COMMITTEE AMENDMENT ADOPTED

April 29, 2014

**H. 4561**

Introduced by Reps. Hixon, King, Hodges, Simrill, Huggins, Ballentine, Brannon, Hiott, Hardwick, Bales, Knight, Clyburn, Southard, Tallon, Skelton, Erickson, Sottile, Limehouse, Stavrinakis, McCoy, Parks, Crosby, Anthony, Mitchell, Bowen, H.A. Crawford, Robinson‑Simpson, Toole, Kennedy, Patrick, Bowers, Atwater, Bedingfield, Williams, M.S. McLeod, G.R. Smith, George, Putnam, Allison, Burns, Chumley, Clemmons, Cobb‑Hunter, Daning, Delleney, Dillard, Edge, Felder, Forrester, Funderburk, Gagnon, Hamilton, Hardee, Hart, Hayes, Henderson, Horne, Hosey, Jefferson, Loftis, Long, Lowe, Lucas, W.J. McLeod, V.S. Moss, Murphy, Newton, Norman, Owens, Pitts, Pope, Ridgeway, Riley, Rutherford, Sabb, Sandifer, J.R. Smith, Taylor, Thayer, Wells, White, Whitmire, Willis, Wood and R.L. Brown

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Read the first time March 5, 2014.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 20 TO TITLE 50 SO AS TO AUTHORIZE THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES TO ENTER INTO THE INTERSTATE BOATING VIOLATOR COMPACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 50 of the 1976 Code is amended by adding:

“CHAPTER 20

Interstate Boating Violator Compact

Section 50‑20‑10. This Chapter may be cited as the ‘Interstate Boating Violator Compact’.

Section 50‑20‑20. The Interstate Boating Violator Compact is enacted into law and entered into with all other jurisdictions legally joining therein. The Department of Natural Resources shall execute all documents and perform all other acts necessary to carry out the provisions of the compact in a form substantially as follows:

Article I

Findings, Declaration of Policy, and Purpose

(A) The party states find that:

(1) Boating activities on public waters are managed by the respective states for the benefit of all residents and visitors.

(2) The benefits of boating activities on public waters can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those activities.

(3) The management of boating activities on public waters contributes immeasurably to the aesthetic, recreational, and economic aspects of the respective states.

(4) Boating activities on public waters are valuable without regard to political boundaries. Therefore, all persons should be required to comply with boating laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the privilege of operating watercraft on public waters.

(5) Violation of boating laws interferes with the management of boating activities on public waters and may endanger the safety of persons and property.

(6) The mobility of many boating law violators necessitates the maintenance of channels of communication among the respective states.

(7) In most instances, a person who is cited for a boating violation in a state other than the person’s home state:

(a) must post collateral or bond to secure appearance for a trial at a later date;

(b) if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(c) is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in item (7) of this subsection is to ensure compliance with the terms of a boating citation by the person who, if permitted to continue on the person’s way after receiving the citation, could return to the person’s home state and disregard the person’s duty under the terms of the citation.

(9) In most instances, a person receiving a boating citation in the person’s home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person’s way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in item (7) of this subsection causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in item (7) of this subsection consume an undue amount of law enforcement time.

(B) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to boating activities on public waters in their respective states.

(2) Recognize the suspension of watercraft operating privileges or the watercraft operators license of any person whose watercraft operating privileges or watercraft operators license has been suspended by a party state and treat the suspension as if it had occurred in their state.

(3) Allow violators to accept a boating citation, except as provided in subsection (B) of Article III, and proceed on the violator’s way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator’s home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any boating conviction recorded against a person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat boating convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a boating citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of boating violations.

(C) The purposes of this compact are to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (B) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of boating violators operating within party states in recognition of the person’s right of due process and the sovereign status of a party state.

Article II

Definitions

Unless the context requires otherwise, the following definitions in this article apply through this compact and are intended only for the implementation of this compact:

(1) ‘Boating activity’ means any activity involving the operation of a watercraft on public waters.

(2) ‘Boating violation’ means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to regulate the operation of watercraft on public waters.

(3) ‘Citation’ means any summons, complaint, ticket, penalty assessment, or other official document issued by a law enforcement officer for a boating violation containing an order which requires the person to respond.

(4) ‘Collateral’ means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a law enforcement officer of a citation for a boating violation.

(5) ‘Compliance’ with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(6) ‘Conviction’ means a conviction, including any court conviction, for an offense related to the operation of watercraft on public waters which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(7) ‘Court’ means any court of law, including magistrates court.

(8) ‘Home state’ means the state of primary residence of a person.

(9) ‘Issuing state’ means the party state which issues a boating citation to the violator.

(10) ‘Officer’ means any individual authorized by a party state to issue a citation for a boating violation.

(11) ‘Boating authority’ means the department or division within each party state which is authorized by law to regulate the operation of watercraft on public waters.

(12) ‘Party state’ means any state which enacts legislation to become a member of this boating compact.

(13) ‘Personal recognizance’ means an agreement by a person made at the time of issuance of the boating citation that the person will comply with the terms of that citation.

(14) ‘State’ means any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

(15) ‘Suspension’ means any revocation, denial, or withdrawal of any or all watercraft or water device operating privileges, or watercraft operators license.

(16) ‘Terms of the citation’ means those conditions and options expressly stated upon the citation.

