

REFERENCE TITLE: boating and water sports; education

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2776

Introduced by
Representative Epstein

AN ACT

AMENDING SECTION 5-324, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5.1; AMENDING TITLE 5, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-372; RELATING TO BOATING AND WATER SPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-324, Arizona Revised Statutes, is amended to
3 read:

4 5-324. Public records; identification of requester; supplying
5 information by mail; records custodians;
6 certification of records

7 A. All records of the department made or kept pursuant to this
8 article are public records.

9 B. The department shall furnish information or copies from the
10 records kept pursuant to this section subject to sections 39-121.01 and
11 39-121.03.

12 C. Persons requesting a copy of a public record pursuant to this
13 section shall identify themselves and state the reason for making the
14 request. The department shall verify the name and address of the person
15 making the request by requiring the person to produce necessary
16 information to ensure that the information given is true and correct.

17 D. The department shall not divulge any information from a
18 watercraft registration record unless the person requesting the
19 information provides the following:

- 20 1. The name of the owner.
- 21 2. The hull identification number of the watercraft.
- 22 3. The department-issued number assigned to the watercraft.

23 E. THE DEPARTMENT SHALL NOT FURNISH THE NAME OR PERSONAL
24 IDENTIFYING INFORMATION THE DEPARTMENT RECEIVES PURSUANT TO SECTION 5-353.
25 THIS SUBSECTION DOES NOT APPLY TO:

- 26 1. THIS STATE OR ANY OF ITS DEPARTMENTS, AGENCIES OR POLITICAL
27 SUBDIVISIONS.
- 28 2. A COURT.
- 29 3. A LAW ENFORCEMENT OFFICER.
- 30 4. A PRIVATE INVESTIGATOR LICENSED OR REGISTERED PURSUANT TO TITLE
31 32, CHAPTER 24.
- 32 5. THE FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES.
- 33 6. AN ATTORNEY ADMITTED TO PRACTICE IN THIS STATE WHO ALLEGES THE
34 INFORMATION IS RELEVANT TO ANY PENDING OR POTENTIAL COURT PROCEEDING.

35 ~~E.~~ F. The procedures required by subsections C and D of this
36 section do not apply to:

- 37 1. This state or any of its departments, agencies or political
38 subdivisions.
- 39 2. A court.
- 40 3. A law enforcement officer.
- 41 4. ~~A licensed private investigator~~ A PRIVATE INVESTIGATOR LICENSED
42 OR REGISTERED PURSUANT TO TITLE 32, CHAPTER 24.

43 5. Financial institutions and enterprises under the jurisdiction of
44 the department of insurance and financial institutions or a federal
45 monetary authority.

1 6. The federal government or any of its agencies.

2 7. An attorney admitted to practice in this state who alleges the
3 information is relevant to any pending or potential court proceeding.

4 8. An operator of a self-service storage facility located in this
5 state who alleges both of the following:

6 (a) That the watercraft on which the operator is requesting the
7 record is in the operator's possession.

8 (b) That the record is requested to allow the operator to notify
9 the registered owner and any lienholders of record of the operator's
10 intent to foreclose its lien and to sell the watercraft.

11 9. A towing company located in this state that alleges both of the
12 following:

13 (a) That the watercraft on which the towing company is requesting
14 the record is in the towing company's possession.

15 (b) That the record is requested to allow the towing company to
16 notify the registered owner and any lienholders of record, if known, of
17 the towing company's intent to sell the watercraft.

18 10. An insurance company.

19 ~~F.~~ G. The department may supply the requested information by mail
20 or telecommunications.

21 ~~G.~~ H. The director OF THE DEPARTMENT may designate as custodian of
22 the department's public records those department employees the director
23 deems necessary. If a public record of the department has been certified
24 by a records custodian and authenticated as required under proof of
25 records (records of public officials), rules of civil procedure and the
26 rules of evidence for courts in this state, it is admissible in evidence
27 without further foundation.

