland public water; and

(2) purchase and provide the controlling agency of the water with buoys and markers. (Parks & Wild. Code, Sec. 31.142.)

Source Law

Sec. 31.142. BUOYS AND MARKERS. The department may provide for a standardized buoy-marking program for the inland water of the state. The department may purchase and provide the controlling agency of the water bodies with buoys and markers.

Revised Law

Sec. 4901.0104. DAMAGING MARKERS AND CERTAIN OTHER DEVICES; OFFENSE. (a) A person may not damage, deface, destroy, remove, tie a boat to, or in any way render inoperative or ineffective a marker, buoy, light or sound signal, radar reflector, daymark, or any part

of these devices, including an attachment intended to hold the device in place.

(b) Except as provided by Subsection (c), a person commits an offense that is a Class C Parks and Wildlife Code misdemeanor if the person violates this section.

(c) An offense under this section is a Class B Parks and Wildlife Code misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted of an offense under this section during the five-year period preceding the trial date of the instant offense.

(d) It is not a defense to prosecution for damage to state property that a device or part of a device described by Subsection (a) was established by the state in water that is adjacent to public water but is not public water.

(e) Subtitle Z does not apply to a violation, or the enforcement of a violation, of this section. (Parks & Wild. Code, Secs. 12.017, 12.019(a) (part), (b); New.)

Source Law

> Sec. 12.017. DAMAGING MARKERS. (a) No person may damage, deface, destroy, or remove, tie up a boat to, or in any way render inoperative or ineffective a marker, buoy, light or sound signal, radar reflector, or daymark or any part of these devices, including the attachment intended to hold the device in place.
>
> (b) The fact that a device or part of a device specified in Subsection (a) of this section may have been established by the state in water adjacent to but outside the territorial water of the state is not a defense against a prosecution for damaging state property.
>
> Sec. 12.019. PENALTIES. (a) Except as provided by Subsection (b) of this section, a person who violates Section . . . 12.017, or . . . commits an offense that is a Class C Parks and Wildlife Code misdemeanor.
>
> (b) If it is shown at the trial of the defendant for a violation of Section 12.017 of this code that he has been convicted within five years before the trial date of a violation of that section, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

Revisor's Note

(1) Section 12.017(b), Parks and Wildlife Code, refers to water adjacent to but outside "the

territorial water of the state." The revised law substitutes "public water" for "the territorial water of the state" because Section 4001.0101 of this code defines "public water" for purposes of this title as "public water in the territorial limits of this state."

(2) Sections 12.017 and 12.019(a) and (b), Parks and Wildlife Code, provide penalty and enforcement provisions for the offense of damaging certain markers described by Section 12.017(a) of that code, revised as Subsection (a) of this section. Subchapter E, Chapter 31, Parks and Wildlife Code, revised as Subtitle Z of this title, provides penalty and enforcement provisions for violations of Chapter 31, Parks and Wildlife Code, which is revised in this title. The revised law adds language clarifying that the penalty and enforcement provisions in Subtitle Z of this title, applicable only to violations of provisions derived from Chapter 31, Parks and Wildlife Code, do not apply to this section, which is derived from Sections 12.017 and 12.019(a) and (b) of that code.

SUBTITLE Z. WATER SAFETY ENFORCEMENT PROVISIONS

CHAPTER 4951. GENERAL ENFORCEMENT PROVISIONS

SUBCHAPTER A. CRIMINAL PENALTIES

Revised Law

Sec. 4951.0101. GENERAL PENALTY. Except as otherwise provided by this title, a person commits an offense that is a Class C Parks and Wildlife Code misdemeanor if the person violates or fails to comply with:

(1) a provision of this title;

(2) a proclamation of the commission adopted under this title; or

(3) a municipal ordinance, or an order of a

commissioners court or political subdivision, that is adopted under this title. (Parks & Wild. Code, Sec. 31.127(a).)

Source Law

> Sec. 31.127. PENALTIES AND FINES. (a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Revisor's Note

(1) Section 31.127(a), Parks and Wildlife Code, provides a general penalty for Chapter 31 of that code, which is revised in this title. For the convenience of the reader, the revised law adds "[e]xcept as otherwise provided by this title," to indicate to the reader that exceptions to the general penalty are contained in other provisions in this title.

(2) Section 31.127(a), Parks and Wildlife Code, refers to a "city ordinance." The revised law substitutes "municipal ordinance" for "city ordinance" because, in context, the terms are synonymous and "municipal ordinance" is more commonly used.

(3) Section 31.127(a), Parks and Wildlife Code, refers to a political subdivision "of the state." The revised law omits the quoted language for the reason stated in Revisor's Note (2) to Section 4002.0105.

