TITLE 61

SMALL WATERCRAFT

Chapter 830. Small Watercraft

Chapter 830

2005 EDITION

Small Watercraft

GENERAL PROVISIONS

830.005 Definitions

830.015 Application of ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490; exemptions

830.025 Other boating laws not affected

830.035 Peace officers to enforce chapter; fleeing; attempts to elude

830.037 Notification of stolen boat; notice in electronic file system; issuance of new title or certificate of number

830.040 Contrary local laws prohibited

830.050 Reporting lost boat

830.053 False or fraudulent report of theft of boat

830.055 Adopt-a-River Program; implementation; rules

830.060 Consistency with federal law

830.080 Boating Offense Compact

MANDATORY BOATING SAFETY EDUCATION

830.082 Mandatory boating safety education program

830.084 Requirements for mandatory boating safety education program; certificate; fee

830.086 Boating safety certificate; requirements; fee

830.088 Operation of motorboat by person 12 to 15 years of age

830.090 Operation of motorboat by person 16 years of age or older

830.092 Exemption from requirement to obtain boating safety certificate

830.094 Boating safety certificate required to operate motorboat

830.096 Conditional suspension of fine for violation of boating safety requirements

STATE MARINE BOARD

830.100 Boating safety policy

830.105 State Marine Board

830.110 Powers and duties of board; rules

830.115 Boating survey

830.120 Term; vacancies

830.125 Compensation and expenses

830.130 Officers; quorum; meetings

830.135 State Marine Director

830.137 Disposition of funds received through Clean Vessel Act; priority

830.140 Boating Safety, Law Enforcement and Facility Account; sources; disposition; enforcement by cities and counties

830.145 Disposition of fines

830.150 Disbursement of funds for boating facilities; priorities; water quality protection; hearing

830.155 Revolving fund; limit

830.160 Board authority to remove obstructions from water

830.165 Boating safety educational program; youthful boat operator program

830.170 Agreements with other jurisdictions

830.172 County boat use permit program review

REGULATIONS FOR SPECIFIC AREAS

830.175 Regulations for specific areas; rules

830.180 Use of motors prohibited on certain lakes; exceptions

830.185 Speed restrictions in certain areas

830.190 Temporary suspension of speed restrictions

830.195 Board to protect traditional boating uses and prevent user conflicts

830.200 County boat use permits

EQUIPMENT REQUIREMENTS

830.210 Operating improperly equipped boat prohibited

830.215 Personal flotation devices; rules

830.220 Fire extinguishers; rules

830.225 Lights; rules

830.230 Sound signaling devices; rules

830.235 Carburetors

830.240 Ventilation systems; rules

830.245 Safety devices on boat operated in tidewater; rules

830.250 Additional equipment; rules
830.260 Muffling devices
830.270 Notice to board on noise violation charge; board to supply information to court; suspension of certificate

BOATING OPERATIONS

830.300 Operating boat in violation of chapter prohibited
830.305 Unsafe operation
830.315 Reckless operation; speed
830.325 Operating boat while under influence of intoxicating liquor or controlled substance
830.330 Liability of owner for negligent operation of boat
830.335 Operator to maintain lookout
830.340 Navigation rules
830.345 Traffic lanes; swim areas
830.350 Testing racing motorboat
830.355 Overloading
830.360 Riding on bow, gunwale or transom
830.362 Operating motorboat with person holding on to or occupying parts aft of transom
830.365 Waterskiing, surfboarding and similar activities
830.370 Mooring to buoys and beacons; defacing or destroying navigational markers
830.375 Authorization required to hold marine event; rules
830.380 Peace officer authority to require operator to remedy especially hazardous condition
830.383 Person required to remedy especially hazardous condition
830.385 Commercial fishing boats exempt from regulation of especially hazardous condition
830.390 Minimum equipment and safety requirements for vessels engaged in Klamath Lake plankton fishery

RENTAL, CHARTER OR LIVERY GENERALLY

830.410 Operator of boat livery to provide properly equipped boats
830.415 Records of operator of boat livery
830.420 Minimum equipment requirements for rental or charter boats; rules; inspection; cancellation or revocation of certificate for failure to comply

OCEAN CHARTER VESSEL REGULATION

830.430 Definitions for ORS 830.430 to 830.460 and 830.997
830.435 Ocean charter vessel license; reciprocity with Washington license holders; rules; license and fee in lieu of other requirements
830.440 License application; contents; fee; bond or financial security; transfer of license
830.445 Liability insurance form; notice to board upon termination of coverage; license suspension for failure to maintain insurance
830.450 Equipment requirements
830.460 Prohibited activities

ACCIDENTS

830.475 Duties of operators and witnesses at accidents
830.480 Accident report required; rules
830.485 Form of report; sending death certificate to State Marine Board
830.490 Confidential nature of report
830.495 Report of accident resulting in death or disappearance; duties of passengers

BOATING UNDER INFLUENCE OF INTOXICANTS

830.505 Implied consent to chemical tests for intoxicants; refusal to submit; consequences
830.510 Chemical evidence of use of intoxicants
830.515 Evidence of refusal to submit to test in legal proceeding
830.520 Circumstances under which chemical tests may be administered
830.525 Chemical tests obtained by subject
830.535 Criteria for chemical analyses
830.545 Information about rights and consequences
830.550 Implied consent to field sobriety tests for intoxicants; refusal to submit; consequences

SEAPLANES

830.600 Applicability of boating laws to seaplanes
830.605 State Marine Board and Oregon Department of Aviation to distribute information on regulation of seaplanes

NUMBERING, TITLES AND LICENSES

(Generally)

830.700 Definitions for ORS 830.060 to 830.145 and 830.700 to 830.870
830.705 Applicability of numbering, title and license requirements
830.710 Report of transfer, abandonment or destruction of boat, boathouse or floating home or change of address of owner
830.715 Record of certificates and numbers; fees for furnishing information
830.720 Cancellation of title upon scrapping of boat, boathouse or floating home
830.725 Distribution of lists of owners
830.730 False information prohibited

(Titles; Security Interest)

830.740 Perfection of security interest in boats, boathouses and floating homes covered by certificate of title; applicability of Uniform Commercial Code
830.745 Notation on title of creation, satisfaction or assignment of security interest; fee
830.750 Transfer of title subject to security interest; dealer transferees; fee
830.755 Transfer by operation of law of title subject to security interest; fee

(Boats)

830.770 Certificate of number required on boat; exceptions
830.775 Operation of certain boats without certificates of registration

830.780 Identifying number on forward half of boat

830.785 Application for boat number

830.790 Certificate or registration fees

830.795 Issuance of certificate of number and validation stickers; stickers placed on boats

830.800 Expiration of certificate of number; renewal of certificate and stickers

830.805 Application by owner having number awarded by federal government or another state

830.810 Certificate of title; exceptions; rules; application fees; penalty fee

830.815 Refusal to issue or suspension or cancellation of certificate

830.820 Duplicate certificates or validation stickers

830.825 Hull identification number required

830.830 Dealer or boat manufacturer number; fee

(Floating Homes; Boathouses)

830.850 Identifying number plate required on floating homes and boathouses; certificate of title required; fee

830.855 Application for floating home or boathouse identifying plate; fee; issuance of certificate of title

830.860 Validity of certificate of title; new certificates; fee

830.865 Rules

830.870 Duplicate certificate; fee

DISPOSITION OF BOATS AND EQUIPMENT FROM WHICH IDENTIFICATION NUMBER REMOVED

830.875 Definitions for ORS 830.880 to 830.895

830.880 Seizure of boats and equipment from which identification number has been removed; inspection of property; check for stolen boats; renumbering

830.885 Return of seized property; investigation to determine ownership; notice to owner

830.890 Public notice to persons having interest in seized property; court action; sale of property at public auction; disposition of proceeds

830.895 Renumbering; inspection requirement

ABANDONED BOATS, FLOATING HOMES, BOATHOUSES

830.907 Definitions for ORS 830.907 to 830.927

830.909 Offense of abandoning boat, floating home or boathouse; liability for costs of removal, cleanup and disposal

830.912 Removing authority power to remove and take into custody abandoned boat, floating home or boathouse

830.914 Removing authority custody of boat, floating home or boathouse that constitutes hazard; rules

830.917 Notice of intent to take custody; content of notice

830.919 Disposition of boat, floating home or boathouse

830.922 Exception to notice requirement

830.924 Request for hearing on proposal to remove boat, floating home or boathouse; hearing; final order; appeal

830.926 Abandoned Boat Removal and Cleanup Subaccount; sources; limits; uses

830.927 Disposal of unclaimed boat, floating home or boathouse

SUBMERSIBLE POLYSTYRENE

830.950 Definitions

830.955 Prohibition of installation of submersible polystyrene device

PENALTIES

830.990 Penalties

830.992 Penalty for purchase of boat or equipment from which hull or component identification number removed

830.994 Additional penalties for violation of ORS 830.325

830.997 Penalty for ocean charter vessel violations

GENERAL PROVISIONS

830.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Marine Board.

(2) "Boat" means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

(3) "Boating offense" means violation of any provision of law that is made a crime or violation under the provisions of this chapter.

(4) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal power-off landing run.

(5) "Length" means the length of a boat measured from end to end over the deck excluding sheer.

(6) "Motorboat" means any boat propelled in whole or in part by machinery, including boats temporarily equipped with detachable motors.

(7) "Navigable waters of the United States" means those waters of the United States, including the territorial seas adjacent thereto, the general character of which is navigable, and that, either by themselves or by uniting with other waters, form a continuous waterway on which boats or vessels may navigate or travel between two or more states, or to and from foreign nations.

(8) "Operate" means to navigate or otherwise use a boat.

(9) "Operator of a boat livery" means any person who is engaged wholly or in part in the business of chartering or renting boats to other persons.

(10) "Passenger" means every person on board a boat who is not the master, operator, crew member or other person engaged in any capacity in the business of the boat.

(11) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff and a city police officer.

(12) "State waters" means those waters entirely within the confines of this state that have not been declared navigable waters of the United States.

(13) "Waters of this state" means all waters within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state. [Formerly 488.011; 1995 c.655 §1; 1999 c.59 §250; 1999 c.1051 §93]

830.010 [Formerly 488.005; 1991 c.67 §230; repealed by 1999 c.1051 §97]

830.015 Application of ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490; exemptions. (1) ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 apply to all boats operated in the waters of this state.

(2) Notwithstanding subsection (1) of this section, ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 do not apply to a boat when application of the statutes would be inconsistent with federal law or regulations or to a boat that is:

(a) A foreign boat operated temporarily in the waters of this state.

(b) A boat owned and operated by the United States or by an entity of the United States.

(c) A ship's lifeboat used solely for lifesaving purposes.

(d) A boat belonging to a class of boats that has been exempted from the provisions of ORS 830.705, 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by the State Marine Board as provided in ORS 830.110.

(3) Notwithstanding an exemption provided to a class of boats in subsection (2) of this section, a boat that would otherwise be exempt from regulation because the boat is of a class specified in subsection (2) of this section is not exempt if the boat is a:

(a) Passenger vessel of less than 100 gross tons;

(b) Commercial vessel that is not required to be inspected under federal law; or

(c) Publicly owned recreational vessel. [Formerly 488.021; 1993 c.18 §172; 2005 c.65 §1]

830.025 Other boating laws not affected. (1) Nothing in ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 is intended to affect the provisions of ORS 783.610, 830.060 to 830.145, 830.175 to 830.185, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 or 830.830 to 830.870.

(2) The provisions of ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 are in addition to and not in lieu of any other statutes. [Formerly 488.180]

830.035 Peace officers to enforce chapter; fleeing; attempts to elude. (1) The sheriff of each county and all other peace officers shall be responsible for the enforcement of this chapter and any regulations made by the State Marine Board pursuant thereto. In the exercise of this responsibility, a peace officer may stop any

boat and direct it to a suitable pier or anchorage for boarding.

(2) No person, while operating a boat on any waters of this state, shall knowingly flee or attempt to elude any law enforcement officer after having received a signal from a law enforcement officer to bring the boat to a stop. [Formerly 488.027]

830.037 Notification of stolen boat; notice in electronic file system; issuance of new title or certificate of number. (1) Any law enforcement agency within the State of Oregon that receives a report of a previously unreported stolen boat shall notify the State Marine Board within 72 hours after receiving the report. The report shall include all information concerning the theft and the boat involved.

(2) Any law enforcement agency within the State of Oregon that recovers a boat that has been previously reported as stolen shall notify the board of the recovery within 72 hours after the recovery.

(3) When the board receives a report of the theft of a boat under subsection (1) of this section, the board shall place an appropriate notice of the theft in an electronic file system that identifies the boat during the processing of any new certificate of number or title. If a boat reported as stolen is identified during such processing, the board shall discontinue processing and notify the law enforcement agency that initiated the theft report. The board may not issue a new certificate of number or title unless the status of the boat as a stolen boat is cleared by the originating law enforcement agency.

(4) Any boat reported as stolen to the board shall remain on the records of the board as stolen until the originating law enforcement agency clears the record.

(5) The board shall prepare a report listing stolen and recovered boats as disclosed by the reports submitted to the board by law enforcement agencies, and shall distribute the report on a regular basis.

(6) When the board is notified that a previously listed stolen boat has been recovered, the board shall immediately record the recovery in the board's registration records. [1999 c.550 §2]

Note: 830.037 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

830.040 Contrary local laws prohibited. No political subdivision of this state may enact or enforce any law contrary to the provisions of this chapter. [Formerly 488.028]

830.050 Reporting lost boat. If any person finds a boat which is lost or adrift the person shall report the whereabouts of the boat to the owner or to any peace officer at the earliest possible time. [Formerly 488.124]

830.053 False or fraudulent report of theft of boat. No person shall make or file, with intent to deceive, with any law enforcement agency a false or fraudulent report of the theft of a boat required to be numbered in the State of Oregon. [1999 c.550 §3]

830.055 Adopt-a-River Program; implementation; rules. (1) The State Marine Board shall administer a program designed to remove litter from and to beautify the state's rivers. The program shall include public informational activities, but shall be directed primarily toward encouraging and facilitating involvement of volunteer groups in litter cleanup work, assigning each group to a specific river or stream segment. The program shall be called the Oregon Adopt-a-River Program.

(2) Private landowners with rivers running through or adjacent to their property are vital to the success of the Oregon Adopt-a-River Program. The State Marine Board shall ensure that participants in the program comply with requirements to obtain permission from landowners for river access across private property.

(3) Program funding is an authorized use of the Boating Safety, Law Enforcement and Facility Account under ORS 830.140.

(4) The State Marine Board may adopt any rules necessary for implementation of the Oregon Adopt-a-River Program.

(5) An agreement entered into between the State Marine Board and a volunteer group under subsection (1) of this section shall include but need not be limited to:

(a) Identification of the designated river or stream segment. The volunteer group may request a specific segment of the river or stream it wishes to adopt, but the assignment shall be at the discretion of the State Marine Board. In assigning sections of a river, the board shall coordinate and cooperate with affected federal, state and local management agencies and private landowners.

(b) Specification of the duties of the volunteer group. The group shall remove litter along the designated river or stream segment at least once each year.

(c) Specification of the responsibilities of the volunteer group. The group shall agree to abide by all rules related to the program that are adopted by the State Marine Board.

(d) Duration of the agreement. The volunteer group shall contract to care for the

designated river or stream segment for at least two years.

(6) The State Marine Board shall create a recognition program to acknowledge the efforts of volunteer groups, agencies and businesses that participate in the Oregon Adopt-a-River Program.

(7) The State Marine Board shall provide trash bags, safety information and assistance to the participating volunteer groups.

