

**As Amended by House Committee**

Session of 2005

**HOUSE BILL No. 2117**

By Committee on Wildlife, Parks and Tourism

1-20

10 AN ACT concerning vessels; imposing certain requirements; prohibiting  
11 certain acts; providing penalties for certain violations; relating to cer-  
12 tain healthcare records; amending K.S.A. 32-1110, 32-1111, 32-1119,  
13 32-1125, 32-1128 and 32-1180 and K.S.A. 2004 Supp. 32-1102 ~~and~~,  
14 32-1173 **and 74-7336** and repealing the existing sections.  
15

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

17 Sec. 1. K.S.A. 2004 Supp. 32-1102 is hereby amended to read as  
18 follows: 32-1102. As used in article 11 of chapter 32 of the Kansas Statutes  
19 Annotated and amendments thereto, unless the context clearly requires  
20 a different meaning:

21 (a) "Vessel" means any watercraft designed to be propelled by ma-  
22 chinery, oars, paddles or wind action upon a sail for navigation on the  
23 water.

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

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

32 (d) "Waters of this state" means any waters within the territorial lim-  
33 its of this state.

34 (e) "Person" means an individual, partnership, firm, corporation, as-  
35 sociation, or other entity.

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

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

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

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

43 (j) "Operator" means the person who operates or has charge of the

1 navigation or use of a motorboat or a vessel.

2 (k) “Undocumented vessel” means a vessel which is not required to  
3 have, and does not have, a valid marine document issued by the United  
4 States coast guard or federal agency successor thereto.

5 (l) “Reportable boating accident” means an accident, collision or  
6 other casualty involving a vessel subject to this act which results in loss  
7 of life, injury sufficient to require first aid or medical attention, or actual  
8 physical damage to property, including a vessel, in excess of an amount  
9 established by rules and regulations adopted by the secretary in accord-  
10 ance with K.S.A. 32-805 and amendments thereto.

11 (m) “Marine sewage” means any substance that contains any of the  
12 waste products, excrement or other discharges from the bodies of human  
13 beings or animals, or foodstuffs or materials associated with foodstuffs  
14 intended for human consumption.

15 (n) “Marine toilet” means any latrine, head, lavatory or toilet which  
16 is intended to receive marine sewage and which is located on or in any  
17 vessel.

18 (o) “Passenger” means any individual who obtains passage or is car-  
19 ried in or on a vessel.

20 (p) “Sail board” means a surfboard using for propulsion a free sail  
21 system comprising one or more swivel-mounted rigs (mast, sail and  
22 booms) supported in an upright position by the crew and the wind.

23 (q) “Dealer” means any person who:

24 (1) For a commission or with an intent to make a profit or gain of  
25 money or other thing of value, sells, barter, exchanges, leases or rents  
26 with the option to purchase, offers, attempts to sell, or negotiates the sale  
27 of any vessel, whether or not the vessel is owned by such person;

28 (2) maintains an established place of business with sufficient space to  
29 display vessels at least equal in number to the number of dealer certifi-  
30 cates of number the dealer has been assigned; and

31 (3) maintains signage easily visible from the street identifying the es-  
32 tablished place of business.

33 (r) “Demonstrate” means to operate a vessel on the waters of this  
34 state for the purpose of selling, trading, negotiating or attempting to ne-  
35 gotiate the sale or exchange of interests in new or used vessels or for the  
36 purpose of testing the design or operation of a vessel.

37 (s) “Sailboat” means any vessel, other than a sail board, that is de-  
38 signed to be propelled by wind action upon a sail for navigation on the  
39 water.

