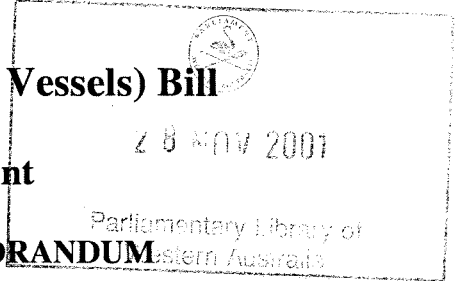


Marine (Hire and Drive Vessels) Bill

Circulation Print

EXPLANATORY MEMORANDUM



General

The object of this Bill is to amend the **Marine Act 1988** ("the Act") to supplement amendments made to the Act by the **Marine (Amendment) Act 2000** to improve recreational boating safety. The Bill extends the licensing regime established by that Act to the operators of hire and drive vessels that are able to attain a speed of 10 knots or more or that are personal watercraft. The Bill refers to these vessels as "regulated hire and drive vessels". In future, to operate a regulated hire and drive vessel a person will have to hold an operator licence that authorises him or her to operate an equivalent recreational vessel. The Bill does not create a separate licensing system for regulated hire and drive vessels—instead, it is designed to supplement the recreational vessel licensing regime. This is possible because although recreational vessels and hire and drive vessels are legally distinct under the Act, in practice they are usually identical vessels. They are only treated differently under the Act because of the nature of their ownership and use.

The Bill also requires that people aged between 12 and 16 hold a licence to operate a hire and drive vessel that has an engine that is used for propulsion. (Section 17 of the Act already forbids people under 12 from operating vessels with engines used for propulsion.)

The Bill also inserts into the Act regulation making powers that specifically relate to the operation of hire and drive vessels.

Clause Notes

- Clause 1 sets out the purpose of the Bill.
- Clause 2 provides for the commencement of the Bill.
- Clause 3 amends section 3 of the Act which contains definitions applying to the whole Act.

Clause 4 amends section 19(4) of the Act (person in charge must stop and give name and address) by inserting new offences relating to the production of documents that the operator of the vessel is required by the regulations to have in his or her possession and the inspection of documents required by the regulations to be displayed in or on the vessel.

This clause also inserts a new section 19(5) to provide that sections 19(4)(c), (d), (e), and (f) do not apply where a requested document is not on the vessel at the time the request for its production is made. This provision avoids the potential for duplicity with other offences (for example, section 134D and offences relating to survey conditions under the Regulations).

Clause 5 inserts new definitions into section 113 of the Act (which sets out various definitions for Part 10A of the Act (Licensing of Operators of Recreational Vessels)).

Clause 6 inserts new sections 115A and 115B into the Act.

Section 115A makes it an offence for a person to operate a specialised hire and drive vessel unless the person is the holder of a licence under Part 10A and operates the vessel under and in accordance with the licence as if the vessel was a recreational vessel.

Section 115B makes it an offence for a person between 12 and 16 years of age to operate an engine-powered hire and drive vessel without a licence.

Clause 7 makes a number of consequential amendments.

Clause 8 repeals section 131(2) of the Act. This section, which was originally modelled on section 30(2) of the **Road Safety Act 1986**, has no application under the Act owing to the different penalty regimes that apply under the 2 Acts.

Clause 9 inserts new sections 134A-134E into the Act.

Section 134A makes it an offence for a person to operate a specialised hire and drive vessel, or a hire and drive personal watercraft, in breach of any condition of the person's licence that would apply if the vessel or watercraft was a recreational vessel.

Section 134B makes it an offence for an operator from overseas or interstate to fail to comply with the conditions of their overseas or interstate licence in operating a regulated hire and drive vessel in Victoria.

Section 134C makes it an offence for a person to operate a hire and drive vessel for recreational purposes while the relevant licence or authority is suspended or the person is disqualified from obtaining such a licence or authority, or during any period that the person's operator licence is cancelled for reasons relating to the illness or other incapacity of the person.

Section 134D makes it an offence for a person who holds an operator licence to operate a regulated hire and drive vessel unless they have the licence in their possession.

Section 134E inserts new offences relating to the hiring out of certain hire and drive vessels to people who are not authorised to operate such vessels.

Clause 10 inserts additional regulation making powers into Schedule 5 of the Act.