

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2322

AN ACT

AMENDING SECTIONS 5-301, 5-321, 5-322, 5-323 AND 5-324, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 5-326 AND 5-327; RELATING TO REGISTRATION AND TAXATION OF WATERCRAFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 5-301, Arizona Revised Statutes, is amended to
3 read:
4 5-301. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Commercial motorized watercraft" means a motorized watercraft that
7 carries passengers or property for a valuable consideration that is paid to
8 the owner, charterer, operator or agent or to any other person interested in
9 the watercraft.
10 2. "Commission" means the Arizona game and fish commission.
11 3. "Department" means the Arizona game and fish department.
12 4. "DOCUMENTED WATERCRAFT" MEANS ANY WATERCRAFT CURRENTLY REGISTERED
13 AS A WATERCRAFT OF THE UNITED STATES PURSUANT TO 46 CODE OF FEDERAL
14 REGULATIONS PART 67.
15 5. "DOMICILE" MEANS A PERSON'S TRUE, FIXED AND PERMANENT HOME AND
16 PRINCIPAL RESIDENCE, PROOF OF WHICH MAY BE DEMONSTRATED AS PRESCRIBED BY
17 RULES ADOPTED BY THE COMMISSION.
18 ~~4-~~ 6. "Motorboat" means any watercraft that is not more than
19 sixty-five feet in length and that is propelled by machinery whether or not
20 such machinery is the principal source of propulsion.
21 ~~5-~~ 7. "Motorized watercraft" means any watercraft that is propelled
22 by machinery whether or not the machinery is the principal source of
23 propulsion.
24 8. "NONRESIDENT" MEANS A CITIZEN OF THE UNITED STATES OR AN ALIEN
25 PERSON WHO IS NOT DOMICILED IN THIS STATE AND WHO IS NOT A RESIDENT AS
26 DEFINED IN THIS SECTION.
27 ~~6-~~ 9. "Operate" means to operate or be in actual physical control of
28 a watercraft while on public waters.
29 ~~7-~~ 10. "Operator" means a person who operates or is in actual
30 physical control of a watercraft ~~while on public waters~~.
31 ~~8-~~ 11. "Person" includes any individual, firm, corporation,
32 partnership or association, and any agent, assignee, trustee, executor,
33 receiver or representative thereof.
34 ~~9-~~ 12. "Public waters" means any body of water ~~which~~ THAT is publicly
35 owned or ~~which~~ THAT the public is permitted to use without permission of the
36 owner upon which a motorized watercraft can be navigated, including that part
37 of waters THAT IS common to interstate boundaries ~~which~~ AND THAT is within
38 the boundaries of this state.
39 13. "RESIDENT" MEANS A PERSON WHO IS EITHER:
40 (a) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES ON ACTIVE DUTY
41 AND STATIONED IN THIS STATE FOR A PERIOD OF THIRTY DAYS IMMEDIATELY BEFORE
42 THE DATE OF APPLICATION FOR A WATERCRAFT DECAL.
43 (b) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES ON ACTIVE DUTY
44 AND STATIONED IN ANOTHER STATE OR ANOTHER COUNTRY AND WHO LISTS THIS STATE AS

1 THAT MEMBER'S HOME OF RECORD AT THE TIME OF AN APPLICATION FOR A WATERCRAFT
2 DECAL.

3 (c) DOMICILED IN THIS STATE FOR AT LEAST SIX CONSECUTIVE MONTHS
4 IMMEDIATELY BEFORE THE DATE OF THE APPLICATION FOR A WATERCRAFT DECAL AND WHO
5 DOES NOT CLAIM RESIDENCY FOR ANY PURPOSE IN ANY OTHER STATE OR COUNTRY.

6 ~~10-~~ 14. "Revocation" means invalidating the certificate of number,
7 numbers and annual validation decals issued by the department to a watercraft
8 and prohibiting the operation of the watercraft on the waters of this state
9 during a period of noncompliance with this chapter.

