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State regulation of water skiing

1969

Brief no.77

BRIEF NO. 77. STATE REGULATION OF WATER SKIING

Compiled by Wisconsin Legislative Reference Library, September 1959

I. MODEL LEGISLATION

The State Boat Act, as proposed by the Committee of State Officials on Suggested State Legislation of the Council of State Governments (final form approved Sept. 4, 1958) contains the following provisions on the state regulation of water skiing:

Section 12, Water Skis and Surfboards.

(a) "No person shall operate a vessel on any waters of this state for towing a person or persons on water skis, or a surfboard, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person or persons being towed."

(b) "No person shall operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise."

(c) "The provisions of subsections (a) and (b) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized ... " (as a marine parade, tournament, or exhibition).

(d) "No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any persons thereon to collide or strike against any object or person."

Where it relates to water skiing, the Model Pleasure Boating Act, prepared by the Outboard Boating Club of America, follows almost exactly the suggested language of the model act prepared by the Council of State Governments. However, a few changes were made at the suggestion of the American Water Ski Association. According to these suggestions, the word "surfboard" was replaced by the technically more accurate term "aquaplane," a provision was attached to permit the replacement of the second person in the towboat, the observer, by a wide-angle rear view mirror, and another provision was added exempting slalom and jump water skiing (over a ramp) from the prohibition against collision course driving:

Section 14, Water Skiing.

(a) "No motorboat which shall have in tow or shall be otherwise assisting a person on water skis, aquaplane or similar contrivance, shall be operated or propelled in or upon any waterway, unless such motorboat shall be occupied by at least two competent persons: Provided, That this subsection shall not apply to motorboats used by representatives of duly

constituted water ski schools in the giving of instruction, or to motorboats used in duly authorized waterski tournaments, competitions, expositions, or trials therefor, or to any motorboat equipped with a wide angle rear view mirror."

(b) "No motorboat shall have in tow or shall otherwise be assisting a person on water skis, aquaplane or similar contrivance from the period of one hour after sunset to one hour prior to sunrise: Provided, That this subsection shall not apply to motorboats used in duly authorized water ski tournaments, competitions, expositions, or trials therefor."

(c) "All motorboats having in tow or otherwise assisting a person on water skis, aquaplane or similar contrivance, shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person."

(d) "No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, an aquaplane, or similar device may be affected or controlled in such a way as to cause the water skis, aquaplane, or similar device, or any person thereon to collide with or strike against any person or object, other than a jumping ramp or in conjunction with skiing over a slalom course."

To these provisions, the Outboard Boating Club of America attached the following comment:

"Because of the necessity of maintaining a good rate of speed while towing a skier, and because of the wide range of possible happenings during the course of a tow, we believe it prudent to require two people in the boat so that proper observation can be maintained at all times both fore and aft. Thus both oncoming traffic and the skier can be kept in view adequately at all times. The American Water Ski Association advises that the water ski rear view mirror has now developed sufficiently to permit this to be an acceptable alternative to the second person in the boat.

"It is only common sense that other than during exhibitions and tournaments, skiing at night is prohibited."

II. WISCONSIN LEGISLATION--CHAPTER 505, LAWS OF 1959 (BILL 172, S.)

The Wisconsin law for the regulation of water skiing resulted from the studies of the 1957-59 Interim Committee on Boating. The committee, in its report to the 1959 Wisconsin Legislature, made these general observations regarding state regulation of water skiing:

"The model acts, the laws of some neighboring state, and several local ordinances in Wisconsin all...have one or more of the following types of provisions: (1) Two persons are required to be in the boat towing the skiers; (2) water skiing during the nighttime is prohibited; (3) the boat towing the

skiers shall be operated in a careful manner and at a reasonable distance from persons and property; and (4) the boat shall not be operated or the tow manipulated in such a manner as to cause the skier to strike any person or object. Some municipalities require water skiers to wear life belts, and prohibit more than 2 tow lines per boat. In addition to the above regulations which are designed primarily as safety rules, some municipalities limit the hours of water skiing as a means of adjusting conflicts between water skiers and fishermen.

