

HOUSE No. 399

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas J. Calter and James M. Cantwell

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to boater safety to be known as the David Hanson Act.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|----------------------------|-----------------------------|
| <i>Thomas J. Calter</i> | <i>12th Plymouth</i> |
| <i>James M. Cantwell</i> | <i>4th Plymouth</i> |
| <i>Bruce J. Ayers</i> | <i>1st Norfolk</i> |
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i> |
| <i>RoseLee Vincent</i> | <i>16th Suffolk</i> |

HOUSE No. 399

By Messrs. Calter of Kingston and Cantwell of Marshfield, a petition (accompanied by bill, House, No. 399) of Thomas J. Calter and others for legislation to implement a boating education program within the Division of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4574 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to boater safety to be known as the David Hanson Act.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This Act shall be referred to as the “David Hanson Boater Safety Act”.

2 SECTION 2. Section 1 of chapter 90B of the General Laws, as appearing in the
3 2014 Official Edition, is hereby amended by striking out the definition of “Director” and
4 inserting in place thereof, the following definition:-

5 “Director,” - the director of law enforcement of the office of law enforcement, or his
6 authorized designee.

7 SECTION 3. Said section 1 of said chapter 90B, as so appearing, is hereby further
8 amended by inserting, after the definition of “Motorboat”, the following definition:-

9 “Office of law enforcement” or “division of law enforcement of the department of
10 fisheries, wildlife and environmental law enforcement”, the office of law enforcement in the
11 executive office of energy and environmental affairs established under section 10A of chapter
12 21A, also known as the Massachusetts Environmental Police.

13 SECTION 4. Said Chapter 90B is further amended by adding after section 9B the
14 following 7 sections:-

15 Section 9C. In sections 9D to 9I, inclusive, the following words shall have the following
16 meanings:

17 “Motorboat”, a recreational type vessel propelled by machinery whether or not, such
18 machinery is the principal source of propulsion, and whether or not, the vessel is registered by
19 the commonwealth, or documented by the United States Coast Guard or other agency of the
20 federal government. A motorboat for the purposes of this definition shall not include personal
21 watercraft as defined by regulation, or commercial vessels, excepting motorboats rented or
22 leased for recreational uses.

23 “Non-resident”, a person whose legal residence is not within the commonwealth.

24 “Other jurisdiction” or “another jurisdiction”, any other state, territory and the District of
25 Columbia of the United States; any state, Province and Territory of Canada; and, any other
26 foreign state or country.

27 “Person”, a natural person.

28 Section 9D. (a) The director of the office of law enforcement shall establish and
29 administer a boater safety education program for motorboat operators, to include without

30 limitation, course content, education certification standards, knowledge testing, qualifications of
31 course instructors, approval of course and equivalency examination providers and other
32 administrative requirements pursuant to the provisions of this section and sections 9E and 9I.

33 (b) As a part of the boater safety education program, the director shall establish a uniform
34 equivalency examination for persons who are of adult age and certify in writing as having not
35 less than 3 recent years of substantial experience operating motorboats.

36 (c) A person upon the successful completion of an approved boater safety education
37 course or equivalency examination for motorboat operators shall be issued a boater safety
38 certificate pursuant to section 9E.

39 (d) No person who was born on or after the specified date shall operate a motorboat on
40 the waters of the commonwealth unless the person complies with the boater safety educational
41 requirements of this section, beginning on the respective dates as follows:

42 (i) For persons who were born on and after January 1, 1989, beginning on January 1,
43 2019, and

44 (ii) For persons who were born on and after January 1, 1961, beginning on January 1,
45 2021.

46 (e) No person under the age of 12, shall operate a motorboat on the waters of the
47 commonwealth, unless the person is accompanied onboard and directly supervised by another,
48 who is 18 years of age or older, and holds a valid boater safety certificate or other documentation
49 showing his qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive, of
50 subsection (f).

51 (f) No person who is 12 years of age or older, shall operate a motorboat on the waters of
52 the commonwealth, unless the person has onboard a valid boater safety certificate for motorboat
53 operators. Notwithstanding, a person who does not hold a required boater safety certificate may
54 operate a motorboat if the person:

55 (i) is accompanied onboard and directly supervised by another, who is 18 years of age or
56 older, and has onboard a valid boater safety certificate or other documentation showing his
57 qualification to operate motorboats pursuant to clauses (ii) to (iv), inclusive;

58 (ii) holds a valid captain's license, launch operator's license or other type license to
59 captain a commercial vessel, issued by the United States Coast Guard, or an equivalent type
60 license issued by any state of the United States or foreign government, provided the license is
61 onboard when operating the vessel;

62 (iii) is a non-resident, who is operating a motorboat on the waters of the commonwealth
63 in accordance with the provisions of section 9H;

64 (iv) is an active member in the armed forces of the United States, National Guard, or
65 United States Coast, and who is qualified to operate motorboats based on training or position in
66 such branch or organization; provided, the person has onboard documentation showing his
67 qualification;

68 (v) has acquired new ownership of a motorboat that is registered by the commonwealth
69 or documented by the United States Coast Guard, and has onboard a valid temporary boater
70 safety certificate to operate the vessel issued to the person by the director under section 9F;

71 (vi) is an operator of a motorboat rented in the commonwealth accordance with the
72 provisions of section 9G; or

73 (vii) is an operator of a motorboat in a qualified boater safety education course.