(17) ‘Watercraft’ means anything used or capable of being used as a means of transportation on the water including a boat, motorboat, personal watercraft, similar vessel, or paddle board. It does not include a seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, and similar devices or anything that does not meet construction or operational requirements of the state or federal government for watercraft.

(18 ) ‘Operate’ means to navigate, steer, drive, or be in control of a watercraft.

(19) ‘Boating law’ means any statute, law, regulation, ordinance, or administrative rule developed and enacted to regulate boating activities on public waters.

Article III

Procedures for Issuing State

(A) When issuing a citation for a boating violation, an officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the issuing state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (B) of this article, if the officer receives the person’s personal recognizance that the person will comply with the terms of the citation.

(B) Personal recognizance is acceptable:

(1) if it is not prohibited by local law or the compact manual; and

(2) if the violator provides adequate proof of the violator’s identification to the officer.

(C) Upon conviction or failure of a person to comply with the terms of a boating citation, the appropriate official shall report the conviction or failure to comply to the boating authority of the party state in which the boating citation was issued. The report must be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(D) Upon receipt of the report of conviction or noncompliance required by subsection (C) of this article, the boating authority of the issuing state shall transmit to the boating authority in the home state of the violator the information in a form and content as contained in the compact manual.

Article IV

Procedures for Home State

(A) Upon receipt of a report of failure to comply with the terms of a citation from the boating authority of the issuing state, the boating authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state’s suspension procedures, and shall suspend the violator’s watercraft operating privileges, or watercraft operators license until satisfactory evidence of compliance with the terms of the boating citation has been furnished by the issuing state to the home state boating authority. Due process safeguards shall be accorded.

(B) Upon receipt of a report of conviction from the boating authority of the issuing state, the boating authority of the home state shall enter the conviction in its records and shall treat the conviction as if it occurred in the home state for the purposes of the suspension of watercraft operating privileges or watercraft operators license.

(C) The boating authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

Article V

Reciprocal Recognition of Suspension

(A) All party states shall recognize the suspension of watercraft operating privileges or the watercraft operators license of any person by any state as if the violation on which the suspension is based occurred in their state and could have been the basis for suspension of watercraft operating privileges or the watercraft operators license in their state.

(B) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

Article VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing in it shall be construed to affect the right of any party state to apply any of its laws relating to watercraft operating privileges or watercraft operators licenses to a person or circumstance or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning boating law enforcement.

Article VII

Compact Administrator Procedures

(A) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Boating Compact Administrators is established. The Board of Boating Compact Administrators shall be composed of one representative from each of the party states to be known as the Boating Compact Administrator. The Boating Compact Administrator shall be appointed by the head of the boating authority of each party state and will serve and be subject to removal in accordance with the laws of the state the Boating Compact Administrator represents. A Boating Compact Administrator may provide for the discharge of the Boating Compact Administrator’s duties and the performance of the Boating Compact Administrator’s functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of the alternate’s identity has been given to the Board of Boating Compact Administrators.

(B) Each member of the Board of Boating Compact Administrators is entitled to one vote. No action of the Board of Boating Compact Administrators is binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the Board of Boating Compact Administrators shall be only at a meeting at which a majority of the party states are represented.

(C) The Board of Boating Compact Administrators shall elect annually, from its membership, a chair and vice chair.

(D) The Board of Boating Compact Administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(E) The Board of Boating Compact Administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(F) The Board of Boating Compact Administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(G) The Board of Boating Compact Administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to the Board of Boating Compact Administrators action must be contained in the compact manual.

Article VIII

Entry into Compact and Withdrawal

(A) This compact shall become effective when it has been adopted by at least two states.

(B)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the Chair of the Board of Boating Compact Administrators.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(a) a citation of the authority by which the state is empowered to become a party to this compact;

(b) agreement to comply with the terms and provisions of the compact; and

(c) that compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than sixty days after notice has been given by the Chair of the Board of Boating Compact Administrators or by the secretariat of the board to each party state that the resolution from the applying state has been received.

(C) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the Boating Compact Administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

Article IX

Amendments to the Compact

(A) This compact may be amended from time to time. Amendments shall be presented in resolution form to the Chair of the Board of Boating Compact Administrators and may be initiated by one or more party states.

(B) Adoption of an amendment shall require endorsement by all party states and shall become effective thirty days after the date of the last endorsement.

Article X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated in it. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability of it to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected by it. If this compact is held contrary to the constitution of any party state to it, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 50‑20‑30. (A) The Director of the Department of Natural Resources shall appoint the Boating Compact Administrator for South Carolina. The Boating Compact Administrator shall serve at the pleasure of the Director of the Department of Natural Resources.

(B) The Department of Natural Resources must deny, suspend, or revoke the watercraft operating privileges or watercraft operators license of any person in this State to the extent that the watercraft operating privileges or the watercraft operators license have been denied, suspended, or revoked by another compact member under the provisions of this chapter.

(C) The Department of Natural Resources shall promulgate regulations necessary to carry out the purposes of this chapter.

(D) Any proposed amendment to the compact must be submitted to the General Assembly as an amendment to this act. In order to be endorsed by the State of South Carolina as provided by subsection (B) of Article IX of the compact, a proposed amendment to the compact must be enacted into law.”

SECTION 2. This act takes effect upon approval by the Governor.

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