

## HOUSE BILL No. 2710

By Committee on Tourism and Parks

2-4

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AN ACT concerning vessels; imposing certain requirements; prohibiting certain acts; providing penalties for certain violations; relating to certain healthcare records; amending K.S.A. 32-1102, 32-1110, 32-1111, 32-1119, 32-1125, 32-1128 and 32-1180 and K.S.A. 2003 Supp. 32-1173 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 32-1102 is hereby amended to read as follows: 32-1102. As used in article 11 of chapter 32 of the Kansas Statutes Annotated and amendments thereto, unless the context clearly requires a different meaning:

(a) "Vessel" means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

(b) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

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

(d) "Waters of this state" means any waters within the territorial limits of this state.

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

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

(g) "Department" means the Kansas department of wildlife and parks.

(h) "Secretary" means the secretary of wildlife and parks.

(i) "Length" means the length of the vessel measured from end to end over the deck excluding sheer.

(j) "Operator" means the person who operates or has charge of the navigation or use of a motorboat or a vessel.

- 1 (k) “Undocumented vessel” means a vessel which is not required to  
2 have, and does not have, a valid marine document issued by the United  
3 States coast guard or federal agency successor thereto.
- 4 (l) “Reportable boating accident” means an accident, collision or  
5 other casualty involving a vessel subject to this act which results in loss  
6 of life, injury sufficient to require first aid or medical attention, or actual  
7 physical damage to property, including a vessel, in excess of an amount  
8 established by rules and regulations adopted by the secretary in accord-  
9 ance with K.S.A. 32-805 and amendments thereto.
- 10 (m) “Marine sewage” means any substance that contains any of the  
11 waste products, excrement or other discharges from the bodies of human  
12 beings or animals, or foodstuffs or materials associated with foodstuffs  
13 intended for human consumption.
- 14 (n) “Marine toilet” means any latrine, head, lavatory or toilet which  
15 is intended to receive marine sewage and which is located on or in any  
16 vessel.
- 17 (o) “Passenger” means any individual who obtains passage or is car-  
18 ried in or on a vessel.
- 19 (p) “Sail board” means a surfboard using for propulsion a free sail  
20 system comprising one or more swivel-mounted rigs (mast, sail and  
21 booms) supported in an upright position by the crew and the wind.
- 22 (q) “Dealer” means any person engaged wholly or in part in the busi-  
23 ness of manufacturing, constructing, assembling, selling, offering for sale,  
24 exchanging, buying for the purpose of resale or taking in trade for the  
25 purpose of resale two or more vessels within a 12-month period.
- 26 (r) “Demonstrate” means to operate a vessel on the waters of this  
27 state for the purpose of selling, trading, negotiating or attempting to ne-  
28 gotiate the sale or exchange of interests in new or used vessels or for the  
29 purpose of testing the design or operation of a vessel. Demonstrate does  
30 not include operation of a vessel on the waters of this state for personal  
31 or recreational purposes by a dealer or a member of the dealer’s family,  
32 or by an employee of a dealer or a member of the employee’s family.
- 33 (s) “Sailboat” means any vessel, other than a sail board, that is de-  
34 signed to be propelled by wind action upon a sail for navigation on the  
35 water.
- 36 (t) *“Boat livery” means any person offering a vessel or vessels of var-*  
37 *ying types for rent.*
- 38 (u) *“Cargo” means the items placed within or on a vessel and shall*  
39 *include any persons or objects towed on water skis, surfboards, tubes or*  
40 *similar devices behind the vessel.*
- 41 (v) *“State of principal use” means the state on the waters of which a*  
42 *vessel is used or to be used most during the calendar year.*
- 43 (w) *“Use” means to operate, navigate or employ.*

1 (x) *“Abandoned vessel” means any vessel on public waters or public*  
2 *or private land which remains unclaimed for a period of 15 consecutive*  
3 *days.*

4 Sec. 2. K.S.A. 32-1110 is hereby amended to read as follows: 32-  
5 1110. Every undocumented, mechanically propelled vessel or sailing ves-  
6 sel using the waters of this state, *as its state of principal use*, shall be  
7 numbered, except those exempted by K.S.A. 32-1113, and amendments  
8 thereto. No person shall operate or give permission for the operation of  
9 any motorboat or vessel propelled by sail on such waters unless such  
10 vessel is numbered in accordance with this act, applicable federal law or  
11 a federally approved numbering system of another state, and unless (1)  
12 the certificate of number awarded to such vessel is in full force and effect  
13 and (2) the identifying number set forth in the certificate of number is  
14 displayed on each side of the bow of such vessel, unless otherwise pro-  
15 vided by rules and regulations of the secretary.