(8) The State Marine Board shall be responsible for facilitating the removal of large or heavy items from a river or stream segment if such items are found by a volunteer group.

(9) The State Marine Board shall not instruct a volunteer group or any member thereof participating in the Oregon Adopt-a-River Program in the measurement of water quality, encourage any participant to measure water quality or include the measuring of water quality in the duties of any participant.

(10) The State Marine Board shall not instruct a volunteer group or any member thereof participating in the Oregon Adopt-a-River Program in the locating or monitoring of point or nonpoint pollution sources, encourage any participant to locate or monitor point or nonpoint pollution sources or include the locating or monitoring of point or nonpoint pollution sources in the duties of any participant. [1993 c.54 §2; 1995 c.165 §1]

830.060 Consistency with federal law. If any provision of ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 conflicts with federal requirements so that the system of identifying numbers for boats devised by the State Marine Board is not approved by the secretary of the department of the federal government under which the United States Coast Guard is operating, that provision of ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 is inoperative to the extent that it so conflicts, but such conflict shall not affect the remainder of ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870. [Formerly 488.870; 1991 c.67 §231]

830.080 Boating Offense Compact. The Boating Offense Compact is enacted into law and entered into on behalf of this state with all other states legally joining therein in a form substantially as follows:

ARTICLE I

Findings and Declaration of Policy

(1) The party states find that:

(a) The safety of their waters is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of boats.

(b) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(2) It is the policy of each of the party states to promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of boats by their operators in each of the jurisdictions where such operators operate boats.

ARTICLE II

Definition

As used in this compact, "state" means a state that has entered into this compact.

ARTICLE III

Concurrent Jurisdiction

(1) If conduct is prohibited by two adjoining party states, courts and law enforcement officers in either state who have jurisdiction over boating offenses committed where waters form a common interstate boundary have concurrent jurisdiction to arrest, prosecute and try offenders for the prohibited conduct committed anywhere on the boundary water between the two states.

(2) This compact does not authorize:

(a) Prosecution of any person for conduct that is unlawful in the state where it was committed, but lawful in the other party state.

(b) A prohibited conduct by the party state.

ARTICLE IV

Entry Into Force and Withdrawal

(1) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same.

ARTICLE V

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be 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

thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, 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.

[1991 c.590 §5]

Note: 830.080 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

MANDATORY BOATING SAFETY EDUCATION

830.082 Mandatory boating safety education program. The State Marine Board shall establish and implement a program to provide mandatory boating safety education. [1999 c.716 §2; 2001 c.104 §310]

Note: 830.082 to 830.094 were added to and made a part of ORS chapter 830 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

830.084 Requirements for mandatory boating safety education program; certificate; fee. In establishing the mandatory boating safety education program pursuant to ORS 830.082, the State Marine Board shall:

(1) Set a minimum standard of boating safety education competency. The standard shall be consistent with the applicable standard established by the National Association of State Boating Law Administrators. The board may update the minimum standard of competency as necessary.

(2) Create a boating safety course of instruction and examination designed to educate and test for the minimum standard of safety established pursuant to subsection (1) of this section.

(3) Create an equivalency exam that may substitute for taking the boating safety course.

(4) Incorporate volunteer boating safety education programs to the maximum extent possible.

(5) Allow use of commercially provided boating safety courses, provided they meet the standard adopted by the board.

(6) Accept proof of prior completion of any approved boating safety course as meeting the requirement for a boating safety course.

(7) Establish a fee for the boating safety certificate issued under ORS 830.086 that may not exceed $10.

(8) Establish a temporary boating safety certificate that is valid for 60 days and issued in conjunction with a temporary certificate of number for newly acquired boats.

(9) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available for taking a boating safety course that meets the minimum standard established pursuant to subsection (1) of this section. [1999 c.716 §3; 2001 c.104 §311]

Note: See note under 830.082.

830.086 Boating safety certificate; requirements; fee. A person may obtain a boating safety certificate if the person:

(1) Is at least 12 years of age;

(2) Passes the boating safety course and examination, or the equivalency exam, as described in ORS 830.084, or submits proof to the satisfaction of the State Marine Board that the person has taken a course that is substantively equivalent to the course described in ORS 830.084; and

(3) Pays the fee required by the board. [1999 c.716 §4; 2001 c.104 §312]

Note: See note under 830.082.

830.088 Operation of motorboat by person 12 to 15 years of age. A person 12 to 15 years of age with a boating safety certificate may operate a motorboat with an engine of 10 horsepower or less. In addition, a person 12 to 15 years of age with a boating safety certificate may operate a motorboat with an engine greater than 10 horsepower if accompanied by and under the direct supervision of a parent, guardian or responsible person 16 years of age or older who possesses a boating safety certificate. [1999 c.716 §5]

Note: See note under 830.082.

830.090 Operation of motorboat by person 16 years of age or older. A person may operate a motorboat with an engine greater than 10 horsepower if the person:

(1)(a) Is at least 16 years of age; and

(b) Obtains a boating safety certificate pursuant to ORS 830.086; or

(2) Is accompanied by and under the direct supervision of a person 16 years of age or older who has obtained a boating safety certificate pursuant to ORS 830.086. [1999 c.716 §6]

Note: See note under 830.082.

830.092 Exemption from requirement to obtain boating safety certificate. A boating safety certificate is not required if a person:

(1) Is at least 16 years of age and rents a motorboat with an engine greater than 10 horsepower and completes a required dockside safety checklist before operating the boat;

(2) Possesses a current commercial fishing license as required by ORS 508.235;

(3) Possesses a valid United States Coast Guard commercial motorboat operator's license;

(4) Is not a resident of this state and does not operate a boat with an engine greater than 10 horsepower in Oregon waters for more than 60 consecutive days;

(5) Is not a resident of this state, holds a current out-of-state boating safety certificate and has the out-of-state certificate in the person's possession;

(6) Holds a temporary certificate as described under ORS 830.084; or

(7) Is not yet required to have a certificate under the phase-in program developed by the State Marine Board pursuant to section 9, chapter 716, Oregon Laws 1999. [1999 c.716 §7; 2003 c.14 §499]

Note: See note under 830.082.

830.094 Boating safety certificate required to operate motorboat. A person shall carry a boating safety certificate on the boat while operating a motorboat, as required, and shall present the certificate to a peace officer upon request by the peace officer. [1999 c.716 §8; 2003 c.14 §500]

Note: See note under 830.082.

830.096 Conditional suspension of fine for violation of boating safety requirements. In any proceeding for a violation of ORS 830.088, 830.090, 830.092 or 830.094, the court shall conditionally suspend all or part of the fine to be imposed on the defendant if the defendant appears personally and agrees to complete, at the defendant's own expense, a boating safety course approved by the State Marine Board under ORS 830.084 within the time limits imposed by the court. [1999 c.716 §14; 2001 c.104 §313]

Note: 830.096 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Section 9, chapter 716, Oregon Laws 1999, provides:

Sec. 9. The State Marine Board shall phase in the mandatory boating safety education program by October 23, 2009. In developing a phase-in program, the board shall consider factors that include but are not limited to operator age, types of high-risk boats and the geographic availability and frequency of volunteer courses. The board shall phase in the program with the youngest operators and those of highest risk at the beginning of the phase-in. [1999 c.716 §9; 2001 c.104 §314]

STATE MARINE BOARD

830.100 Boating safety policy. It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of boats and to promote uniformity of laws relating thereto. [Formerly 488.710]

830.105 State Marine Board. (1) There hereby is created the State Marine Board consisting of five members to be appointed by the Governor and to serve at the pleasure of the Governor.

(2) Each member shall be a resident of this state, a citizen of the United States, and at the time of appointment shall have resided in this state for at least one year.

(3) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [Formerly 488.825]

830.110 Powers and duties of board; rules. In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to:

(1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made in accordance with ORS chapter 183.

(2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an agency of the federal government has an overall system of identification numbering for boats within the United States, the system devised by the board shall conform with the federal system.

(3) Cooperate with state and federal agencies to promote uniformity of the laws relating to boating and their enforcement.

(4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870.

(5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating to boating.

(6) Study, plan and recommend the development of boating facilities throughout the state which will promote the safety and pleasure of the public through boating.

(7) Publicize the advantage of safe boating.

(8) Accept gifts and grants of property and money to be used to further the purposes of this chapter.

(9) Exempt from any provisions of this chapter any class of boats if it determines that the safety of persons and property will not be materially promoted by the applica-

bility of those provisions to the class of boats, but the board shall not exempt from numbering any class of boats unless it determines that the numbering will not materially aid in their identification and unless the secretary of the department of the federal government under which the United States Coast Guard is operating has exempted from numbering the same boats or classes of boats.

(10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat. The agents may charge, in addition to the prescribed fees, $1 per transaction for their services in issuing the temporary permit.

(11) Publish and distribute to the interested public the boating laws of this state and resumes or explanations of those laws.

(12) Publish and distribute forms for any application required under this chapter and require the use of such forms.

(13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall not conflict with markings prescribed by the United States Coast Guard. No political subdivision or person shall mark the waters of this state in any manner in conflict with the markings prescribed by the board.

(14) Make rules regarding marine toilets and their use consistent with the prevention and control of pollution of the waters of this state and not in conflict with the rules of the Department of Human Services or the Environmental Quality Commission.

(15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters of this state.

(16) Make rules regulating water ski course markers, ski jumps and other special use devices placed in the waters of this state. Such rules may regulate the installation and use of the devices and may require a permit.

(17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955. The rules shall include but need not be limited to:

(a) The kinds of protective covering or physical barriers that are acceptable to be used between a submersible polystyrene device and the water.

(b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of existing docks or floats.

(18) Adopt rules providing for establishment of a Safe Boating Education Course to be made available to courts and law enforcement agencies within this state for use as a sentencing option for those individuals convicted of boating offenses. The board shall specify the content of the Safe Boating Education Course and shall prescribe procedures for making the course available to local courts and law enforcement agencies, including procedures for promptly notifying such courts whether individuals required to enroll in the course have taken and successfully passed the course. Such rules may provide for administration of the course through nonprofit organizations, such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

(19) For purposes of ORS 830.175, 830.180, 830.185 and 830.195, in cooperation with the State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200. [Formerly 488.830; 1991 c.759 §6; 1991 c.931 §1; 1995 c.655 §9; 2001 c.104 §315; 2003 c.14 §501]

830.115 Boating survey. The State Marine Board shall at least once every three years conduct a survey of owners and others to determine, by county, the kinds of boating activity on the various waters of the state during different periods of the year. Boating activity in a county shall be determined by taking into consideration the number and kinds of boats engaging in different boating activities in the county and the number of days during the last fiscal year that such activities were carried on in the county. The board may also consider other factors relating to the enforcement of boating safety and traffic regulations provided by this chapter and the regulations adopted pursuant thereto. [Formerly 488.833]

830.120 Term; vacancies. The term of office of a member is four years beginning on July 1 of the year of appointment. A member shall continue to serve until a successor has been appointed and qualifies. Before a member's term expires, the Governor shall appoint a successor to assume duties on July 1 at the expiration of the predecessor's term. A vacancy in office shall be filled by appointment for the unexpired term. [Formerly 488.840]

830.125 Compensation and expenses. Members of the State Marine Board are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 488.845]

830.130 Officers; quorum; meetings. The State Marine Board shall select one of its members as chairperson and another as secretary, each of whom shall hold office for one year, or until the selection of a successor. Three members of the board constitute a quorum for the transaction of business. The board shall meet at least once every three months at a place, day and hour determined by the board. The board shall also meet at such other times and places as are specified by the call of the chairperson or of three members of the board. [Formerly 488.850]

830.135 State Marine Director. (1) The State Marine Board shall appoint a State Marine Director who shall serve at the pleasure of the board.

(2) The director shall devote full time to the duties of the office. With the approval of the board, the director shall:

(a) Administer the numbering, certificating, recording and licensing duties of the board.

(b) Perform any other duties assigned by the board.

(c) Hire subordinate employees and fix their compensation. [Formerly 488.855]

830.137 Disposition of funds received through Clean Vessel Act; priority. In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to make grants from funds received through the Clean Vessel Act of 1992, 16 U.S.C. 777c and g (1994), P. L. No. 102-587, to eligible public agencies as provided in ORS 830.150. In addition, these funds may be distributed to eligible private marina or moorage facilities that are open and available for public use for the construction and operation of boat waste collection facilities. The board shall give first priority for distributing funds from the Clean Vessel Act to public boating facilities. Distribution of funds shall be made on the basis of need as that need appears to the board. [1995 c.14 §2]

830.140 Boating Safety, Law Enforcement and Facility Account; sources; disposition; enforcement by cities and counties. (1) On or before the 10th day of each month, the State Marine Board shall pay into the State Treasury, except as provided in ORS 830.926, all moneys received by the board during the preceding calendar month. The State Treasurer shall credit the moneys to the Boating Safety, Law Enforcement and Facility Account, which account hereby is created, separate and distinct from the General Fund. The moneys in the account hereby are continuously appropriated to the board for the purpose of paying the expense of administering and enforcing the provisions of this chapter. The board shall keep a record of all moneys received and expended.

(2) After paying the necessary expenses incurred by the board in administering this chapter, the funds available in the account shall be distributed, in the amounts required, for the purpose of enforcing the provisions of this chapter and the regulations adopted pursuant thereto. The board shall determine the amount required for enforcement in each county, considering the survey conducted under ORS 830.115. The funds available shall be apportioned according to the amounts required and distributed, for enforcement in each county where there is a need, under a contract entered into with a city, with the Department of State Police or with the sheriff of the county. A contract with a city or a sheriff shall be entered into only with the approval of the governing body of the city or county. The board shall determine the intervals at which the moneys shall be distributed.

(3) The governing body of any county having within its boundaries a city providing recreational boating facilities including launching ramps, may contract with the city for the purpose of enforcing the provisions of this chapter and the rules and regulations made pursuant thereto.

(4) If the city enters into a contract with the board or with a county, the county is relieved of its enforcement responsibilities within the city as agreed to by the county and the city or by the board and the city. [Formerly 488.860; 2003 c.693 §3]

830.145 Disposition of fines. (1) All fines resulting from prosecution under this chapter shall be credited and distributed under ORS 137.293 and 137.295 as monetary obligations payable to the state.

(2) Payment of fines collected in a justice court under this section shall be made within the first 20 days of the month following the month in which collected. [Formerly 488.865; 1987 c.905 §24; 1999 c.1051 §298]

830.150 Disbursement of funds for boating facilities; priorities; water quality protection; hearing. (1) Amounts remaining in the Boating Safety, Law Enforcement and Facility Account in excess of funds obligated under ORS 830.140 (2) shall be distributed, upon application, to the state, a city, county, water improvement district, park and recreation district or a port. Distribution shall be made on the basis of need for a facility as that need appears to the State Marine Board.

(2)(a) In distributing funds under subsection (1) of this section, the board shall give first priority to applications for facilities designed to control water pollution or otherwise enhance water quality, including but not limited to pumping stations for recreational boat holding tanks, and to those other facilities for which there appears the greatest public need.

(b) Subject to paragraph (a) of this subsection, the board may distribute funds for:

(A) Construction and maintenance of boating facilities, for the acquisition of property therefor, and other related facilities such as parking, potable water, sanitation and other facilities for the convenience of the public using the boating facilities; and

(B) Removal of derelict structures floating upon and abandoned dock or boat mooring facilities situated in, upon or over the waters of this state if such structures or facilities constitute a hazard to boating upon such waters.

