

SCS SB 1107 -- WATERCRAFT

SPONSOR: Scott (Pollock)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on State Parks and Waterways by a vote of 7 to 0.

This substitute changes the laws regarding watercraft. In its main provisions, the substitute:

(1) Requires the holder of a certificate of ownership or manufacturer's statement of origin for a vessel or outboard motor to endorse an assignment with warranty of title and a statement of all liens or encumbrances on the vessel or outboard motor at the time of sale or transfer of ownership and give it to the buyer at the time of delivery;

(2) Clarifies that specialized lighting may be used in the act of sport fishing;

(3) Specifies that a person commits the crime of operating a vessel while intoxicated, involuntary manslaughter with a vessel, or assault with a vessel in the second degree when the person operates any vessel in an intoxicated condition or operates any vessel in any waters of the state while in an intoxicated condition and acts with criminal negligence to cause the death of or physical injury to any person;

(4) Lowers from .1 of 1% to .08 of 1% the weight of alcohol necessary in a person's blood in order for there to be a presumption that the person is intoxicated;

(5) Defines "prior offender" as any person who has pled guilty to or been found guilty of one intoxication-related boating offense within five years of the intoxication-related boating offense for which the person is charged. A person proved to be a prior offender will be guilty of a class A misdemeanor and will not be eligible for probation or parole until he or she has served a minimum of five days' imprisonment;

(6) Defines "persistent offender" as a person who has pled guilty to or been found guilty of two or more intoxication-related boating offenses, involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of a controlled substance operates a vehicle or motorboat to cause injury to the law enforcement officer. A person proved to be a persistent offender will be guilty of a class D felony and will not be eligible for probation or parole until he or she has served a minimum of 10

days' imprisonment;

(7) Defines "aggravated offender" as a person who has pled guilty to or been found guilty of three intoxication-related boating offenses or has pled guilty to or been found guilty of one or more intoxication-related boating offenses and any of the following: involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of a controlled substance operates a vehicle or motorboat to cause injury to the law enforcement officer. A person proved to be an aggravated offender will be guilty of a class C felony and will not be eligible for probation or parole until he or she has served a minimum of 60 days' imprisonment;

(8) Defines "chronic offender" as a person who has pled guilty to or been found guilty of four or more intoxication-related offenses; has pled guilty to or been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of a controlled substance; or has pled guilty to or been found guilty of two or more intoxication-related offenses and any of the following: involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of a controlled substance operates a vehicle or motorboat to cause injury to the law enforcement officer. A person proved to be a chronic offender will be guilty of a class B felony and will not be eligible for probation or parole until he or she has served a minimum of two years' imprisonment;

(9) Specifies that no prior, persistent, aggravated, or chronic offender will be given an imposition of sentence;

(10) Prohibits vessels from being operated at a speed in excess of the slow no-wake speed within 100 feet of any emergency vessel that has red or blue lighting displayed;

(11) Requires the Commissioner of the State Water Patrol to have at least 10 years' experience of similar law enforcement duties or at least five years' experience as a uniformed member of the patrol;

(12) Prohibits any city or political subdivision from adopting special rules and regulations restricting the operation of personal watercraft on the waters of the state;

(13) Specifies that a person will be guilty of the crime of involuntary manslaughter if he or she operates a vessel in an intoxicated condition and in doing so acts with criminal negligence to cause the death of any person or operates a vessel in violation of subsections 1 and 2 of Section 306.132, RSMo, and causes the death of any person authorized to operate an emergency watercraft;

(14) Expands the crime of assault of a law enforcement officer to include the operation of a vessel with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer;

(15) Expands the crime of abandoning a motor vehicle to include the abandonment of a vessel on the right-of-way of any public road or state highway; and

(16) Removes the limitation on the number of water patrol sergeants, corporals, and patrolmen that the patrol may employ. Currently, it may not have more than 99 members.

The substitute contains an emergency clause for the provisions regarding an imposition of sentence for prior, persistent, aggravated, or chronic offenders.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Less than \$100,000 in FY 2009, FY 2010, and FY 2011. No impact on Other State Funds in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that the bill makes the state's boating while intoxicated laws the same as the driving while intoxicated laws.

Testifying for the bill were Senator Scott; State Water Patrol; Tri County Lodging Association; Water Patrol Association; and American Watercraft Association.

OPPOSERS: There was no opposition voiced to the committee.