

Date of Hearing: April 8, 2019

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 1183 (Ramos) – As Introduced February 21, 2019

**SUBJECT:** Vessel operator: definition

**SUMMARY:** Expands the definition of “operator” of a vessel beyond the person steering the vessel while underway. Specifically, **this bill** expands the definition of the operator of a vessel to include:

- 1) The person on board responsible for the operation of the vessel while underway;
- 2) The person who is at least 18 years of age and who is attentive and supervising the operation of the vessel by a person who is between 12 and 15 years old.

**EXISTING LAW:**

- 1) Defines vessel as any watercraft or other artificial contrivance use as a means of transportation on water, except a seaplane.
- 2) Defines the operator of a vessel as the person on board and steering while the vessel is underway.
- 3) Restricts the operation of a vessel to a person 16 years or older if the vessel is powered by a 15 horsepower motor or greater, with the exception of a sailboat under 30 feet long, except in certain unique circumstances.
- 4) Authorizes a person between 12 and 15 years old to operate a vessel powered by a 15 horsepower motor or greater, or a sailboat over 30 feet long, if accompanied by a person who is at least 18 years of age and who is attentive and supervising the operation of the vessel.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The sponsor of this bill, the California State Sheriffs’ Association, argues that maritime law and laws which govern the safe operation of vehicles on our streets and highways may share some similarities, but also have many differences. Much of California’s existing law related to vessel operation is derived from the state’s Vehicle Code. This mismatch, however, has created some situations where it becomes difficult for public safety officers to enforce proper behavior on the state’s waterways. This bill seeks to remedy one of those instances.

People less familiar with maritime law and the operation of watercraft may assume that it is reasonable to limit the operator of a vessel to the person steering the boat, because with motor vehicles it seems self-evident that the operator is the driver behind the wheel. But the sponsor of this bill argues that the operation of a vessel is not analogous to driving a motor vehicle. A motor vehicle generally can only be operated from the driver’s seat, and in fact cannot operate effectively if the driver is not present; on the other hand, there are many scenarios in which a vessel can be underway without a person present behind the steering wheel. For example, the operator of a sailboat frequently leaves the wheel of the vessel to adjust sails and rigging. Also, a vessel is considered underway any time it is not anchored or moored to a dock, so anytime a

boat is drifting it is still being operated regardless of whether a person is behind the wheel. In either of these cases, if something unlawful or tragic occurred involving the vessel, officers may not be able to charge anyone for their negligence because existing law narrowly defines the operator as the person actually steering the vessel.

The sponsor describes as the impetus for this bill one particularly tragic case. A 14-year-old operator ran over and killed a 12-year-old and the supervising adult on the vessel was found to be under the influence. Given the deficiency in statute, the district attorney declined to file charges on the “supervising” adult because the existing definition of “operator” is too narrow. While the supervising adult is responsible for the safe operation of the vessel, he couldn’t be charged because he wasn’t technically steering the vessel.

According to the author, “AB 1183 ensures that those who engage in reckless and dangerous behavior on our state’s waterways can be held to account. Because of dangerous loopholes in the law, the adult who is supposed to be supervising the operation of the vessel cannot be held criminally liable for operating a vessel under the influence nor for other violations should an unlicensed, underage person be driving the boat. Since it is not uncommon to find minors operating a vessel under the supervision of an adult who is also under the influence, tragic cases of operator negligence or other violations can go unpunished due to these loopholes. This bill clarifies the definition of ‘operator’ in the Harbors and Navigation Code to additionally include the person on board who is responsible for the operation of the vessel while underway and the adult who is attentive and supervising the operation of the vessel by a person 12, 13, 14, or 15 years of age.”

*Committee comment.* This bill broadens the definition of operator to encompass the more liberal understanding of who should be the responsible person on a vessel. Historically, the captain of the ship can be found liable for any calamity for which his or her ship may be responsible, even if he or she is not technically steering the ship at the time. The federal definition of operator as “the person who is in control or in charge of a vessel while it is in operation” better reflects the historical understanding of maritime law. This bill brings state law more in line with this than with existing law related to the operation of a motor vehicle.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California State Sheriffs’ Association

### **Opposition**

None on file.

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