(3) Prior to making any distribution of funds under this section, the board shall hold a public hearing in the area where a facility is to be constructed or land acquired if in the judgment of the board, use of the facility would stimulate significant change in the character of the recreational use of the waters.

(4) The board shall make no distribution of funds under this section for construction or acquisition if in the judgment of the board the applicant has not included in the construction or acquisition plans adequate provision for protecting the quality of the waters affected by the plans. The board's denial of any application under this subsection must include specific notice to the applicant of the point or points of the plan that are found by the board to be inadequate. [Formerly 488.875]

830.155 Revolving fund; limit. A revolving fund not to exceed $2,500 may be established within the State Marine Board from funds available under section 1 (1), chapter 84, Oregon Laws 1991. This revolving fund may be used for payment of state claims appropriately authorized by the State Marine Board not to exceed $50 per transaction. The fund shall be replenished periodically through charges made for such purchases to appropriate accounts or funds. [1991 c.84 §4]

Note: 830.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

830.160 Board authority to remove obstructions from water. In addition to any other authority to promote safe boating pursuant to this chapter, the State Marine Board may cause the removal of any obstruction consisting of logs, rocks or other debris resulting from natural causes from the waters of this state if the board finds the obstruction to be an extraordinary hazard to boating safety. The board may pay the cost of such removal from amounts reserved therefor in the account created by ORS 830.140. [Formerly 488.883]

830.165 Boating safety educational program; youthful boat operator program. (1) In order to protect the public interest in the prudent and equitable use of the waters of this state and enhance the enjoyment of pleasure boating and other recreational water sports thereon, the State Marine Board shall establish and pursue comprehensive educational programs designed to advance boating safety.

(2) The board shall put into effect a program to train youthful boat operators. For the purpose of giving the courses of instruction, the director may designate as the agent of the director any person the director deems qualified to act in such capacity. No charge shall be made for any instruction given. [Formerly 488.200]

830.170 Agreements with other jurisdictions. The State Marine Board is authorized to enter into bilateral, reciprocal agreements with other jurisdictions to provide mutual assistance in the disposition of boating offenses committed by residents of one jurisdiction while in the other jurisdiction. [1991 c.590 §4]

830.172 County boat use permit program review. (1) In addition to those powers and duties set forth in ORS 830.110, the State Marine Board shall review county boat use permit programs, adopted by county ordinance, for approval or denial.

(2) The board shall review county boat use permit programs under the following standards:

(a) Funds shall be dedicated to county boating programs for boating safety, marine law enforcement or boating facilities;

(b) The program applies only to counties bordering a state that allows imposition of a boat use permit fee;

(c) The program meets standards adopted by rule by the board pertaining to:

(A) Use of funds;

(B) Amount of fee;

(C) Administration; and

(D) Enforcement; and

(d) Boats with a current, valid certificate of number issued by the board under ORS 830.795 and manually propelled vessels are exempt from county boat use permits. [1991 c.590 §1]

REGULATIONS FOR SPECIFIC AREAS

830.175 Regulations for specific areas; rules. (1) The State Marine Board, upon consideration of the size of a body of water and traffic conditions, may make special regulations consistent with the safety and the property rights of the public or when traffic conditions become such as to create excessive congestion, relating to the operation of boats in any waters within the territorial limits of any political subdivision of this state. The regulations may include, but need not be limited to, the establishment of designated speeds, the prohibition of the use of

motorboats and the designation of areas and times for testing racing motorboats.

(2) The governing body of a political subdivision of this state may apply to the board for special regulations relating to the designation of moorage areas on lakes or reservoirs which are under the jurisdiction of a public agency, or to the operation of boats on the waters within the territorial limits of the political subdivision. Within a reasonable time, the board shall act upon the application in the manner provided in subsection (1) of this section. When special regulations have been established within a political subdivision in accordance with this subsection, the governing body shall establish and maintain the navigational markers prescribed by the board.

(3) The board may make special regulations relating to the operation of boats, including the establishment of designated speeds and prohibition of the use of motorboats for the protection of game and game fish at the request of the State Fish and Wildlife Commission, or for carrying out the provisions of the federal Wild and Scenic Rivers Act, Public Law 90-542, and the Oregon Scenic Waterways Act, ORS 390.805 to 390.925. Action necessary to implement this section, including but not limited to the operation and manner of operation of boats, shall be by a permit system initiated by the board.

(4) The board may designate certain rivers or sections of rivers as hazardous. In making such designations, the board may consider recommendations of guide associations incorporated in this state.

(5) Regulations regarding operation of boats pursuant to this section shall be adopted in accordance with the provisions of ORS chapter 183.

(6) Any speeds in excess of the speeds designated by the board, as provided in this section, shall be prima facie evidence of the violation of ORS 830.315. [Formerly 488.600]

830.180 Use of motors prohibited on certain lakes; exceptions. No person, other than the Department of State Police and governmental agencies of this state and the federal government having jurisdiction over the following described waters, shall use a motor for propelling a boat or for any purpose on the following named waters of this state located in the counties named:

Counties	Lakes, Reservoirs and Rivers
Clackamas	Trillium Lake
Deschutes	Charlton, Devils, Irish, Lucky, North and South Twin, Taylor, Three Creek and Todd Lakes
Douglas	Opal and Timpanagos Lakes
Hood River	Lost Lake
Jackson	Squaw Lakes
Jefferson	Horseshoe, Dark and Olallie Lakes, and on that portion of the Deschutes River between Pelton Dam and the Wasco County line
Lane	Gold Lake
Linn	Clear Lake
Marion	Breitenbush Lake
Wasco	Frog Lake, and on that portion of the Deschutes River bordering the Warm Springs Indian Reservation

[Formerly 488.610]

830.185 Speed restrictions in certain areas. (1) No person shall operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour during those hours of the day and on those days of the year that it is lawful to fish, on East Lake, Paulina Lake and Elk Lake in Deschutes County; Magone Lake in Grant County; Timothy Lake in Clackamas County; and Davis Lake in Deschutes and Klamath Counties.

(2) No person shall operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour on the following named waters of this state located in the counties named:

Counties	Lakes and Reservoirs
Clackamas	On that portion of the waters of the reservoir known as North Fork Reservoir which lies upstream from a line drawn across the reservoir at right angles to the thread of the stream at a point 2.3 miles upstream from the North Fork Dam measured along the thread of the stream
Deschutes	Hosmer, Lava, Little Cultus, Little Lava, Sparks Lakes and Crane Prairie Reservoir
Jefferson	On that portion of the waters behind Pelton Dam, known as Lake Simtustus, which lies up-

	stream from a line drawn across the lake at right angles to the thread of the stream at a point 0.85 miles upstream from the Pelton Dam measured along the thread of the stream
Klamath	That portion of Upper Klamath Lake that lies west of a line beginning at a point on the north shore of Pelican Bay one-quarter mile east of Crystal Creek and extending due south to the opposite shore of the lake; any stream, creek or canal that leads into the portion of Upper Klamath Lake described above including Crystal Creek, Recreation Creek and Four-Mile Creek, also known as Harriman Creek
Lane	Waldo Lake
Linn	Smith and Trailbridge Reservoirs
Wasco	Clear Lake

(3)(a) The State Marine Board shall establish an appropriate decibel rating and speed restriction on Diamond Lake in Douglas County to allow recreational boating that is not limited to fishing. Recreational boating does not include operating a jet ski or similar personal watercraft. The speed established by the board:

(A) May not exceed 45 miles per hour between the hours of 9 a.m. and 6 p.m.;

(B) May not exceed 10 miles per hour between the hours of 6 p.m. and 9 a.m.; and

(C) Shall be restricted to 10 miles per hour at all times in any area within 200 yards of any boat ramp, boat dock, swimming area, inlet or outlet of the lake, designated campground or summer home.

(b) The board shall reduce the speed restriction on Diamond Lake to 10 miles per hour at all hours when the State Fish and Wildlife Director determines that the health of Diamond Lake is restored and the lake can be restocked for fishing. [Formerly 488.620; 1995 c.79 §383; 1999 c.252 §2]

830.190 Temporary suspension of speed restrictions. The governing body of a political subdivision of this state may apply to the State Marine Board for a temporary suspension of a speed restriction on a specific body of water within the territorial limits of the political subdivision and, after a hearing upon notice, the board may suspend the restriction, such suspension not to exceed 72 hours. [Formerly 488.625]

830.195 Board to protect traditional boating uses and prevent user conflicts. In addition to any other authority to regulate boating activities pursuant to this chapter, the State Marine Board may regulate and restrict boating activities to protect traditional boating uses and to prevent boating user conflicts. [Formerly 488.880]

830.200 County boat use permits. (1) Except as otherwise provided in this section, it is unlawful to operate a boat on the waters of this state if a county requires a boat use permit to do so and the operator of the boat has not obtained the permit.

(2) Notwithstanding the provisions of subsection (1) of this section, a resident of the State of Idaho may operate a boat on the waters of this state without a boat use permit. The provisions of this subsection do not become operative until laws, rules or regulations of the State of Idaho become operative that, in substance or effect, contain provisions which make lawful engaging in boating without obtaining a boat use permit or paying a fee to operate a boat. This subsection remains operative only while such laws, rules or regulations remain operative. [1991 c.590 §3]

EQUIPMENT REQUIREMENTS

830.210 Operating improperly equipped boat prohibited. No person shall operate or give permission for another person to operate a boat which is not equipped as required under ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490. [Formerly 488.024]

830.215 Personal flotation devices; rules. (1) All boats shall carry at least one United States Coast Guard approved personal flotation device in good and serviceable condition for each person on board. Each device shall be of an appropriate size for the person for whom it is intended and shall be readily accessible whenever the boat is in use. As used in this subsection, a personal flotation device is not "readily accessible" if it is stowed in a locked compartment or locker or is otherwise not immediately, physically available to persons on board the boat in case of an emergency.

(2) The State Marine Board by regulation will classify types of devices and specify which types are approved for various classes of vessels. The regulations will be consistent with, but shall not exceed those regulations promulgated by the United States Coast Guard. [Formerly 488.031]

830.220 Fire extinguishers; rules. (1) Every motorboat shall carry on board, fully charged and in good condition fire extinguishers of a type required by the board by rule.

(2) The State Marine Board shall make rules for fire extinguishers in accordance with ORS chapter 183.

(3) When the board makes rules under this section it may consider fire extinguisher requirements and standards adopted by the United States Coast Guard. [Formerly 488.090]

830.225 Lights; rules. On all waters of the state, every boat shall carry and exhibit the lights required by rules promulgated by the State Marine Board. Such rules shall be designed to prevent collisions and generally promote boating safety. In promulgating such rules the board may consider lighting requirements and standards adopted by the United States Coast Guard and by federal statutes. [Formerly 488.041]

830.230 Sound signaling devices; rules. (1) Each boat shall carry on board, in good and serviceable condition, sound signaling devices of a type required by the board by rule.

(2) The board shall make rules for sound signaling devices in accordance with ORS chapter 183.

(3) When the board makes rules under this section, it may consider sound signaling requirements and standards adopted by the United States Coast Guard. [Formerly 488.063]

Note: 830.230 was enacted into law by the Legislative Assembly but was not added to and made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

830.235 Carburetors. Carburetors on all engines of motorboats, other than outboard motors, shall be fitted with a U. S. Coast Guard approved device for arresting backfire. [Formerly 488.071]

830.240 Ventilation systems; rules. (1) Motorboats using fuel having a flashpoint of 110 degrees Fahrenheit or less shall have ventilating systems that meet standards provided by the State Marine Board for the purpose of properly and efficiently ventilating the bilges of every engine and fuel compartment in order to remove any inflammable or explosive gases.

(2) The board may, in accordance with ORS chapter 183, adopt regulations providing standards for ventilating systems. Motorboats so constructed as to have the greater portion of the bilges under the engines and fuel tanks open and exposed to the natural atmosphere at all times are not required to be fitted with ventilators. [Formerly 488.080]

830.245 Safety devices on boat operated in tidewater; rules. No person shall operate a boat in the waters of this state which rise and fall with the ebb and flow of the tide unless the boat is equipped with safety devices of a type prescribed by regulations of the State Marine Board made in accordance with ORS chapter 183. [Formerly 488.092]

830.250 Additional equipment; rules. The State Marine Board may require by rule that all boats or any class of boats shall carry or install additional equipment which in the opinion of the board is necessary for the safety of persons and property. The rules shall be made in accordance with ORS chapter 183 and, to the extent considered by the board to be consistent with safety of persons and property, shall equal or exceed the regulations promulgated by the United States Coast Guard. [Formerly 488.094]

830.260 Muffling devices. The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle or suppress the noise of the exhaust in a reasonable manner. The use of cut-outs or open exhaust stacks is prohibited, except:

(1) On motorboats competing in a regatta, race or trial for speed records authorized as provided in ORS 830.375.

(2) On racing motorboats while the boat or equipment on the boat is being tried or tested in compliance with ORS 830.350. [Formerly 488.052]

830.270 Notice to board on noise violation charge; board to supply information to court; suspension of certificate. (1) Before hearing any charge for violation of ORS 830.260, a court shall notify the State Marine Board of the name of any person cited for violation of ORS 830.260 and the number of any boat used in the alleged violation.

(2) Upon receipt of a notification under subsection (1) of this section, the board shall:

(a) Notify the court of whether the person cited is the owner of the boat; and

(b) If the person is not the owner of the boat, notify the boat owner that the certificate of number of the boat will be suspended under ORS 830.815 if the person cited for operating the boat is convicted and there is no evidence to satisfy the court that the boat has been brought into compliance with standards for sound levels established by the board for purposes of ORS 830.815.

(3) At a hearing for violation of ORS 830.260, the court shall allow the owner of the boat used in the violation to show that the boat has been brought into compliance

with standards for sound levels established by the board.

(4) If a court finds that a person has operated a boat in violation of ORS 830.260, the court shall provide the board with information necessary to suspend the certificate of number for the boat under ORS 830.815 unless evidence has been presented to the satisfaction of the court that the boat has been brought into compliance with the standards for sound levels established by the board. [Formerly 488.055]

BOATING OPERATIONS

830.300 Operating boat in violation of chapter prohibited. No person shall operate a boat in violation of any provision of this chapter. [Formerly 488.023]

830.305 Unsafe operation. A person commits the crime of unsafe operation of a boat if the person operates a boat in a manner that endangers or would be likely to endanger any person or property. [Formerly 488.099]

830.315 Reckless operation; speed. (1) A person commits the crime of reckless operation of a boat who operates a boat carelessly and heedlessly in willful or wanton disregard of the rights, safety or property of others.

(2) No person shall operate any boat at a rate of speed greater than will permit that person in the exercise of reasonable care to bring the boat to a stop within the assured clear distance ahead.

(3) Nothing in ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 is intended to prevent the operator of a boat actually competing in an event which is authorized as provided in ORS 830.375 from attempting to attain high speeds on a marked racing course. [Formerly 488.100]

830.325 Operating boat while under influence of intoxicating liquor or controlled substance. (1) No person under the influence of an intoxicating liquor or controlled substance shall operate, propel or be in actual physical control of any boat on any waters of this state.

(2) No owner of a boat or person in charge or in control of a boat shall authorize or knowingly permit the boat to be propelled or operated on any waters of this state by any person who is under the influence of an intoxicating liquor or a controlled substance. [Formerly 488.160; 1991 c.931 §4]

830.330 Liability of owner for negligent operation of boat. (1) The owner of a boat shall be liable for the negligent operation of the boat in the same manner and to the same extent as the owner of a motor vehicle is liable under the rule of law which holds one person liable for the act of another who operates a motor vehicle for a family purpose.