(4) Section 31.127(a), Parks and Wildlife Code, refers to certain ordinances and orders "made or entered" under Chapter 31 of that code. The revised law substitutes "adopted" for "made or entered" because, in context, the terms are synonymous and "adopted" is more commonly used.

Revised Law

Sec. 4951.0102. PENALTY FOR ALTERING, COVERING, OR REMOVING

HULL IDENTIFICATION NUMBER OR OUTBOARD MOTOR SERIAL NUMBER. A person commits an offense that is a Class B Parks and Wildlife Code misdemeanor if the person violates Section 4055.0104. (Parks & Wild. Code, Sec. 31.127(b) (part).)

Source Law

> (b) A person who violates Section 31.043(c) or . . . commits an offense that is a Class B Parks and Wildlife Code misdemeanor. . . .

Revised Law

Sec. 4951.0103. PENALTY FOR SALE OR PURCHASE OF VESSEL OR OUTBOARD MOTOR WITH ALTERED OR REMOVED HULL IDENTIFICATION OR SERIAL NUMBER. A person commits an offense that is a Class A Parks and Wildlife Code misdemeanor if the person violates Section 4055.0105. (Parks & Wild. Code, Sec. 31.127(b) (part).)

Source Law

> (b) . . . A person who violates Section 31.043(c-1) commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 4951.0104. PENALTY FOR OPERATING VESSEL WITHOUT REQUIRED CERTIFICATE OF NUMBER OR IDENTIFICATION NUMBER. Except as provided by Section 4951.0307, a person commits an offense that is punishable by a fine of not less than $100 or more than $500 if the person operates a vessel in violation of Section 4052.0103. (Parks & Wild. Code, Sec. 31.127(c) (part).)

Source Law

> (c) Except as provided by Subsection (f), a person who operates a vessel in violation of Section 31.021(b) or . . . commits an offense punishable by a fine of not less than $100 or more than $500.

Revised Law

Sec. 4951.0105. PENALTY FOR NONCOMPLIANCE WITH REQUIREMENTS FOR TRANSFER OF OWNERSHIP INTEREST IN HULL-DAMAGED VESSEL. (a) A person commits an offense that is a Class B Parks and Wildlife Code misdemeanor if the person intentionally or knowingly:

(1) fails to comply with Section 4053.0705; or

(2) solicits or colludes in a failure by an owner of

record to comply with Section 4053.0705(a).

(b) A person commits an offense that is a Class C Parks and Wildlife Code misdemeanor if the person negligently fails to comply with Section 4053.0705. (Parks & Wild. Code, Secs. 31.0505(d), (e).)

Source Law

(d) A person commits an offense if the person:
(1) intentionally or knowingly:
(A) fails to comply with Subsection (a) or (b); or
(B) solicits or colludes in a failure by an owner of record to comply with Subsection (a); or
(2) negligently fails to comply with Subsection (a) or (b).
(e) An offense under Subsection (d)(1) is a Class B Parks and Wildlife Code misdemeanor. An offense under Subsection (d)(2) is a Class C Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 4951.0106. PENALTY FOR EXCESSIVE SPEED. A person commits an offense that is punishable by a fine of not less than $100 or more than $500 if the person operates a vessel in violation of Section 4103.0201. (Parks & Wild. Code, Sec. 31.127(c) (part).)

Source Law

(c) . . . a person who operates a vessel in violation of Section . . . 31.095 commits an offense punishable by a fine of not less than $100 or more than $500.

Revisor's Note

Section 31.127(c), Parks and Wildlife Code, refers to a violation of Section 31.095 of that code. Section 31.095 is revised in pertinent part as Section 4103.0201, and the revised law is drafted accordingly.

Revised Law

Sec. 4951.0107. PENALTY FOR RECKLESS OPERATION AND EXCESSIVE SPEED. A person commits an offense that is a Class B Parks and Wildlife Code misdemeanor if the person violates Section 4103.0203. (Parks & Wild. Code, Sec. 31.127(b) (part).)

Source Law

(b) A person who violates Section . . . 31.096 commits an offense that is a Class B Parks and Wildlife Code misdemeanor. . . .

Revised Law

Sec. 4951.0108. PENALTY FOR OPERATING MOTORBOAT WITHOUT VERIFYING FUNCTIONALITY OF EMERGENCY ENGINE CUTOFF SWITCH AND ATTACHING CERTAIN EQUIPMENT RELATING TO SWITCH. A person commits an offense that is punishable by a fine of not more than $200 if the person operates a motorboat in violation of Section 4103.0217. (Parks & Wild. Code, Sec. 31.127(g).)

Source Law

(g) A person who operates a motorboat in violation of Section 31.1071 commits an offense punishable by a fine of not more than $200.