10 ~~11-~~ 15. "Sailboard" means any board of less than fifteen feet in
11 length which is designed to be propelled by wind action upon a sail for
12 navigation on the water by a person operating the board.

13 ~~12-~~ 16. "Special anchorage area" means an area set aside and under the
14 control of a federal, state or local governmental agency, or by a duly
15 authorized marina operator or concessionaire for the mooring, anchoring or
16 docking of watercraft.

17 17. "STATE OF PRINCIPAL OPERATION" MEANS THE STATE WHERE A WATERCRAFT
18 IS PRIMARILY USED, NAVIGATED OR EMPLOYED.

19 ~~13-~~ 18. "Underway" means ~~that~~ a watercraft ~~on public waters~~ THAT is
20 not at anchor, is not made fast to the shore or is not aground.

21 ~~14-~~ 19. "Undocumented watercraft" means any watercraft which does not
22 have and is not required to have a valid marine document as a watercraft of
23 the United States.

24 ~~15-~~ 20. "Wakeless speed" means a speed that does not cause the
25 watercraft to create a wake, but in no case in excess of five miles per hour.

26 ~~16-~~ 21. "Watercraft" means any boat designed to be propelled by
27 machinery, oars, paddles or wind action upon a sail for navigation on the
28 water, or as may be defined by rule of the commission.

29 ~~17-~~ 22. "Waterway" means any body of water, public or private, upon
30 which a watercraft can be navigated.

31 Sec. 2. Section 5-321, Arizona Revised Statutes, is amended to read:

32 5-321. Numbering; registration fees; exemption from taxation;
33 penalty; procedures

34 A. Except as provided in section 5-322, the owner of each motorized
35 watercraft requiring numbering by this state shall file an application for a
36 registration number with the department, or its agent, on forms approved by
37 the department. Except as provided by rule adopted by the commission, the
38 application shall be signed by the owner of the motorized watercraft and
39 shall be accompanied by a registration fee levied at the following rates:

40 ~~1. For a resident owner, defined as a person who owns a boat for which~~
41 ~~registration is required and who is required to and does register motor~~
42 ~~vehicles owned by the person in this state or, if no motor vehicle is owned~~
43 ~~by the person owning the boat, the person is a resident as defined by section~~
44 ~~28-2001, a registration fee as follows:~~

1	1. Twelve feet and less	\$20.00
2	2. Twelve feet one inch through sixteen feet	\$22.00
3	3. Sixteen feet one inch through twenty feet	\$30.00
4	4. Twenty feet one inch through twenty-six feet	\$35.00
5	5. Twenty-six feet one inch through thirty-nine feet	\$39.00
6	6. Thirty-nine feet one inch through sixty-four feet	\$44.00
7	7. Sixty-four feet one inch and over	\$66.00

8 ~~2. For a nonresident owner, defined as any person who owns a boat for~~
9 ~~which registration is required and who is not a resident owner as defined by~~
10 ~~this section, a registration fee as follows:~~

11	Twelve feet and less	\$100.00
12	Twelve feet one inch through sixteen feet	\$110.00
13	Sixteen feet one inch through twenty feet	\$222.00
14	Twenty feet one inch through twenty-six feet	\$259.00
15	Twenty-six feet one inch through thirty-nine feet	\$292.00
16	Thirty-nine feet one inch through sixty four feet	\$330.00
17	Sixty-four feet one inch and greater	\$495.00

18 B. Pursuant to article IX, section 16, constitution of Arizona,
19 watercraft are exempt from ad valorem property tax and from license taxes in
20 lieu of property tax.

21 C. The length of the motorized watercraft shall be measured from the
22 most forward part of the bow excluding the bowsprit or jibboom, over the
23 centerline to the rearmost part of the transom excluding sheer, outboard
24 motor, rudder, handles or other attachments.