40 (t) *“Boat livery” means any person offering a vessel or vessels of var-*  
41 *ying types for rent.*

42 (u) *“Cargo” means the items placed within or on a vessel and shall*  
43 *include any persons or objects towed on water skis, surfboards, tubes or*

1 *similar devices behind the vessel.*  
2 (v) *“State of principal use” means the state on the waters of which a*  
3 *vessel is used or to be used most during the calendar year.*  
4 (w) *“Use” means to operate, navigate or employ.*  
5 (x) *“Abandoned vessel” means any vessel on public waters or public*  
6 *or private land which remains unclaimed for a period of 15 consecutive*  
7 *days.*  
8 Sec. 2. K.S.A. 32-1110 is hereby amended to read as follows: 32-  
9 1110. Every undocumented, mechanically propelled vessel or sailing ves-  
10 sel using the waters of this state, *as its state of principal use*, shall be  
11 numbered, except those exempted by K.S.A. 32-1113, and amendments  
12 thereto. No person shall operate or give permission for the operation of  
13 any motorboat or vessel propelled by sail on such waters unless such  
14 vessel is numbered in accordance with this act, applicable federal law or  
15 a federally approved numbering system of another state, and unless (1)  
16 the certificate of number awarded to such vessel is in full force and effect  
17 and (2) the identifying number set forth in the certificate of number is  
18 displayed on each side of the bow of such vessel, unless otherwise pro-  
19 vided by rules and regulations of the secretary.  
20 Sec. 3. K.S.A. 32-1111 is hereby amended to read as follows: 32-  
21 1111. (a) The owner of each vessel requiring numbering by this state shall  
22 file an application for number with the secretary on forms approved by  
23 the secretary. The application shall be signed by the owner of the vessel  
24 and shall be accompanied by the vessel registration fee prescribed pur-  
25 suant to K.S.A. 32-1172, and amendments thereto, and by proof of pay-  
26 ment of any tax imposed under the provisions of K.S.A. 12-187, 12-198,  
27 the Kansas retailers’ sales tax act or the Kansas compensating tax act, and  
28 amendments thereto, as the case requires, upon forms devised and fur-  
29 nished by the department of revenue to every county treasurer for such  
30 purpose. Upon receipt of the application in approved form and proof of  
31 payment of sales or compensating tax, the secretary shall enter the same  
32 upon the records of the department and issue to the applicant a certificate  
33 of number stating the number awarded to the vessel and the name and  
34 address of the owner. Unless otherwise provided by rules and regulations,  
35 the owner shall paint on or attach to each side of the bow of the vessel  
36 the identification number in such manner as prescribed by rules and  
37 regulations of the secretary in order that it may be clearly visible. The  
38 number shall be maintained in legible condition. The certificate of num-  
39 ber shall be pocket size and, unless otherwise provided by rules and reg-  
40 ulations, shall be available at all times for inspection on the vessel for  
41 which issued, whenever such vessel is in operation. No person charged  
42 with a violation of the preceding sentence shall be convicted of such  
43 offense if such person produces in court or the office of the arresting

1 officer a certificate of number issued and valid at the time of such person's  
2 arrest.

3 (b) The owner of any vessel already covered by a number in full force  
4 and effect which has been awarded to it pursuant to the then operative  
5 federal law or a federally approved numbering system of another state  
6 shall record the number prior to operating the vessel on the waters of  
7 this state in excess of the 60-day reciprocity period provided for in sub-  
8 section (1) of K.S.A. 32-1113, and amendments thereto. Such recordation  
9 shall be in the manner and pursuant to the procedure required for the  
10 award of a number under this subsection, including the submission of  
11 proof of payment of sales or compensating tax, except that no additional  
12 or substitute number shall be issued.

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

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

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

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

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

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

40 (i) The owner shall furnish the secretary notice of the transfer of all  
41 or any part of such owner's interest other than the creation of a security  
42 interest in a vessel numbered in this state pursuant to subsections (a) and  
43 (b) or of the destruction or abandonment of such vessel within 15 days

1 thereof. Such transfer, destruction, or abandonment shall terminate the  
2 certificate of number for such vessel and the certificate of number shall  
3 be surrendered to the secretary as a part of the notification of transfer,  
4 destruction, or abandonment except, that in the case of a transfer of a  
5 part interest which does not affect the owner's right to operate such ves-  
6 sel, such transfer shall not terminate the certificate of number.