"The committee noted the growing importance of this water sport and concluded that certain minimum regulations at the state level would be desirable. The committee recommends that water skiing be prohibited from sunset to sunrise. This is primarily a safety measure, but by setting aside certain periods when water skiing is prohibited, it will also serve to adjust conflicts between water skiers and fishermen. An exception to the nighttime prohibition is made for duly authorized tournaments conducted under adequate lighting conditions.

"The committee considered but rejected the fairly common requirement that 2 persons must be in a boat towing a water skier. The theory of such provision is that one person (the operator) will watch where the boat is going while the other person will watch the skier. It was pointed out to the committee, however, that the merits of such a requirement is dependent on the skill and the alertness of the second person in the boat. At least one boat club concluded after a year's trial of the 2-person rule that it is better to place sole responsibility upon the operator of the boat. The committee recommends in lieu of such requirement a more general rule to the effect that the boat towing the skier shall be operated in a careful manner and at a reasonable distance from persons and property..."

The specific sections relating to water skiing of the Wisconsin pleasure boating regulations (Chap. 505) do not contain a provision against the water skiing while under the influence of alcohol or intoxicating drugs. This provision is found in the water skiing regulations of a number of other states. However, the problem is at least partially taken care of by the general prohibition in the Wisconsin legislation against the operation of a boat while under the influence of alcohol or intoxicating drugs.

Section 30.69, Water Skiing, as proposed by Bill 172, S., of 1959, carried a note to the effect that the section "places minimum restrictions on a water activity which is becoming increasingly popular and which can involve hazards for those engaged in it and for other users of the waters if carelessly done." The note further pointed out the similarity between the Wisconsin proposal and the model acts or the provisions of other states.

Section 30.69 "WATER SKIING. (1) Prohibited at certain times; exceptions. (a) Except as provided in par. (b), no person shall operate a motorboat towing a person on water skis,

aquaplane or similar device, nor shall any person engage in water skiing, aquaplaning or similar activity, at any time from sunset to sunrise, but this restriction of the hours of water skiing does not prevent restrictions of the hours of water skiing between sunrise and sunset by local ordinances enacted pursuant to s. 40.77 (3).

"(b) Paragraph (a) does not apply to duly authorized water ski tournaments, competitions, exhibitions or trials therefor, where adequate lighting is provided.

"(2) Careful and prudent operation. A person operating a motorboat having in tow a person on water skis, aquaplane or similar device shall operate such boat in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person."

III. REGULATION OF WATER SKIING IN OTHER STATES

The information compiled in this part was received in September of 1959 from the Outboard Boating Club of America. The table indicates that there are now 36 states, including Wisconsin, which have adopted legislation to regulate water skiing. It purports to include 1959 legislation; however, there is no assurance that the listing is complete. When the Outboard Boating Club of America compiled this information, Wisconsin had not yet enacted Chapter 505, Laws of 1959. It is possible, that there were some additional states which adopted water ski legislation in 1959 after the Outboard Boating Club's compilation was completed.

On the table attached to this part we have indicated the standard provisions found in the water skiing regulations of the various states on the basis of the Outboard Boating Club of America information, and added the provisions of the Wisconsin law. A simple mark (x) in the appropriate column indicates that the state's provision in this field is in complete agreement with the heading of the column; a double mark (xx) indicates that the state had adopted this particular provision with a certain specific reservation.

A summary of the state water ski regulations, by type of provision, indicates:

A. The tow boat must be occupied by at least 2 competent persons. This requirement is imposed by the laws of 22 states. The Arizona law does not apply to waters common to interstate boundaries. The California law has the added requirement that the second person must be at least ten years old. The Louisiana law does not apply to motorboats used by ski school instructors in giving lessons, or used in other authorized activities.

B. The requirement that the tow boat must be manned by two persons (an operator and an observer) does not apply to tow boats equipped with a wide-angle rear view mirror under the laws of 10 of the states imposing the 2-person requirement. Minnesota law provides that the observer may be replaced by a "warning device approved by the Conservation Commissioner."

C. Thirty-one states have a general prohibition of water skiing after dark (for special exemptions from this prohibition see "D").

Generally, this means the period from one hour after sunset to one hour before sunrise. In Florida and New Hampshire the period is established as from one-half hour after sunset to one-half hour before sunrise. California, Ohio and Wisconsin prohibit water skiing between sunset and sunrise, but California permits the adoption of a different period by local ordinances, laws or regulations enacted pursuant to state law. In Minnesota, water skiing is permitted from sunrise to one and one-half hours after sunset; in New Jersey, from one hour before sunrise to sunset.