(2) Subsection (1) of this section does not apply in actions in which courts of admiralty have jurisdiction. [Formerly 488.178]

830.335 Operator to maintain lookout. The operator of a boat shall keep a proper lookout at all times while underway. [Formerly 488.101]

830.340 Navigation rules. (1)(a) Except as provided by paragraph (b) of this subsection, when two boats are approaching each other "head on" or nearly so (so as to involve risk of collision), each boat shall bear to the right and pass the other boat on its left side.

(b) On rivers, or those sections of rivers, which are state waters, boats proceeding downstream shall have the right of way over boats proceeding upstream.

(2) When boats approach each other obliquely or at right angles, the boat approaching on the right side has the right of way.

(3) One boat may overtake another on either side but shall grant right of way to the overtaken boat. [Formerly 488.110]

830.345 Traffic lanes; swim areas. (1) No person shall so anchor a boat for fishing or other purposes on any body of water over which the state has jurisdiction in such a position as to obstruct a passageway ordinarily used by other boats.

(2) No person shall operate a boat within a water area which is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. [Formerly 488.120]

830.350 Testing racing motorboat. (1) No person shall operate a racing motorboat, for the purpose of trying or testing the boat or equipment on the boat, in any areas or during the time when one of the following conditions exist:

(a) Where boats are anchored.

(b) Where people are swimming.

(c) Near populated beaches.

(d) Among water-skiers.

(e) Among boats underway.

(f) Where persons or property will be endangered because the area is otherwise congested.

(g) Where persons or property will be disturbed or endangered because the waters on which the boat is operated are within a residential area.

(2) Subject to subsection (1) of this section, motorboats may be operated on public

waters without effective muffling devices as required by ORS 830.260, for the purpose of trying or testing the equipment on the boat, in areas and during times designated by the State Marine Board by regulations adopted under ORS 830.175.

(3) Within any county in which areas and times for trying or testing boats or the equipment on boats have been designated by the board under ORS 830.175, if a person wishes to operate a boat for such a purpose on public waters within the county, outside the designated testing area, the person shall apply to the sheriff of the county for a permit to do so. The permit, which may be issued upon application, shall be conditioned upon compliance with subsection (1) of this section, and shall designate the areas where and the times when the boat may be operated for such purpose. Provided, however, the sheriff in issuing such a permit may waive subsection (1)(g) of this section if the boat being tested is muffled in accordance with ORS 830.260. [Formerly 488.102]

830.355 Overloading. No boat shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other normal operating conditions. [Formerly 488.130]

830.360 Riding on bow, gunwale or transom. (1) No person operating a motorboat shall allow any person to ride or sit on the deck over the bow of the boat while under way unless the motorboat is provided with adequate guards or railing.

(2) No person operating a motorboat shall allow any person to ride or sit on the starboard or port gunwales or on the transom of the boat while underway at a speed in excess of five miles per hour unless the motorboat is provided with adequate guards or railings.

(3) No person operating a motorboat shall allow any person to ride or sit on the bow, gunwale or transom railings while underway.

(4) Nothing in subsection (1) or (2) of this section:

(a) Is intended to prevent passengers or other persons aboard a boat from standing on the bow of the boat in order to moor the boat to a mooring buoy, float or dock or to cast off from such a buoy, float or dock or for any other necessary purpose; or

(b) Applies to a boat rigged and equipped as a sailboat when operating under sail power. [Formerly 488.140]

830.362 Operating motorboat with person holding on to or occupying parts aft of transom. (1) A person may not operate a motorboat or have the motorboat engine idle while any person holds on to or occupies any portion of the motorboat that is located aft of the transom of the motorboat, including a step, ladder, platform or deck, in order to:

(a) Ride on that portion of the motorboat while the motorboat is under way at any speed; or

(b) Be pulled by the motorboat while holding on to any portion of the motorboat that is located aft of the transom, including a step, ladder, platform or deck.

(2) Notwithstanding subsection (1) of this section, a person may operate a motorboat or have the motorboat engine idle with a person holding on to or occupying for a brief period of time a step, ladder, platform or deck that is located aft of the transom if that person is:

(a) Assisting in the docking or departure of the motorboat;

(b) Exiting or entering the motorboat; or

(c) Engaging in law enforcement activities. [2005 c.299 §2]

830.365 Waterskiing, surfboarding and similar activities. (1) No person shall ride or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger any person or property.

(2) No person shall operate a boat for the purpose of towing a person on water skis, surfboard or similar device, and no person shall engage in waterskiing, surfboarding or similar activity at any time after sunset and before sunrise. This subsection does not apply to a person while engaged in a professional exhibition or to a person engaged in an activity authorized under ORS 830.375.

(3) No person shall operate or manipulate any boat, tow rope or other device by which the direction or location of a person on water skis, surfboard or similar device may be affected or controlled in a reckless or negligent manner so as to cause the person on water skis, surfboard or similar device to collide with or strike against any person or object.

(4) No person shall ride or manipulate any water skis, surfboard or similar device while under the influence of an intoxicating liquor or a controlled substance.

(5) No person shall operate a boat on any waters of this state, towing a person on water skis, aqua-plane, surfboard, saucer, or similar device, unless there is in the boat another person, in addition to the operator, who is in a position to continuously observe the person being towed.

(6) Notwithstanding subsection (5) of this section, persons operating a boat to tow a water-skier in an authorized competitive ma-

rine event, or engaged in practicing for a competitive water ski event on a water ski course authorized by the State Marine Board, may use either a curved, rearview mirror or another person, in addition to the operator, to continuously observe the person being towed.

(7) No person shall operate any boat used for towing water skis, surfboards or similar devices on the waters of this state unless the boat is equipped with and displays a warning flag as follows:

(a) The warning flag, also known as the "skier down" flag, shall be international orange or red in color and shall be at least 12 inches in height and 12 inches in width.

(b) When any person being towed by the boat becomes disengaged from the towline and is down in the water, a person in the boat shall immediately display the warning flag aloft, visible from all sides, as an indicator to other boats in the area that a person is down in the water. As long as the downed person is in the water, the flag shall remain displayed to prevent danger to that person and hazards to passing boats.

(c) The warning flag described in this section shall be displayed only under the conditions set forth in paragraph (b) of this subsection or when other imminent danger exists. [Formerly 488.144; 1993 c.589 §1]

830.370 Mooring to buoys and beacons; defacing or destroying navigational markers. (1) No person shall moor a boat to any of the buoys or beacons placed in any waters of this state by the authority of the United States, an agency of the United States or by the State Marine Board nor in any manner hang on with a boat to such buoy or beacon.

(2) No person shall deface, remove or destroy any buoy, beacon or other navigational marker maintained in the waters of this state.

(3) This section does not apply to any action prohibited by ORS 783.610 regarding a buoy or beacon established or erected by the United States Coast Guard. [Formerly 488.150]

830.375 Authorization required to hold marine event; rules. (1) At least 30 days before holding a regatta, boat race, marine parade, tournament or exhibition on the waters of this state, the person who will be in charge of the event shall apply to the State Marine Board for authorization to hold the event.

(2) The board shall provide by regulation for the manner of applying for and granting authorization and shall approve all applications for authorization which are consistent with the safety and pleasure of the public.

(3) The board may make rules and regulations restricting the operation of boats necessary to insure safety two hours prior to, during and two hours after the approved event.

(4) No person shall hold a regatta, boat race, marine parade, tournament, trial for speed records or exhibition on the waters of this state, unless the authorization of the board has been secured, except that the board's authorization is not required if authorization or the equivalent has been secured from an appropriate agency of the United States.

(5) An authorization by the board does not exempt a person holding an event from compliance with applicable federal law. [Formerly 488.108]

830.380 Peace officer authority to require operator to remedy especially hazardous condition. (1) When a peace officer observes a boat being operated on the waters of this state in an especially hazardous condition and determines that continuance of the voyage of the boat could place the occupants in imminent danger, the peace officer may order the operator of the boat to take immediate and reasonable steps to remedy the especially hazardous condition, including but not limited to directing the operator to move to a moorage and remain there until the especially hazardous condition is remedied.

(2) For purposes of this section, an especially hazardous condition is limited to the following conditions:

(a) Improper or insufficient personal flotation devices in violation of ORS 830.215;

(b) Improper or insufficient fire extinguishers in violation of ORS 830.220;

(c) Improper or insufficient backfire arresting devices on carburetors in violation of ORS 830.235;

(d) Improper or insufficient navigation lights in violation of ORS 830.225 if found between sunset and sunrise;

(e) Overloading in violation of ORS 830.355;

(f) Overpowering; or

(g) Leakage of fuel from the boat engine, fuel system or bilge. [1997 c.568 §2]

Note: 830.380 to 830.385 were added to and made a part of ORS chapter 830 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

830.383 Person required to remedy especially hazardous condition. A person may not intentionally disobey a lawful order to take immediate and reasonable steps to remedy an especially hazardous condition that is issued under ORS 830.380 by another

person known by the person to be a peace officer. [1997 c.568 §3]

Note: See note under 830.380.

830.385 Commercial fishing boats exempt from regulation of especially hazardous condition. ORS 830.380 and 830.383 do not apply to commercial fishing boats. [1997 c.568 §4]

Note: See note under 830.380.

830.390 Minimum equipment and safety requirements for vessels engaged in Klamath Lake plankton fishery. (1) In addition to any other authority to regulate boats and equipment, the State Marine Board shall require that any vessel engaged in the Klamath Lake plankton fishery and any associated watercraft meet minimum equipment and safety requirements prescribed by the board.

(2) In adopting rules necessary to implement subsection (1) of this section, the board:

(a) Shall consult with vessel owners; and

(b) May not exceed regulations promulgated by the United States Coast Guard for equivalent classes of vessels and associated watercraft. [1997 c.737 §5]

Note: 830.390 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

RENTAL, CHARTER OR LIVERY GENERALLY

830.410 Operator of boat livery to provide properly equipped boats. No operator of a boat livery shall permit any boat the operator rents to depart from the livery premises unless the boat is equipped as provided under ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490. [Formerly 488.025]

830.415 Records of operator of boat livery. The operator of a boat livery shall make and preserve for at least six months a written record of:

(1) The name of each person who hires a boat from the livery.

(2) The identifying number of the boat.

(3) The date on which the boat is hired, and the hour of departure from the livery.

(4) The expected date and hour of return.

(5) The date and hour of return. [Formerly 488.098]

830.420 Minimum equipment requirements for rental or charter boats; rules; inspection; cancellation or revocation of certificate for failure to comply. (1) The State Marine Board shall provide by rule minimum equipment requirements for boats rented or chartered to the public. The rules shall be made in accordance with ORS chapter 183.

(2) Designated representatives of the board may annually inspect all rental or charter boats to check for the equipment required by the board. Any inspections conducted shall be coordinated with other state and federal agencies to minimize duplication of vessel inspections and boardings.

(3) After a hearing upon 10 days' notice to the owner of the boat, the board may cancel or revoke the certificate of number for any boat rented or chartered to the public if it does not equal or exceed the minimum equipment requirements provided by the board. [Formerly 488.026]

OCEAN CHARTER VESSEL REGULATION

830.430 Definitions for ORS 830.430 to 830.460 and 830.997. As used in ORS 830.430 to 830.460 and 830.997:

(1) "Ocean" means those waters of the Pacific Ocean that are west of the demarcation lines described in the International Collision Regulations at Sea of 1972.

(2) "Ocean charter vessel" means a vessel used in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes in the ocean. [1989 c.885 §2]

830.435 Ocean charter vessel license; reciprocity with Washington license holders; rules; license and fee in lieu of other requirements. (1) Except as otherwise provided in this section, a person may not engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes in ocean waters within the jurisdiction of this state without first obtaining an ocean charter vessel license from the State Marine Board.

(2) The State Marine Board may adopt rules allowing a person who holds a license or registration issued by the State of Washington to engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes to conduct those activities if:

(a) The person operates a vessel that leaves from and returns to a port in the State of Washington;

(b) The person operates the vessel within the jurisdiction of this state in the Pacific Ocean north of Cape Falcon, or in the Columbia River; and

(c) The State of Washington adopts provisions that allow engaging in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes with a valid Oregon ocean charter vessel li-

cense within the jurisdiction of the State of Washington in the Pacific Ocean south of Leadbetter Point, and in the Columbia River.

(3) The license required by subsection (1) of this section is in lieu of registration required by ORS chapter 704 to carry passengers for hire for angling, sightseeing or other recreational purposes in any navigable waters of this state. Payment of the license fee referred to in ORS 830.440 (2)(b) is in lieu of any other fee or tax for the possession, use or operation of the vessel. [1989 c.885 §3; 1993 c.132 §1; 2005 c.115 §2]

Note: The amendments to 830.435 by section 4, chapter 115, Oregon Laws 2005, become operative January 2, 2008. See section 5, chapter 115, Oregon Laws 2005. The text that is operative on and after January 2, 2008, is set forth for the user's convenience.

830.435. (1) Except as otherwise provided in this section, it is unlawful to engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes in ocean waters within the jurisdiction of this state without first obtaining an ocean charter vessel license from the State Marine Board.

(2) A resident of the State of Washington who holds a license issued by that state to engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes may conduct those activities in ocean waters within the jurisdiction of this state north of Cape Falcon without the license required by subsection (1) of this section if the vessel leaves from and returns to a port in the State of Washington. The provisions of this subsection do not become operative until laws, rules or regulations of the State of Washington become operative that, in substance or effect, contain provisions which make lawful engaging in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes with a valid Oregon ocean charter vessel license in the waters of the Pacific Ocean within the jurisdiction of the State of Oregon or the State of Washington between the Oregon-Washington boundary and Leadbetter Point. This subsection remains operative only while such laws, rules or regulations remain operative.

(3) The license required by subsection (1) of this section is in lieu of registration required by ORS chapter 704 to carry passengers for hire for angling, sightseeing or other recreational purposes in any navigable waters of this state. Payment of the license fee referred to in ORS 830.440 (2)(b) is in lieu of any other fee or tax for the possession, use or operation of the vessel.

830.440 License application; contents; fee; bond or financial security; transfer of license. (1) An individual who desires to obtain an ocean charter vessel license shall make written application therefor to the State Marine Board. The application shall include such information regarding the vessel and copies of such documents and licenses regarding operation of the vessel as the board may require. The application shall be accompanied by proof that the applicant has protection against liability imposed by law covering occurrences by the operator of the ocean charter vessel, and the employees of the operator, for the payment of damages for bodily injuries, including death resulting therefrom, in the minimum amount of $300,000 per occurrence, at any time while engaged in carrying passengers for hire. The applicant shall certify that the vessel complies with the equipment requirements established by the board under ORS 830.450.

(2) The annual fee for an ocean charter vessel license is:

(a) For vessels owned by residents of this state if the vessel has license, title and number issued pursuant to ORS chapter 830, $50.

(b) For vessels owned by residents of this state if the vessel has a valid marine document issued by an agency of the federal government, $100.

(c) For vessels owned by persons who reside in a state that requires Oregon residents to pay a license fee to operate an ocean charter vessel in the waters of that state, such fee as is charged Oregon residents to operate an ocean charter vessel in the state where the nonresident applicant resides.

(d) For all vessels owned by nonresidents other than those described in paragraph (c) of this subsection, $100.

(3)(a) A person who applies for a license to operate an ocean charter vessel and who accepts deposits from clients in excess of $100 per person or whose agent accepts such deposits, shall submit a bond or other financial security in the amount of $5,000 to the board at the time of application. The bond or other financial security shall be held by the board for the benefit of clients of the licensee who pay a money deposit to the licensee or the licensee's agent in anticipation of services to be received. The bond or other financial security amount shall be released to such client or clients conditioned upon a failure of the licensee or the licensee's agent to return the deposit following cancellation of services or other failure to provide agreed upon services.