16 Sec. 3. K.S.A. 32-1111 is hereby amended to read as follows: 32-  
17 1111. (a) The owner of each vessel requiring numbering by this state shall  
18 file an application for number with the secretary on forms approved by  
19 the secretary. The application shall be signed by the owner of the vessel  
20 and shall be accompanied by the vessel registration fee prescribed pur-  
21 suant to K.S.A. 32-1172, and amendments thereto, and by proof of pay-  
22 ment of any tax imposed under the provisions of K.S.A. 12-187, 12-198,  
23 the Kansas retailers’ sales tax act or the Kansas compensating tax act, and  
24 amendments thereto, as the case requires, upon forms devised and fur-  
25 nished by the department of revenue to every county treasurer for such  
26 purpose. Upon receipt of the application in approved form and proof of  
27 payment of sales or compensating tax, the secretary shall enter the same  
28 upon the records of the department and issue to the applicant a certificate  
29 of number stating the number awarded to the vessel and the name and  
30 address of the owner. Unless otherwise provided by rules and regulations,  
31 the owner shall paint on or attach to each side of the bow of the vessel  
32 the identification number in such manner as prescribed by rules and  
33 regulations of the secretary in order that it may be clearly visible. The  
34 number shall be maintained in legible condition. The certificate of num-  
35 ber shall be pocket size and, unless otherwise provided by rules and reg-  
36 ulations, shall be available at all times for inspection on the vessel for  
37 which issued, whenever such vessel is in operation. No person charged  
38 with a violation of the preceding sentence shall be convicted of such  
39 offense if such person produces in court or the office of the arresting  
40 officer a certificate of number issued and valid at the time of such person’s  
41 arrest.

42 (b) The owner of any vessel already covered by a number in full force  
43 and effect which has been awarded to it pursuant to the then operative

1 federal law or a federally approved numbering system of another state  
2 shall record the number prior to operating the vessel on the waters of  
3 this state in excess of the 60-day reciprocity period provided for in sub-  
4 section (1) of K.S.A. 32-1113, and amendments thereto. Such recordation  
5 shall be in the manner and pursuant to the procedure required for the  
6 award of a number under this subsection, including the submission of  
7 proof of payment of sales or compensating tax, except that no additional  
8 or substitute number shall be issued.

9 (c) Should the ownership of a numbered vessel change, a new appli-  
10 cation form with fee and proof of payment of sales or compensating tax  
11 shall be filed with the secretary and a new certificate of number shall be  
12 awarded in the same manner as provided for in an original award of  
13 number, except that where the state of principal use remains unchanged  
14 the number may be identical with the previous one.

15 (d) If an agency of the United States government has in force an  
16 overall system of identification numbering for vessels within the United  
17 States, the numbering system employed pursuant to this act by the sec-  
18 retary shall be in conformity therewith.

19 (e) The secretary may award any certificate of number directly or  
20 may authorize any person to act as agent for the awarding thereof. If a  
21 person accepts such authorization, such person may be assigned a block  
22 of numbers and certificates therefor which upon award, in conformity  
23 with this act and with any rules and regulations of the secretary, shall be  
24 valid as if awarded directly by the secretary.

25 (f) All records of the secretary made or kept pursuant to this section  
26 shall be public records.

27 (g) Every certificate of number awarded pursuant to this act shall  
28 continue in full force and effect for a period of three years unless sooner  
29 terminated or discontinued in accordance with the provisions of this act.  
30 Certificates of number may be renewed by the owner in the same manner  
31 provided for in the initial securing of the number.

32 (h) The secretary shall fix a day and month of the year on which  
33 certificates of number due to expire during the calendar year shall lapse  
34 and no longer be of any force and effect unless renewed pursuant to this  
35 act.

36 (i) The owner shall furnish the secretary notice of the transfer of all  
37 or any part of such owner's interest other than the creation of a security  
38 interest in a vessel numbered in this state pursuant to subsections (a) and  
39 (b) or of the destruction or abandonment of such vessel within 15 days  
40 thereof. Such transfer, destruction, or abandonment shall terminate the  
41 certificate of number for such vessel and the certificate of number shall  
42 be surrendered to the secretary as a part of the notification of transfer,  
43 destruction, or abandonment except, that in the case of a transfer of a

1 part interest which does not affect the owner's right to operate such ves-  
2 sel, such transfer shall not terminate the certificate of number.

3 (j) Any holder of a certificate of number shall notify the secretary  
4 within 15 days if the holder's address no longer conforms to the address  
5 appearing on the certificate and shall, as a part of such notification, furnish  
6 the secretary with a new address. The secretary may provide by rules and  
7 regulations for the surrender of the certificate bearing the former address  
8 and its replacement with a certificate bearing the new address or for the  
9 alteration of an outstanding certificate to show the new address of the  
10 holder.

11 (k) No number other than the number awarded to a vessel or granted  
12 reciprocity pursuant to this act shall be painted, attached, or otherwise  
13 displayed on either side of the bow of such vessel.

14 (l) If a certificate of number becomes lost, destroyed, mutilated or  
15 illegible, the owner of the vessel for which the same was issued may obtain  
16 a duplicate of such certificate upon application therefor to the secretary.  
17 The application shall be in writing, shall describe the circumstances of  
18 the loss or destruction and shall be accompanied by the duplicate fee  
19 prescribed pursuant to K.S.A. 32-1172, and amendments thereto.

20 (m) The secretary is authorized, in the secretary's discretion, to pro-  
21 vide and have issued for vessels requiring registration and numbering  
22 under this act, a 30-day temporary registration permit for the temporary  
23 vessel registration fee prescribed pursuant to K.S.A. 32-1172, and amend-  
24 ments thereto.

