

TITLE 3: HUMAN RESOURCES
DIVISION 5: PUBLIC SAFETY

§ 5433. Definitions.

(a) “Conviction” means a final conviction, the payment of a fine, a plea of guilty, or nolo contendere if accepted by the court.

(b) “Long-term incapacitating injury” means an injury that causes serious impairment of a body function.

(c) “Open container” means any bottle, can, or receptacle containing an alcoholic beverage which:

(1) has been opened; or

(2) has a seal broken; or

(3) contents have been partially removed.

(d) “Operate” means to be in control of a vessel while the vessel is under way and is not secured in some manner such as being docked or at anchor.

(e) “Operator” means the person who is in control or in charge of a vessel while that vessel is underway.

(f) “Owner” means a person who claims or is entitled to lawful possession of a vessel by virtue of that person’s legal title or equitable interest in a vessel.

(g) “Peace Officer” means a person employed by the Department of Public Safety or otherwise empowered to enforce 3 CMC §§ 5433–40.

(h) “Possess” means either actual possession of the open container or that the person had dominion and control over the open container.

(i) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water.

(j) “Visibly Impaired” means that the person’s ability to operate a vessel was so weakened or reduced by consumption of intoxicating liquor that the person operated the vessel with less ability than would an ordinary, careful, and prudent driver. Such weakening or reduction of ability must be visible to an ordinary and observant person.

(k) “Waters of the Commonwealth” means any waters within the territorial limits of the Commonwealth.

Source: PL 19-05, § 4, modified.

Commission Comment: The Commission numbered the sections in this article to conform to the scheme of the code pursuant to 1 CMC § 3806(a). The Commission substituted “3 CMC §§ 5433–40” for the phrase “the Commonwealth Boating Under the Influence Act” in subsection (g) pursuant to 1 CMC § 3806(d).

PL 19-05 was enacted on September 8, 2015. In addition to severability and savings clauses, PL 19-05 included a short title section and a findings and purpose section as follows:

Section 1. Short Title. This Act may be cited as the “Commonwealth Boating Under the Influence Act.”

Section 2. Findings and Purpose. The current law prohibiting boating under the influence of alcohol is confusing to boaters and has proven

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difficult to enforce. Therefore, the Legislature finds that it is necessary pass a clear and enforceable law which will make the waters of the Commonwealth safer for everyone.

In the waters of the Commonwealth, an impaired operator can quickly put himself and others in danger. Intoxication reduces coordination, judgment, and reaction time: three things which cannot be compromised when operating a vessel upon Commonwealth waters. However, it is not just the operator and passengers that are placed at risk by excessive consumption of alcohol. The waters of the Commonwealth are shared by fishermen, swimmers, divers, snorkelers, tourists, and many others. A single mistake could cost many lives, including the lives of rescuers. Simply put, boating while under the influence of alcohol threatens the safety of everyone enjoying the waters of the Commonwealth. Wherefore, the Legislature finds that it is necessary to prohibit boating while under the influence of alcohol.