Revised Law

Sec. 4951.0109. PENALTY FOR FAILURE TO RENDER ASSISTANCE OR PROVIDE CERTAIN INFORMATION FOLLOWING INCIDENT. (a) Except as provided by Subsection (b), an operator of a vessel commits an offense that is a Class A Parks and Wildlife Code misdemeanor if the operator:

(1) is involved in a collision, accident, or other casualty; and

(2) fails to comply with Section 4103.0301.

(b) An operator of a vessel commits an offense that is a Parks and Wildlife Code felony if the operator:

(1) is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person; and

(2) fails to comply with Section 4103.0301. (Parks & Wild. Code, Secs. 31.127(d), (e).)

Source Law

(d) The operator of a vessel who is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person and fails to comply with Section 31.104 commits an offense that is a Parks and Wildlife Code felony.

(e) Except as provided by Subsection (d), the operator of a vessel who is involved in a collision, accident, or other casualty and fails to comply with Section 31.104 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Revised Law

Sec. 4951.0110. PENALTY FOR FAILURE TO COMPLETE BOATER EDUCATION COURSE REQUIRED FOLLOWING CERTAIN VIOLATIONS. A person commits an offense that is a Class A Parks and Wildlife Code misdemeanor if the person fails to complete a boater education course required under Section 4951.0303. (Parks & Wild. Code, Sec. 31.131(b).)

Source Law

(b) If the person fails to successfully complete the boater education course, the person commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Revisor's Note

Section 31.131(b), Parks and Wildlife Code, creates an offense for a person who fails to successfully complete "the boater education course." Section 31.131(a), Parks and Wildlife Code, revised as Section 4951.0303, requires a person adjudged guilty of an offense resulting from certain violations to complete a boater education course within a certain period. It is clear from the context that "the boater education course" refers to the boater education course required under Section 31.131(a), and the revised law is drafted accordingly.

SUBCHAPTER B. ENFORCEMENT OFFICERS

Revised Law

Sec. 4951.0201. MARINE SAFETY ENFORCEMENT OFFICERS. (a) In this section, "game warden" means a person who is commissioned as a game warden by the commission.

(b) Game wardens are the primary enforcement officers responsible for enforcing the provisions of this title related to water safety.

(c) To enforce the provisions of this title by arresting a person who commits an offense prohibited by this title, a peace officer, including a game warden, must be certified as a marine

safety enforcement officer by the department. (Parks & Wild. Code, Secs. 31.121(a)(1), (a-1), (a-2).)

Source Law

Sec. 31.121. ENFORCEMENT OFFICERS. (a) In this section:

(1) "Game warden" means a person who is commissioned as a game warden by the commission.

(a-1) All peace officers of this state and game wardens must be certified as marine safety enforcement officers by the department to enforce the provisions of this chapter by arresting and taking into custody any person who commits any act or offense prohibited by this chapter or who violates any provision of this chapter.

(a-2) Game wardens commissioned by the commission are the primary enforcement officers responsible for enforcing the provisions of this chapter related to water safety.

Revisor's Note

(1) Section 31.121(a-1), Parks and Wildlife Code, refers to "peace officers of this state and game wardens." The revised law omits "of this state" as unnecessary because a peace officer to whom this code applies is necessarily a peace officer of this state. The revised law substitutes "peace officer, including a game warden," for "peace officers of this state and game wardens" because a game warden is a peace officer under Article 2A.001(10), Code of Criminal Procedure.

(2) Section 31.121(a-1), Parks and Wildlife Code, requires peace officers and game wardens to be certified marine safety enforcement officers to enforce Chapter 31 of that code by "arresting and taking into custody" certain persons. The revised law omits the phrase "taking into custody" as redundant because, in this context, "taking into custody" is included in the meaning of "arresting."

(3) Section 31.121(a-1), Parks and Wildlife Code, refers to the authority of certain peace officers and game wardens to arrest a person who commits any "act or offense prohibited by this chapter

or who violates any provision of this chapter," meaning Chapter 31 of that code. The revised law substitutes "offense prohibited by this title" for the quoted language because Section 31.127(a), Parks and Wildlife Code, revised as Section 4951.0101, provides that a person who violates any provision of Chapter 31, which is revised throughout this title, commits an offense.

(4) Section 31.121(a-2), Parks and Wildlife Code, refers to game wardens "commissioned by the commission." The revised law omits the quoted language as unnecessary because Section 31.121(a)(1), Parks and Wildlife Code, revised as Subsection (a) of this section, defines a game warden as a person "commissioned as a game warden by the commission."