25 Such permits shall be in the form as prescribed by the secretary and  
26 available for purchase or resale by any person designated by the secretary.  
27 In addition to the permit fee, any person selling such temporary permits  
28 may collect a service charge of not to exceed ~~\$.50~~ \$1 for each permit  
29 issued.

30 Such temporary permit shall expire 30 days from the date of issuance.

31 (n) *Any owner of a vessel which is legally documented by the United*  
32 *States coast guard and has listed as its hailing port any location within*  
33 *the state of Kansas shall be required to register the vessel with the sec-*  
34 *retary. Such vessel shall not be awarded a certificate of number but shall*  
35 *be issued an expiration decal to be placed on the top forward half of the*  
36 *bow on each side of the vessel. The owner of such vessel shall provide the*  
37 *following information to the secretary: Owner's name and address, vessel*  
38 *name, official number as listed on the documentation papers, vessel hull*  
39 *identification number, hailing port, length of the vessel and year the vessel*  
40 *was manufactured. Any owner of a documented vessel registered with the*  
41 *secretary shall notify the secretary, by a notarized statement, upon any*  
42 *change of ownership or hailing port designation within 15 days of the*  
43 *change. The secretary shall maintain a listing of such registered docu-*

1 *mented vessels, to be supplied to the county assessor of each county in*  
2 *the state as required under K.S.A. 32-1104, and amendments thereto.*  
3 *Such vessels shall not be included in the total number of registered vessels*  
4 *registered within the state and shall not be applied towards the number*  
5 *reflected on any United States coast guard grants.*

6 (o) The secretary shall adopt, in accordance with K.S.A. 32-805, and  
7 amendments thereto, rules and regulations for the administration of the  
8 provisions of this section, including but not limited to numbering appli-  
9 cations, certificates of number, temporary 30-day permits, display of num-  
10 ber and reports on change of address, destruction and sale or transfer of  
11 ownership.

12 Sec. 4. K.S.A. 32-1119 is hereby amended to read as follows: 32-  
13 1119. (a) Motorboats subject to the provisions of this act shall be divided  
14 into four classes as follows:

15 Class A. Less than 16 feet in length.

16 Class 1. Sixteen feet or over and less than 26 feet in length.

17 Class 2. Twenty-six feet or over and less than 40 feet in length.

18 Class 3. Forty feet and over in length.

19 (b) Every motorboat in all weathers from sunset to sunrise shall carry  
20 and exhibit the following lights when under way, and during such time  
21 no other lights which may be mistaken for those prescribed shall be  
22 exhibited.

23 (1) *Definitions.*

24 (A) *“Masthead light” means a white light placed over the fore and aft*  
25 *centerline of the vessel showing an unbroken light over an arc of the*  
26 *horizon of 225 degrees and so fixed as to present the light from the right*  
27 *ahead to 22.5 degrees abaft the beam on either side of the vessel, except*  
28 *that on a vessel of less than 12 meters in length, the masthead light shall*  
29 *be placed as nearly as practicable to the fore and aft centerline of the*  
30 *vessel.*

31 (B) *“Sidelights” means a green light on the starboard side and a red*  
32 *light on the port side each showing an unbroken light over an arc of the*  
33 *horizon of 112.5 degrees and so fixed as to show the light from right ahead*  
34 *to 22.5 degrees abaft the beam on its respective side. On a vessel of less*  
35 *than 20 meters in length, the sidelights may be combined in one lantern*  
36 *carried on the fore and aft centerline of the vessel.*

37 (C) *“Sternlight” means a white light placed as nearly as practicable*  
38 *at the stern showing an unbroken light over an arc of the horizon of 135*  
39 *degrees and so fixed as to show the light of 67.5 degrees from right aft on*  
40 *each side of the vessel.*

41 (D) *“All-round light” means a light showing an unbroken light over*  
42 *an arc of the horizon of 360 degrees. Every motorboat of classes A and 1*  
43 *shall carry the following lights:*

- 1 *First.* A bright white light aft to show all around the horizon.  
2 *Second.* A combined lantern in the fore part of the vessel and lower  
3 than the white light aft, showing green to starboard and red to port, so  
4 fixed as to throw the light from right ahead to two points abaft the beam  
5 on the respective sides.
- 6 *First.* An all-round light carried aft and high enough to be  
7 unobstructed.  
8 *Second.* Sidelights in the fore part of the vessel and lower than the all-  
9 round light.
- 10 ~~(2)~~ (3) Every motorboat of classes 2 and 3 shall carry the following  
11 lights:  
12 —*First.* A bright white light in the fore part of the vessel as near the stem  
13 as practicable, so constructed as to show the unbroken light over an arc  
14 of the horizon of 20 points of the compass, so fixed as to throw the light  
15 10 points on each side of the vessel, namely, from right ahead to two  
16 points abaft the beam on either side.  
17 —*Second.* A bright white light aft to show all around the horizon and  
18 higher than the white light forward.  
19 —*Third.* On the starboard side a green light so constructed as to show  
20 an unbroken light over an arc of the horizon of 10 points of the compass,  
21 so fixed as to throw the light from right ahead to two points abaft the  
22 beam on the starboard side. On the port side a red light so constructed  
23 as to show an unbroken light over an arc of the horizon of 10 points of  
24 the compass, so fixed as to throw the light from right ahead to two points  
25 abaft the beam on the port side. The side lights shall be fitted with inboard  
26 screens of sufficient height so set as to prevent these lights from being  
27 seen across the bow a masthead light, sternlight and sidelights. The side-  
28 lights shall be fitted with inboard screens of sufficient height so set as to  
29 prevent these lights from being seen across the bow.
- 30 ~~(3)~~ (4) Motorboats of classes A and 1 when propelled by sail alone,  
31 and sailing vessels of similar size when propelled by sail alone, shall carry  
32 the combined lantern prescribed by this section and a 12 point white light  
33 aft. Motorboats of classes 2 and 3, when so propelled, and sailing vessels  
34 of similar size, when propelled by sail alone, shall carry the colored side  
35 lights, suitably screened, prescribed by this section and a 12 point white  
36 light aft sidelights and a sternlight.
- 37 ~~(4)~~ (5) Manually propelled vessels shall carry, ready at hand, a lantern  
38 or flashlight showing a white light which shall be exhibited in sufficient  
39 time to avert collision.
- 40 ~~(5)~~ (6) Every white light prescribed by this section shall be of such  
41 character as to be visible at a distance of at least two miles. Every colored  
42 light prescribed by this section shall be of such character as to be visible  
43 at a distance of at least one mile. The word “visible” in this subsection,