25 D. The commission may assess an additional registration fee, to be
26 collected at the same time and in the same manner as the registration fee
27 imposed by subsection A, ~~paragraph 1 or 2~~ of this section. The amount of the
28 additional fee shall be determined by the commission and may be imposed in
29 different amounts with respect to resident and nonresident owners. An
30 additional registration fee under this subsection is to be used solely for
31 the purpose of the lower Colorado river multispecies conservation program
32 under section 48-3713.03.

33 E. Upon receipt of the application in approved form with the
34 applicable fees ~~and license tax~~, the department or its agent shall enter the
35 application on the records of its office and issue to the applicant two
36 current annual decals and a certificate of number stating the number issued
37 to the watercraft and the name and address of the owner. The owner shall
38 display the assigned number and the current annual decals in such manner as
39 may be prescribed by rules of the commission. The number and decals shall be
40 maintained in legible condition. The certificate of number or commission
41 approved proof of valid certificate of number, except as provided in section
42 5-371, shall be available at all times for inspection by a peace officer
43 whenever the watercraft is in operation. No number issued by another state
44 or the United States coast guard, unless granted exemption or exception
45 pursuant to this chapter, shall be displayed on the watercraft.

1 F. NO PERSON MAY OPERATE A MOTORIZED WATERCRAFT ON THE WATERWAYS OF
2 THIS STATE UNLESS THE WATERCRAFT DISPLAYS THE ASSIGNED NUMBER AND CURRENT
3 ANNUAL DECALS OR THE PERSON IS IN POSSESSION OF A VALID THIRTY-DAY TEMPORARY
4 REGISTRATION AS PRESCRIBED BY THIS ARTICLE.

5 ~~F.~~ G. No motorized watercraft shall be purchased, sold or otherwise
6 transferred without assignment by the owner of the current numbering
7 certificate or other documentation as may be prescribed by rules of the
8 commission. Within fifteen days after such transfer, the person to whom such
9 transfer is made shall make application to the department to have the
10 motorized watercraft registered in the person's name by the department, for
11 which the department shall charge a transfer fee of four dollars. The
12 department shall not issue or transfer a numbering certificate for a
13 motorized watercraft to a person who is subject to the use tax under title
14 42, chapter 5, article 4 unless the applicable tax has been paid as shown by
15 a receipt from the collecting officer. Persons doing business as marine
16 dealers and licensed as such by this state are not required to register in
17 their name any watercraft in their possession that may be offered for resale.

18 ~~G.~~ H. In the event of the loss or destruction of the certificate of
19 number or annual decal, the department shall issue a duplicate to the owner
20 upon payment of a fee of two dollars.

21 ~~H.~~ I. The department may issue any certificate of number directly or
22 may authorize any person to act as agent for the issuance of the certificate
23 of number in conformity with this chapter and with any rules of the
24 commission. An agent that contracts with the commission to renew
25 certificates of number by telecommunication may impose additional fees for
26 the services as provided in the contract.

27 ~~I.~~ J. The owner shall furnish to the department notice of the
28 transfer of all or any part of the owner's interest other than the creation
29 of a security interest in a motorized watercraft numbered in this state
30 pursuant to ~~the provisions of~~ this chapter or of the destruction or
31 abandonment of such watercraft within fifteen days. Such transfer,
32 destruction or abandonment shall terminate the certificate of number of such
33 watercraft, except that in the case of a transfer of a part interest ~~which~~
34 THAT does not affect the owner's right to operate such watercraft, the
35 transfer shall not terminate the certificate of number.

36 ~~J.~~ K. Any holder of a certificate of number shall notify the
37 department within fifteen days if the holder's address no longer conforms to
38 the address appearing on the certificate and ~~shall~~, as a part of such
39 notification, SHALL furnish the department with the holder's new address.
40 The commission may provide in its rules for the surrender of the certificate
41 bearing the former address and its replacement with a certificate bearing the
42 new address or the alteration of an outstanding certificate to show the new
43 address of the holder.