(b) The board shall release or retain all or any portion of a bond or other financial security as described in paragraph (a) of this subsection according to the provisions of ORS chapter 183.

(4) A license issued pursuant to this section is transferable to a replacement vessel of the license holder and is transferable to the purchaser of the vessel when the vessel is sold. [1989 c.885 §4; 1995 c.759 §3]

830.445 Liability insurance form; notice to board upon termination of coverage; license suspension for failure to maintain insurance. (1) The liability protection required by ORS 830.440 shall be provided in one of the following ways:

(a) By a policy or policies of bodily injury liability insurance described as protection

and indemnity insurance in the Standard American Institute Hull Form, issued by an insurer authorized by ORS chapter 731 to transact such insurance in this state.

(b) By a bond or bonds, issued by a surety company or companies, authorized by ORS chapter 731 to transact such business in this state.

(c) By evidence of insurance issued on behalf of Lloyds of London by an insurance broker authorized by ORS chapter 731 to transact such business in this state.

(d) By any other evidence of liability protection approved by the State Marine Board.

(2) If the provider of liability protection cancels or refuses to renew the protection, the company, not less than 30 days prior to the effective date of termination of the protection, shall notify the board in writing of the termination and its effective date. Upon receipt of a liability protection termination notice, the board shall send written notice to the ocean charter vessel operator that the board will suspend that person's ocean charter vessel license unless proof of liability protection required by ORS 830.440 is filed with the board prior to the effective date of the proposed liability protection termination. The board may suspend an ocean charter vessel license if the licensee fails to maintain in full force and effect the liability protection required by ORS 830.440. A license that has been suspended pursuant to this section may not be reinstated until proof of liability protection required by ORS 830.440 has been filed with the board. [1989 c.885 §11]

830.450 Equipment requirements. No person shall operate a vessel to engage in activities for which an ocean charter vessel license is required unless all equipment required pursuant to this section is on board the vessel and in proper working order. In establishing equipment requirements, the State Marine Board shall consider recommendations from charter boat associations. The board shall consider requiring the following types of equipment:

(1) If the vessel operates not more than 20 miles from the nearest port:

(a) First-aid kit.

(b) Automatic bilge warning light or bell for high water condition, audible or visible from each steering station.

(c) Depth finder.

(d) Life jackets.

(e) Light and smoke flares.

(f) VHF radio with frequencies appropriate to contact the United States Coast Guard.

(g) Power-operated bilge pumps.

(h) Running lights.

(i) Anchor and anchor chain or line.

(j) Displayed ocean class United States Coast Guard operator's license.

(k) Engine room space ventilation system and blower system.

(L) Fire extinguishers.

(m) Magnetic compass.

(n) Bailing buckets or hand-operated bilge pump.

(o) Loran C or radar navigational equipment.

(p) Emergency Position Indicator Radio Beacon device (EPIRB).

(q) Life ring.

(2) If the vessel operates more than 20 miles from the nearest port, in addition to the equipment specified in subsection (1) of this section, the board shall consider requiring the following types of equipment:

(a) Single sideband radio.

(b) Life raft or unsinkable shore boat.

(c) Navigational charts for the area in which the vessel is operating.

(d) Water lights. [1989 c.885 §5]

830.460 Prohibited activities. (1) No person shall make any false statement of material fact in making application for an ocean charter vessel license pursuant to ORS 830.440.

(2) No person shall operate a vessel to engage in activities for which an ocean charter vessel license is required, if it is determined upon inspection by the State Marine Board or its representative, or upon citation by a peace officer, that the vessel fails to comply with the equipment requirements of ORS 830.450, until all equipment requirements are met.

(3) No person shall operate a vessel to engage in activities for which an ocean charter vessel license is required without having in effect the protection against liability referred to in ORS 830.440 and 830.445. [1989 c.885 §6]

ACCIDENTS

830.475 Duties of operators and witnesses at accidents. (1) A person commits the offense of failure to perform the duties of an operator if the person is the operator of any boat involved in an accident that results in property damage and the operator fails to take reasonable steps to notify the owner or person in charge of the property of the damage, and provide to the owner or person in charge of the property the opera-

tor's name, address and the identification number of the boat.

(2) The operator of any boat involved in an accident which results in injury or death to any person immediately shall stop the boat at the scene of the accident, or as close thereto as possible, and shall remain at the scene of the accident until the operator has fulfilled the requirements of subsection (3) of this section.

(3) The operator of any boat involved in an accident resulting in injury or death to any person shall:

(a) Give to the other operator, surviving occupant or any person not injured as a result of the accident, the name, address and the identifying number of the boat which the operator is operating, and the name and address of any other occupants of the boat.

(b) Render reasonable assistance to any person injured in the accident, including the conveying or the making of arrangements for the conveying of the person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that treatment is necessary or if conveyance is requested by any injured person.

(4) Any witness to the accident shall furnish to the operator, occupant or injured person, the name and address of the witness. [Formerly 488.164; 1997 c.74 §1]

830.480 Accident report required; rules. (1) The operator of any boat involved in an accident resulting in injury or death to any person or damage to property in excess of the dollar amount established by rule of the State Marine Board shall make a report of the accident to the board in such form and manner as the board by rule may prescribe.

(2) Whenever a report is insufficient in the opinion of the board, it may require the operator to file a supplemental report and may also require a witness to the accident to render a report to the board.

(3) Whenever the operator of a boat is physically incapable of making a required accident report and there was another occupant in the boat at the time of the accident capable of making a report, the occupant shall make or cause the report to be made. [Formerly 488.168; 1991 c.17 §1]

830.485 Form of report; sending death certificate to State Marine Board. (1) The State Marine Board shall prepare and make available to the public forms for accident reports required in ORS 830.480. The report shall call for sufficiently detailed information to disclose the cause of an accident, conditions then existing, and the persons and vehicles involved. Every accident report shall be made on a form approved by the board.

(2) The State Health Officer shall on or before the 15th day of each month forward to the board a copy of the death certificate covering the death, resulting from a boat accident, of any persons within the jurisdiction of the State Health Officer during the preceding calendar month. [Formerly 488.172]

830.490 Confidential nature of report. (1) All accident reports made to the State Marine Board shall be without prejudice to the individual reporting and shall be for the confidential use of administrative and enforcement agencies only.

(2) The board upon written request, shall, if available, disclose the following information to any party involved in the accident, or, in the event of the party's death, to any member of the party's family, or to the party's personal representatives:

(a) The identity of the owner, operator, occupants and the identifying number of a boat involved in an accident;

(b) The names of any companies insuring the owner or operator; and

(c) The identity of any witnesses to the accident.

(3) No such report shall be used as evidence in any trial, civil or criminal, arising out of the accident. The board shall furnish, upon demand of any person who has or claims to have made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the board, solely to prove a compliance or a failure to comply with the requirement that such a report be made to the board.

(4) The board shall compile and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information relating to boat accidents.

(5) In response to any request duly made by an authorized official or agency of the United States, or in compliance with any federal requirement, the board shall transmit any information compiled or otherwise available to the board from the accident reports required by ORS 830.480 and 830.485. [Formerly 488.176; 1991 c.67 §232]

830.495 Report of accident resulting in death or disappearance; duties of passengers. (1) When, as a result of an occurrence that involves a boat or its equipment, a person dies or disappears from a boat, the operator shall, without delay, by the quickest means available, notify the nearest sheriff department, state police post, Coast Guard station or other law enforcement agency of:

(a) The date, time and exact location of the occurrence;

(b) The name of each person who died or disappeared;

(c) The number and name of the boat; and

(d) The names and addresses of the owner and operator.

(2) When the operator of a boat cannot give the notice required by subsection (1) of this section, each person on board the boat shall notify the casualty reporting authority or determine that the notice has been given. [Formerly 488.190]

BOATING UNDER INFLUENCE OF INTOXICANTS

830.505 Implied consent to chemical tests for intoxicants; refusal to submit; consequences. (1) Any person who operates a boat on any waters of this state shall be deemed to have given consent to submit to chemical tests of the person's breath for the purpose of determining the alcoholic content of the person's blood if the person is arrested for operating a boat while under the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Tests shall be administered upon the request of a peace officer having reasonable grounds to believe that the person arrested was operating a boat while under the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Before the test is administered, the person requested to take the test shall be informed of rights and consequences as described in ORS 830.545.

(2) No chemical test of the person's breath shall be given under subsection (1) of this section, to a person under arrest for operating a boat while under the influence of intoxicants in violation of ORS 830.325 or of a municipal ordinance, if the person refuses the request of a peace officer to submit to the chemical test after the person has been informed of rights and consequences as described in ORS 830.545.

(3) Within the time required by the State Marine Board by rule, the arresting officer shall report the following information to the board:

(a) Whether the person refused to submit to a test.

(b) Whether the person was informed of rights and consequences as described under ORS 830.545.

(4) A report required by this section may be made on one or more forms provided by the board. [1991 c.931 §7]

830.510 Chemical evidence of use of intoxicants. (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person operating a boat while under the influence of any intoxicants, if the amount of alcohol in the person's blood at the time alleged is less than 0.08 percent by weight of alcohol and shown by chemical analysis of the person's breath or blood, it is indirect evidence that may be used with other evidence, if any, to determine whether or not the person was then under the influence of intoxicants.

(2) Not less than 0.08 percent by weight of alcohol in a person's blood constitutes being under the influence of intoxicating liquor.

(3) Percent by weight of alcohol in the blood shall be based on grams of alcohol per 100 cubic centimeters of blood.

(4) For purposes of ORS 830.505 to 830.545, "boat" means a motorboat or sailboat. [1991 c.931 §6]

830.515 Evidence of refusal to submit to test in legal proceeding. If a person refuses or fails to submit to chemical tests of the breath, blood or urine as required by ORS 830.505 and 830.520, evidence of the person's refusal or failure to submit is admissible in any criminal or civil action or proceeding arising out of acts alleged to have been committed while the person was operating a boat while under the influence of intoxicating liquor or controlled substances. [1991 c.931 §8]

830.520 Circumstances under which chemical tests may be administered. Nothing in ORS 830.505 is intended to preclude the administration of chemical tests described in this section. A peace officer may obtain a chemical test of the blood to determine the amount of alcohol in any person's blood or a test of the person's blood or a test of the person's blood or urine, or both, to determine the presence of a controlled substance in the person as provided in the following:

(1) If, when requested by a peace officer, the person expressly consents to such a test.

(2) Notwithstanding subsection (1) of this section, from a person without the person's consent if:

(a) The peace officer has probable cause to believe that the person was operating a boat while under the influence of an intoxicating liquor or controlled substance and that evidence of the offense will be found in the person's blood or urine; and

(b) The person is unconscious or otherwise in a condition rendering the person incapable of expressly consenting to the test or tests requested. [1991 c.931 §9]

830.525 Chemical tests obtained by subject. In addition to chemical tests of the breath, blood or urine administered under

ORS 830.505 and 830.520, upon the request of a peace officer, a person shall be permitted upon request, at the person's own expense, reasonable opportunity to have any licensed physician, licensed professional nurse or qualified technician, chemist or other qualified person of the person's own choosing administer a chemical test or tests of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood or a chemical test or tests of the person's blood or urine, or both, for the purpose of determining the presence of a controlled substance in the person. The failure or inability to obtain such a test or tests by a person shall not preclude the admission of evidence relating to a test or tests taken upon the request of a peace officer. [1991 c.931 §10]

830.535 Criteria for chemical analyses. (1) A chemical analysis is valid under ORS 830.505, 830.520 or 830.525 if:

(a) It is an analysis of a person's blood for alcohol content and is performed in:

(A) A laboratory certified or accredited under 42 C.F.R. part 493 and approved for toxicology testing;

(B) A laboratory licensed under ORS 438.110 and approved for toxicology testing; or

(C) A forensic laboratory established by the Department of State Police under ORS 181.080 that is accredited by a national forensic accrediting organization.

(b) It is an analysis of a person's breath and is performed by an individual possessing a valid permit to perform chemical analyses issued by the Department of State Police under ORS 813.160 or by the State Marine Board under the provisions of this section. Chemical analyses must be performed according to methods approved by the Department of State Police under ORS 813.160 or approved by the board under this section. For purposes of this section, the board shall do all of the following:

(A) Approve methods of performing chemical analyses of a person's breath.

(B) Prepare manuals and conduct courses throughout the state for the training of peace officers in chemical analyses of a person's breath, which courses shall include, but are not limited to, approved methods of chemical analyses, use of approved equipment and interpretation of test results together with a written examination on these subjects.

(C) Test and certify the accuracy of equipment to be used by peace officers for chemical analyses of a person's breath before regular use of the equipment and periodically thereafter at intervals of not more than 90 days. Tests and certification required by this subparagraph must be conducted by trained technicians.

(D) Ascertain the qualifications and competence of individuals to conduct chemical analyses in accordance with one or more methods approved by the board or by the Department of State Police under ORS 813.160.

(E) Issue permits to individuals according to their qualifications. Permits may be issued to peace officers only upon satisfactory completion of the prescribed training course and written examination. A permit must state the methods and equipment that the peace officer is qualified to use. Permits are subject to termination or revocation at the discretion of the board.

(2) In conducting a chemical test of the blood, only a duly licensed physician or a person acting under the direction or control of a duly licensed physician may withdraw blood or pierce human tissue. A licensed physician, or a qualified person acting under the direction or control of a duly licensed physician, is not civilly liable for withdrawing any bodily substance, in a medically acceptable manner, at the request of a peace officer.

(3) An individual who performs a chemical analysis of breath or blood under ORS 830.505, 830.520 or 830.525 shall prepare and sign a written report of the findings of the test. A test administered at the request of a peace officer must include the identification of the peace officer upon whose request the test was administered.

(4) Any individual having custody of the report mentioned in subsection (3) of this section shall, upon request of the person tested, furnish a copy of the report to that person or that person's attorney.

(5) The expense of conducting a chemical test as provided by ORS 830.505 or 830.520 must be paid by the governmental units on whose equipment the test is conducted or by the governmental units upon whose request the test was administered if no governmental unit's equipment is used to conduct the test. [1991 c.931 §11; 2003 c.19 §2]

830.545 Information about rights and consequences. This section establishes the requirements for information about rights and consequences for purposes of ORS 830.505. The following apply to the information about rights and consequences:

(1) The information about rights and consequences shall be substantially in the form prepared by the State Marine Board. The board may establish any form it determines appropriate and convenient.

(2) The information about rights and consequences shall be substantially as follows:

(a) Operating a boat under the influence of intoxicants is a crime in Oregon and the person is subject to criminal penalties if the test shows that the person is under the influence of intoxicants. If the person refuses the test or fails, evidence of the refusal or failure may also be offered against the person.

(b) The person fails the test if the test shows the person is under the influence of intoxicants under Oregon law.

(c) If the person is convicted of operating a boat while under the influence of intoxicants, the person may not operate a boat for a period of time following the conviction.

(d) If the person is convicted of operating a boat while under the influence of intoxicants, the person is not eligible to apply for any certificate of title, registration or numbering and all certificates of title, registration and numbering necessary to lawfully operate a boat on Oregon waters shall be canceled for at least a year. The ineligibility to apply for certificates or the cancellation of the certificates shall be substantially longer if the person refuses the test.

(e) After taking the test, the person shall have a reasonable opportunity, upon request, for an additional chemical test for blood alcohol content to be performed at the person's own expense by a qualified individual of the person's choosing.