1 when applied to lights, shall mean visible on a dark night with clear  
2 atmosphere.

3 ~~(6)~~ (7) When propelled by sail and machinery any motorboat shall  
4 carry the lights required by this section for a motorboat propelled by  
5 machinery only.

6 ~~(7)~~ (8) All vessels at anchor between sunset and sunrise, unless an-  
7 chored at a designated site, shall carry forward, or where it can best be  
8 seen, a bright white light to show all around the horizon and visible for  
9 one mile.

10 (c) *In lieu of the lights required by subsection (b), any vessel may*  
11 *carry and exhibit the lights required by the federal regulations for pre-*  
12 *venting collisions at sea, 1960, federal act of September 24, 1963 (33 USC*  
13 *1051-1053) and (1061-1064) as amended in lieu of the lights required by*  
14 *subsection (b) under the inland navigational rules act of December 24,*  
15 *1981 (33 U.S.C. 2020-2030), as in effect on the effective date of this act,*  
16 *or as prescribed by rules and regulations of the secretary.*

17 (d) Every motorboat of ~~class 1, 2, or 3~~ shall be provided with an  
18 efficient whistle or other sound-producing mechanical appliance.

19 (e) Every motorboat of ~~class 2 or 3~~ shall be provided with an efficient  
20 bell.

21 (f) Every vessel, other than sail boards used for wind surfing, racing  
22 shells or rowing sculls shall carry at least one coast guard approved life-  
23 saving device of the sort prescribed by rules and regulations of the sec-  
24 retary, in good and serviceable condition, for each person on board, so  
25 placed as to be readily accessible. As used in this subsection, "racing shell"  
26 and "rowing scull" mean a manually propelled vessel that is recognized  
27 by national or international racing associations for use in competitive rac-  
28 ing in which all occupants row, scull or paddle, with the exception of a  
29 coxswain, and is not designed to carry and does not carry any equipment,  
30 not solely for competitive racing.

31 (g) Every motorboat shall be provided with such number, size, and  
32 type of coast guard approved fire extinguishers, capable of promptly and  
33 effectually extinguishing burning gasoline, as may be prescribed by rules  
34 and regulations of the secretary, which fire extinguishers shall be at all  
35 times kept in condition for immediate and effective use and shall be so  
36 placed as to be readily accessible.

37 (h) The provisions of subsections (d), (e) and (g) shall not apply to  
38 outboard motorboats while competing in any race conducted pursuant to  
39 K.S.A. 32-1149, and amendments thereto, or, if such boats are designed  
40 and intended solely for racing, while engaged in such navigation as is  
41 incidental to the tuning up of the boats and engines for the race.

42 (i) Every motorboat shall have the carburetor or carburetors of every  
43 engine therein, except outboard motors, using gasoline as fuel, equipped



1 with such efficient coast guard approved flame arrester, backfire trap or  
2 other similar device as may be prescribed by rules and regulations of the  
3 secretary.

4 (j) Every such motorboat and every such vessel, except open boats,  
5 using as fuel any liquid of a volatile nature shall be provided with such  
6 means as may be prescribed by rules and regulations of the secretary for  
7 properly and efficiently ventilating the bilges of the engine and fuel tank  
8 compartments so as to remove any explosive or inflammable gases.

9 (k) The secretary is hereby authorized to adopt, in accordance with  
10 K.S.A. 32-805, and amendments thereto, rules and regulations required  
11 to carry out in the most effective manner all of the provisions of this act  
12 and to alter, modify or supplement the equipment requirements con-  
13 tained in this section to the extent necessary to keep these requirements  
14 in conformity with the provisions of the federal navigation laws or with  
15 the navigation rules promulgated by the United States coast guard.

16 (l) The secretary is hereby authorized to establish and maintain, for  
17 the operation of vessels on the waters of this state, pilot rules in conform-  
18 ity with the pilot rules contained in the federal navigation laws or the  
19 navigation rules promulgated by the United States coast guard.