44 ~~K.~~ L. On renewal of any motorized watercraft registration that has
45 not been renewed by the current expiration date, the department shall assess

1 a penalty unless the watercraft ownership has been transferred and the
2 watercraft was not registered subsequent to the expiration date. The
3 commission shall establish the penalty ~~which~~ THAT shall not exceed fifteen
4 dollars. If more than twelve months have lapsed since the expiration date of
5 the last registration or renewal the penalty and back fees are waived.

6 Sec. 3. Section 5-322, Arizona Revised Statutes, is amended to read:
7 5-322. Motorized watercraft to be numbered; exceptions

8 A. All ~~undocumented~~ motorized watercraft whether underway, moored or
9 anchored on the waters within the boundaries of the state shall be numbered
10 in accordance with this chapter or rules of the commission in accordance with
11 the federally approved numbering system except:

12 1. Foreign watercraft temporarily using the waters of the state.

13 2. Military or public vessels of the United States, except
14 recreational type public vessels.

15 3. Watercraft used solely as lifeboats.

16 4. Undocumented watercraft operating under a valid temporary
17 certificate issued pursuant to rules adopted by the commission.

18 5. DOCUMENTED WATERCRAFT NUMBERED IN ACCORDANCE WITH THE REGULATIONS
19 OF THE UNITED STATES COAST GUARD.

20 B. Motorized watercraft owned and operated exclusively by the state or
21 by any political subdivision of the state shall be numbered, but no
22 registration fee shall be paid on the watercraft.

23 C. All ~~nonresident~~ owners of motorized watercraft when in the course
24 of interstate operation displaying a current and valid number issued under an
25 approved federal numbering system of the United States coast guard, a state,
26 the Commonwealth of Puerto Rico, the Virgin Islands, Guam or the District of
27 Columbia shall register such watercraft with the department prior to the
28 expiration of the reciprocity period prescribed by rules of the commission.

29 D. All ~~nonresident-owned~~ motorized watercraft, when in the course of
30 interstate operation and not required to be numbered in their state of
31 principal ~~use~~ OPERATION, shall comply with the requirements of subsection C
32 of this section.

33 ~~E. Except as provided in subsection F of this section, any person who~~
34 ~~is a resident of this state and who is the owner of a motorized watercraft~~
35 ~~shall number the watercraft pursuant to section 5-321 prior to operating such~~
36 ~~watercraft on the waterways of the state.~~

37 ~~F.~~ E. When this state becomes the new state of principal ~~use~~
38 OPERATION of a motorized watercraft displaying a current number issued under
39 a federally approved numbering system, the validity of such number shall be
40 recognized for a period of ninety days. Upon expiration of the ninety-day
41 period and prior to any subsequent use, the owner shall number any motorized
42 watercraft pursuant to section 5-321.

43 ~~G.~~ F. Each dealer or manufacturer in this state engaged in the sale
44 of motorized watercraft using the watercraft for demonstration shall obtain
45 one or more dealer watercraft certificates of number with the current

1 validating decals. Applications, renewal and display of certificates of
2 number shall be as prescribed in this chapter or by rules of the commission,
3 except that the annual fee will be two dollars fifty cents for each
4 certificate of number and accompanying current decals.

5 Sec. 4. Section 5-323, Arizona Revised Statutes, is amended to read:
6 5-323. Disposition of fees

7 Each month monies received from the registration **AND INFRASTRUCTURE**
8 fees received under this chapter for the numbering of watercraft shall be
9 deposited, pursuant to sections 35-146 and 35-147, in ~~a fund designated as~~
10 the watercraft ~~registration fee clearing account~~ **LICENSING FUND**. Each month,
11 ~~on notification by the department, the state treasurer~~ shall distribute the
12 monies ~~in the clearing account~~ as follows:

13 1. All revenues collected ~~from the registration fees collected~~
14 pursuant to section 5-321, subsection A, ~~paragraphs 1 and 2~~ **AND SECTION 5-326**
15 shall be allocated as follows:

16 (a) Sixty-five per cent shall be deposited in ~~a special fund to be~~
17 ~~known as~~ the watercraft licensing fund. The watercraft licensing fund is to
18 be used by the department for administering and enforcing this chapter,
19 providing an information and education program relating to boating and
20 boating safety and administering any aquatic invasive species program
21 established under this title or title 17. These monies are subject to
22 legislative appropriation.