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

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

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

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

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

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

35 (n) *(1) The owner of any vessel documented by the United States*  
36 *Coast Guard and the new owner of any vessel, who upon the sale or*  
37 *transfer of the vessel desires to document the vessel with the United States*  
38 *Coast Guard, shall apply for a vessel certificate of registration and pay a*  
39 *fee equal to the amount required for a vessel registration pursuant to*  
40 *K.S.A. 32-1172, and amendments thereto, before using such vessel on the*  
41 *waters of this state. The application shall include the county in which*  
42 *such vessel will be normally maintained by the owner and any other in-*  
43 *formation required by the secretary.*

1     *A certificate of registration and a set of registration decals in the form*  
2 *prescribed by the secretary shall be issued for a documented vessel. A*  
3 *nonresident shall make application for a vessel certificate of registration*  
4 *within 60 days after acquiring a vessel in this state or bringing a vessel*  
5 *into this state if the vessel will be kept in this state for a period in excess*  
6 *of 60 consecutive days. A delinquency penalty fee of \$20 shall be imposed*  
7 *for each 30 days of delinquency, not to exceed a total of \$60. If the sec-*  
8 *retary learns that any person failed to acquire a vessel certificate of reg-*  
9 *istration in accordance with this section or has sold a vessel documented*  
10 *by the United States Coast Guard without obtaining a certificate of reg-*  
11 *istration as provided by this section, the secretary shall cancel the regis-*  
12 *tration of all vessels registered in the name of the person, whether as sole*  
13 *owner or a co-owner, and shall notify the person that the cancellation will*  
14 *remain in force until the person pays the delinquency penalty fee together*  
15 *with all fees, charges and payments which the person should have paid*  
16 *in connection with the vessel certificate of registration. The secretary shall*  
17 *maintain a listing of such registered documented vessels, to be supplied*  
18 *to the county assessor of each county in the state as required under K.S.A.*  
19 *32-1104, and amendments thereto. Such vessels shall not be included in*  
20 *the total number of registered vessels of the state applied toward the num-*  
21 *ber reflected on any United States Coast Guard grants, where prohibited.*

22     *(2) The registration decals for any vessel documented by the United*  
23 *States Coast Guard shall be in force and effect for a period of three years*  
24 *so long as the vessel is owned or held by the original holder of the certifi-*  
25 *cate of registration and shall be renewed upon application and payment*  
26 *of a registration renewal fee equal to the amount required for a vessel*  
27 *registration pursuant to K.S.A. 32-1172, and amendments thereto. The*  
28 *owner shall attach the registration decals to both sides of the forward half*  
29 *of the bow of the documented vessel in a place that is fully visible.*

30     *(3) Upon the sale or transfer of any vessel documented by the United*  
31 *States Coast Guard, the new owner shall submit, in addition to the prop-*  
32 *erly assigned certificate of registration, proof of release from the docu-*  
33 *mentation of the United States Coast Guard and shall comply with the*  
34 *provisions of this section. If the new owner elects not to document the*  
35 *vessel with the United States Coast Guard, the owner shall comply with*  
36 *the applicable provisions for registering vessels in this state.*

37     *(4) The certificate of registration shall be available at all times for*  
38 *inspection on the vessel for which it is issued, whenever the vessel is in*  
39 *operation, moored or occupied while on waters within this state.*

40     *(o) The secretary shall adopt, in accordance with K.S.A. 32-805, and*  
41 *amendments thereto, rules and regulations for the administration of the*  
42 *provisions of this section, including but not limited to numbering appli-*  
43 *cations, certificates of number, temporary 30-day permits, display of num-*

1 ber and reports on change of address, destruction and sale or transfer of  
2 ownership.