20 (m) No person shall operate or give permission for the operation of  
21 a vessel which is not equipped as required by the laws of Kansas and rules  
22 and regulations of the secretary.

23 (n) No person shall operate a motorboat or other vessel close to swim-  
24 ming areas, moored boats or vessels engaged in fishing, servicing buoys  
25 or markings, or similar activities, without reducing the speed of the vessel  
26 so as to prevent wash or wake from the vessel causing damage or unnec-  
27 essary inconvenience to the occupants of the area or other vessels.

28 Sec. 5. K.S.A. 32-1125 is hereby amended to read as follows: 32-  
29 1125. (a) No person shall operate any motorboat or vessel or manipulate  
30 any water skis, surfboard or similar device in a reckless or negligent man-  
31 ner so as to endanger the life or property of any person.

32 (b) No person shall manipulate any water skis, surfboard or similar  
33 device while under the influence of alcohol or drugs, or both.

34 (c) No person shall operate any motorboat or vessel for pleasure rid-  
35 ing or pull any water skis, surfboard or similar device in any waters of this  
36 state marked by buoys or otherwise designated as a mooring, launching,  
37 fishing or hunting nonboating area by a county or other political subdivi-  
38 sion or by the secretary, except that a motorboat or vessel used for  
39 fishing may be operated in a mooring or launching nonboating area.

40 As used in this subsection, "waters of this state" includes, but is not  
41 limited to, any water storage reservoir impoundments over which the  
42 secretary has been granted jurisdiction by the proper agency or official  
43 of the United States government.

1 (d) No person shall operate or moor a vessel within a water area  
2 which is marked, by buoys or some other distinguishing device, as a bath-  
3 ing or swimming area or as an all-boats-prohibited area. No person shall  
4 operate a vessel for purposes other than fishing in areas marked by buoys  
5 or otherwise designated as fishing areas, and no person shall operate a  
6 vessel for purposes other than hunting in areas marked by buoys or oth-  
7 erwise designated as hunting areas, and in areas designated for combined  
8 use of fishing and hunting, vessels may be used for both purposes unless  
9 prohibited by federal law.

10 (e) No owner or person in possession of a vessel shall permit a person  
11 under 12 years of age to operate a motorboat unless accompanied and  
12 under the direct and audible supervision of a parent or other person over  
13 17 years of age. *“Direct and audible supervision” means a person on board*  
14 *the same vessel and who is in close proximity of the operator’s station*  
15 *which shall enable such person to quickly and safely assume control of*  
16 *such vessel if needed.*

17 (f) No operator of a vessel shall willfully fail or refuse to bring such  
18 vessel to a stop, or otherwise flee or attempt to elude a pursuing law  
19 enforcement vehicle or vessel, when given a visual or audible signal to  
20 bring the operator’s vessel to a stop. The signal may be given by hand,  
21 voice, emergency light or siren and shall be given by a uniformed law  
22 enforcement officer prominently displaying the officer’s badge of office.

23 Sec. 6. K.S.A. 32-1128 is hereby amended to read as follows: 32-  
24 1128. (a) No person shall operate a vessel on any waters of this state  
25 towing a person or persons on water skis, a surfboard, or similar device,  
26 nor shall any person engage in water skiing, surfboarding, or similar ac-  
27 tivity at any time between the hours from ~~one hour after~~ sunset to ~~one~~  
28 ~~hour before~~ sunrise.

29 (b) The provisions of subsection (a) of this section do not apply to a  
30 performer engaged in a professional exhibition or a person or persons  
31 engaged in an activity authorized under K.S.A. 32-1149, *and amendments*  
32 *thereto.*

33 (c) No person shall operate or manipulate any vessel, tow rope or  
34 other device by which the direction or location of water skis, a surfboard,  
35 or similar device may be affected or controlled in such a way as to cause  
36 the water skis, surfboard, or similar device, or any person thereon to  
37 collide with or strike against any object or person.

38 (d) No person shall operate a motorboat on any waters of this state  
39 for towing a person or persons on water skis, a surfboard, or similar de-  
40 vice, unless the boat is equipped with a wide angle rear view mirror  
41 properly placed to provide a maximum vision of the person or persons  
42 being towed, or there is an observer in the boat in addition to the oper-  
43 ator. The observer must be a responsible person of at least ~~twelve (12)~~

1 12 years of age.

2 (e) *The operator or observer shall observe the person being towed*  
3 *and shall display a flag immediately after the towed person or persons*  
4 *enter into the water and during the time preparatory to towing or retriev-*  
5 *ing while the person or persons are still in the water. Such flag shall be*  
6 *a bright or brilliant orange or red color, measuring not less than 12 inches*  
7 *per side, mounted on a handle and displayed as to be visible from all*  
8 *directions. It shall be unlawful to display such flag except under the con-*  
9 *ditions listed in this subsection.*

10 New Sec. 7. (a) The exhaust of every internal combustion engine  
11 used on any motorboat on the waters of the state shall be effectively  
12 muffled by equipment so constructed and used as to muffle the noise of  
13 the exhaust.

14 (b) A motorboat operating on the waters of the state shall have an  
15 exhaust water manifold or a factory-type muffler installed on the engine.

