

SESSION OF 2005

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2117**

As Amended by House Committee on  
Wildlife, Parks, and Tourism

**Brief\***

HB 2117, as amended, pertains to water vessels.

**General Definitions.** The bill would amend KSA 2004 Supp. 32-1102, the definition section, by defining the terms, "Boat livery," "Cargo," "State of Principal use," "Use," and "Abandoned vessel."

**Motorboat definitions.** The bill also would amend KSA 32-1119, the section pertaining to motorboats, by adding the terms, "Masthead light," "Sidelights," "Sternlights," and "All-round light."

**Vessel requirements.** The bill would amend the vessel numbering requirement statute by requiring undocumented, mechanically propelled vessels or sailing vessels, using the waters of the state as their principal use, to be numbered.

**Vessels documented with United States Coast Guard and new vessels owner provisions.** These provisions would require the owner of a vessel documented by the United States Coast Guard and a new owner of a vessel, upon the sale or transfer of the vessel who wishes to document the vessel with the Coast Guard, to apply for a vessel certificate of registration and pay the required fee. The application would include the county in which the vessel would be maintained. Other certificate of registration provisions would:

- Require the Secretary of Wildlife and Parks to issue a certificate of registration and a set of registration decals for a documented vessel;

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Require a nonresident to apply for a certificate within 60 days after acquiring a vessel in Kansas or bringing it to the state if it will be kept in the state for more than 60 consecutive days;
- Impose a penalty fee of \$20 for failing to register for each 30 days of delinquency and would not exceed \$60;
- Require the Secretary to cancel registration of vessels registered in the name of the person who fails to acquire a vessel certificate;
- Require the Secretary to maintain a list of registered documented vessels;
- Provide that the list of registered documented vessels not be included in the total number of registered vessels of the state applied toward the number reflected on any United States Coast Guard grants, where prohibited;
- Provide that the decals would be in force and effect for three years so long as the vessel is owned or held by the original holder of the certificate;
- Require that, upon the sale of a vessel documented by the Coast Guard, that the new owner submit, in addition to the properly assigned certificate of registration, proof of release from the documentation of the Coast Guard;
- Require the new owner who elects not to document the vessel with the Coast Guard, to comply with the applicable state provisions of registering vessels; and
- Require the certificate to be available at all times for inspection.

**Motorboat lights.** These provisions would require motorboat classes A and 1 to carry an all-round light carried aft and high enough to be unobstructed and sidelights in the fore part of the vessel and lower than the all-round light. For motorboats of classes 2 and 3, the bill would require them to carry a masthead light, sternlight, and sidelights. The sidelights would be fitted with inboard screens of sufficient height placed to prevent them from being seen across the bow. For motorboats when propelled by sail alone, and sailing vessels propelled by sail alone, they must carry sidelights and a sternlight. These requirements

may be substituted by the federal regulations under the inland navigational rules act of December 24, 1981, in effect on the effective date of this act, or as prescribed by rules and regulations of the Secretary.

**General prohibitions.** The bill would define “Direct and audible supervision” in connection with the supervision of a person under 12 years of age by a parent or other person over 17 years of age.

**Water skis and surfboards.** These provisions would require the operator or observer to observe a person being towed and to display a flag immediately after the towed person enters the water and during the time preparatory to towing or retrieving a person from the water.

**Muffler provisions.** These provisions would:

- Require the muffler system to be good working order so as to contain excessive noise;
- Define the term “muffler”;
- Require a motorboat to have an exhaust water manifold or a factory-type muffler;
- Prohibit the use of altered mufflers, muffler cutouts, muffler by-passes;
- Prohibit a vessel from operating on the waters of Kansas if the vessel emits a sound level in excess of 86 decibels on the “A” weighted scale, when measured from a distance of 50 feet or more from the vessel;
- Prohibit a person from removing or altering a muffler or muffler system installed on a motorboat so as to prevent the muffler or muffler system from being operated in accordance with state law;
- Exempt motorboats officially registered and competing in or while on trial runs 48 hours immediately preceding an event authorized by the Department; and
- Provide for enforcement procedures on persons believed to exceed the noise level.

**Hull provisions.** These new provisions would prohibit a person from intentionally defacing, destroying, removing, or altering a vessel hull identification number or placing or stamping a serial number on a vessel other than a number assigned to it by the Secretary. These provisions would not include the authorized restoration of the original hull identification number or prevent a manufacturer from placing numbers or marks in the ordinary course of business on new vessels or parts of vessels.

This section also would require a law enforcement officer having knowledge of a vessel with a hull identification number that has been destroyed, removed, altered, or defaced to take possession of the vessel and arrest the violator. Violators would be guilty of a class A nonperson misdemeanor.

**Provisions for reconstructed vessels.** These provisions would:

- Require owners of reconstructed vessels or vessels with unidentifiable or uncertain hull identification numbers to request the Secretary to inquire into the origin of the vessel;
- Require the owner to provide information by affidavit, if requested by the Secretary;
- Require the Secretary to assign an existing or new hull number if no stolen parts are found on the vessel;
- Charge \$10 to the owner requesting the investigation; and
- Require the Secretary to assign a new hull number if it cannot be ascertained or if it has been destroyed;

**Handmade vessel provisions.** These new provisions would:

- Provide hull identification numbers on handmade vessels consisting of two letters designating the state followed by the letter "Z"; the next characters would be an identifying serial number, and the last four characters would indicate the month and year of the vessel certificate of ownership issuance;

- Provide the places on the vessel where the owner could burn, stamp, emboss, or otherwise permanently affix the assigned hull number;
- Require the Secretary to issue a decal to be affixed on the vessel;
- Make it unlawful to remove, alter, or deface a decal or duplicate decal; and
- Charge the vessel owner \$10 for requesting a hull identification number.