Revised Law

Sec. 4951.0202. JURISDICTION OF MUNICIPAL PEACE OFFICERS. (a) Notwithstanding any other law, a peace officer of a municipality who is certified as a marine safety enforcement officer by the department may enforce the provisions of this title in an area of a lake that is outside the enforcement jurisdiction of the peace officer if:

(1) a portion of the lake is contained in the corporate limits or extraterritorial jurisdiction of the municipality; and

(2) the municipality has entered into a memorandum of understanding with the governmental entity having enforcement jurisdiction in that area granting the peace officer enforcement jurisdiction in the area.

(b) A memorandum of understanding under Subsection (a)(2) must:

(1) designate the jurisdiction that has the authority to conduct a prosecution or ongoing investigation of a violation resulting from an enforcement action under this section; and

(2) be approved by the department. (Parks & Wild.

Code, Sec. 31.1211.)

Source Law

Sec. 31.1211. JURISDICTION OF MUNICIPAL PEACE OFFICERS. (a) Notwithstanding any other law limiting the enforcement jurisdiction of a peace officer, a peace officer of a municipality who is certified as a marine safety enforcement officer under Section 31.121 may enforce the provisions of this chapter within an area of a lake that is outside the enforcement jurisdiction of the peace officer if:

(1) any portion of the lake is contained in the corporate limits or extraterritorial jurisdiction of the municipality; and

(2) the municipality has entered into a memorandum of understanding with the governmental entity having enforcement jurisdiction in that area granting the peace officer enforcement jurisdiction in the area.

(b) The memorandum of understanding under Subsection (a)(2) must:

(1) designate the jurisdiction that has the authority to conduct any prosecution or ongoing investigation of a violation resulting from an enforcement action under this section; and

(2) be approved by the Parks and Wildlife Department.

Revisor's Note

(1) Section 31.1211(a), Parks and Wildlife Code, provides that the provisions of that section apply notwithstanding any other law "limiting the enforcement jurisdiction of a peace officer." The revised law omits the quoted language as unnecessary because another law that would conflict with the substance of Section 31.1211(a) would necessarily be a law limiting the enforcement jurisdiction of a peace officer.

(2) Section 31.1211(a), Parks and Wildlife Code, refers to a peace officer certified "under Section 31.121" of that code. The revised law substitutes "by the department" for the quoted language because Section 31.121(a-1), Parks and Wildlife Code, revised as Section 4951.0201(c), requires marine safety enforcement officers to be certified by the department.

Revised Law

Sec. 4951.0203. OFFICER TRAINING AND CERTIFICATION. (a) The commission by rule shall establish standards for training and certifying marine safety enforcement officers.

(b) The commission shall:

(1) by rule, establish and collect a fee to recover the administrative costs associated with the certification of marine safety enforcement officers; and

(2) require the applicant for certification or the applicant's employer to pay the required fee.

(c) The commission by rule may create an exemption for peace officers from marine safety enforcement officer training and certification requirements imposed by statute. (Parks & Wild. Code, Secs. 31.121(b), (c), (d).)

Source Law

(b) The commission by rule shall establish standards for training and certifying marine safety enforcement officers under this section.

(c) The commission by rule may create exemptions for peace officers from marine safety enforcement officer training and certification requirements imposed by statute.

(d) The commission by rule shall establish and collect a fee to recover the administrative costs associated with the certification of marine safety enforcement officers. The commission shall require the applicant for certification or the applicant's employer to pay the fee required under this section.

Revised Law

Sec. 4951.0204. ASSISTANCE BY STATE MILITARY FORCES. (a) In this section, "state military forces" means the Texas National Guard, the Texas State Guard, and any other military force organized under state law.

(b) State military forces may assist game wardens, as defined by Section 4951.0201, in the search for and rescue of victims of water-oriented accidents. (Parks & Wild. Code, Secs. 31.121(a)(2), (e).)

Source Law

(a) In this section:

[(1) "Game warden" means a person who is commissioned as a game warden by the commission.]

(2) "State military forces" has the meaning assigned by Section 437.001, Government Code.

(e) State military forces may assist game wardens in the search for and rescue of victims of water-oriented accidents.

Revisor's Note

Section 31.121(a)(2), Parks and Wildlife Code, provides that the term "state military forces" has the meaning assigned by Section 437.001, Government Code. Section 437.001 defines "state military forces" as "the Texas military forces" and defines "Texas military forces" as "the Texas National Guard, the Texas State Guard, and any other military force organized under state law." For clarity and the convenience of the reader, the revised law substitutes the substance of the definition of "Texas military forces" for "has the meaning assigned by Section 437.001, Government Code."

Revised Law

Sec. 4951.0205. INSPECTION OF VESSELS. (a) To enforce the provisions of this title, a marine safety enforcement officer may stop and board any vessel and may inspect the vessel to determine compliance with applicable provisions.