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

6 Class A. Less than 16 feet in length.

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

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

9 Class 3. Forty feet and over in length.

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

14 (1) *Definitions.*

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

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

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

32 (D) *“All-round light” means a light showing an unbroken light over*  
33 *an arc of the horizon of 360 degrees.*

34 (2) Every motorboat of classes A and 1 shall carry the following lights:

35 ~~First. A bright white light aft to show all around the horizon.~~

36 ~~—Second. A combined lantern in the fore part of the vessel and lower~~  
37 ~~than the white light aft, showing green to starboard and red to port, so~~  
38 ~~fixed as to throw the light from right ahead to two points abaft the beam~~  
39 ~~on the respective sides.~~

40 ~~First. An all-round light carried aft and high enough to be~~  
41 ~~unobstructed.~~

42 ~~Second. Sidelights in the fore part of the vessel and lower than the all-~~  
43 ~~round light.~~

1     ~~(2)~~ (3) Every motorboat of classes 2 and 3 shall carry the following  
2 lights:

3     —*First.* A bright white light in the fore part of the vessel as near the stem  
4 as practicable, so constructed as to show the unbroken light over an arc  
5 of the horizon of 20 points of the compass, so fixed as to throw the light  
6 10 points on each side of the vessel, namely, from right ahead to two  
7 points abaft the beam on either side.

8     —*Second.* A bright white light aft to show all around the horizon and  
9 higher than the white light forward.

10    —*Third.* On the starboard side a green light so constructed as to show  
11 an unbroken light over an arc of the horizon of 10 points of the compass,  
12 so fixed as to throw the light from right ahead to two points abaft the  
13 beam on the starboard side. On the port side a red light so constructed  
14 as to show an unbroken light over an arc of the horizon of 10 points of  
15 the compass, so fixed as to throw the light from right ahead to two points  
16 abaft the beam on the port side. The side lights shall be fitted with inboard  
17 screens of sufficient height so set as to prevent these lights from being  
18 seen across the bow ~~a masthead light, sternlight and sidelights. The side-~~  
19 ~~lights shall be fitted with inboard screens of sufficient height so set as to~~  
20 ~~prevent these lights from being seen across the bow.~~

21    ~~(3)~~ (4) Motorboats of classes A and 1 when propelled by sail alone,  
22 and sailing vessels of similar size when propelled by sail alone, shall carry  
23 the combined lantern prescribed by this section and a 12-point white light  
24 aft. Motorboats of classes 2 and 3, when so propelled, and sailing vessels  
25 of similar size, when propelled by sail alone, shall carry the colored side  
26 lights, suitably screened, prescribed by this section and a 12-point white  
27 light aft ~~sidelights and a sternlight.~~

28    ~~(4)~~ (5) Manually propelled vessels shall carry, ready at hand, a lantern  
29 or flashlight showing a white light which shall be exhibited in sufficient  
30 time to avert collision.

31    ~~(5)~~ (6) Every white light prescribed by this section shall be of such  
32 character as to be visible at a distance of at least two miles. Every colored  
33 light prescribed by this section shall be of such character as to be visible  
34 at a distance of at least one mile. The word “visible” in this subsection,  
35 when applied to lights, shall mean visible on a dark night with clear  
36 atmosphere.

37    ~~(6)~~ (7) When propelled by sail and machinery any motorboat shall  
38 carry the lights required by this section for a motorboat propelled by  
39 machinery only.

40    ~~(7)~~ (8) All vessels at anchor between sunset and sunrise, unless an-  
41 chored at a designated site, shall carry forward, or where it can best be  
42 seen, a bright white light to show all around the horizon and visible for  
43 one mile.