28 ~~H.~~ I. Notwithstanding subsection D of this section, information
29 may be supplied for commercial purposes, as defined in section 39-121.03,
30 if the information is transmitted in a machine-readable form such as
31 computer magnetic tape to the person making the request.

32 ~~I.~~ J. The department shall maintain for a period of at least one
33 year a file of requests for information that shall be maintained by the
34 name of the person whose record was requested, except those requests made
35 by government agencies.

36 Sec. 2. Title 5, chapter 3, Arizona Revised Statutes, is amended by
37 adding article 5.1, to read:

38 ARTICLE 5.1. MANDATORY BOATING SAFETY EDUCATION

39 5-351. Definition of certificate

40 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES,
41 "CERTIFICATE" MEANS A BOATING EDUCATION SAFETY CERTIFICATE ISSUED AS
42 EVIDENCE OF SUCCESSFUL COMPLETION OF A COURSE IN SAFE BOATING OR PASSING
43 AN EQUIVALENCY EXAM.

1 5-352. Applicability

2 THIS ARTICLE APPLIES TO:

3 1. A PERSON WHO IS UNDER TWENTY YEARS OF AGE ONE YEAR AFTER THE
4 EFFECTIVE DATE OF THIS ARTICLE.

5 2. A PERSON WHO IS UNDER THIRTY YEARS OF AGE TWO YEARS AFTER THE
6 EFFECTIVE DATE OF THIS ARTICLE.

7 3. A PERSON WHO IS AT LEAST THIRTY YEARS OF AGE THREE YEARS AFTER
8 THE EFFECTIVE DATE OF THIS ARTICLE.

9 5-353. Motorized watercraft operator; requirements

10 A. A PERSON MAY NOT OPERATE A MOTORIZED WATERCRAFT ON ANY PUBLIC
11 WATERS UNLESS THE OPERATOR MEETS ANY OF THE FOLLOWING CONDITIONS:

12 1. HAS SUCCESSFULLY COMPLETED A COURSE IN SAFE BOATING THAT IS
13 APPROVED BY A NATIONAL ASSOCIATION OF BOATING LAW ADMINISTRATORS AND THE
14 DEPARTMENT OR HAS PASSED AN EQUIVALENCY EXAM, IF THE EXAM WAS PROCTORED
15 AND TESTS THE KNOWLEDGE OF INFORMATION INCLUDED IN THE CURRICULUM OF A
16 NATIONAL ASSOCIATION OF BOATING LAW ADMINISTRATORS-APPROVED COURSE, AND
17 HAS RECEIVED A CERTIFICATE OF SUCCESSFUL COMPLETION OF THE COURSE OR THE
18 EQUIVALENCY EXAM.

19 2. HAS A VALID LICENSE TO OPERATE A VESSEL ISSUED FOR MARITIME
20 PERSONNEL BY THE UNITED STATES COAST GUARD PURSUANT TO 46 CODE OF FEDERAL
21 REGULATIONS PART 10 OR A MARINE CERTIFICATE ISSUED BY THE CANADIAN
22 GOVERNMENT.

23 3. HAS A DEPARTMENT-APPROVED, NONRENEWABLE, TEMPORARY OPERATOR'S
24 PERMIT TO OPERATE THE MOTORIZED WATERCRAFT THAT IS VALID FOR SIXTY DAYS
25 AND WAS ISSUED WITH THE CERTIFICATE OF NUMBER FOR THE MOTORIZED
26 WATERCRAFT, IF THE MOTORIZED WATERCRAFT IS NEW OR WAS SOLD WITH A TRANSFER
27 OF OWNERSHIP.

28 4. HAS A RENTAL OR LEASE AGREEMENT PURSUANT TO SECTION 5-372 THAT
29 LISTS THE PERSON AS AN AUTHORIZED OPERATOR OF THE MOTORIZED WATERCRAFT.