(b) A marine safety enforcement officer boarding a vessel shall first present proper credentials as identification.

(c) The safety of the vessel is the highest priority of an arresting marine safety enforcement officer.

(d) A marine safety enforcement officer may direct the operator of a vessel to return to mooring if the officer determines that:

(1) the vessel and the vessel's associated equipment are being used in violation of this title or of any regulation or standard adopted under this title; and

(2) the violation creates an especially hazardous condition.

(e) A vessel returned to mooring under Subsection (d) may

not be used until the condition creating the violation is corrected. (Parks & Wild. Code, Secs. 31.124(a), (b), (e), (f).)

Source Law

Sec. 31.124. INSPECTION OF VESSELS. (a) In order to enforce the provisions of this chapter, an enforcement officer may stop and board any vessel subject to this chapter and may inspect the boat to determine compliance with applicable provisions.

(b) An officer boarding a vessel shall first identify himself by presenting proper credentials.

(e) The safety of the vessel shall always be the paramount consideration of an arresting officer.

(f) If an enforcement officer determines that a vessel and its associated equipment is being used in violation of this chapter or of any regulation or standard issued thereunder so as to create an especially hazardous condition, he may direct the operator to return to mooring, and the vessel may not be used until the condition creating the violation is corrected.

Revisor's Note

(1) Section 31.124(a), Parks and Wildlife Code, authorizes an "enforcement officer" to stop and board a vessel subject to Chapter 31 of that code. Throughout this chapter, the revised law substitutes "marine safety enforcement officer" for "enforcement officer" for the reasons stated in Revisor's Note (3) to Section 4052.0211.

(2) Section 31.124(a), Parks and Wildlife Code, refers to a vessel "subject to this chapter," meaning Chapter 31 of that code. The revised law omits the quoted language because it duplicates in substance Section 31.004, Parks and Wildlife Code, revised as Section 4001.0102, which limits the applicability of Chapter 31 to certain vessels.

(3) Section 31.124(a), Parks and Wildlife Code, provides that an enforcement officer may stop and board a "vessel" and inspect "the boat." The revised law substitutes "vessel" for "boat" for consistency in terminology used in this section and because it is clear from the context that an enforcement officer who

is authorized to stop and board a vessel is also authorized to inspect the same vessel.

(4) Section 31.124(e), Parks and Wildlife Code, provides that safety of the vessel is the "paramount consideration" of an arresting officer. The revised law substitutes "highest priority" for the quoted language because, in context, the phrases are synonymous and "highest priority" is more consistent with modern usage.

SUBCHAPTER C. PROCEDURAL MATTERS

Revised Law

Sec. 4951.0301. APPEARANCE. (a) A marine safety enforcement officer who arrests a person for a violation of this title may deliver to the person a written notice to appear before the justice court having jurisdiction of the violation not later than the 15th day after the date of the violation.

(b) The person shall sign the notice to appear promising to appear in accordance with the notice. After signing the notice, the person may be released.

(c) Failure to appear before the court in the county having jurisdiction of the violation constitutes a violation of this title. A warrant may be issued for the arrest of a person who fails to appear. (Parks & Wild. Code, Sec. 31.125.)

Source Law

Sec. 31.125. VIOLATIONS; NOTICE TO APPEAR. (a) An enforcement officer who arrests a person for a violation of this chapter may deliver to the alleged violator a written notice to appear within 15 days after the date of the violation before the justice court having jurisdiction of the offense.

(b) The person arrested shall sign the notice to appear promising to make his appearance in accordance with the requirements set forth in the notice. After signing the notice the person may be released. Failure to appear before the court in the county having jurisdiction constitutes a violation of the chapter. A warrant for the arrest of the person failing to appear may be issued.

Revised Law

Sec. 4951.0302. VENUE. (a) Venue for an offense under the

provisions of this title is in the justice court, county court, or municipal court having jurisdiction in the location in which the offense was committed.

(b) An offense under this title is presumed to have been committed in the justice precinct and county where the dam containing the body of water is located. (Parks & Wild. Code, Sec. 31.126.)

Source Law

> Sec. 31.126. VENUE. (a) Venue for an alleged violation or offense under the provisions of this chapter is in the justice court, county court, or municipal court having jurisdiction where the violation or offense was committed.
>
> (b) For an offense under the provisions of this chapter, there is a presumption that the offense was committed in the justice precinct and county where the dam containing the body of water is located.

