

## HARBORS AND NAVIGATION CODE - HNC



### **DIVISION 3. VESSELS [399. - 786.]** ( *Division 3 enacted by Stats. 1937, Ch. 368.* )

#### **CHAPTER 5. Operation and Equipment of Vessels [650. - 774.4.]** ( *Heading of Chapter 5 amended by Stats. 1970, Ch. 1428.* )

#### **ARTICLE 1. Operation and Equipment [650. - 674.]** ( *Article 1 added by Stats. 1959, Ch. 1454.* )

655. (a) No person shall use any vessel or manipulate water skis, an aquaplane, or a similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner that will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug.

(c) No person shall operate any recreational vessel or manipulate any water skis, aquaplane, or similar device if the person has an alcohol concentration of 0.08 percent or more in his or her blood.

(d) No person shall operate any vessel other than a recreational vessel if the person has an alcohol concentration of 0.04 percent or more in his or her blood.

(e) No person shall operate any vessel, or manipulate water skis, an aquaplane, or a similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(f) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or under the combined influence of an alcoholic beverage and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(g) Notwithstanding any other provision of law, information, verbal or otherwise, which is obtained from a commissioned, warrant, or petty officer of the United States Coast Guard who directly observed the offense may be used as the sole basis for establishing the necessary reasonable cause for a peace officer of this state to make an arrest pursuant to the United States Constitution, the California Constitution, and Section 836 of the Penal Code for violations of subdivisions (b), (c), (d), and (e) of this section.

(h) In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of operation of a recreational vessel if the person had an alcohol concentration of 0.08 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(i) In any prosecution under subdivision (d), it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel other than a recreational

vessel if the person had an alcohol concentration of 0.04 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(j) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person who was operating a vessel or manipulating water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage in violation of subdivision (b) or (f), the amount of alcohol in the person's blood at the time of the test, as shown by a chemical test of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(k) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

(l) This section applies to foreign vessels using waters subject to state jurisdiction.

*(Amended by Stats. 1997, Ch. 23, Sec. 1. Effective January 1, 1998.)*