30 5. IS NOT A RESIDENT OF THIS STATE AND IS TEMPORARILY USING PUBLIC
31 WATERS FOR A PERIOD OF SIXTY DAYS OR LESS AND MEETS ANY APPLICABLE
32 REQUIREMENTS OF THE OPERATOR'S STATE OF RESIDENCY OR HAS A CANADIAN
33 PLEASURE CRAFT OPERATOR'S CARD.

34 6. IS A PERSON WHO OPERATES A MOTORIZED WATERCRAFT UNDER SUPERVISED
35 TRAINING, AS AUTHORIZED BY THE DEPARTMENT.

36 B. A PERSON WHO IS UNDER TWELVE YEARS OF AGE MAY NOT OPERATE A
37 MOTORIZED WATERCRAFT ON PUBLIC WATERS UNLESS ACCOMPANIED ON BOARD AND
38 DIRECTLY SUPERVISED BY A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE.
39 BOTH PERSONS MUST MEET THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION.

40 5-354. Compliance; violation; classification; penalties;
41 definition

42 A. A PERSON WHO IS OPERATING A MOTORIZED WATERCRAFT ON ANY PUBLIC
43 WATERS AND WHO IS STOPPED BY A PEACE OFFICER SHALL PRESENT EVIDENCE THAT
44 THE REQUIREMENTS OF SECTION 5-353 HAVE BEEN MET. FAILURE TO PRESENT

1 EVIDENCE THAT THE REQUIREMENTS OF SECTION 5-353 HAVE BEEN MET SHALL
2 CONSTITUTE PRIMA FACIA EVIDENCE OF A VIOLATION OF SECTION 5-353.

3 B. A PERSON IS GUILTY OF A CLASS 3 MISDEMEANOR IF THE PERSON:

4 1. FORGES, COUNTERFEITS OR FALSIFIES A CERTIFICATE OR OTHER
5 DOCUMENT.

6 2. POSSESSES WITH THE INTENT TO DECEIVE A CERTIFICATE OR OTHER
7 DOCUMENT THAT HAS BEEN FORGED, COUNTERFEITED OR FALSIFIED.

8 3. ALLOWS THE PERSON'S CERTIFICATE OR OTHER DOCUMENT TO BE USED BY
9 ANOTHER PERSON WITH THE INTENT TO DECEIVE.

10 C. A PERSON WHO FAILS TO PRESENT A CERTIFICATE OR OTHER DOCUMENT AS
11 REQUIRED BY SUBSECTION A OF THIS SECTION IS GUILTY OF A PETTY OFFENSE
12 UNLESS THE PERSON PRESENTS THE REQUIRED CERTIFICATE OR DOCUMENT IN A
13 SUBSEQUENT COURT PROCEEDING THAT PROVES THE PERSON WAS OPERATING THE
14 MOTORIZED WATERCRAFT IN COMPLIANCE WITH THIS ARTICLE ON THE DATE OF THE
15 VIOLATION.

16 D. THE COURT MAY SUSPEND ALL OR PART OF THE FINE IMPOSED ON A
17 DEFENDANT IF THE DEFENDANT COMPLETES THE SAFE BOATING EDUCATION COURSE
18 APPROVED BY A NATIONAL ASSOCIATION OF BOATING LAW ADMINISTRATORS AND THE
19 DEPARTMENT WITHIN THE TIME LIMITS ORDERED BY THE COURT.

20 E. THE COURT MAY PROHIBIT A PERSON WHO IS FOUND TO HAVE VIOLATED
21 THIS ARTICLE FROM OPERATING A MOTORIZED WATERCRAFT ON PUBLIC WATERS UNTIL
22 THE PERSON SUCCESSFULLY COMPLETES THE SAFE BOATING EDUCATION COURSE
23 APPROVED BY A NATIONAL ASSOCIATION OF BOATING LAW ADMINISTRATORS AND THE
24 DEPARTMENT.

25 F. FOR THE PURPOSES OF THIS SECTION, "DOCUMENT" MEANS A DOCUMENT
26 USED AS EVIDENCE THAT THE REQUIREMENTS OF SECTION 5-353 HAVE BEEN MET.

