

HOUSE No. 3362

The Commonwealth of Massachusetts

PRESENTED BY:

Kathleen R. LaNatra

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:	DATE ADDED:
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>1/10/2023</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/18/2023</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>1/27/2023</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/31/2023</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/1/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/6/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/15/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/16/2023</i>

HOUSE No. 3362

By Representative LaNatra of Kingston, a petition (accompanied by bill, House, No. 3362) of Kathleen R. LaNatra and others relative to boater safety. Transportation.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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. Chapter 29 of the General Laws is hereby amended by inserting after
2 section 200000 the following section:-

3 Section 2PPPPP. There shall be a Boater Safety Program Fund. Notwithstanding any
4 general or special law to the contrary, there shall be credited to the fund: (i) the fees collected
5 pursuant to section 9I and section 9J of chapter 90B; (ii) 75 per cent of all fines, costs,
6 forfeitures, expenses and interest imposed pursuant to sections 2 through 14, inclusive, and
7 sections 36 and 38 of said chapter 90B or any regulation made thereunder; (iii) 75 per cent of all
8 fines issued pursuant to the fourth paragraph of section 10H of chapter 21A; (iv) any revenue
9 from appropriations or other monies authorized by the general court and specifically designated
10 to be credited to the fund; (v) any appropriation, grant, gift or other contribution made to the
11 fund; and (vi) any income derived from the investment of amounts credited to the fund. The
12 remaining 25 per cent of the fines, costs, forfeitures, expenses and interest imposed pursuant to
13 said sections 2 through 14, inclusive, of said chapter 90B, or any regulation made thereunder,

14 and pursuant to the fourth paragraph of section 10H of chapter 21A shall be distributed equally
15 among the divisions, departments or offices involved or to the division, department or office if a
16 single law enforcement agency was involved. Monies contributed from said 25 per cent of the
17 fines, costs, forfeitures, expenses and interest imposed pursuant to said sections 2 through 14,
18 inclusive, of said chapter 90B, or any regulation made thereunder, and pursuant to the fourth
19 paragraph of section 10H of chapter 21A payable to the office of law enforcement in the
20 executive office of energy and environmental affairs established under section 10A of chapter
21 21A, shall be deposited in the Massachusetts Environmental Police Trust Fund.

22 (b) The director of the office of law enforcement, as trustee, shall administer the fund. All
23 amounts credited to the fund may be expended, without further appropriation, for use by the
24 office of law enforcement for the following purposes: (i) the development, administration and
25 management of boater safety training, awareness and education programs relative to boater
26 safety and safe operation of vessels; (ii) administering a paddlecraft safety and responsibility
27 program; (iii) training of law enforcement personnel of the office of law enforcement in courses
28 of instruction including, but not limited to: boat safety instructor training; vessel operation;
29 search, rescue and recovery; boat accident investigations; underwater recovery training; boating
30 under the influence and drug recognition expert training; and costs of any related equipment for
31 administering said training; (iv) equipment required for the investigation of vessel accidents and
32 any search and rescue or recovery made thereto; (vi) enforcement of statutes, regulations and
33 policies applicable to the use of vessels; (vii) grants made by the office of law enforcement
34 through competitive grant process to municipalities for the purposes of clause (i) and other vessel
35 safety activities, including all direct and indirect costs of personnel or contractors of the office of
36 law enforcement; provided, however, that the director of the office of law enforcement shall

37 report annually, not later than January 15, to the house and senate committees on ways and
38 means and the joint committees on environment, natural resources and agriculture, relative to the
39 source and amount of funds deposited into the fund, the amount distributed and the purpose and
40 recipient of expenditures from the fund.

41 (c) Monies deposited into the fund that are unexpended at the end of the fiscal year shall
42 not revert to the general fund and shall be available for expenditure in subsequent fiscal years.

43 (d) Not less than 25 per cent of the monies deposited in the fund shall be expended on a
44 fiscal year basis for the activities identified in clause (i), (ii) or (iii) of subsection (b) or for grants
45 made pursuant to clause (v) of subsection (b) to fund the activities identified in clause (i) of
46 subsection (b).

47 SECTION 2. Section 1 of chapter 90B of the General Laws, as appearing in the 2018
48 Official Edition, is hereby amended by striking out the definitions of “Director” and “Division”
49 inserting in place thereof the following definition:-

50 “Director”,—the director of law enforcement of the office of law enforcement, or
51 authorized designee.

52 “Division”,—the office of law enforcement.

53 SECTION 3. Said section 1 of said chapter 90B, as so appearing, is hereby further
54 amended by inserting after the definition of “Motorboat” the following 2 definitions:-

55 “NASBLA”,—the national association of state boating law administrators.

56 “Office of law enforcement”,—the office of law enforcement in the executive office of
57 energy and environmental affairs established under section 10A of chapter 21A, also known as
58 the Massachusetts environmental police.