Revisor's Note

Section 31.126(a), Parks and Wildlife Code, provides that venue is in certain courts for an "alleged violation or offense" under the provisions of Chapter 31 of that code. The revised law omits "violation" as redundant because under Section 31.127(a), Parks and Wildlife Code, revised as Section 4951.0101, every violation of a provision of Chapter 31, Parks and Wildlife Code, constitutes an offense. Additionally, the revised law omits "alleged" as unnecessary because every criminal offense for which venue is a consideration is an "alleged" offense.

Revised Law

Sec. 4951.0303. BOATER EDUCATION COURSE REQUIRED FOR CERTAIN VIOLATIONS. A justice shall require a person to pay the fine imposed for the violation and to successfully complete a boater education course approved by the department not later than the 90th day after the date the person is adjudged guilty of violating any of the following provisions:

(1) Section 4103.0201 (Excessive Speed);

(2) Section 4103.0202 (Reckless or Negligent

Operation);

(3) Section 4103.0203 (Reckless Operation and Excessive Speed);

(4) Section 4103.0204 (Hazardous Wake or Wash);

(5) Section 4103.0205 (Operation of Motorboat in Circular Course Around Individuals Engaged in Water Activities);

(6) Section 4103.0206 (Swimming or Diving Near Sightseeing or Excursion Boat);

(7) Section 4103.0207 (Interference With Markers or Other Aids to Safe Operation);

(8) Section 4103.0208 (Interference With State-Owned Boat Ramp);

(9) Section 4103.0209 (Interference With Safe Passage of Another Boat in River or Channel);

(10) Section 4103.0210 (Operation of Boat in Restricted Area);

(11) Section 4103.0211 (Operation of Vessel in Scuba Diving or Snorkeling Area);

(12) Section 4103.0212 (Operation of Vessel Towing Person on Water Skis, Surfboard, Aquaplane, or Similar Device); or

(13) Section 4103.0215 (Operation of Personal Watercraft). (Parks & Wild. Code, Sec. 31.131(a).)

Source Law

> Sec. 31.131. BOATER EDUCATION COURSE REQUIRED FOR CERTAIN VIOLATIONS. (a) A justice shall require a person who is adjudged guilty of an offense resulting from the violation of a provision of Sections 31.094-31.103 or 31.106 to:
>
> (1) pay any fine imposed for the violation; and
>
> (2) successfully complete a boater education course approved by the department not later than the 90th day after the date the person is adjudged guilty.

Revised Law

Sec. 4951.0304. BOATER EDUCATION COURSE PERMITTED IN LIEU OF FINE. (a) Except as provided by Section 4951.0303, this section applies only to a person who for the first time violates a provision of this title relating to the operation of a vessel.

(b) A justice may defer the imposition of a fine on a person described by Subsection (a) and place that person on probation for a period not to exceed 60 days if the person:

(1) pleads guilty or nolo contendere or is found guilty; and

(2) requests permission from the court to attend a boater education course.

(c) The justice shall require the person to successfully complete a boater education course approved by the department during the probation period.

(d) The justice shall:

(1) waive the imposition of a fine if the person presents satisfactory evidence that the person successfully completed the boater education course; or

(2) impose a fine for the violation if the person fails to successfully complete the boater education course. (Parks & Wild. Code, Sec. 31.130.)

Source Law

> Sec. 31.130. BOATER EDUCATION COURSE PERMITTED IN LIEU OF FINE. (a) Except as provided by Section 31.131, this section applies to a person who violates for the first time a provision of this chapter relating to the operation of a vessel.
>
> (b) A justice may defer imposition of a fine and place a defendant on probation for a period not to exceed 60 days if the defendant:
>
> (1) pleads guilty or nolo contendere or is found guilty; and
>
> (2) requests permission from the court to attend a boater education course.
>
> (c) The justice shall require the defendant to successfully complete a boater education course approved by the department during the probation period.
>
> (d) If the defendant presents satisfactory evidence that the defendant has successfully completed the boater education course, the justice shall waive imposition of a fine. If the defendant fails to successfully complete the boater education course, the justice shall impose a fine for the violation.

Revisor's Note

Section 31.130(a), Parks and Wildlife Code, provides that Section 31.130 of that code applies to certain persons, except as provided by Section 31.131

of that code. Section 31.131 is revised in pertinent part as Section 4951.0303, and the revised law is drafted accordingly.

Revised Law

Sec. 4951.0305. DISMISSAL OF CHARGE INVOLVING FAILURE TO POSSESS REQUIRED BOATING DOCUMENT BY PRODUCING REQUIRED DOCUMENT. A court shall dismiss a charge against a person for failure to possess a document required under Section 4103.0102(b) if on or before the date of the trial of the offense the person produces for the court or the prosecuting attorney a document required by that section that was:

(1) issued to the person; and

(2) valid at the time of the offense. (Parks & Wild. Code, Sec. 31.109(e).)