**Abandoned vessels on waterways.** These new provisions would:

- Make it unlawful to abandon a vessel on a public waterway or on a private waterway without the consent of the owner;
- Make it *prima facie* evidence that the last registered owner of record is responsible for the abandonment, unless the owner has notified the Department or law enforcement agency of the owner's relinquishment of title or registration or interest therein;
- Allow a law enforcement officer to remove and dispose of a vessel when:
  - it is left unattended and is adrift, moored, docked, beached, or made fast to land and it interferes with navigation or creates a hazard to other vessels using the waterway;
  - it is found on a waterway and has been reported stolen or embezzled;
  - the person in charge of the vessel, cannot, because of physical injuries or illness, provide for its custody or removal;
  - a law enforcement officer takes a person operating a vessel for an alleged offense into custody without unnecessary delay; and
  - the vessel seriously interferes with navigation or possesses a danger to navigation or to the public health, safety, or welfare.

**Law enforcement provisions.** The bill also would set forth the duties of a law enforcement officer as they pertain to abandoned vessels. These provisions would:

- Allow a law enforcement officer to inspect the abandoned vessel on private property and furnish the information to the property owner;
- Require a property owner to declare by affidavit the reasons why the owner believes the vessel to be abandoned and give five days' notice to the last registered owner before causing the removal of the vessel;
- Require that, if the last registered owner is unknown or cannot be notified, the vessel may immediately be removed to a location designated by the law enforcement officer;
- Require the law enforcement officer, within 48 hours after directing the removal of an abandoned vessel, to notify the Department of the status of the vessel;
- Require the law enforcement officer or a person with a security interest in the vessel, to notify the owner of the vessel, if known, to inform the owner of the location of the vessel and the manner by which the vessel can be claimed;
- Require that if the vessel is held by a law enforcement agency as evidence in the investigation or prosecution of a criminal offense, notice be sent:
  - if the law enforcement agency or prosecuting attorney decides not to pursue or prosecute the case;
  - if the person who committed the offense is convicted; or
  - if the case is otherwise terminated.
- Provide that failure to reclaim a vessel within 180 days after the date the notice is mailed would constitute a waiver of interest by the person having an interest in the vessel;

- Allow the Department to issue a certificate of ownership to the law enforcement agency when interest in a vessel is waived;
- Permit the law enforcement agency to sell or destroy the vessel and require the agency keep a record of the disposition; and
- Allow the law enforcement agency to keep all proceeds from the sale of the vessel, or, if the agency destroys the vessel, to give ten days' notice of the destruction of the vessel to the Department.

**Registered owner of abandoned or destroyed vessels.** These new provisions would require registered owners of abandoned or destroyed vessels to:

- Give notice to the Secretary in writing, which would be signed and notarized;
- Provide in the notice the reason for the destruction or abandonment of the vessel and its current location and condition; and
- Surrender to the Secretary the certificate of number and the certificate of ownership issued for the motorboat, if in existence.

These provisions also would require the Secretary to print the word "salvage" on each subsequent certificate of number issued for that vessel.

**Criminal uses of the vessel.** The bill also would allow a law enforcement officer to preserve evidence when the officer has probable cause to believe that a vessel or its contents contain evidence tending to show that a criminal offense has been committed or that a person has committed an offense. Also, if a criminal conviction is obtained, the person would be required to pay storage fees. If no conviction is obtained, the law enforcement agency that seized the vessel would be required to pay for storage fees.

**Funding provisions.** The bill provides that 0.17 percent of the fines, penalties, and forfeitures received by the district court would be credited to the Boating Fee Fund.

**Effective date of the act.** The bill would take effect from and after January 1, 2006, and its publication in the statute book.

## **Background**

HB 2117 was requested and supported by the Department of Wildlife and Parks. The Chief Counsel of the Department presented a history of boating safety and enforcement issues. He also presented the Committee with an explanation of the bill.

The Office of Judicial Administration spokesperson appeared before the Committee to address the issue of accomplishing the Committee recommendations with regard to the boating violations fines found in Section 15 of the bill. She suggested that the Committee could accomplish its recommendations by amending KSA 74-7336 to place a percentage of the fines in the Boating Fee Fund.

The fiscal note prepared by the Division of Budget indicates that the Department of Wildlife and Parks expects passage of the bill to generate approximately \$10,125 in additional revenue to the Boating Fee Fund. The agency bases the estimate on 300 additional boats and Coast Guard documentation registering (registration amounts vary according to the size and type of boat, but the Department estimates that \$9,125 would be collected) and 100 additional boats applying for identification numbers (100 X \$10). Increasing the revenue to the Boating Fee Fund by more than \$10,000 would allow an additional 50.0 percent match, or \$5,063, awarded to the Department through the U.S. Coast Guard Recreational Boating Safety Grant (\$10,125 X 0.50). The Department anticipates no additional costs as a result of this bill. Any fiscal effect resulting from the passage of the bill would be in addition to amounts included in *The FY 2006 Governor's Budget Report*.