74 (g) The boater safety education requirements and operator age requirements to operate
75 motorboats under this section shall not apply when: (i) the vessel is operated by a law
76 enforcement officer or a public fire service member in the performance of an official duty, (ii)
77 the person is operating the motorboat in reasonable response to an onboard emergency, when the
78 operator or person supervising the operator, while underway, becomes incapacitated or
79 physically unable to operate or supervise the operation of the vessel, (iii) the person is operating
80 the motorboat under the direction of a law enforcement officer, (iv) the vessel is a “ship’s
81 lifeboat” as defined in section 1, (v) the vessel, is the property of a branch of the armed forces of
82 the United States, National Guard, or United States Coast Guard, or is a military vessel of a
83 foreign country, (vi) the vessel is a sailboat of not more than 24 feet in length, with an auxiliary
84 outboard motor not exceeding 10 horsepower, and is operated by a person who is 16 years of age
85 or older, or (vii) the person operating the vessel is exempted under regulation or by waiver issued
86 by the director.

87 (h) All current laws and regulations applicable to the boater safety educational
88 requirements for motorboat operators under this chapter shall be posted on the office of law
89 enforcement’s public internet website.

90 Section 9E. (a) Providers of authorized boater safety education courses or examinations
91 for motorboat operators, shall issue a boater safety certificate to any eligible person who has
92 successfully completed a course or equivalency exam. Boater safety certificates issued shall be in

93 the form prescribed by the director. No person unless authorized by the director, shall issue
94 boater safety certificates on behalf of the director under the boater safety education program.

95 The director shall be authorized to issue a boater safety certificate to motorboat operators
96 without the completion of a boater safety education course or equivalency examination, if the
97 person holds a valid boating safety certificate to operate motorboats issued or recognized by the
98 government of another jurisdiction and that meets the boating safety education standards of the
99 commonwealth.

100 No person who is under 12 years of age, shall be issued a boater safety certificate.

101 Boater safety certificates issued under this subsection shall be valid for the lifetime of the
102 person named on the certificate, except as otherwise provided by law.

103 (b) A resident of the commonwealth, who prior to the passage of this act, had
104 successfully completed a boater safety education course for motorboat operators, and as a result
105 was issued a boater safety certificate or equivalent documentation shall be considered valid, if
106 issued by: (i) the director, or (ii) a course provider other than the director, provided, the
107 certificate or documentation evidences the successful passage of a boating safety education
108 course for motorboat operators and, when issued, met the standards of the National Association
109 of State Boating Law Administrators or the United States Coast Guard.

110 Section 9F. An eligible person who is a resident of the commonwealth and has acquired
111 new ownership of a motorboat that is registered by the commonwealth or documented by the
112 United States Coast Guard, shall upon proper application to the director, be issued a one-time
113 temporary boater safety certificate limited to the operation of the motorboat. A temporary boater
114 safety certificate issued by the director shall expire 120 days from the date the new registration

115 or documentation for the vessel issues. The director shall not issue a temporary boater certificate
116 to a person who is under 18 years of age or has been issued a certificate under this section. No
117 temporary boater safety certificate shall be extended or renewed.

118 Section 9G. (a) A person may operate a motorboat that is rented from a boat rental
119 business in the commonwealth for a period not exceeding 14 days, who does not hold a valid
120 boater safety certificate or other documentation that shows his qualification to operate
121 motorboats pursuant to clauses (ii) to (iv), inclusive, of subsection (f) of section 9D, provided the
122 person: (i) is 16 years of age or older, (ii) before operating the motorboat has recently viewed at
123 the boat rental business or other location, a brief instructional audiovisual on motorboat safety as
124 prescribed by the director, and, (iii) has certified under oath to viewing completely the motorboat
125 safety audiovisual on the rental agreement and in the form prescribed by the director.

126 A person under the age of 16 who does not hold a valid boater safety certificate issued in
127 the commonwealth or other jurisdiction, may operate a rented motorboat, if a supervising adult is
128 onboard the vessel, provided, the adult is an authorized operator listed in the rental agreement,
129 and holds documentation that shows his qualification to operate the rental motorboat as
130 described in the prior paragraph.