16 (c) A person shall not operate or give permission for the operation of  
17 any motorboat in or upon the waters of this state if the motorboat is  
18 equipped with an altered muffler, muffler cutout, muffler bypass or any  
19 other device designed or installed so that it can be used continually or  
20 intermittently to bypass any muffler or muffler system installed on the  
21 motorboat, or to reduce or eliminate the effectiveness of such a muffler  
22 or muffler system.

23 (d) A vessel shall not be operated on the waters of this state under  
24 any condition or in any manner whereby the vessel emits a sound level  
25 in excess of 86 decibels on the "A" weighted scale, when measured from  
26 a distance of 50 feet or more from the vessel, as prescribed in society of  
27 automotive engineers standards, SAE J34 and SAE J2005.

28 (e) No person shall remove, alter or otherwise modify in any manner  
29 a muffler or muffler system installed on a motorboat to prevent the muf-  
30 fler or muffler system from being operated in accordance with this statute.

31 (f) The provisions of subsections (c) through (e) shall not apply to  
32 motorboats officially registered and competing in or while on trial runs  
33 48 hours immediately preceding a regatta, race, marine parade, tourna-  
34 ment or exhibition which has been authorized or permitted by the  
35 department.

36 (g) A law enforcement officer who has reason to believe a motorboat  
37 is being operated in violation of the noise levels established in this section  
38 may direct the operator of the motorboat to submit to an on-site test to  
39 measure noise level. An operator of a motorboat who receives a request  
40 from a law enforcement officer pursuant to this section shall allow the  
41 motorboat to be tested. If, based on a test to determine the noise level  
42 of a motorboat, the noise level of the motorboat exceeds the decibel levels  
43 established in this section, the law enforcement officer shall direct the

1 operator of the motorboat to take immediate and reasonable measures to  
2 correct the violation, including, but not limited to, terminating the voyage  
3 of the motorboat until the motorboat no longer operates in violation of  
4 this section.

5 New Sec. 8. (a) No person may:

6 (1) Intentionally deface, destroy, remove or alter any hull identifica-  
7 tion number required for a vessel, without written authorization from the  
8 secretary.

9 (2) Place or stamp any serial number upon a vessel other than a num-  
10 ber assigned to the vessel by the secretary.

11 (b) It shall be unlawful to sell, barter, exchange or possess any vessel  
12 if the original hull identification number has been destroyed, removed,  
13 altered or defaced.

14 (c) This section does not prohibit:

15 (1) The restoration of the original hull identification number by an  
16 owner of a vessel when the restoration of such number is authorized by  
17 the secretary.

18 (2) Any manufacturer from placing numbers or marks in the ordinary  
19 course of business upon new vessels or parts of vessels.

20 (d) Any law enforcement officer having knowledge of a vessel with a  
21 hull identification number that has been destroyed, removed, altered or  
22 defaced may seize and take possession of such vessel and may arrest the  
23 owner or custodian thereof and cause prosecution to be brought in a court  
24 of competent jurisdiction.

25 (e) The secretary, upon request, shall assign a hull identification num-  
26 ber to any handmade vessel.

27 (f) Any person who knowingly violates any provision of subsection (a)  
28 or (b) shall be guilty of a class A nonperson misdemeanor.

29 New Sec. 9. (a) When application for a certificate of number is made  
30 for a vessel which has been assembled, reconstructed, reconstituted or  
31 restored from one or more vessels, or the hull identification number as  
32 required by law is unidentifiable or uncertain, the owner of such vessel  
33 shall request the secretary inquire into the origin of the vessel. Such  
34 information shall be supplied by affidavit of the owner, if requested by  
35 the secretary. If, in the determination of the secretary, the vessel contains  
36 no stolen parts, the secretary shall assign an existing or new hull identi-  
37 fication number to the vessel and direct the location and manner to affix  
38 the hull identification number. A charge of \$10 shall be paid by the owner  
39 of a vessel requesting the inquiry.

40 (b) Any vessel having a destroyed, removed, altered or defaced hull  
41 identification number, which was not constructed in accordance with sub-  
42 section (a), and if the true identity of the vessel cannot be determined,  
43 shall be reassigned a new hull identification number by the secretary or

1 destroyed.

2 New Sec. 10. (a) Whenever the secretary assigns a hull identification  
3 number to a handmade vessel, the hull identification number shall consist  
4 of two letters designating the state followed by the letter "Z"; the next  
5 five characters shall be an identifying serial number and the last four  
6 characters shall indicate the month and year of the vessel certificate of  
7 ownership issuance.

8 (b) The registered owner of a handmade vessel for which a hull iden-  
9 tification number has been assigned shall carve, burn, stamp, emboss or  
10 otherwise permanently affix the assigned number to the outboard side of  
11 the starboard side of the transom or, if there is no transom, to the out-  
12 ermost starboard side at the end of the hull that bears the rudder or other  
13 steering mechanism and above the waterline of the vessel in such a way  
14 that alteration, removal, or replacement would be evident. The number  
15 must be at least ¼ inch in height.

16 (c) The secretary shall issue a decal which indicates the assigned hull  
17 identification number to be affixed to each vessel which has been assigned  
18 under this section. The decal shall be affixed no more than two inches  
19 below the location of the hull identification number placed pursuant to  
20 the provisions in subsection (b). Such decal, as well as a duplicate decal  
21 placed in an unexposed portion of the interior of the vessel, shall be  
22 affixed by the department.

