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AB-638 Vessels: personal flotation devices. (2015-2016)

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Assembly Bill No. 638

CHAPTER 75

An act to amend Section 658.3 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor July 13, 2015. Filed with Secretary of State July 13, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 638, Frazier. Vessels: personal flotation devices.

Existing law regulates the safe operation of various types of vessels navigating the state's ports and harbors. Existing law prohibits a person from operating a motorboat, sailboat, or vessel that is 26 feet or less in length unless every person on board who is under 13 years of age is wearing a specified type of wearable personal flotation device while that motorboat, sailboat, or vessel is underway, as defined, except, among other circumstances, if the person under 13 years of age is in an enclosed cabin. Existing law, for purposes of those provisions, defines "enclosed cabin" to mean a space on board a vessel that is surrounded by bulkheads and covered by a roof.

This bill would make that prohibition applicable to a person operating a motorboat, sailboat, or vessel of any length, but would exempt from that prohibition a person operating a passenger vessel or small passenger vessel, as defined. The bill would revise the definition of "enclosed cabin" to mean a space on board a vessel that is surrounded by bulkheads or canvas, and covered by a roof.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 658.3 of the Harbors and Navigation Code is amended to read:

658.3. (a) A person shall not operate a motorboat, sailboat, or vessel, unless every person who is on board and who is under 13 years of age is wearing a United States Coast Guard-approved wearable personal flotation device that is used in accordance with approval labels and manufacturer's instructions while that motorboat, sailboat, or vessel is underway.

(b) Subdivision (a) does not apply to a person operating a sailboat on which a person who is under 13 years of age is restrained by a harness tethered to the vessel, or to a person operating a vessel on which a person who is under 13 years of age is in an enclosed cabin.

(c) A person on board a personal watercraft or a person being towed behind a vessel on water skis, an aquaplane, or similar device, except for an underwater maneuvering device intended for use by a submerged swimmer, shall wear a United States Coast Guard-approved wearable personal flotation device that is used in accordance with approval labels and manufacturer's

instructions. An underwater maneuvering device is a towed or self-powered apparatus that a person can pilot through diving, turning, and surfacing maneuvers that is designed for underwater use.

(1) This subdivision does not apply to a person aboard a personal watercraft or a person being towed behind a vessel on water skis, if that person is a performer engaged in a professional exhibition, or preparing to participate or participating with authorization pursuant to a United States Coast Guard permit or other permit granted pursuant to subdivision (a) of Section 268 in an official regatta, marine parade, tournament, or exhibition.

(2) In lieu of wearing a United States Coast Guard-approved wearable personal flotation device as described in this subdivision, a person engaged in slalom skiing on a marked course or a person engaged in barefoot, jump, or trick waterskiing may elect to wear a wetsuit designed for the activity and labeled by the manufacturer as a water ski wetsuit. A United States Coast Guard-approved personal flotation device as described in this subdivision shall be carried in the tow vessel for each skier electing to wear a water ski wetsuit pursuant to this paragraph.

(d) The requirements set forth in subdivisions (a) and (c) do not apply to a person 13 years of age or older operating a motorboat, sailboat, or vessel if the vessel is engaged in an emergency rescue situation.

(e) Subdivision (a) does not apply to a person operating a "passenger vessel," as defined in Section 2101(22) of Title 46 of the United States Code or a "small passenger vessel," as defined in Section 2101(35) of Title 46 of the United States Code.

(f) The following definitions govern the construction of this section:

(1) "Enclosed cabin" means a space on board a vessel that is surrounded by bulkheads or canvas, and covered by a roof.

(2) "Operate a motorboat, sailboat, or vessel" means to be in control or in charge of a motorboat, sailboat, or vessel while it is underway.

(3) "Underway" means all times except when the motorboat, sailboat, or vessel is anchored, moored, or aground.

(g) A violation of this section is an infraction punishable as provided in subdivision (a) of Section 668.