131 (b) No person shall operate a motorboat rented in the commonwealth unless the person is
132 an authorized operator listed in the rental agreement by the boat rental business and, the rental
133 agreement document or accessible electronic copy is onboard when operating the vessel.

134 (c) No boat rental business, its owners, agents or employees, shall rent a motorboat to a
135 person unless the person meets the boater safety educational requirements to operate the vessel
136 under this chapter or regulation.

137 Section 9H. A person who is a non-resident may operate a motorboat on the waters of
138 the commonwealth, if the person (i) is in compliance with the boater safety education
139 requirements of another jurisdiction where he legally resides, and (ii) has onboard a valid boater
140 safety certificate or other equivalent documentation showing the person is in compliance with the
141 boating safety education requirements to operate motorboats, issued or recognized by the
142 government of such other jurisdiction. If the jurisdiction of the non-resident person does not have
143 mandated boater safety education requirements for motorboat operators, then the person shall be
144 required to have onboard valid government issued documentation that identifies the person and
145 his legal residential address, provided however, such identification documentation shall not meet
146 the boater safety educational qualifications to operate motorboats rented in the commonwealth.

147 Non-resident persons who, operate motorboats pursuant to this section and are 18 years
148 of age or older, may supervise the operation of motorboats by others, under the applicable
149 provisions of subsections (e) and (f) of section 9D and section 9G.

150 Section 9I. (a) The director shall establish a minimum standard of boater safety education
151 competency and skills necessary to operate motorboats under section 9D, which to the extent
152 practicable shall incorporate, the applicable standards, practices and policies of the National
153 Association of State Boating Law Administrators, United States Coast Guard and the boating
154 laws, rules and regulations of the commonwealth.

155 The director shall establish the required minimum hours of course instruction or
156 equivalent training, for boater safety education courses for motorboat operators.

157 As necessary, the director may modify the program to comply with any change of
158 standards, policies, laws and regulations related to motorboat safety.

159 (b) The director shall regulate providers of boater safety education courses and
160 equivalency examinations for motorboat operators, to ensure boating safety educational program
161 requirements and guidelines are observed.

162 The director shall establish by regulation a uniform standard for the approval and
163 participation of providers of boater safety education courses and equivalency examinations for
164 motorboat operators. The regulations shall include, without limitation, the applicable standards
165 and procedures related to, approval of providers; course instructor qualifications; manner and
166 content of courses and equivalency examinations; issuance of boater safety certificates; and other
167 administrative requirements. To increase public access to boater safety education, the director
168 shall have the authority to approve boater safety courses and equivalency examinations that are
169 accessible in an internet format.

170 A request to the director for approval as a provider of boater safety education courses or
171 equivalency examinations for motorboat operators shall be made by written application pursuant
172 to regulations then in effect. The director shall approve an application, if the provider and the
173 planned course or equivalency examinations meet the applicable regulatory standards.

174 Approval of boater safety courses or examinations providers shall be subject to continued
175 compliance by the provider of program standards and requirements.

176 (c) A current list of director approved providers of boater safety education courses and
177 equivalency examinations shall be posted on the office of law enforcement's public internet
178 website.

179 SECTION 5. Paragraph (b) of section 11 of said chapter 90B, as so appearing, is
180 hereby amended by inserting after the word “Issue”, in line 39, the words:- or authorize his
181 designees to issue, .

182 SECTION 6. Chapter 90B is hereby amended by inserting after section 38, the
183 following section:-

184 Section 38A. Any person who, is operating a motorboat or is supervising a motorboat
185 operator, when requested by an officer empowered to enforce this chapter, fails without
186 reasonable excuse, to produce and allow examination of a required boater safety certificate or
187 other documentation, to show compliance with the boater safety education requirements under
188 sections 9C to 9I, inclusive, shall for any violation of this provision or regulation adopted hereof,
189 be subject to a \$100 civil penalty. A person shall have an affirmative defense against a charge for
190 the failure to produce the a required certificate or other document, if before or at trial on such
191 charge, the prior issued certificate or other document, or actual copy thereof, that was valid when
192 the violation occurred, is given to the court or trial justice.

193 Any person who, in response to a request by an enforcing officer under the prior
194 paragraph, produces a forged or altered boater safety certificate or other documentation to show
195 compliance with the boater safety education requirements under said sections 9C to 9I, inclusive,
196 excepting copies or corrections allowed by the director or issuing government authority; or
197 falsely represents to the officer that the produced certificate or other document belongs to such
198 person or was issued or authorized by a governmental authority, shall be punished by a fine of
199 not more than a \$500 fine, or by imprisonment in the house of correction for not more than 1
200 year, or by both fine and imprisonment.