23 (d) It shall be unlawful to remove, alter or deface a decal or duplicate  
24 decal which has been issued for or affixed to a vessel pursuant to the  
25 provisions of subsection (c), or to affix or otherwise display such a decal  
26 or duplicate decal on any vessel other than the vessel for which the hull  
27 identification number was assigned, without first having obtained the  
28 written permission by the department.

29 (e) A hull identification inspection fee of \$10 shall be assessed to the  
30 owner of a vessel requesting a hull identification number pursuant to this  
31 section.

32 New Sec. 11. (a) No person shall abandon a vessel upon a public  
33 waterway or upon public or private property without the consent of the  
34 owner or person in lawful possession or control of the property.

35 (b) The abandonment of any vessel in a manner prohibited by sub-  
36 section (a) is prima facie evidence that the last registered owner of record  
37 is responsible for the abandonment, unless such owner has notified the  
38 department or other appropriate law enforcement agency of such owner's  
39 relinquishment of title or registration or interest therein. The person so  
40 responsible shall be required to pay the cost of removal and disposition  
41 of the vessel.

42 (c) A law enforcement officer of this state may remove a vessel from  
43 a public waterway when:

1 (1) The vessel is left unattended and is adrift, moored, docked,  
2 beached or made fast to land in such a position as to interfere with nav-  
3 igation or in such a condition as to create a hazard to other vessels using  
4 the waterway, to public safety or to the property of another.

5 (2) The vessel is found upon a waterway and a report has previously  
6 been made that the vessel has been stolen or embezzled.

7 (3) The person in charge of the vessel is by reason of physical injuries  
8 or illness incapacitated to such an extent as to be unable to provide for  
9 its custody or removal.

10 (4) A law enforcement officer arresting a person operating or in con-  
11 trol of the vessel for an alleged offense, and the officer is required or  
12 permitted to take, and does take, the person arrested into custody without  
13 unnecessary delay.

14 (5) The vessel seriously interferes with navigation or otherwise poses  
15 a critical and immediate danger to navigation or to the public health,  
16 safety or welfare.

17 New Sec. 12. (a) A law enforcement officer may attempt to identify  
18 the registered owner of a vessel abandoned on private property by in-  
19 spection of the vessel and any trailer to which it is attached and may  
20 supply the information to the real property owner upon which vessel is  
21 presumed abandoned. The real property owner must declare by affidavit  
22 the reasons why such real property owner believes the property to be  
23 abandoned. The real property owner must give 5-days' notice to the last  
24 registered vessel owner before causing the removal of the vessel. If the  
25 last registered owner is unknown or cannot be notified, the vessel may  
26 immediately be removed to a secure location designated by a law enforce-  
27 ment officer.

28 (b) A law enforcement officer, within 48 hours after directing the  
29 removal of an abandoned vessel on a public waterway or public or private  
30 property, shall notify the department of the status of the vessel.

31 (c) A law enforcement officer who has custody of an abandoned ves-  
32 sel, if the law enforcement agency knows or can reasonably discover the  
33 name and address of the owner of the vessel or any person who holds a  
34 security interest in the vessel, shall notify the owner or the holder of the  
35 security interest of the location of the vessel and the method by which  
36 the vessel may be claimed. This notice must be sent by certified or reg-  
37 istered mail.

38 (d) If the abandoned vessel is held by a law enforcement agency as  
39 evidence in the investigation or prosecution of a criminal offense, the  
40 notice required by subsection (c) shall be sent:

41 (1) Upon the decision of the law enforcement agency or prosecuting  
42 attorney not to pursue or prosecute the case;

43 (2) upon the conviction of the person who committed the offense; or

- 1 (3) if the case is otherwise terminated.
- 2 (e) Failure to reclaim the vessel within 180 days after the date the  
3 notice is mailed constitutes a waiver of interest in the vessel by any person  
4 having an interest in the vessel and the vessel shall be deemed abandoned  
5 for all purposes.
- 6 (f) If all recorded interests in a vessel are waived, as provided in  
7 subsection (e) or by written disclaimer, the department may issue a cer-  
8 tificate of ownership to the law enforcement agency that has custody of the  
9 vessel. If necessary, the secretary may assign a hull number to the  
10 vessel. This subsection shall not preclude the subsequent return of a ves-  
11 sel, or any component part thereof, by a law enforcement agency to the  
12 registered owner of the vessel upon presentation by the registered owner  
13 of satisfactory proof of ownership.
- 14 (g) A law enforcement agency to which a certificate of ownership is  
15 issued pursuant to subsection (f) may use, sell or destroy the vessel and  
16 shall keep a record of the disposition of the vessel. If the law enforcement  
17 agency:
- 18 (1) Sells the vessel, all proceeds from the sale of the vessel shall be-  
19 come the property of the law enforcement agency.
- 20 (2) Destroys the vessel, the law enforcement agency shall, within 10  
21 days, give notice of the destruction of the vessel to the department.
- 22 New Sec. 13. (a) The registered owner of a destroyed or abandoned  
23 vessel that is numbered pursuant to chapter 32 of the Kansas Statutes  
24 Annotated, and amendments thereto, shall provide the notice required  
25 by K.S.A. 32-1111, and amendments thereto, to the secretary in writing.  
26 The written notice must be signed by the registered owner and notarized.
- 27 (b) The written notice provided pursuant to subsection (a) must in-  
28 dicate the reason for the destruction or abandonment of the vessel and  
29 the current location and condition of the vessel.
- 30 (c) The registered owner shall surrender to the secretary the certifi-  
31 cate of number and the certificate of ownership issued for the motorboat,  
32 if in existence, at the time the owner provides the written notice to the  
33 secretary pursuant to subsection (a).
- 34 (d) Once a vessel has been destroyed or abandoned, the secretary  
35 shall print the word "salvage" on each subsequent certificate of number  
36 which it issues for that vessel.
- 37 New Sec. 14. (a) If a law enforcement officer has probable cause to  
38 believe that a vessel or its contents contain evidence tending to show that  
39 a criminal offense has been committed or that a particular person has  
40 committed an offense, the officer may take whatever steps are reasonable  
41 to ensure the preservation of the evidence, including safe storage of the  
42 vessel or its contents.
- 43 (b) If a criminal conviction is obtained as a result of an action taken