(3) Nothing in this section prohibits the board from providing additional information concerning rights and consequences that the board considers appropriate or convenient. [1991 c.931 §12]

830.550 Implied consent to field sobriety tests for intoxicants; refusal to submit; consequences. (1) Any person who operates a boat on any waters of this state shall be deemed to have given consent to submit to field sobriety tests upon the request of a peace officer for the purpose of determining if the person is under the influence of intoxicants if the peace officer reasonably suspects that the person has committed the offense of operating a boat while under the influence of intoxicants in violation of ORS 830.325 or a municipal ordinance. Before the tests are administered, the person requested to take the test shall be informed of the consequences of refusing to take or failing to submit to the tests under ORS 830.545.

(2) If a person refuses or fails to submit to field sobriety tests as required by subsection (1) of this section, evidence of the person's refusal or failure to submit is admissible in any criminal or civil action or proceeding arising out of allegations that the person was operating a boat while under the influence of intoxicants.

(3) Within the time required by the State Marine Board by rule, the arresting officer shall report the following information to the board:

(a) Whether the person refused to submit to a test.

(b) Whether the person was informed of rights and consequences as described under ORS 830.545.

(4) A report required by this section may be made on one or more forms provided by the board. [1991 c.931 §13]

SEAPLANES

830.600 Applicability of boating laws to seaplanes. The provisions of ORS 830.172, 830.200, 830.210 to 830.240, 830.245, 830.250, 830.260, 830.270, 830.375, 830.410, 830.415, 830.420, 830.430 to 830.460, 830.700 to 830.870 and 830.880 to 830.895 do not apply to seaplanes as defined in ORS 835.200. [1995 c.655 §3; 1999 c.692 §11]

830.605 State Marine Board and Oregon Department of Aviation to distribute information on regulation of seaplanes. (1) The State Marine Board and the Oregon Department of Aviation shall cooperate to publish and distribute information concerning laws, rules and regulations that govern seaplane safety and operations in Oregon.

(2) As used in this section, "seaplane" has the meaning given that term in ORS 835.200. [1995 c.655 §5; 2001 c.104 §316; 2005 c.22 §518]

NUMBERING, TITLES AND LICENSES

(Generally)

830.700 Definitions for ORS 830.060 to 830.145 and 830.700 to 830.870. As used in ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870, unless the context requires otherwise:

(1) "Boat" means every description of watercraft used or capable of being used as a means of transportation on the water, but does not include aircraft equipped to land on water, boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.

(2) "Boathouse" means a covered structure on floats or piles used for the protected moorage of boats.

(3) "Dealer" means a person who engages wholly or in part in the business of buying, selling or exchanging boats, floating homes or boathouses, either outright or on condi-

tional sale, bailment lease, chattel mortgage or otherwise.

(4) "Floating home" means a moored structure that is secured to a pier or pilings and is used primarily as a domicile and not as a boat.

(5) "Operate" means to navigate or otherwise use a boat on water.

(6) "Owner" means a person or persons who have a property interest other than a security interest in a boat, floating home or boathouse and the right of use or possession of the boat, floating house or boathouse, but does not include a lessee.

(7) "Ownership" means a property interest other than a security interest.

(8) "Security interest" means an interest reserved or created by agreement which secures payment or performance of an obligation as more particularly defined by ORS 71.2010 (37).

(9) "State of principal use" means the state on whose waters a boat is used or to be used during most of a calendar year. [Formerly 488.705; 1999 c.59 §251]

830.705 Applicability of numbering, title and license requirements. (1) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 do not apply to:

(a) A boat which has a valid marine document issued by the United States Coast Guard or any federal agency which succeeds to the duty of issuing marine documents.

(b) Foreign boats operated only temporarily in the waters of this state.

(c) A boat owned and operated by the United States or a state or by an entity or political subdivision of the United States or a state, except recreational type public vessels.

(d) A ship's lifeboat used solely for lifesaving purposes.

(e) A boat belonging to a class of boats which has been exempted from the provisions of this section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by the State Marine Board as provided in ORS 830.110 (9).

(f) A boat already covered by a number in full force and effect which has been issued to it pursuant to federal laws or a federally approved numbering system of another state; provided that such boat shall not have been within this state for a period in excess of 60 consecutive days.

(2) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 do apply to all boats other than boats described in subsection (1) of this section which are propelled by machinery, whether or not the machinery is the principal source of propulsion and to sailboats which are 12 feet or more in length.

(3) This section and ORS 830.300 and 830.710 to 830.870 do not apply to any vessel for which an ocean charter vessel license has been issued and for which the fee has been paid as provided in ORS 830.440 (2)(b). [Formerly 488.715; 1993 c.18 §173]

830.710 Report of transfer, abandonment or destruction of boat, boathouse or floating home or change of address of owner. (1) Within 30 days after the transfer of all or any part of the interest of the owner in a boat, boathouse or floating home, or the abandonment or destruction of a boat, boathouse or floating home, for which a valid identifying number has been awarded by this state, the owner shall notify the State Marine Board of the transfer of interest, destruction or abandonment.

(2) Within 30 days after any change in the address of the owner, the owner of a boat, boathouse or floating home for which a valid identifying number has been awarded by this state shall report the change to the board. [Formerly 488.750]

830.715 Record of certificates and numbers; fees for furnishing information. The State Marine Board shall keep a current record of outstanding certificates of title, certificates of number and registration and recorded numbers, which shall be a public record open to inspection by the public during reasonable office hours. However, the board may charge a reasonable fee for furnishing information concerning a boat, boathouse or floating home or its owner. [Formerly 488.810]

830.720 Cancellation of title upon scrapping of boat, boathouse or floating home. (1) An owner who scraps, dismantles or destroys a boat, boathouse or floating home and a person who purchases a boat, boathouse or floating home as scrap or to be dismantled or destroyed shall immediately cause the certificate of title to be mailed or delivered to the State Marine Board for cancellation.

(2) Upon the destruction of the certificate of title record of any boat, boathouse or floating home, the board shall maintain a file disclosing the last owner and security interest holders, if any, of the boat, boathouse or floating home as shown by the destroyed certificate of title record. [Formerly 488.774]

830.725 Distribution of lists of owners. The State Marine Board may publish and distribute to the sheriff, county assessor and county clerk of each county, the U. S. Coast

Guard, Department of State Police and other interested agencies current lists of the names and addresses of boat, boathouse or floating home owners to whom valid, effective identifying numbers have been issued. The lists, if published, shall be arranged both alphabetically by the name of the owner and numerically by the identifying numbers. [Formerly 488.815]

830.730 False information prohibited. No person shall give any false statement or information or assist another to give any false statement or information in any application, notice, statement or report to a peace officer or the State Marine Board. [Formerly 488.820; 1999 c.391 §1]

(Titles; Security Interest)

830.740 Perfection of security interest in boats, boathouses and floating homes covered by certificate of title; applicability of Uniform Commercial Code. (1) Except as provided in subsection (2) of this section, the exclusive means of perfecting a security interest in a boat, boathouse or floating home covered by a certificate of title is by application for and notation of the security interest on the certificate of title in accordance with the provisions of ORS 830.720, 830.740 to 830.755, 830.785, 830.810, 830.850 and 830.855. The security interest remains effective until released or terminated by the secured party.

(2) A security interest may not be perfected by notation of the security interest on the certificate of title if the debtor who granted the security interest is in the business of selling boats, boathouses or floating homes, and the boat, boathouse or floating home constitutes inventory held for sale or lease or the boat, boathouse or floating home is leased by the debtor as lessor. The filing provisions of ORS 79.0501 to 79.0528 shall apply to security interests in such boats, boathouses or floating homes.

(3) The rights and remedies of all persons in boats, boathouses and floating homes covered by this section shall be determined by the provisions of the Uniform Commercial Code. [Formerly 488.763; 2001 c.445 §185]

Note: For transition provisions regarding secured transactions, see notes under 79.0628.

830.745 Notation on title of creation, satisfaction or assignment of security interest; fee. (1) In the event of the creation of a security interest in a boat, boathouse or floating home for which a certificate of title has been issued, the owner shall sign in an application space provided on the back and deliver the certificate of title to the person in whom the security interest was created, who shall, within 10 days thereof, present the certificate to the State Marine Board, with the name of the owner shown thereon. In the event a prior security interest holder is in possession of the certificate of title, the owner shall sign and may arrange for direct delivery by the prior security interest holder to the board. The board, upon payment of the required fee, shall issue a new certificate of title, note the change upon the records in order of priority and mail the certificate to the security interest holder first named on the certificate.

(2) Upon satisfaction of a security interest in a boat, boathouse or floating home for which a certificate of title has been issued, the security interest holder affected, if the holder is in possession of the certificate of title, shall sign a release on the certificate of title and deliver it to the security interest holder next named, if any, or if none, to the owner. In the event the security interest holder affected is not in possession of the certificate of title, the holder shall execute a release of interest to the person entitled thereto who shall promptly deliver it to the holder of the certificate of title. Within 10 days after the delivery of the certificate of title or release, the holder shall present the certificate of title and release, if any, to the board. Upon payment of the required fee, the board thereupon shall note the change upon its records and issue a new certificate of title to the first security interest holder then named, if any, otherwise to the owner.

(3) A security interest holder may without the consent of the owner assign interest in a boat, boathouse or floating home to a person other than the owner without affecting the interest of the owner or the validity or priority of the interest but a person without notice of the assignment is protected in dealing with the security interest holder until the assignee is named as security interest holder on the certificate. The assignee may have the certificate of title issued with the assignee named as security interest holder upon delivery to the board of the certificate with the signature of the assignor releasing interest together with the required fee. [Formerly 488.766]

830.750 Transfer of title subject to security interest; dealer transferees; fee. (1) If an owner transfers interest in a boat, boathouse or floating home for which an Oregon certificate of title has been issued, other than by the creation of a security interest as provided by ORS 830.745, the owner shall, with the signed consent of the security interest holder shown on the face of the certificate of title, indorse on the back of the certificate an assignment thereof, with warranty of title in a form printed thereon and a statement of all unsatisfied security interests shown on the face of the certificate. Except as provided in subsection (2) of this

section, the transferee shall sign the certificate in an application space provided thereon, and shall indicate any new security interests in order of priority. The transferee or holder of the certificate shall, within 10 days after the transfer, present the certificate accompanied by the required fee to the State Marine Board, whereupon a new certificate of number or registration shall be issued and delivered to the transferee and a new certificate of title shall be issued to the transferee, and delivered to the first security interest holder in order of priority, if any, or if none, to the transferee.

(2) If the transferee is a dealer who purchases the boat, boathouse or floating home for resale, the transferor shall merely indorse the certificate of title, and the dealer shall not be required to present the certificate of title to the board until the dealer transfers the boat, boathouse or floating home. However, the dealer shall notify immediately the board that the boat, boathouse or floating home has been transferred to the dealer. Upon the transfer of the boat, boathouse or floating home by the dealer, the dealer shall deliver to the transferee the assigned certificate of title received by the dealer. The transferee, unless a dealer purchasing the boat, boathouse or floating home for resale, shall sign the certificate and complete it in the manner provided in subsection (1) of this section, whereupon the board shall issue and deliver a new certificate of number or registration and a new certificate of title in the manner provided in subsection (1) of this section. [Formerly 488.768]

830.755 Transfer by operation of law of title subject to security interest; fee. (1) In the event of the transfer by operation of law of the interest of an owner or security interest holder in a boat, boathouse or floating home for which an Oregon certificate of title has been issued, the certificate of title, if available, shall be signed upon the reverse side by the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose interest is so transferred in lieu of the person. The representative or successor shall file with the State Marine Board a notice of any transfer of the boat, boathouse or floating home by the representative or successor, together with evidence satisfactory to the board of all facts entitling the representative or successor to make the transfer. Upon the receipt of satisfactory evidence of the facts, and the required fee, the board shall issue a new certificate of title and a certificate of number or registration. If a boat, boathouse or floating home is repossessed, satisfactory evidence must be presented to the board that the security interest holder has given at least 10 days' notice to the owner of the boat, boathouse or floating home, by registered mail or by certified mail with return receipt at the last-known post-office address of the owner the security interest holder's intention to apply for a certificate of title.

(2) As used in subsection (1) of this section, a transfer by operation of law includes inheritance, devise, bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a security agreement, or any transfers effected other than by the voluntary act of the person whose interest is transferred. [Formerly 488.772; 1991 c.249 §74]

(Boats)

830.770 Certificate of number required on boat; exceptions. (1) No person shall operate a boat on the waters of this state and no owner of a boat shall knowingly allow another to operate the owner's boat on the waters of this state unless:

(a) The owner of the boat holds a valid, effective certificate of number issued in the owner's name as owner:

(A) By this state, as provided in ORS 830.060 to 830.145 and 830.700 to 830.870;

(B) By an agency of the federal government; or

(C) By the state of principal use which issued the certificate of number under a federally approved numbering system.

(b) The certificate of number is carried on the boat, except as provided in subsection (2) of this section.

(2) Persons renting a boat from a livery are not required to carry the certificate of number on the boat, provided:

(a) The livery owner retains the certificate of number at the livery office for immediate inspection by a peace officer;

(b) The boat is clearly marked and identified as a livery boat; and

(c) The boat operator has a signed rental or lease agreement containing the boat's identifying number and the period of time for which the boat is rented or leased. [Formerly 488.720; 2003 c.14 §502]

830.775 Operation of certain boats without certificates of registration. (1) Notwithstanding the provisions of ORS 830.705, 830.710, 830.770, 830.780 to 830.805 and 830.830 to 830.870, no person shall operate a boat which is not used for commercial purposes and has a valid marine document issued by the United States Coast Guard or any federal agency which succeeds to the duty of issuing marine documents unless:

(a) The owner holds a certificate of registration issued in the name of the owner as owner.

(b) The certificate is carried on the boat.

(c) A decal awarded to the boat is conspicuously displayed.

(2) The State Marine Board shall issue a certificate of registration and a decal that recites its issuance by the board as prescribed by ORS 830.790. [Formerly 488.823; 1993 c.18 §174; 2003 c.455 §4]

830.780 Identifying number on forward half of boat. (1) No person shall operate a boat on the waters of this state unless:

(a) There is painted on or attached to each side of the forward half of the boat a valid, effective identifying number awarded to the boat:

(A) By this state;

(B) By an agency of the federal government; or

(C) Subject to the provisions of ORS 830.805, by another state that awards identifying numbers under a federally approved numbering system.

(b) The identifying number described in paragraph (a) of this subsection is painted or attached on each side of the forward half of the vessel in such position as to provide clear legibility for identification. The numbers shall read from left to right and shall be in block characters of good proportion not less than three inches in height. The numbers shall be of a color that will contrast with the color of the background and so maintained as to be clearly visible and legible; i.e., dark letters on a light background, or light letters on a dark background.

(c) No number other than the identifying number described in paragraph (a) of this subsection appears on the forward half of the boat.

(2) No person or dealer shall sell or display for sale a boat previously numbered by this state, by an agency of the federal government or by another state that issued a certificate of number under a federally approved numbering system unless the identifying number appears on each side of the forward half of the boat. [Formerly 488.725; 2003 c.14 §503]

830.785 Application for boat number. Subject to the provisions of ORS 830.830, the owner of a boat which is operated principally on the waters of this state shall apply to the State Marine Board for an identifying number. The application shall include the true name of the owner, the residence or business address of the owner, a description of the boat and any other information required by the board. The application shall be signed by the owner and shall be accompanied by the prescribed fee. [Formerly 488.730]

830.790 Certificate or registration fees. (1) The biennial fee for the original or renewal certificate of number or registration is:

(a) $3 per foot, or portion thereof, for all sailboats 12 feet in length or more and for all motorboats.