- 1 (c) *In lieu of the lights required by subsection (b)*, any vessel may  
2 carry and exhibit the lights required by the federal regulations ~~for pre-~~  
3 ~~venting collisions at sea, 1960, federal act of September 24, 1963 (33 USC~~  
4 ~~1051-1053) and (1061-1064) as amended in lieu of the lights required by~~  
5 ~~subsection (b) under the inland navigational rules act of December 24,~~  
6 ~~1981 (33 U.S.C. 2020-2030), as in effect on the effective date of this act,~~  
7 ~~or as prescribed by rules and regulations of the secretary.~~
- 8 (d) Every motorboat ~~of class 1, 2, or 3~~ shall be provided with an  
9 efficient whistle or other sound-producing mechanical appliance.
- 10 (e) Every motorboat of class ~~2 or 3~~ shall be provided with an efficient  
11 bell.
- 12 (f) Every vessel, other than sail boards used for wind surfing, racing  
13 shells or rowing sculls shall carry at least one coast guard approved life-  
14 saving device of the sort prescribed by rules and regulations of the sec-  
15 retary, in good and serviceable condition, for each person on board, so  
16 placed as to be readily accessible. As used in this subsection, “racing shell”  
17 and “rowing scull” mean a manually propelled vessel that is recognized  
18 by national or international racing associations for use in competitive rac-  
19 ing in which all occupants row, scull or paddle, with the exception of a  
20 coxswain, and is not designed to carry and does not carry any equipment,  
21 not solely for competitive racing.
- 22 (g) Every motorboat shall be provided with such number, size, and  
23 type of coast guard approved fire extinguishers, capable of promptly and  
24 effectually extinguishing burning gasoline, as may be prescribed by rules  
25 and regulations of the secretary, which fire extinguishers shall be at all  
26 times kept in condition for immediate and effective use and shall be so  
27 placed as to be readily accessible.
- 28 (h) The provisions of subsections (d), (e) and (g) shall not apply to  
29 outboard motorboats while competing in any race conducted pursuant to  
30 K.S.A. 32-1149, and amendments thereto, or, if such boats are designed  
31 and intended solely for racing, while engaged in such navigation as is  
32 incidental to the tuning up of the boats and engines for the race.
- 33 (i) Every motorboat shall have the carburetor or carburetors of every  
34 engine therein, except outboard motors, using gasoline as fuel, equipped  
35 with such efficient coast guard approved flame arrester, backfire trap or  
36 other similar device as may be prescribed by rules and regulations of the  
37 secretary.
- 38 (j) Every such motorboat and every such vessel, except open boats,  
39 using as fuel any liquid of a volatile nature shall be provided with such  
40 means as may be prescribed by rules and regulations of the secretary for  
41 properly and efficiently ventilating the bilges of the engine and fuel tank  
42 compartments so as to remove any explosive or inflammable gases.
- 43 (k) The secretary is hereby authorized to adopt, in accordance with

1 K.S.A. 32-805, and amendments thereto, rules and regulations required  
2 to carry out in the most effective manner all of the provisions of this act  
3 and to alter, modify or supplement the equipment requirements con-  
4 tained in this section to the extent necessary to keep these requirements  
5 in conformity with the provisions of the federal navigation laws or with  
6 the navigation rules promulgated by the United States coast guard.

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

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

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

19 Sec. 5. K.S.A. 32-1125 is hereby amended to read as follows: 32-  
20 1125. (a) No person shall operate any motorboat or vessel or manipulate  
21 any water skis, surfboard or similar device in a reckless or negligent man-  
22 ner so as to endanger the life or property of any person.

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

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

31 As used in this subsection, “waters of this state” includes, but is not  
32 limited to, any water storage reservoir impoundments over which the  
33 secretary has been granted jurisdiction by the proper agency or official  
34 of the United States government.

35 (d) No person shall operate or moor a vessel within a water area  
36 which is marked, by buoys or some other distinguishing device, as a bath-  
37 ing or swimming area or as an all-boats-prohibited area. No person shall  
38 operate a vessel for purposes other than fishing in areas marked by buoys  
39 or otherwise designated as fishing areas, and no person shall operate a  
40 vessel for purposes other than hunting in areas marked by buoys or oth-  
41 erwise designated as hunting areas, and in areas designated for combined  
42 use of fishing and hunting, vessels may be used for both purposes unless  
43 prohibited by federal law.

1 (e) No owner or person in possession of a vessel shall permit a person  
2 under 12 years of age to operate a motorboat unless accompanied and  
3 under the direct and audible supervision of a parent or other person over  
4 17 years of age. *“Direct and audible supervision” means a person on board*  
5 *the same vessel and in sufficiently close proximity of the operator’s station*  
6 *to enable such person to quickly and safely assume control of such vessel*  
7 *if needed.*

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

14 Sec. 6. K.S.A. 32-1128 is hereby amended to read as follows: 32-  
15 1128. (a) No person shall operate a vessel on any waters of this state  
16 towing a person or persons on water skis, a surfboard, or similar device,  
17 nor shall any person engage in water skiing, surfboarding, or similar ac-  
18 tivity at any time between the hours from ~~one hour after~~ sunset to ~~one~~  
19 ~~hour before~~ sunrise.