D. In 26 states the prohibitions of "A" and "C" do not apply to performers engaged in a professional exhibition, or a person or persons participating in an authorized tournament, competition, marine parade, regatta, etc. Of these states, Colorado, Delaware, Illinois and Wisconsin grant exception to the "C" requirement only, with Delaware, Illinois and Wisconsin stipulating that adequate lighting must be provided.

E. The tow boat must be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger life and property. This requirement is found in the water skiing laws of 7 states. Somewhat related are the special provisions of four other states: in Ohio, it is prohibited to tow more than 2 skiers simultaneously by the same boat (except upon special permission); New Jersey law provides that the tow boat must keep at least 200 feet from any shore, wharf, dock, or from any other craft that it may pass; and both Utah and Vermont impose a similar requirement providing for a distance of 100 feet but specify that the prohibition shall not prevent any necessary mooring or landing of the craft, or leaving shore.

F. Under the laws of 17 states it is illegal to manipulate any vessel, tow rope, etc., by which the course of water skis or water skiers may be influenced, in such a way as to cause a collision or accident (see G. for exemptions). The prohibition under the California law does not apply to collisions between 2 skiers towed by the same craft.

G. Collisions between skier and water ski jump ramp, or between skier and slalom course markers, buoys or similar objects are exempted from the general prohibition against intentional collisions by the laws of Delaware, Florida and Illinois.

H. Twenty states prohibit "water skiing in a reckless or negligent manner."

I. Twenty states prohibit "water skiing while intoxicated or under the influence of drugs."

K. Six states require that the skier must wear a life preserver while water skiing; in one of these (North Dakota) the requirement does not apply to performers engaged in a professional exhibition or persons engaged in authorized activities.

States	A Towboat must be occupied by at least 2 competent persons	B A. does not apply to towboats equipped with wide-angle rear view mirror	C Prohibited after dark; unless otherwise specified this means the period from 1 hour after dark to 1 hour before sunrise	D A. and/or C. do not apply to performer in professional exhibition or tournament	E Towboat shall be operated in a careful and prudent manner, at a reasonable distance from persons or property	F Vessel or tow rope must not be manipulated so as to cause collision or accident	G F. does not apply to collision with ski jumps, buoys and like objects normally used in competitive or recreational skiing	H Water skiing in reckless or negligent manner prohibited	I Water skiing under the influence of liquor or drugs prohibited	J Skier required to wear life preserver while skiing
Ariz.	XX		X							
Ark.						X		X	X	
Calif.	XX		XX	X		XX		X	X	
Colo.	X	X	X	XX	X					
Del.	X	X	X	XX	X	X	X			
Fla.	X	X	XX	X		X	X			
Ill.	X		X	XX	X	X		X	X	
Ind.	X									
Iowa	X		X	X				X	X	
Kans.			X	X		X				
La.	XX		X	X	X					
Maine								X	X	
Mich.			X					X		
Minn.	X	XX	XX							
Mo.	X	X	X	X		X		X	X	
Mont.			X	X						
Nebr.								X	X	X
N.H.	X		XX	X						
N.J.*	X		XX							
N.M.	X	X	X	X		X		X	X	
N.Y.	X		X							
N.C.	X	X	X	X		X		X	X	X
N.Dak.			X	X		X		X	X	XX
Ohio*	X		XX					X	X	XX
Okla.	X	X	X	X						X
Oreg.			X	X		X		X	X	
Pa.			X	X				X	X	
R.I.	X		X	X		X				
S.C.	X	X	X	X		X		X	X	
Tenn.			X	X		X		X	X	
Tex.			X	X				X	X	
Utah	X	X	X	X	X			X	X	
Vt.	X			X		X		X	X	X
W.Va.			X	X		X		X	X	X
Wis.			XX	XX	X			X	X	
Wyo.			X	X	X					

* New Jersey -- regulations apply on non-tidal waters only.

Ohio -- Except on Lake Erie, the Ohio River and immediately connected harbors and anchorages, water skiing shall be restricted to a designated ski zone wherever established.