(b) $6, for boats that are assessed by the Department of Revenue under ORS 308.505 to 308.665.

(c) $6, for amphibious vehicles that are licensed by the Department of Transportation.

(2) Notwithstanding subsection (1) of this section, no fee is required for boats owned by eleemosynary organizations which are operated primarily as a part of organized activities for the purpose of teaching youths scoutcraft, camping, seamanship, self-reliance, patriotism, courage and kindred virtues.

(3) Except for the assessment referred to in subsection (1)(b) of this section, the fees provided by this section are in lieu of any other tax or license fee.

(4) The operator of a boat livery holding five or more boats ready for hire may pay a biennial certificate of number fee of $55 plus $6 for each boat instead of the fee otherwise provided in this section. [Formerly 488.732; 1997 c.432 §1; 2003 c.455 §1]

830.795 Issuance of certificate of number and validation stickers; stickers placed on boats. (1) Subject to the provisions of ORS 830.800, if the application is in order, the State Marine Board shall issue to the owner a certificate of number which shall state the identifying number awarded to the boat, the name and address of the owner, the description of the boat, the issue date and the expiration date of the certificate of number. The certificate of number shall be pocket size.

(2) The board shall issue a set of validation stickers bearing the year through which the certificate of number is issued. The stickers shall be placed three inches to the rear of the identifying number placed on the boat as required by ORS 830.780. [Formerly 488.735]

830.800 Expiration of certificate of number; renewal of certificate and stickers. (1) A certificate of number expires on December 31 of the year indicated on the certificate.

(2) The State Marine Board may require the surrender of the expired certificate of number before issuing a new certificate of number.

(3) The identifying number awarded to a boat by the board shall remain the same.

(4) An application for renewal of a certificate of number shall be made in the same manner as provided in ORS 830.785. The application shall be accompanied by the fee prescribed by ORS 830.790. The board shall renew certificates of number and issue validation stickers in the same manner as provided in ORS 830.795. [Formerly 488.740]

830.805 Application by owner having number awarded by federal government or another state. The owner of any boat covered by a number in full force and effect which has been issued to it pursuant to the then operative federal law or a federally approved numbering system of another state, shall make application within 10 days after the 60-day reciprocity period provided in ORS 830.705 (1)(f). Such application shall be in a manner pursuant to the procedure required for the issuance of a number in ORS 830.785. [Formerly 488.755]

830.810 Certificate of title; exceptions; rules; application fees; penalty fee. (1) Except as otherwise provided in this subsection, a person may not operate a boat for which an identifying number is required under ORS 830.705, 830.710, 830.770, 830.780 to 830.805 and 830.830 to 830.870, unless the owner has secured from the State Marine Board a certificate of title for the boat. This subsection does not apply to operation of:

(a) Amphibious vehicles that have a valid title issued by the Department of Transportation.

(b) A boat for which an identifying number issued under ORS 830.830 is required.

(2) A certificate of title is prima facie evidence of the ownership of a boat or a security interest therein. A certificate of title is good for the life of the boat so long as the certificate is owned or held by the legal holder of the certificate.

(3) The board may assess the following application fees:

(a) Original title or title transfer, $30.

(b) Duplicate title, $15.

(c) Duplicate certificate of number or registration, $10.

(d) Duplicate validation stickers, $10.

(4) The board shall establish, by rule, penalty fees for late application for certificates required by this section or ORS 830.710. A penalty fee may not exceed $50.

(5) Rules adopted pursuant to this section shall be in accordance with the provisions of ORS chapter 183. [Formerly 488.762; 2003 c.455 §2]

830.815 Refusal to issue or suspension or cancellation of certificate. (1) The State Marine Board may refuse to issue a certificate of title or a certificate of number or registration if the board determines at any time that an applicant for the certificate has:

(a) Given a false statement or false information in applying for the certificate;

(b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.145 and 830.700 to 830.870 pertaining to application for certificates; or

(c) Been convicted of operating a boat while under the influence of an intoxicating liquor or controlled substance within one year of the date of application or within three years of the date of application if the record of conviction shows that the person willfully refused the request of a peace officer to submit to chemical testing of the breath or a field sobriety test pursuant to ORS 830.505 and 830.550.

(2) After a hearing upon 10 days′ notice, the board may cancel a certificate of title or certificate of number or registration if the board determines at any time that an owner, boat manufacturer or dealer named in the certificate:

(a) Gave a false statement or false information in applying for the certificate; or

(b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.145, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 pertaining to applications for certificates.

(3) The board shall automatically suspend the certificate of number for any boat if the board receives notification of a conviction for violation of ORS 830.260 under ORS 830.270. The suspension under this subsection is not subject to hearing. The board shall reinstate a certificate of number suspended under this subsection when the boat owner submits proof satisfactory to the board that the boat has been approved by a person designated by the board as meeting the standards for sound levels established by the board.

(4) If the board receives notification from any court in this state that any person who is charged with a boating offense and who is the registered owner of the boat has failed to appear as required by law or has failed to comply with the judgment of the sentencing court, the board shall take the following actions:

(a) Notify, by certified mail, the registered owner of the boat involved in the offense of the owner′s failure to appear or comply with the judgment of the court. The notification shall include a copy of the cita-

tion issued to the owner and will inform the owner that the board will suspend the certificate of number for the boat 45 days from the date of the mailing of the notice by the board. The notice shall include a statement that a hearing may be requested in writing within 10 days of the notice. Any hearing requested under this subsection shall be limited to the issue of whether the person is the person who failed to appear or comply with the judgment of the sentencing court.

(b) The board shall suspend the certificate of number for the boat involved 45 days after mailing notice of intent to suspend to the owner of the boat unless a hearing has been requested or, within the 45-day notice period, the board receives notice from the court that the owner has appeared in court and is in compliance with any court order entered in the proceeding. Notice from the court may consist of a copy of any receipt or other document issued by the court indicating that the person has appeared and is in compliance with any court order.

(c) Upon suspending any certificate of number under this subsection, the board may charge the owner a reinstatement fee sufficient to cover the actual expenses of the board in processing the transactions described in this section. The board shall reinstate any certificate of number suspended under this subsection upon receiving payment of any reinstatement fee and notice from the court that the owner has appeared and fully satisfied the judgment of the court.

(5) Conviction of operating a boat while under the influence of an intoxicating liquor or controlled substance under ORS 830.325 constitutes grounds for suspension of a person's certificate of number or registration for all boats owned by the person. The following provisions apply to such suspension:

(a) Upon receipt of a record of conviction for a violation of ORS 830.325, the board shall notify the convicted person that all certificates of number or registration issued in the person's name are suspended. The notice shall include a statement that a hearing may be requested in writing within 10 days of the notice. Any hearing requested under this subsection shall be limited to the issue of whether the person is the person convicted.

(b) The suspension shall be for three years from the date of conviction if the record of conviction shows that the person willfully refused the request of a peace officer to submit to chemical testing of the breath or a field sobriety test under ORS 830.505 and 830.550. Otherwise the period of suspension shall be for one year from the date of conviction. [Formerly 488.780; 1991 c.931 §3; 1997 c.48 §1; 1999 c.1051 §94]

830.820 Duplicate certificates or validation stickers. The State Marine Board may issue a duplicate certificate of number or registration, or title, or a duplicate set of validation stickers upon application by the person entitled to hold a certificate or to be in possession of the validation stickers if the board is satisfied that the original certificate or validation stickers have been lost, destroyed or mutilated. [Formerly 488.805; 2003 c.455 §3]

830.825 Hull identification number required. (1) No person shall operate a boat on the waters of this state or be in possession of a boat for which the State Marine Board has issued a certificate of boat title unless such boat has a hull identification number that complies with the requirements of this section. Hull identification numbers must be carved, burned, stamped, embossed, clearly imprinted or otherwise permanently affixed to the outboard side of the transom, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident. No person, firm, association or corporation shall destroy, remove, alter, cover or deface any number awarded to a vessel by the State Marine Board or the manufacturer's hull identification numbers.

(2) The hull identification numbers required under subsection (1) of this section shall comply with the following:

(a) All vessels built after 1984 shall have two identical hull identification numbers permanently affixed and displayed in accordance with federal regulations.

(b) The primary hull identification number shall be affixed to the outboard side of the vessel's transom, on the starboard side, within two inches of the top of the transom, gunwale or hull or deck joint, whichever is lowest, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident.

(c) A duplicate hull identification number shall be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of permanent hardware. A hull identification number may not be attached to any part of the vessel that is removable.

(d) A person who builds a vessel for the person's own use and not for the purpose of sale shall request a hull identification number from the State Marine Board and affix the awarded number in accordance with this section. [Formerly 488.778; 1999 c.391 §2]

830.830 Dealer or boat manufacturer number; fee. (1) A dealer or boat manufacturer:

(a) May apply to the State Marine Board for one or more identifying numbers issued under this section.

(b) Shall display an identifying number issued under this section on a boat while operating or using the boat for a purpose related to the testing, buying, selling or exchanging of the boat.

(2) The application for a number under this section shall include the name and the business address of the dealer or boat manufacturer. Any number of identifying numbers may be requested in the same application.

(3) An application for a number under this section shall be accompanied by the following fees:

(a) For the first number applied for, $28.

(b) For each additional number applied for in any application and all renewals, $6.

(4) The board shall issue a certificate of number or registration for each identifying number awarded under this section in the same manner as provided in ORS 830.795. Numbers and certificates issued under this section are subject to the following:

(a) An identifying number is valid for not more than two years.

(b) No boat shall be described in the certificate and each certificate shall state that the identifying number has been awarded to a dealer or boat manufacturer.

(c) A certificate of number issued under this section expires on December 31 of the year indicated on the certificate.

(5) The provisions of ORS 830.800 (2) and (4) apply to a certificate of number issued under this section.

(6) An identifying number issued under this section shall be displayed on a boat of a dealer or boat manufacturer in the same manner as provided in ORS 830.780, except that the number may be temporarily attached.

(7) No person other than a dealer or boat manufacturer or a representative of a dealer or boat manufacturer shall display or use an identifying number issued under this section.

(8) No person shall use an identifying number issued under this section for any purpose other than the purpose described in subsection (1) of this section. [Formerly 488.760; 2003 c.14 §504]

(Floating Homes; Boathouses)

830.850 Identifying number plate required on floating homes and boathouses; certificate of title required; fee. (1) No person shall use a floating home or boathouse on the waters of this state unless there is affixed to the floating home or boathouse in plain sight an identifying plate with a unique number awarded to the floating home or boathouse by this state.

(2) No person shall use a floating home or boathouse for which an identifying plate is required unless the owner has secured from the State Marine Board a certificate of title for the floating home or boathouse. A certificate of title is prima facie evidence of the ownership of the floating home or boathouse or a security interest therein. A certificate of title is good for the life of the floating home or boathouse so long as the certificate is owned or held by the legal holder of the certificate. The board shall charge a fee of $20 for issuing each certificate of title. [Formerly 488.718]

830.855 Application for floating home or boathouse identifying plate; fee; issuance of certificate of title. (1) The owner of a floating home or boathouse that is used principally on the waters of this state shall apply to the State Marine Board for an identifying plate. The application shall include the true name of the owner, the residence or business address of the owner, a description of the floating home or boathouse, the location of the floating home or boathouse and any other information required by the board. The application shall be signed by the owner and be accompanied by a fee of $20.

(2) Subject to ORS 830.860, if the application is in order, the board shall issue to the owner a certificate of title. The title shall contain the name and address of the owner, a description of the floating home or boathouse, the issue date, the location of the floating home or boathouse and a statement that the title is valid and effective only so long as ownership and location remain the same. [Formerly 488.726]

830.860 Validity of certificate of title; new certificates; fee. (1) A certificate of title for a floating home or boathouse is valid and effective only as long as ownership and location remain the same.

(2) The State Marine Board shall require the surrender of the certificate of title before issuing a new certificate of title unless the floating home was abandoned by a tenant under ORS chapter 90.

(3) The identifying plate issued by the board shall remain the same when a new certificate of title is issued.

(4) Application for a new certificate of title shall be made in the manner provided in ORS 830.855. The application shall be accompanied by a fee of $20. The board shall issue the new certificate of title in the manner provided in ORS 830.855. [Formerly 488.727; 1997 c.577 §44]

830.865 Rules. In accordance with ORS chapter 183, the State Marine Board shall adopt rules necessary to carry out the provisions of ORS 830.850 to 830.860. [Formerly 488.728]

830.870 Duplicate certificate; fee. Upon receipt of proof satisfactory to the State Marine Board from the holder of a certificate issued pursuant to ORS 830.850 to 830.860 that the certificate has been lost, mutilated, destroyed or stolen, the board shall issue to the holder a duplicate certificate for a fee of $20. [Formerly 488.720]

DISPOSITION OF BOATS AND EQUIPMENT FROM WHICH IDENTIFICATION NUMBER REMOVED

830.875 Definitions for ORS 830.880 to 830.895. As used in ORS 830.880 to 830.895:

(1) "Component" means any severable portion of a boat that possesses or did possess an identification number.

(2) "Identification number" means a distinguishing number assigned to a boat or component by the manufacturer, the State Marine Board or a police agency. [Formerly 488.900]

830.880 Seizure of boats and equipment from which identification number has been removed; inspection of property; check for stolen boats; renumbering. (1) When a peace officer discovers a boat or component from which a number awarded by the State Marine Board or the manufacturer's hull identification number assigned to the boat or the component identification number has been removed, defaced, covered, altered or destroyed, the peace officer may seize and hold it for identification and disposal as provided in ORS 830.880 to 830.895.

(2) The police agency having custody of the property shall have a specially qualified inspector or peace officer inspect the property for the purpose of locating the identification number. If the identification number is found it shall be checked with the list of stolen boats maintained by the National Crime Information Center. If the identification number is not found the police agency shall apply to the State Marine Board for renumbering as provided in ORS 830.895. [Formerly 488.905; 1999 c.391 §3; 2001 c.104 §317]

830.885 Return of seized property; investigation to determine ownership; notice to owner. (1) When the property seized under ORS 830.880 is not listed as stolen by the National Crime Information Center and the hull identification number is established the property shall be returned to the person from whom it was seized if:

(a) The person can establish that the person is the owner of the property; or

(b) The person executes a good and valid surety bond in an amount at least equal to the market value of the property and conditioned upon return of the property to the owner, if one can be established. The bond will be for a period of time determined by the State Marine Board.

(2) If the person to whom the property was returned does not establish that the person is the owner of the property the police agency holding the property shall make reasonable efforts to determine the names and addresses of the owner and all persons of record having an interest in the property. If the police agency is able to determine the names and addresses of the owner and such other persons it shall immediately notify the owner by registered or certified mail of the disposition of the property.

(3) When the property seized under ORS 830.880 is not listed as stolen by the National Crime Information Center and the hull identification numbers have been removed, altered or defaced and the person from whom the property was seized cannot establish that the person is the owner of the property, the sheriff of the county where the seizure took place shall take custody of the property and sell the property at public auction in the manner provided in ORS 87.192 and 87.196 or dispose of the property in a manner provided by local ordinance. If a bid for the property is not offered at the public auction, the sheriff may destroy or otherwise dispose of the property. [Formerly 488.910; 1999 c.391 §4]

830.890 Public notice to persons having interest in seized property; court action; sale of property at public auction; disposition of proceeds. (1) If the hull or component identification number of property seized pursuant to ORS 830.880 is not established or if the property is reported as stolen by the National Crime Information Center the police agency having custody of the property shall, after making reasonable efforts to ascertain the names and addresses of the owner and all persons of record having an interest in the property, notify the person from whom the property was seized, and the owner and such other persons if they can be ascertained, of their right to respond within 60 days from the issuance of the notice through court action for the return of the seized property. The taking of the property, the description thereof and a statement of the rights of an owner or other persons of

record having an interest in the property to respond through court action for the return of the seized property shall be advertised in a daily newspaper published in the city or county where the property was seized, or if a daily newspaper is not published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two consecutive weeks and by handbills posted in three public places near the place of seizure.