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

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

29 (d) No person shall operate a motorboat on any waters of this state  
30 for towing a person or persons on water skis, a surfboard, or similar de-  
31 vice, unless the boat is equipped with a wide angle rear view mirror  
32 properly placed to provide a maximum vision of the person or persons  
33 being towed, or there is an observer in the boat in addition to the oper-  
34 ator. The observer must be a responsible person of at least ~~twelve (12)~~  
35 12 years of age.

36 (e) *The operator or observer shall observe the person or persons being*  
37 *towed and shall display a flag immediately after the towed person or*  
38 *persons enter into the water and during the time preparatory to towing*  
39 *or retrieving while the person or persons are still in the water. Such flag*  
40 *shall be a bright or brilliant orange or red color, measuring not less than*  
41 *12 inches per side, mounted on a handle and displayed as to be visible*  
42 *from all directions. It shall be unlawful to display such flag except under*  
43 *the conditions listed in this subsection.*

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

5 The muffler system shall be in good working order and in constant  
6 operation and effectively installed to prevent any excessive or unusual  
7 noise.

8 (b) Muffler means a sound suppression device or system designed  
9 and installed to abate the sound of exhaust gases emitted from an internal  
10 combustion engine and which prevents excessive or unusual noise.

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

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

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

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

28 (g) The provisions of subsections (c) through (e) shall not apply to  
29 motorboats officially registered and competing in or while on trial runs  
30 48 hours immediately preceding a regatta, race, marine parade, tourna-  
31 ment or exhibition which has been authorized or permitted by the  
32 department.

33 (h) A law enforcement officer who has reason to believe a motorboat  
34 is being operated in violation of the noise levels established in this section  
35 may direct the operator of the motorboat to submit to an on-site test to  
36 measure noise level. An operator of a motorboat who receives a request  
37 from a law enforcement officer pursuant to this section shall allow the  
38 motorboat to be tested. If, based on a test to determine the noise level  
39 of a motorboat, the noise level of the motorboat exceeds the decibel levels  
40 established in this section, the law enforcement officer shall direct the  
41 operator of the motorboat to take immediate and reasonable measures to  
42 correct the violation, including, but not limited to, terminating the voyage  
43 of the motorboat until the motorboat no longer operates in violation of

1 this section.

2 New Sec. 8. (a) No person shall:

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

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

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

11 (c) This section does not prohibit:

12 (1) The restoration of the original hull identification number by an  
13 owner of a vessel when the restoration of such number is authorized by  
14 the secretary.

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

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

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

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

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

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

42 New Sec. 10. (a) Whenever the secretary assigns a hull identification  
43 number to a handmade vessel, the hull identification number shall consist

1 of two letters designating the state followed by the letter “Z”; the next  
2 five characters shall be an identifying serial number and the last four  
3 characters shall indicate the month and year of the vessel certificate of  
4 ownership issuance.

5 (b) The registered owner of a handmade vessel for which a hull iden-  
6 tification number has been assigned shall carve, burn, stamp, emboss or  
7 otherwise permanently affix the assigned number to the outboard side of  
8 the starboard side of the transom or, if there is no transom, to the out-  
9 ermost starboard side at the end of the hull that bears the rudder or other  
10 steering mechanism and above the waterline of the vessel in such a way  
11 that alteration, removal, or replacement would be evident. The number  
12 must be at least  $\frac{1}{4}$  inch in height.