Source Law

> (e) If, on or before the trial of a person charged with an offense for failing to possess a document required under Subsection (b), the person produces for the court or the prosecuting attorney a document required by Subsection (b) that was issued to the person and was valid at the time of the offense, the court shall dismiss the charge.

Revised Law

Sec. 4951.0306. DISMISSAL OF CHARGE INVOLVING FAILURE TO POSSESS REQUIRED BOATING DOCUMENT BY COMPLETING BOATER EDUCATION COURSE. (a) Not later than the 10th day after the date of the alleged offense, a person charged with failure to possess a document required under Section 4103.0102(b) may make an oral or written motion to the court requesting permission to take:

(1) a boater education course approved by the department; or

(2) a vessel operator's licensing course provided by the Coast Guard.

(b) If a person makes a motion described by Subsection (a), the court shall:

(1) defer the proceedings brought against the person;

(2) allow the person 90 days to present written

evidence that the person has successfully completed a course described by Subsection (a); and

(3) dismiss the charge if:

(A) the person successfully completes a course described by Subsection (a); and

(B) the court accepts the evidence presented by the person under Subdivision (2). (Parks & Wild. Code, Sec. 31.109(f).)

Source Law

> (f) A person charged with a Class C Parks and Wildlife Code misdemeanor for failing to possess a document required under Subsection (b) may make to the court not later than the 10th day after the date of the alleged offense an oral or written motion requesting permission to take a boater education course approved by the department or a vessel operator's licensing course provided by the United States Coast Guard. The court shall defer the proceedings brought against a person who makes a motion described by this subsection and allow the person 90 days to present written evidence that the person has successfully completed the course approved by the department or provided by the United States Coast Guard. If the person successfully completes the course and the court accepts the presented evidence, the court shall dismiss the charge.

Revisor's Note

Section 31.109(f), Parks and Wildlife Code, refers to a person charged with a "Class C Parks and Wildlife Code misdemeanor" for failing to possess a document required under Section 31.109(b) of that code. The revised law omits the quoted language as unnecessary because a violation of or a failure to comply with Section 31.109(b) is a Class C Parks and Wildlife Code misdemeanor under the general penalty provision in Section 31.127(a), Parks and Wildlife Code, revised as Section 4951.0101, and no other provision of the Parks and Wildlife Code creates an offense or an enhanced penalty that is applicable to a violation of or a failure to comply with Section 31.109(b).

Revised Law

Sec. 4951.0307. DISMISSAL OF CHARGE INVOLVING OPERATION OF VESSEL WITH EXPIRED CERTIFICATE OF NUMBER. (a) In this section, "certificate of number" has the meaning assigned by Section 4051.0101.

(b) A court may dismiss a charge of operating a vessel with an expired certificate of number in violation of Section 4052.0103 if:

(1) the defendant remedies the defect not later than the 10th working day after the date of the offense and pays a reimbursement fee not to exceed $10; and

(2) the certificate of number has not been expired for more than 60 days. (Parks & Wild. Code, Sec. 31.127(f).)

Source Law

> (f) A court may dismiss a charge of operating a vessel with an expired certificate of number under Section 31.021 if:
>
> (1) the defendant remedies the defect not later than the 10th working day after the date of the offense and pays a reimbursement fee not to exceed $10; and
>
> (2) the certificate of number has not been expired for more than 60 days.

Revisor's Note

Section 31.127(f), Parks and Wildlife Code, refers to a charge of operating a vessel with an expired certificate of number under Section 31.021 of that code. Section 31.021 is revised in pertinent part as Section 4052.0103, and the revised law is drafted accordingly.

SUBCHAPTER D. ADMINISTRATIVE MATTERS

Revised Law

Sec. 4951.0401. REPORTING REQUIREMENTS. (a) Except as provided by Subsection (c), a marine safety enforcement officer shall report to the department on a form prescribed by the department any incident the officer investigates involving:

(1) a boating accident;

(2) a water fatality; or

(3) a person who allegedly operates a boat while intoxicated.

(b) The marine safety enforcement officer shall provide the report not later than the 15th day after the date the officer initially becomes aware of the incident.

(c) This section does not apply to an incident that is required to be reported under Section 4103.0302(c). (Parks & Wild. Code, Sec. 31.132.)

Source Law

> Sec. 31.132. REPORTING PROCEDURES FOR ENFORCEMENT OFFICERS. (a) Except as provided by Subsection (b), a marine safety enforcement officer shall provide to the department on a form prescribed by the department a report of any incident the officer investigates that involves a boating accident, water fatality, or person who allegedly operates a boat while intoxicated. The officer shall provide the report not later than the 15th day after the date the officer initially became aware of the incident.
>
> (b) This section does not apply to an incident that is required to be reported under Section 31.105(c).

