



HOUSE BILL 958: Felony Death Impaired Boating/Sheyenne's Law.

2015-2016 General Assembly

Committee:		Date:	August 9, 2016
Introduced by:		Prepared by:	Susan Sitze Staff Attorney
Analysis of:	S.L. 2016-34		

OVERVIEW: *S.L. 2016-34 creates new offenses for death or serious injury resulting from impaired boating and clarifies the penalty for impaired boating. Please see the full summary for an explanation of those offenses and the penalty level for each offense.*

This act becomes effective December 1, 2016, and applies to offenses committed on or after that date.

CURRENT LAW: It is a Class 2 misdemeanor, with a fine of no less than \$250, for any person to operate any vessel while underway on the waters of this State:

- (1) While under the influence of an impairing substance, or
- (2) After having consumed sufficient alcohol that the person has, at any relevant time after the boating, an alcohol concentration of 0.08 or more.

A vessel is defined as "every description of watercraft or structure, other than a seaplane on the water, used or capable of being used as a means of transportation or habitation on the water." "Waters of this State" are any waters within the territorial limits of North Carolina, and the marginal sea adjacent and the high seas when navigated as a part of a journey or ride to or from the shore of North Carolina, excluding private ponds." G.S. 75A-2.

BILL ANALYSIS: S.L. 2016-34 creates new offenses for death or serious injury resulting from impaired boating. The offenses and punishments would be as follows:

- Repeat death by impaired boating (defendant has a previous conviction for causing a death by impaired boating) – Class B2 felony.
- Aggravated death by impaired boating (defendant has a previous conviction for impaired boating within 7 years) – Class D felony, and the court must sentence the defendant in the aggravated range of the appropriate Prior Record Level.
- Death by impaired boating – Class D felony, and intermediate punishment is authorized for a defendant who is a Prior Record Level I offender.
- Aggravated serious injury by impaired boating (defendant has a previous conviction for impaired boating within 7 years) – Class E felony.
- Serious injury by impaired boating – Class F felony.

The act also clarifies that a fine of no less than \$250 is mandatory, regardless of any other penalties imposed, upon conviction of impaired boating.

EFFECTIVE DATE: December 1, 2016, and applies to offenses committed on or after that date.

Karen Cochrane-Brown
Director



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Erika Churchill and Susan Sitze, Staff Attorneys, contributed substantially to this summary.