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

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

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

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

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

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

41 (1) The vessel is left unattended and is adrift, moored, docked,  
42 beached or made fast to land in such a position as to interfere with nav-  
43 igation or in such a condition as to create a hazard to other vessels using

- 1 the waterway, to public safety or to the property of another.
- 2 (2) The vessel is found upon a waterway and a report has previously  
3 been made that the vessel has been stolen or embezzled.
- 4 (3) The person in charge of the vessel is by reason of physical injuries  
5 or illness incapacitated to such an extent as to be unable to provide for  
6 its custody or removal.
- 7 (4) A law enforcement officer arresting a person operating or in con-  
8 trol of the vessel for an alleged offense, and the officer is required or  
9 permitted to take, and does take, the person arrested into custody without  
10 unnecessary delay.
- 11 (5) The vessel seriously interferes with navigation or otherwise poses  
12 a critical and immediate danger to navigation or to the public health,  
13 safety or welfare.
- 14 New Sec. 12. (a) A law enforcement officer may attempt to identify  
15 the registered owner of a vessel abandoned on private property by in-  
16 spection of the vessel and any trailer to which it is attached and may  
17 supply the information to the real property owner upon which vessel is  
18 presumed abandoned. The real property owner must declare by affidavit  
19 the reasons why such real property owner believes the property to be  
20 abandoned. The real property owner must give 5-days' notice to the last  
21 registered vessel owner before causing the removal of the vessel. If the  
22 last registered owner is unknown or cannot be notified, the vessel may  
23 immediately be removed to a secure location designated by a law enforce-  
24 ment officer.
- 25 (b) A law enforcement officer, within 48 hours after directing the  
26 removal of an abandoned vessel on a public waterway or public or private  
27 property, shall notify the department of the status of the vessel.
- 28 (c) A law enforcement officer who has custody of an abandoned ves-  
29 sel, if the law enforcement agency knows or can reasonably discover the  
30 name and address of the owner of the vessel or any person who holds a  
31 security interest in the vessel, shall notify the owner or the holder of the  
32 security interest of the location of the vessel and the method by which  
33 the vessel may be claimed. This notice must be sent by certified or reg-  
34 istered mail.
- 35 (d) If the abandoned vessel is held by a law enforcement agency as  
36 evidence in the investigation or prosecution of a criminal offense, the  
37 notice required by subsection (c) shall be sent:
- 38 (1) Upon the decision of the law enforcement agency or prosecuting  
39 attorney not to pursue or prosecute the case;
- 40 (2) upon the conviction of the person who committed the offense; or
- 41 (3) if the case is otherwise terminated.
- 42 (e) Failure to reclaim the vessel within 180 days after the date the  
43 notice is mailed constitutes a waiver of interest in the vessel by any person

1 having an interest in the vessel and the vessel shall be deemed abandoned  
2 for all purposes.

3 (f) If all recorded interests in a vessel are waived, as provided in  
4 subsection (e) or by written disclaimer, the department may issue a cer-  
5 tificate of ownership to the law enforcement agency that has custody of  
6 the vessel. If necessary, the secretary may assign a hull number to the  
7 vessel. This subsection shall not preclude the subsequent return of a ves-  
8 sel, or any component part thereof, by a law enforcement agency to the  
9 registered owner of the vessel upon presentation by the registered owner  
10 of satisfactory proof of ownership.

11 (g) A law enforcement agency to which a certificate of ownership is  
12 issued pursuant to subsection (f) may use, sell or destroy the vessel and  
13 shall keep a record of the disposition of the vessel. If the law enforcement  
14 agency:

15 (1) Sells the vessel, all proceeds from the sale of the vessel shall be-  
16 come the property of the law enforcement agency.

17 (2) Destroys the vessel, the law enforcement agency shall, within 10  
18 days, give notice of the destruction of the vessel to the department.

19 New Sec. 13. (a) The registered owner of a destroyed or abandoned  
20 vessel that is numbered pursuant to chapter 32 of the Kansas Statutes  
21 Annotated, and amendments thereto, shall provide the notice required  
22 by K.S.A. 32-1111, and amendments thereto, to the secretary in writing.  
23 The written notice must be signed by the registered owner and notarized.

24 (b) The written notice provided pursuant to subsection (a) must in-  
25 dicate the reason for the destruction or abandonment of the vessel and  
26 the current location and condition of the vessel.