59 SECTION 4. Said section 1 of said chapter 90B, as so appearing, is hereby further
60 amended by striking out the definition of “Operator” and inserting in place thereof the following
61 definition:-

62 “Operator”,—any person who operates, has charge of the navigation or use of a
63 motorboat or vessel or is responsible for the vessel and its passengers.

64 SECTION 5. Said Chapter 90B is hereby amended by inserting after section 9B the
65 following 7 sections:-

66 Section 9C. In sections 9D to 9I, inclusive, the following words shall, unless the context
67 clearly requires otherwise, have the following meanings:

68 “Commercial fishing vessel”, any vessel, boat, ship or other water craft designed,
69 manufactured and used exclusively for the harvesting of fish, shellfish or crustaceans for
70 purposes of sale, barter or exchange and shall include any vessel documented under the laws of
71 the United States to carry passengers for hire exclusively to harvest fish, shellfish or crustaceans.
72 Commercial fishing vessels shall include fishing trawlers, with or without shellfish dredges,
73 seine vessels, longline vessels, gillnet vessels, hydraulic shellfish dredges and lobster and
74 shellfish vessels manufactured with pot hauler systems; provided, however, vessels designed and
75 manufactured for recreational purposes in accordance with United States Coast Guard
76 regulations, which are utilized for fishing purposes on a seasonal, part-time or occasional basis or

77 which are utilized in a recreational manner at any time, shall be considered recreational vessels
78 for the purposes of section 9D and shall not be considered a commercial fishing vessel.

79 “Motorboat”, a vessel propelled by machinery, whether or not such machinery is the
80 principal source of propulsion.

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

82 “Other jurisdiction” or “another jurisdiction”, any other state, territory and the District of
83 Columbia; any state, province or territory of Canada; or, any other foreign state or country.

84 “Person”, a natural person.

85 “Personal watercraft”, a motorboat less than 16 feet in length, propelled by an inboard
86 water jet pump or other machinery as its primary source of motor propulsion which is designed
87 to be operated by a person sitting, standing or kneeling on the vessel rather than being operated
88 in the conventional manner by a person sitting or standing inside the vessel.

89 Section 9D. (a) The director shall establish a boater safety education examination for
90 motorboat operators. The examination shall be in general alignment with the standards set by the
91 NASBLA.

92 (b) The director may establish rules and regulations pertaining to such boater safety
93 education examinations.

94 (c) A person may take the boater safety education examination online, via controlled
95 testing software approved by the Commonwealth, for which there will be a \$10 “test registration
96 fee” paid to the Commonwealth . Upon the successful completion of the online boater safety
97 education examination, the person shall be issued a boater safety certificate, for which there will

98 be a \$10 “certification fee” also paid to the Commonwealth, allowing the person who
99 successfully completed the online examination to print their Certificate immediately or at a later
100 time. If a person does not pass the boater safety education examination on the first attempt, the
101 person shall take a boater safety education course before retaking the examination. The
102 examination may be taken an unlimited number of times until successfully completed.

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

106 (i) For persons who were born on or after January 1, 1993, beginning on January 1, 2024;

107 (ii) For persons who were born on or after January 1, 1985, beginning on January 1,
108 2025;

109 (e) No person under the age of 12 shall operate a motorboat on the waters of the
110 commonwealth, unless the person is accompanied onboard and directly supervised by a person
111 18 years of age or older who holds a valid boater safety certificate, showing their qualification to
112 operate motorboats pursuant to clauses (ii) to (iv), inclusive, of subsection (f).

113 (f) No person 12 years of age or older shall operate a motorboat on the waters of the
114 commonwealth, unless the person has onboard a valid boater safety certificate; provided,
115 however, a person who does not hold a valid boater safety certificate may operate a motorboat if
116 the person:

117 (i) is accompanied onboard and directly supervised by a person 18 years of age or older
118 who has onboard a valid boater safety certificate showing their qualification to operate
119 motorboats pursuant to clauses (ii) through (iv);

120 (ii) holds a valid merchant mariner credential, pursuant to 46 USC § 7510, as a vessel
121 master or mate of any tonnage, operator of uninspected passenger vessel, launch operator's
122 license or other similar license to captain a commercial vessel issued by the United States Coast
123 Guard, or an equivalent type license issued by any state of the United States or foreign
124 government; provided, the license is onboard when operating the vessel and available for
125 inspection by a division law enforcement officer or has on board a printed self-certification
126 evidencing such credentials;

127 (iii) is a non-resident, who is operating a motorboat on the waters of the commonwealth
128 pursuant to section 9H;

129 (iv) is an active member in the armed forces of the United States, National Guard or
130 United States Coast Guard, and who is qualified to operate motorboats based on training or
131 position in such branch or organization; provided, the person has onboard documentation
132 showing his qualification or has on board a printed self-certification evidencing such credentials;

133 (v) has acquired new ownership of a motorboat that is numbered by the commonwealth
134 or documented by the United States Coast Guard and has onboard a valid temporary boater
135 safety certificate to operate the vessel printed pursuant to section 9F;

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

138 (vii) is an operator of a motorboat in a boater safety education course;

139 (viii) is the operator of a commercial fishing vessel; or

140 (ix) is a student attending an accredited secondary school, maritime school, college or
141 university and is operating a motorboat in conjunction with a prescribed course of instruction.