23 (b) Thirty-five per cent of such revenues shall be further allocated
24 as follows:

25 (i) Fifteen per cent to the state lake improvement fund to be used as
26 prescribed by section 5-382.

27 (ii) Eighty-five per cent to the law enforcement and boating safety
28 fund to be used as prescribed by section 5-383.

29 2. All revenues collected from any additional registration fees
30 collected pursuant to section 5-321, subsection C shall be paid to an account
31 designated by a multi-county water conservation district established under
32 title 48, chapter 22 to be used solely for the lower Colorado river
33 multispecies conservation program and for no other purpose.

34 Sec. 5. Section 5-324, Arizona Revised Statutes, is amended to read:
35 5-324. Public records; identification of requester; supplying

36 information by mail; records custodians; certification
37 of records

38 A. All records of the department made or kept pursuant to this article
39 are public records.

40 B. The department shall furnish information or copies from the records
41 kept pursuant to this section subject to sections 39-121.01 and 39-121.03.

1 C. Persons requesting a copy of a public record pursuant to this
2 section shall identify themselves and state the reason for making the
3 request. The department shall verify the name and address of the person
4 making the request by requiring the person to produce necessary information
5 to ensure that the information given is true and correct.

6 D. The department shall not divulge any information from a watercraft
7 registration record unless the person requesting the information provides the
8 following:

- 9 1. The name of the owner.
- 10 2. The hull identification number of the watercraft.
- 11 3. The department issued number assigned to the watercraft.

12 E. The procedures required by subsections C and D of this section do
13 not apply to:

- 14 1. This state or any of its departments, agencies or political
15 subdivisions.
- 16 2. A court.
- 17 3. A law enforcement officer.
- 18 4. A licensed private investigator.
- 19 5. Financial institutions and enterprises under the jurisdiction of
20 the department of financial institutions or a federal monetary authority.
- 21 6. The federal government or any of its agencies.
- 22 7. An attorney admitted to practice in this state who alleges the
23 information is relevant to any pending or potential court proceeding.
- 24 8. An operator of a self-service storage facility located in this
25 state who alleges both of the following:

26 (a) That the watercraft on which the operator is requesting the record
27 is in the operator's possession.

28 (b) That the record is requested to allow the operator to notify the
29 registered owner and any lienholders of record of the operator's intent to
30 foreclose its lien and to sell the watercraft.

31 9. A towing company located in this state that alleges both of the
32 following:

33 (a) That the watercraft on which the towing company is requesting the
34 record is in the towing company's possession.

35 (b) That the record is requested to allow the towing company to notify
36 the registered owner and any lienholders of record, if known, of the towing
37 company's intent to sell the watercraft.

38 10. AN INSURANCE COMPANY.

39 F. The department may supply the requested information by mail or
40 telecommunications.

41 G. The director may designate as custodian of the department's public
42 records those department employees the director deems necessary. If a public
43 record of the department has been certified by a records custodian and
44 authenticated as required under proof of records (records of public

1 officials), rules of civil procedure and the rules of evidence for courts in
2 this state, it is admissible in evidence without further foundation.

3 H. Notwithstanding subsection D of this section, information may be
4 supplied for commercial purposes, as defined in section 39-121.03, if the
5 information is transmitted in a machine readable form such as computer
6 magnetic tape to the person making the request.

7 I. The department shall maintain for a period of at least one year a
8 file of requests for information that shall be maintained by the name of the
9 person whose record was requested, except those requests made by government
10 agencies.

