

SENATE BILL 1865

By Massey

AN ACT to amend Tennessee Code Annotated, Section 39-13-106; Section 39-13-115; Section 39-13-213; Section 39-13-218 and Title 69, Chapter 9, Part 2, relative to boating under the influence.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-9-219(c)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(A) Except as otherwise provided in this subdivision (c)(1), any person who violates § 69-9-217(a) commits a Class A misdemeanor.

(B)

(i) Any person violating § 69-9-217(a), shall, upon conviction for the first offense, be sentenced to serve in the county jail or workhouse not less than forty-eight (48) consecutive hours nor more than eleven (11) months and twenty-nine (29) days.

(ii) Any person violating § 69-9-217(a), upon conviction for the first offense with a blood alcohol concentration of twenty-hundredths of one percent (0.20%) or more, shall serve a minimum of seven (7) consecutive days rather than forty-eight (48) hours.

(C)

(i) Any person violating § 69-9-217(a), shall, upon conviction for a second offense, be sentenced to serve in the county jail or workhouse not less than forty-five (45) consecutive days nor more than eleven (11) months and twenty-nine (29) days.

(ii) After sentencing the person to a period of confinement pursuant to subdivision (c)(1)(C)(i), as a condition of probation, the judge may order the person to participate in a substance abuse treatment program, which includes any aftercare recommended by the treatment program, licensed or certified by the department of mental health and substance abuse services, which includes a certified drug court or DUI court, if the person first:

(a) Completes a clinical substance abuse assessment conducted pursuant to § 55-10-402(h); and

(b) Serves at least twenty-five (25) days of the period of incarceration imposed in the county jail or workhouse.

(D)

(i) Any person violating § 69-9-217(a), shall, upon conviction for a third offense, be sentenced to serve in the county jail or workhouse not less than one hundred twenty (120) consecutive days nor more than eleven (11) months and twenty-nine (29) days.

(ii) After sentencing the person to a period of confinement pursuant to subdivision (c)(1)(D)(i), as a condition of probation the judge may order the person to participate in a substance abuse treatment program, which includes any aftercare recommended by the treatment program, licensed or certified by the department of mental health and substance abuse services, which includes a certified drug court or DUI court, if the person first:

(a) Completes a clinical substance abuse assessment conducted pursuant to § 55-10-402(h); and

(b) Serves at least sixty-five (65) days of the period of incarceration imposed in the county jail or workhouse.

(E) Any person violating § 69-9-217(a), upon conviction for a fourth offense, shall be sentenced as a felon to serve not less than one hundred fifty (150) consecutive

days nor more than the maximum punishment authorized for the appropriate range of a Class E felony.

(F) Any person violating § 69-9-217(a), upon conviction for a fifth offense and for which prior convictions for vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218 are to be included, shall be sentenced as a felon to serve not less than the minimum sentence of imprisonment established in subdivision (c)(1)(E) for a fourth offender, and not more than the maximum punishment authorized for the appropriate range of a Class D felony.

(G) A sixth or subsequent conviction for violating § 69-9-217(a), including any other applicable prior conviction described in subdivision (c)(1)(F), is a Class C felony and any person sentenced under this subdivision (c)(1)(G) shall be sentenced to serve no less than the minimum sentence of imprisonment established in subdivision (c)(1)(E) for a fourth offender, and not more than the maximum punishment authorized for the appropriate range of a Class C felony.

SECTION 2. Tennessee Code Annotated, Section 69-9-219(d), is amended by deleting the language "or shall be confined in the county jail or workhouse for no more than thirty (30) days, or both" and substituting instead the following:

and shall be confined in the county jail or workhouse for not less than forty-eight (48) consecutive hours nor more than six (6) months

SECTION 3. Tennessee Code Annotated, Section 39-13-106, is amended by adding the language "or § 69-9-219(a)" immediately after the language "§ 55-10-401" wherever it appears; and is further amended by adding the language "or vessel subject to registration" immediately after the language "motor vehicle" in subsection (a); and is further amended by

adding the language "or operating a vessel subject to registration" immediately after the language "vehicle" wherever it appears in subsection (c).

SECTION 4. Tennessee Code Annotated, Section 39-13-115(b), is amended by adding the language ", or boating under the influence, as defined in § 69-9-217(a)" immediately after the language "§ 55-10-401" wherever it appears.

SECTION 5. Tennessee Code Annotated, Section 39-13-115(f), is amended by adding the language "or operating a vessel subject to registration" immediately after the language "vehicle".

SECTION 6. Tennessee Code Annotated, Section 39-13-213, is amended by adding the language "or operating a vessel subject to registration" immediately after the language "vehicle" in subsection (c); is further amended by deleting the language "motorboat" in subsection (a) and substituting instead the language "vessel subject to registration under title 69, chapter 9, part 2,"; and is further amended by deleting the language "The driver's intoxication, as set forth in § 55-10-401" in subdivision (a)(2) and substituting instead the language "The driver's intoxication, as set forth in § 55-10-401, or the operator's intoxication, as set forth in § 69-9-217(a)".

SECTION 7. Tennessee Code Annotated, Section 39-13-218(a), is amended by adding the language "or boating under the influence, as defined in § 69-9-217(a)" immediately after the language "Driving under the influence of an intoxicant" wherever it appears.

SECTION 8. This act shall take effect July 1, 2020, the public welfare requiring it, and shall apply to instant violations committed on or after such date.