1 pursuant to subsection (a), the person convicted shall pay any storage fees  
2 incurred pursuant to that subsection. If a conviction is not obtained, the  
3 law enforcement agency that seized the vessel pursuant to subsection (a)  
4 shall pay any storage fees incurred.

5 New Sec. 15. (a) Any health care provider, upon request, shall make  
6 available to a law enforcement agent or county or district attorney the  
7 health care records of a patient which relate to a test of such patient's  
8 blood, breath or urine if: (1) The patient is suspected of having violated  
9 K.S.A. 32-1131, 32-1132, 32-1138 or 32-1177, and amendments thereto;  
10 and (2) the records would aid in the related investigation. To the extent  
11 possible, the health care provider shall limit the inspection to the portions  
12 of the records which pertain to the presence of alcohol or a controlled  
13 substance, chemical, poison, organic solvent or another prohibited sub-  
14 stance in the blood, breath or urine of the patient.

15 (b) The records shall be made available at a place within the depos-  
16 itory convenient for physical inspection. Inspection shall be permitted at  
17 all reasonable office hours and for a reasonable length of time. The health  
18 care provider shall also furnish a copy of records to any law enforcement  
19 agent or prosecuting attorney described in subsection (a) who requests  
20 the copy and pays the costs of reproducing the copy.

21 (c) Records made available pursuant to this section may be presented  
22 as evidence during a related administrative or criminal proceeding against  
23 the patient.

24 (d) A health care provider, and the agents and employees thereof,  
25 are immune from any civil action for any disclosures made in accordance  
26 with the provisions of this section or any consequential damages.

27 (e) As used in this section:

28 (1) "Health care record" means any report, note, order, photograph,  
29 X-ray or other recorded data or information, whether maintained in writ-  
30 ten, electronic or other form, which is employed by the health care pro-  
31 vider and contains information relating to the medical history, examina-  
32 tion, diagnosis or treatment of the patient.

33 (2) "Health care provider" means a person licensed to practice medi-  
34 cine and surgery, any laboratory subject to the provisions of K.S.A. 65-  
35 1,107 or 65-1,108, and amendments thereto, or any licensed medical care  
36 facility, as defined in K.S.A. 65-425, and amendments thereto.

37 Sec. 16. K.S.A. 2003 Supp. 32-1173 is hereby amended to read as  
38 follows: 32-1173. All moneys received pursuant to K.S.A. 32-1101 through  
39 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128,  
40 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172,  
41 32-1173 ~~and~~, 32-1177 through 32-1180 *and sections 9 and 10*, and amend-  
42 ments thereto, shall be remitted to the state treasurer in accordance with  
43 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt



1 of each such remittance, the state treasurer shall deposit the entire  
2 amount in the state treasury to the credit of the boating fee fund, which  
3 is hereby created, to be dedicated and used to administer and enforce  
4 the provisions of K.S.A. 32-1101 through 32-1104, 32-1110 through 32-  
5 1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-  
6 1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~, 32-1177 through  
7 32-1180 *and sections 7 through 15*, and amendments thereto. When suf-  
8 ficient moneys are available from the fees so collected, the secretary may  
9 use the same to construct or repair boating facilities, ramps and docks at  
10 public waters within this state.

11 Sec. 17. K.S.A. 32-1180 is hereby amended to read as follows: 32-  
12 1180. Unless otherwise provided by statute or rules and regulations of  
13 the secretary, violation of K.S.A. 32-1101 through 32-1104, 32-1110  
14 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through  
15 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~, 32-  
16 1177 through 32-1180 *and sections 7 and 11*, and amendments thereto,  
17 or rules and regulations adopted thereunder is a class C misdemeanor.

18 Sec. 18. K.S.A. 32-1102, 32-1110, 32-1111, 32-1119, 32-1125, 32-  
19 1128 and 32-1180 and K.S.A. 2003 Supp. 32-1173 are hereby repealed.

20 Sec. 19. This act shall take effect and be in force from and after  
21 January 1, 2005, and its publication in the statute book.

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