Revised Law

Sec. 4951.0402. DISPOSITION OF FINES. (a) A justice of the peace, a clerk of any court, or any other officer of this state who collects a fine imposed by a court for a violation of this title shall:

(1) send the fine to the department not later than the 10th day after the date the court receives the fine; and

(2) note:

(A) the docket number of the case;

(B) the name of the person fined; and

(C) the section of law under which the conviction was obtained.

(b) For fines collected as a result of an arrest by:

(1) a game warden:

(A) 85 percent of the fine shall be deposited in the game, fish, and water safety account if the fine was imposed by a justice court; or

(B) 80 percent of the fine shall be deposited in

the game, fish, and water safety account if the fine was imposed by a county court; and

(2) a marine safety enforcement officer other than a game warden, 60 percent of the fine shall be deposited in the game, fish, and water safety account.

(c) At least 50 percent of the amount deposited in the game, fish, and water safety account under Subsection (b)(2) must be used for the administration and enforcement of this title, other than Chapter 4151 and Section 4901.0104.

(d) All court costs shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund. (Parks & Wild. Code, Sec. 31.128.)

Source Law

> Sec. 31.128. DISPOSITION OF FINES. (a) A justice of the peace, or a clerk of any court, or any other officer of this state receiving any fine imposed by a court for a violation of this chapter shall send the fine to the department within 10 days after receipt and shall note the docket number of the case, the name of the person fined, and the section or article of the law under which the conviction was secured.
>
> (b) In justice court cases filed as the result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account shall be 85 percent of the fine. In county court cases filed as the result of an arrest by a game warden, the amount to be remitted to the game, fish, and water safety account shall be 80 percent of the fine. All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.
>
> (c) In court cases filed as the result of an arrest by a marine safety enforcement officer other than a game warden, the amount to be remitted to the game, fish, and water safety account shall be 60 percent of the fine. All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.
>
> (d) Not less than 50 percent of the amount remitted to the game, fish, and water safety account under Subsection (c) must be used for the administration and enforcement of this chapter.

CHAPTER 4952. ENFORCEMENT OF SEWAGE DISPOSAL REGULATIONS

Revised Law

Sec. 4952.0101. OFFENSE. (a) A person commits an offense if the person violates or fails to comply with a rule of the Texas Commission on Environmental Quality concerning the disposal of

sewage from boats. Each day a violation continues is a separate offense.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor. (Parks & Wild. Code, Sec. 31.129(a).)

Source Law

> Sec. 31.129. VIOLATION AND ENFORCEMENT OF SEWAGE DISPOSAL REGULATIONS. (a) A person who violates or fails to comply with a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor. A separate offense is committed each day a violation continues.

Revised Law

Sec. 4952.0102. APPLICABILITY OF CERTAIN ENFORCEMENT LAWS. The enforcement provisions of Chapter 4951 apply to a violation punishable by this chapter. (Parks & Wild. Code, Sec. 31.129(b).)

Source Law

> (b) The enforcement provisions of this subchapter apply to violations punishable by this section.

Revisor's Note

> Section 31.129(b), Parks and Wildlife Code, refers to the enforcement provisions of Subchapter E, Chapter 31, of that code. Subchapter E, Chapter 31, is revised in pertinent part as Chapter 4951 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 4952.0103. ENFORCEMENT BY MARINE SAFETY ENFORCEMENT OFFICER. (a) A peace officer, including a game warden, who is certified as a marine safety enforcement officer by the department may enforce a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats.

(b) A marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited may, if the owner or operator is aboard, board the boat for the purposes of:

(1) inspecting the marine sanitation device for proper

operation; and

(2) testing the sanitation and holding devices, including by placing a dye tablet in the holding tank. (Parks & Wild. Code, Secs. 31.129(c), (d).)

Source Law

(c) A game warden or peace officer who is certified as a marine safety enforcement officer under Section 31.121 may enforce a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats.

(d) A marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited may, if the owner or operator is aboard, board the boat for the purpose of inspecting the marine sanitation device for proper operation and testing the sanitation and holding devices, including placing a dye tablet in the holding tank.

Revisor's Note

(1) Section 31.129(c), Parks and Wildlife Code, refers to a "game warden or peace officer." The revised law substitutes "peace officer, including a game warden," for the quoted language for the reason stated in Revisor's Note (1) to Section 4951.0201.

(2) Section 31.129(c), Parks and Wildlife Code, refers to a game warden or peace officer certified "under Section 31.121" of that code. The revised law substitutes "by the department" for the quoted language for the reason stated in Revisor's Note (2) to Section 4951.0202.