

# HOUSE BILL ANALYSIS

## HB 2623

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**Title:** An act relating to operating or having actual physical control of a vessel while under the influence of intoxicating liquor or any drug.

**Brief Description:** Changing provisions relating to operating a vessel while under the influence of intoxicating liquor or any drug.

**Sponsors:** Representatives Sterk and McDonald.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Bill Perry (786-7123).

**Background:** The state has a fairly elaborate system of criminal and administrative sanctions and procedures relating to drunk driving (DUI). There is also a law making it illegal to operate a boat while under the influence of alcohol or drugs. The drunk boating law contains the same basic elements as the DUI law. For instance, it is a per se violation to operate a boat with a blood or breath alcohol concentration (BAC) of 0.10 or more. However, drunk boating is a misdemeanor instead of a gross misdemeanor, and the drunk boating law does not have many of the features of the DUI law. Among the features of the DUI law not present in the drunk boating law are:

- o A schedule of escalating mandatory minimum penalties for repeat and serious offenders;
- o An implied consent provision requiring persons to submit to a BAC test;
- o A separate "0.02" BAC provision for minors;
- o A separate prohibition against "being in physical control" of a boat while drunk; and
- o Evidentiary and procedural provisions relating to breath or blood alcohol samples.

Some features of the DUI law are dependent on the fact that driving requires a driver's license. There is no equivalent requirement for an operator's license in boating.

**Summary of Bill:** A drunk boating law similar to the DUI law is created. Many of the features of the DUI law are applied to the drunk boating law.

It is a gross misdemeanor to operate, or to be in physical control of a boat, with a BAC of 0.10 or more, or while under the influence of alcohol or drugs. An exception is provided to the physical control offense in the case of a person who is in physical control of a vessel moored at a permanent place of moorage.

A persons who operates a boat is deemed to have given consent for a BAC test if arrested by an officer having reasonable grounds to believe the person is under the influence alcohol. Refusal to submit to the BAC test under those circumstances is a class 1 civil infraction subject to a fine of \$125.

A system of escalating penalties is provided. The system is the same as for DUI except that there is no provision for loss of a driver's license.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect July 1, 1998.