142 (g) The boater safety education requirements and operator age requirements to operate
143 motorboats under this section shall not apply when: (i) the vessel is operated by a division law
144 enforcement officer or employee of a municipal fire department or the department of fire
145 services in the performance of their official duties; (ii) the person is operating the motorboat in
146 reasonable response to an onboard emergency including, but not limited to, when the operator or
147 person supervising the operator pursuant to this section becomes incapacitated or physically
148 unable to operate or supervise the operation of the vessel or in response to another vessel that has
149 declared an emergency situation; (iii) the person is operating the motorboat under the direction of
150 a division law enforcement officer; (iv) the vessel is a ship's lifeboat; (v) the vessel is the
151 property of a branch of the armed forces of the United States, National Guard or United States
152 Coast Guard, or is a military vessel of a foreign country; or (vi) the person operating the vessel is
153 exempted pursuant to regulation or by waiver issued by the director.

154 (h) The division shall publish on its website: (i) all current laws and regulations
155 applicable to the boater safety education requirements for motorboat operators; and (ii) the
156 content expected to be understood and tested for in the boater safety examination. The Director
157 may have multiple examinations such that not all examinations will ask the same questions.

158 (i) No person under the age of 16 shall operate a personal watercraft.

159 (j) An owner of a motorboat or other person 18 years of age or older, having custody or
160 control of a motorboat, who knowingly permits a person under the age of 18, to operate the
161 vessel in violation of this chapter, shall be held liable, jointly and severally with the operator, for
162 any violations, damages or injuries caused by such operator's operation of the vessel and for any
163 fines, penalties or restitution resulting therefrom. Lack of ownership of the vessel or mistake as
164 to the age of the operator shall not be defenses in an action filed pursuant to this section.

165 Section 9E. (a) (i) The director may require self-certification of all such boater safety
166 education course providers that the examination conditions are enforced. If a provider fails to
167 provide a required self-certification, the director may bar the provider from providing boater
168 safety education courses or examinations. Upon the successful completion of the examination by
169 a person, the director shall arrange for the electronic examination to send an electronic copy of
170 the successful certificate to the division, as well as enable printing of the certificate at the
171 location where the examination is taken. Boater safety certificates issued pursuant to this section
172 shall be in the form prescribed by the director. The director shall be authorized to issue a boater
173 safety certificate to motorboat operators without the completion of a boater safety examination or
174 education course if the person holds a valid boating safety certificate to operate motorboats
175 issued or recognized by the government of another jurisdiction.

176 (ii) Boater safety education certificates or similar documentation issued or authorized by
177 another governmental jurisdiction shall be valid for the operation of a motorboat or personal
178 watercraft in the commonwealth.

179 (iii) No person under 12 years of age shall be issued a boater safety certificate.

180 (iv) Boater safety certificates issued pursuant to this section shall be valid for the lifetime
181 of the person named on the certificate, except as otherwise provided by law, court judgement or
182 administrative hearing conducted by the director or his designee. Any person authorized to
183 enforce the provisions of chapter 90B pursuant to section 12 or the registrar of motor vehicles,
184 may petition the director to immediately suspend a boater safety certificate for emergency or
185 immediate threat purposes. The director may immediately suspend or revoke a boaters safety
186 certificate for such emergency or immediate threat for public safety purposes. Such request for
187 emergency action shall be on forms prescribed by the director.

188 (b) A boater safety certificate or equivalent documentation possessed by a resident of the
189 commonwealth who, prior to the passage of this act, had successfully completed a boater safety
190 education course for motorboat operators shall be considered valid, if issued by: (i) the director;
191 (ii) a course provider other than the director; or (iii) another governmental jurisdiction; provided,
192 the certificate or documentation evidences the successful passage of a boating safety education
193 course for motorboat operators and, when issued, met the standards of NASBLA or the United
194 States Coast Guard.

195 (c) In the event the Massachusetts Environmental Police or other law enforcement find a
196 person to be in operation of a vessel and not possessing the aforementioned documentary testing
197 or certification requirements, the person shall be issued a warning ticket to cure the violation
198 (“Ticket to Cure”). Said “Ticket to Cure” shall give the person 30 days turn in certification
199 paperwork, which shall either indicate a certification existed but was not onboard their vessel at
200 the time of inspection, or that a certification was subsequently obtained within the 30-day period.