11 Sec. 6. Title 5, chapter 3, article 3, Arizona Revised Statutes, is
12 amended by adding sections 5-326 and 5-327, to read:

13 5-326. Nonresidents; registration; payment of fees; exemption

14 A. A NONRESIDENT OWNER OF A WATERCRAFT WHO ESTABLISHES THIS STATE AS
15 THE STATE OF PRINCIPAL OPERATION SHALL REGISTER AND NUMBER THAT WATERCRAFT
16 PURSUANT TO THIS ARTICLE AND PAY AN ADDITIONAL BOATING SAFETY INFRASTRUCTURE
17 FEE ASSESSED PURSUANT TO SECTION 5-327 BEFORE PLACING THAT WATERCRAFT ON THE
18 WATERWAYS OF THIS STATE.

19 B. A MEMBER OF THE ARMED FORCES OF THE UNITED STATES WHO IS ON ACTIVE
20 DUTY AND STATIONED IN THIS STATE FOR A PERIOD OF AT LEAST THIRTY DAYS
21 IMMEDIATELY BEFORE APPLYING FOR WATERCRAFT REGISTRATION IS EXEMPT FROM THIS
22 SECTION.

23 C. THE OWNER SHALL CARRY AND DISPLAY PROOF OF PAYMENT OF THE FEE
24 REQUIRED BY THIS SECTION IN A MANNER PRESCRIBED BY THE COMMISSION WHILE THE
25 WATERCRAFT IS UNDERWAY, MOORED OR ANCHORED ON THE WATERWAYS OF THIS STATE.

26 D. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO NONRECREATIONAL OR
27 COMMERCIAL MOTORIZED WATERCRAFT.

28 5-327. Nonresident boating safety infrastructure fee; exemption

29 A. IN ACCORDANCE WITH SECTION 5-326, THE COMMISSION SHALL ASSESS A
30 NONRESIDENT BOATING SAFETY INFRASTRUCTURE FEE FOR EACH WATERCRAFT REGISTERED
31 IN THIS STATE BY A NONRESIDENT AS DEFINED IN SECTION 5-301. THE FEES
32 ASSESSED PURSUANT TO THIS SECTION SHALL BE PAID IN ADDITION TO THE FEES
33 REQUIRED PURSUANT TO SECTION 5-321.

34 B. FOR THE PURPOSES OF SECTION 5-326, SUBSECTION A, THE COMMISSION
35 SHALL ESTABLISH THE FOLLOWING NONRESIDENT BOATING SAFETY INFRASTRUCTURE FEES
36 FOR THE FOLLOWING WATERCRAFT:

37	1. TWELVE FEET AND LESS	\$ 80.00
38	2. TWELVE FEET ONE INCH THROUGH SIXTEEN FEET	\$ 88.00
39	3. SIXTEEN FEET ONE INCH THROUGH TWENTY FEET	\$192.00
40	4. TWENTY FEET ONE INCH THROUGH TWENTY-SIX FEET	\$224.00
41	5. TWENTY-SIX FEET ONE INCH THROUGH THIRTY-NINE FEET	\$253.00
42	6. THIRTY-NINE FEET ONE INCH THROUGH SIXTY-FOUR FEET	\$286.00
43	7. SIXTY-FOUR FEET ONE INCH AND OVER	\$429.00

1 C. THE LENGTH OF THE MOTORIZED WATERCRAFT SHALL BE MEASURED IN THE
2 SAME MANNER PRESCRIBED IN SECTION 5-321, SUBSECTION C.

3 D. UNLESS THE PERSON OR WATERCRAFT QUALIFIES FOR AN EXEMPTION PURSUANT
4 TO SECTION 5-326, NO PERSON WHO IS SUBJECT TO THIS SECTION SHALL OPERATE OR
5 GRANT PERMISSION TO OPERATE A WATERCRAFT WITHIN THE BOUNDARIES OF THIS STATE
6 UNLESS THAT WATERCRAFT DISPLAYS A VALID NONRESIDENT BOATING SAFETY
7 INFRASTRUCTURE DECAL IN CONFORMANCE WITH THE RULES ADOPTED PURSUANT TO
8 SECTION 5-326.