27 5-355. Rules; fees

28 THE DEPARTMENT MAY ADOPT RULES NECESSARY TO CARRY OUT THIS ARTICLE,
29 INCLUDING PROVISIONS FOR ISSUING CERTIFICATES, DUPLICATE CERTIFICATES,
30 RECORDKEEPING, COOPERATIVE AGREEMENTS, NAME AND ADDRESS CHANGES,
31 ESTABLISHING FEES FOR BOATING SAFETY COURSES AND CERTIFICATES AND
32 EQUIVALENCY EXAM CRITERIA.

33 Sec. 3. Title 5, chapter 3, article 7, Arizona Revised Statutes, is
34 amended by adding section 5-372, to read:

35 5-372. Motorized watercraft rentals; requirements

36 A. A PERSON OR THE PERSON'S AGENT OR EMPLOYEE ENGAGED IN THE
37 BUSINESS OF RENTING OR LEASING MOTORIZED WATERCRAFT FOR A PERIOD OF NOT
38 MORE THAN THIRTY DAYS MAY NOT RENT OR LEASE A MOTORIZED WATERCRAFT TO ANY
39 PERSON FOR OPERATION ON THE PUBLIC WATERS UNLESS THE PERSON:

40 1. MEETS THE REQUIREMENTS OF SECTION 5-353.

41 2. IS AT LEAST EIGHTEEN YEARS OF AGE.

42 B. A PERSON OR THE PERSON'S AGENT OR EMPLOYEES ENGAGED IN THE
43 BUSINESS OF RENTING OR LEASING MOTORIZED WATERCRAFT SHALL LIST ON EACH
44 RENTAL OR LEASE AGREEMENT FOR A MOTORIZED WATERCRAFT THE NAME AND AGE OF
45 EACH PERSON WHO IS AUTHORIZED TO OPERATE THE MOTORIZED WATERCRAFT. THE

1 PERSON TO WHOM THE MOTORIZED WATERCRAFT IS RENTED OR LEASED SHALL ENSURE
2 THAT ONLY THOSE PERSONS WHO ARE LISTED AS AUTHORIZED OPERATORS ARE ALLOWED
3 TO OPERATE THE MOTORIZED WATERCRAFT.

4 C. A PERSON OR THE PERSON'S AGENT OR EMPLOYEE ENGAGED IN THE
5 BUSINESS OF RENTING OR LEASING MOTORIZED WATERCRAFT SHALL PROVIDE TO EACH
6 PERSON AUTHORIZED TO OPERATE A MOTORIZED WATERCRAFT A SUMMARY OF THE
7 STATUTES AND RULES OF THIS STATE GOVERNING THE OPERATION OF A MOTORIZED
8 WATERCRAFT AND INSTRUCTIONS REGARDING THE SAFE OPERATION OF THE MOTORIZED
9 WATERCRAFT. EACH PERSON WHO IS LISTED AS AUTHORIZED TO OPERATE THE
10 MOTORIZED WATERCRAFT SHALL REVIEW THE SUMMARY OF THE STATUTES, RULES AND
11 INSTRUCTIONS BEFORE THE MOTORIZED WATERCRAFT DEPARTS FROM THE RENTAL OR
12 LEASING OFFICE.

13 D. A PERSON OR THE PERSON'S AGENT OR EMPLOYEE ENGAGED IN THE
14 BUSINESS OF RENTING OR LEASING MOTORIZED WATERCRAFT MAY USE A RENTAL
15 SAFETY CHECKLIST THAT HIGHLIGHTS IMPORTANT BOATING SAFETY RULES AND
16 REQUIRES THE PERSON TO WHOM THE MOTORIZED WATERCRAFT IS RENTED OR LEASED
17 TO INITIAL EACH SECTION TO PROVE THAT THE PERSON READ IT AND IS AWARE OF
18 THE SAFETY RULES.