27 (c) The registered owner shall surrender to the secretary the certifi-  
28 cate of number and the certificate of ownership issued for the motorboat,  
29 if in existence, at the time the owner provides the written notice to the  
30 secretary pursuant to subsection (a).

31 (d) Once a vessel has been destroyed or abandoned, the secretary  
32 shall print the word “salvage” on each subsequent certificate of number  
33 which it issues for that vessel.

34 New Sec. 14. (a) If a law enforcement officer has probable cause to  
35 believe that a vessel or its contents contain evidence tending to show that  
36 a criminal offense has been committed or that a particular person has  
37 committed an offense, the officer may take whatever steps are reasonable  
38 to ensure the preservation of the evidence, including safe storage of the  
39 vessel or its contents.

40 (b) If a criminal conviction is obtained as a result of an action taken  
41 pursuant to subsection (a), the person convicted shall pay any storage fees  
42 incurred pursuant to that subsection. If a conviction is not obtained, the  
43 law enforcement agency that seized the vessel pursuant to subsection (a)

1 shall pay any storage fees incurred.

2 Sec. 15. K.S.A. 2004 Supp. 32-1173 is hereby amended to read as  
3 follows: 32-1173. All moneys received pursuant to K.S.A. 32-1101 through  
4 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128,  
5 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172,  
6 32-1173 ~~and~~, 32-1177 through 32-1180 *and sections 9 and 10*, and amend-  
7 ments thereto, shall be remitted to the state treasurer in accordance with  
8 the provisions of K.S.A. 75-4215 **and 74-7336**, and amendments thereto.  
9 Upon receipt of each such remittance, the state treasurer shall deposit  
10 the entire amount **as prescribed by K.S.A. 74-7336, and amendments**  
11 **thereto**, in the state treasury to the credit of the boating fee fund, which  
12 is hereby created, to be dedicated and used to administer and enforce  
13 the provisions of K.S.A. 32-1101 through 32-1104, 32-1110 through 32-  
14 1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-  
15 1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~, 32-1177 through  
16 32-1180 *and sections 7 through 14*, and amendments thereto. When suf-  
17 ficient moneys are available from the fees so collected, the secretary may  
18 use the same to construct or repair boating facilities, ramps and docks at  
19 public waters within this state.

20 **Sec. 16. K.S.A. 2004 Supp. 74-7336 is hereby amended to read**  
21 **as follows: 74-7336. (a) Of the remittances of fines, penalties and**  
22 **forfeitures received from clerks of the district court, at least**  
23 **monthly, the state treasurer shall credit 11.99% to the crime vic-**  
24 **tims compensation fund, 2.45% to the crime victims assistance**  
25 **fund, 2.01% to the community alcoholism and intoxication pro-**  
26 **grams fund, 2.01% to the department of corrections alcohol and**  
27 **drug abuse treatment fund and 0.17% to the boating fee fund. The**  
28 **remainder of the remittances shall be credited to the state general**  
29 **fund.**

30 **(b) The county treasurer shall deposit grant moneys as pro-**  
31 **vided in subsection (a), from the crime victims assistance fund, to**  
32 **the credit of a special fund created for use by the county or district**  
33 **attorney in establishing and maintaining programs to aid witnesses**  
34 **and victims of crime.**

35 ~~Sec. 16.~~ **17.** K.S.A. 32-1180 is hereby amended to read as follows:  
36 32-1180. Unless otherwise provided by statute or rules and regulations of  
37 the secretary, violation of K.S.A. 32-1101 through 32-1104, 32-1110  
38 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through  
39 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173 ~~and~~, 32-  
40 1177 through 32-1180 *and sections 7 and 11*, and amendments thereto,  
41 or rules and regulations adopted thereunder is a class C misdemeanor.

42 ~~Sec. 17.~~ **18.** K.S.A. 32-1110, 32-1111, 32-1119, 32-1125, 32-1128  
43 and 32-1180 and K.S.A. 2004 Supp. 32-1102 ~~and~~, 32-1173 **and 74-7336**

1 are hereby repealed.

2 Sec. ~~18~~ **19**. This act shall take effect and be in force from and after

3 January 1, 2006, and its publication in the statute book.