(2) If court action is not initiated within 60 days from the issuance of notice the property shall be sold at public auction by the sheriff or other local police agency having custody of the property. Property seized and held by or at the direction of the Department of State Police under ORS 830.880 shall be delivered to the sheriff of the county in which the vehicle was located at the time it was taken into custody for sale under this subsection. The sheriff or other local police agency shall, after deducting the expense of keeping the property and the cost of sale, pay all the security interests, according to their priorities which are established by intervention or otherwise at such hearing or in other proceeding brought for that purpose, and shall pay the balance of the proceeds into the general fund of the unit of government employing the officers of the selling police agency. [Formerly 488.915; 1999 c.391 §5]

830.895 Renumbering; inspection requirement. (1) A police agency having custody of a boat or component for which an identification number is not established or a person to whom a boat or component has been returned pursuant to ORS 830.885 shall apply to the State Marine Board for an identification number.

(2) Except as provided in subsection (1) of this section the board shall not assign an identification number to a boat or component from which the identification number assigned to the boat or component by the board has been removed, defaced, covered, altered or destroyed unless the boat or component has been inspected pursuant to ORS 830.880. [Formerly 488.920]

830.905 [Formerly 488.650; repealed by 1999 c.692 §13]

ABANDONED BOATS, FLOATING HOMES, BOATHOUSES

830.907 Definitions for ORS 830.907 to 830.927. As used in ORS 830.907 to 830.927:

(1) "Boathouse" has the meaning given that term in ORS 830.700.

(2) "Established or attended moorage" means a place where a boat, floating home or boathouse is attached to a pier, piling or marina in such a way as to be secure.

(3) "Floating home" has the meaning given that term in ORS 830.700.

(4) "Removing authority" has the meaning given that term in ORS 98.245. [1999 c.692 §2; 2003 c.693 §4]

830.909 Offense of abandoning boat, floating home or boathouse; liability for costs of removal, cleanup and disposal. (1) A person commits the offense of abandoning a boat, floating home or boathouse if the person leaves a boat, floating home or boathouse on the waters of this state or upon any public or private property except with the permission of the property owner, or at an established or attended moorage or in any area leased for occupation by the Department of State Lands under ORS chapter 274.

(2) The owner of the boat, floating home or boathouse as shown by the records of the State Marine Board shall be considered responsible for the abandonment of the boat, floating home or boathouse in the manner prohibited by this section and shall be liable for the cost of removal, cleanup and disposition of the abandoned boat, floating home or boathouse.

(3) A boat, floating home or boathouse abandoned in violation of this section is subject to the provisions for removal of an abandoned boat, floating home or boathouse under ORS 830.912 and 830.914 and to being sold or disposed of as provided under ORS 98.245. [1999 c.692 §3; 2003 c.693 §5]

830.910 [Formerly 488.655; repealed by 1999 c.692 §13]

830.912 Removing authority power to remove and take into custody abandoned boat, floating home or boathouse. (1) After providing notice required under ORS 830.917, a removing authority may take a boat, floating home or boathouse into custody and remove the boat, floating home or boathouse if:

(a) The removing authority has reason to believe the boat, floating home or boathouse is abandoned; and

(b) The boat, floating home or boathouse is left on the waters of this state or upon public or private property for a period in excess of 48 hours without permission of the property owner or authorization by statute or local ordinance.

(2) The authority in this section to remove and take a boat, floating home or boathouse into custody is in addition to any authority to remove and take a boat, floating home or boathouse into custody under ORS 830.914.

(3) A boat, floating home or boathouse removed and taken into custody under this section is subject to disposition under ORS 98.245 if the boat, floating home or boathouse

is not claimed as provided under ORS 98.245 or returned to the custody of the owner or person entitled to possession. [1999 c.692 §4; 2003 c.693 §6]

830.914 Removing authority custody of boat, floating home or boathouse that constitutes hazard; rules. (1) A removing authority may immediately take custody of a boat, floating home or boathouse that is disabled, abandoned or left unattended on the waters of this state and that is in such a location as to constitute a hazard or obstruction to other boats, floating homes or boathouses using the waterway.

(2) The State Marine Board, by rule, shall establish additional criteria for determining when a boat, floating home or boathouse on the waters of this state or upon public or private property is subject to being taken into immediate custody under this section. [1999 c.692 §5; 2003 c.693 §7]

830.915 [Formerly 488.660; repealed by 1999 c.692 §13]

830.917 Notice of intent to take custody; content of notice. If a removing authority proposes to take custody of a boat, floating home or boathouse under ORS 830.912, the removing authority shall provide notice and shall provide an explanation of procedures available for obtaining a hearing under ORS 830.924 and for filing a claim under ORS 98.245. The notice required under this section shall comply with all of the following:

(1) Notice shall be given by affixing a notice to the boat, floating home or boathouse with the required information. The notice shall be affixed to the boat, floating home or boathouse before the boat, floating home or boathouse is taken into custody.

(2) The notice shall state all of the following:

(a) That the boat, floating home or boathouse will be subject to being taken into custody and removed by the removing authority if the boat, floating home or boathouse is not removed before the time set by the removing authority. Unless the boat presents a hazard, the removing authority shall allow a sufficient time before taking the boat into custody to allow a hearing under ORS 830.924.

(b) The statute, ordinance or rule under which the removing authority proposes to take custody of the boat, floating home or boathouse.

(c) The place where the boat, floating home or boathouse will be held in custody or the telephone number and address of the removing authority.

(d) That the boat, floating home or boathouse, if taken into custody and removed by the removing authority, will be subject to salvage, towing and storage charges and disposition under ORS 98.245.

(e) That the boat, floating home or boathouse will be sold to satisfy the costs of salvage, towing and storage if the charges are not paid.

(f) That the owner, possessor or person having an interest in the boat, floating home or boathouse has five days, not including holidays, Saturdays or Sundays, to request a hearing before the boat, floating home or boathouse is taken into custody.

(g) That the owner, possessor or person having an interest in the boat, floating home or boathouse may also challenge the reasonableness of any salvage, towing and storage charges at the hearing.

(h) The time within which a hearing must be requested and the method for requesting a hearing. [1999 c.692 §6; 2003 c.693 §8]

830.919 Disposition of boat, floating home or boathouse. If a removing authority takes custody of a boat, floating home or boathouse under ORS 830.914, the removing authority shall comply with the provisions of ORS 98.245 for disposition of the boat, floating home or boathouse. [1999 c.692 §7; 2003 c.693 §9]

830.920 [Formerly 488.665; repealed by 1999 c.692 §13]

830.922 Exception to notice requirement. If there is no boat, floating home or boathouse identification number on a boat, floating home or boathouse and there is no registration number or other markings through which the State Marine Board could identify the owner of the boat, floating home or boathouse, then a removing authority otherwise required to provide notice under ORS 830.917 is not required to provide such notice and the boat, floating home or boathouse may be removed and disposed of as provided in ORS 98.245. [1999 c.692 §8; 2003 c.693 §10]

830.924 Request for hearing on proposal to remove boat, floating home or boathouse; hearing; final order; appeal. A person provided notice under ORS 830.917 or any other person who reasonably appears to have an interest in the boat, floating home or boathouse may request a hearing under this section to contest the validity of the proposed removal and custody of a boat, floating home or boathouse under ORS 830.912 by submitting a request for hearing to the removing authority not more than five days after the posting of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. A hearing under this section shall comply with all of the following:

(1) If the removing authority proposing to remove a boat, floating home or boathouse under ORS 830.912 receives a request for hearing before the boat, floating home or boathouse is taken into custody and removed, the boat, floating home or boathouse shall not be removed unless the boat, floating home or boathouse constitutes a hazard.

(2) A request for hearing shall be in writing and shall state the grounds upon which the person requesting the hearing believes that the custody and removal of the boat, floating home or boathouse is not justified.

(3) Upon receipt of a request for a hearing under this section, the removing authority shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owners of the boat, floating home or boathouse and any lessors or security interest holders shown in the records of the State Marine Board, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.

(4) If the removing authority finds, after hearing and by substantial evidence on the record, that the custody and removal of a boat, floating home or boathouse was:

(a) Invalid, the removing authority shall order the immediate release of the boat, floating home or boathouse to the owner or person with right of possession.

(b) Valid, the removing authority shall order that the boat, floating home or boathouse be held in custody until the costs of the hearing and all salvage, towing and storage costs are paid by the party claiming the boat, floating home or boathouse. If the boat, floating home or boathouse has not yet been removed, the removing authority shall order its removal.

(5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the removing authority for the person's failure to appear.

(6) A removing authority is required to provide only one hearing under this section for each time the removing authority takes a boat, floating home or boathouse into custody and removes the boat, floating home or boathouse or proposes to do so.

(7) A hearing under this section may be used to determine the reasonableness of any charges that may be imposed for salvage, towing and storage of the boat, floating home or boathouse. Salvage, towing and storage charges set by law, ordinance or rule or that comply with law, ordinance or rule are reasonable for purposes of this subsection.

(8) A removing authority shall provide to the person requesting a hearing under this section a written statement of the results of the hearing.

(9) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases under ORS 183.450.

(10) The hearings officer at a hearing under this section may be an officer, official or employee of the removing authority but shall not have participated in any determination or investigation related to taking into custody and removing the boat, floating home or boathouse that is the subject of the hearing.

(11) The determination of a hearings officer at a hearing under this section is a final order and is subject to appeal to the circuit court for the county in which the boat, floating home or boathouse is located at the time notice is posted under ORS 830.917. [1999 c.692 §9; 2003 c.693 §11]

830.925 [Formerly 488.670; repealed by 1999 c.692 §13]

830.926 Abandoned Boat Removal and Cleanup Subaccount; sources; limits; uses. (1) The Abandoned Boat Removal and Cleanup Subaccount is established within the Boating Safety, Law Enforcement and Facility Account. The subaccount shall consist of moneys deposited into the subaccount by the State Marine Board from fees collected pursuant to ORS 830.790 and 830.850. The moneys in the subaccount are continuously appropriated to the board for the purposes specified in this section.

(2) The board may not deposit more than $150,000 per biennium into the subaccount and may not retain more than $150,000 in the subaccount at any time. After the board has deposited $150,000 into the subaccount under this subsection or any time there is more than $150,000 in the subaccount, any remaining moneys from fees collected pursuant to ORS 830.790 and 830.850 shall be deposited in the Boating Safety, Law Enforcement and Facility Account created under ORS 830.140.

(3) If the board or a removing authority has been unsuccessful in collecting reimbursement for removal from the water and cleanup expenses from an owner of an abandoned boat, floating home or boathouse that imposes an environmental threat or safety hazard to navigation, or the owner's insurance, the board may use the moneys in the subaccount for:

(a) Paying the expenses of the board in implementing ORS 830.907 to 830.927, limited

to the expenses associated with the removal and cleanup of an abandoned boat of less than 200 gross tons, an abandoned floating home or an abandoned boathouse; or

(b) Paying a removing authority for no more than 75 percent of the costs of the removal and cleanup of an abandoned boat of less than 200 gross tons, an abandoned floating home or an abandoned boathouse, including any salvage, towing, storage or disposal costs. [2003 c.693 §2]

830.927 Disposal of unclaimed boat, floating home or boathouse. If a hearing is not conducted under ORS 830.924 and a boat, floating home or boathouse taken into custody under ORS 830.917 is not reclaimed within 60 days after it is taken into custody, the removing authority with custody of the boat, floating home or boathouse shall dispose of the boat, floating home or boathouse in accordance with ORS 98.245. [1999 c.692 §10; 2003 c.693 §12]

830.930 [Formerly 488.675; repealed by 1999 c.692 §13]

830.935 [Formerly 488.680; repealed by 1999 c.692 §13]

SUBMERSIBLE POLYSTYRENE

830.950 Definitions. As used in ORS 830.955:

(1) "Encapsulated" means a protective covering or physical barrier between the polystyrene device and the water.

(2) "Submersible polystyrene device" means any molded or expanded type of polystyrene foam used for flotation. [1991 c.759 §2]

830.955 Prohibition of installation of submersible polystyrene device. (1) No person shall install a submersible polystyrene device on a dock, buoy or float unless the device is encapsulated by a protective covering or is designed to prevent the polystyrene from disintegrating into the waters of this state.

(2) A person may repair and maintain a dock or float existing on September 29, 1991, with an expanded submersible polystyrene device in accordance with rules adopted by the State Marine Board under ORS 830.110.

(3) The board shall publish and distribute information to the public regarding the proper use and installation of submersible polystyrene devices. [1991 c.759 §§3,4,5]

PENALTIES

830.990 Penalties. (1) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(2) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(3) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(4) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(5) A person who violates ORS 830.383 or 830.909 commits a Class B misdemeanor.

(6) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(7) A person who violates ORS 830.475 (2) commits a Class C felony. [Formerly 488.991; 1991 c.759 §7; 1997 c.74 §2; 1997 c.568 §5; 1997 c.737 §6; 1999 c.550 §4; 1999 c.692 §12; 1999 c.716 §13a; 1999 c.1051 §95; 2003 c.157 §1; 2005 c.299 §3]

830.992 Penalty for purchase of boat or equipment from which hull or component identification number removed. Any person who knowingly buys, receives, disposes of, sells, offers for sale or possesses any boat or component from which the hull identification number assigned to the boat or component identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the boat or component commits a Class A misdemeanor. [Formerly 488.993; 1999 c.391 §6]

830.994 Additional penalties for violation of ORS 830.325. (1) When a person is convicted of a violation of any provision of ORS 830.325, the court shall comply with the following in addition to any other penalty imposed upon the person under ORS 830.990:

(a) Order the person not to operate a boat for a period of one year;

(b) Order the person to complete a boating safety course approved by the State Marine Board; and

(c) Include in the record of conviction a finding whether the person willfully refused the request of a peace officer to submit to chemical testing of the breath or a field sobriety test pursuant to ORS 830.505 and 830.550. For purposes of this subsection, a person shall be found to have willfully re-

fused the request if the person was informed about rights and consequences concerning the test under ORS 830.505 and 830.545 and refused to submit to the test.

(2) The record of conviction of each person convicted of violating ORS 830.325 shall be sent by the court to the board within 14 days of the entry of the judgment of conviction in the court register.

(3) A person who knowingly operates a boat in violation of a court order under subsection (1)(a) of this section commits a Class A misdemeanor. [1991 c.931 §14; 1997 c.568 §6]

830.995 [Formerly 488.995; repealed by 1999 c.1051 §97]

830.997 Penalty for ocean charter vessel violations. (1) Failure to comply with ORS 830.435, 830.440 or 830.460 (1) is a Class B misdemeanor.

(2) Failure to comply with ORS 830.450 is a Class A violation.

(3) Failure to comply with ORS 830.460 (2) is a Class A misdemeanor.

(4) Failure to comply with ORS 830.460 (3) is a Class A misdemeanor. [1989 c.885 §7; 1999 c.1051 §96]

CHAPTERS 831 TO 834

[Reserved for expansion]