

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART II

BOATING

CHAPTER 242 ACCIDENTS, REPORTS, FINES, ENFORCEMENT AND RECORDS

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Historical note. This chapter is based on accidents, reports, fines, enforcement and records of the State Boating Rules effective November 5, 1981, and as amended thereafter by the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activities was transferred from the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94]

§13-242-1 Duty to render aid and give information. (a) It shall be the duty of the operator of a vessel involved in a boating accident, as defined in section 13-240-5, if and so far as the operator can do so without serious danger to the operator's own vessel or persons aboard to render to the other persons affected by the accident, such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the accident and also to give the operator's name, address, and identification of the operator's vessel to any person injured and to the owner of any property damaged in the accident.

(b) The duties imposed by chapter 13-242 shall be in addition to any duties otherwise provided by law. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-28)

§13-242-2 Duty upon striking unattended vessel or other property. The operator of any vessel which

is involved in a boating accident, with any vessel or other property which is unattended, resulting in any damage to the other vessel or property, shall, so far as can be done without serious danger to the operator's own vessel or persons aboard, stop and; (1) shall then and there locate and notify the owner of the property of the name and address of the owner and the identification of the vessel striking the unattended vessel or property or (2) shall attach securely in a conspicuous place in or on the vessel or property a written notice giving the information or (3) in the event the procedures are not feasible, the operator shall as soon as possible take all reasonable steps to locate and notify the owner of the unattended property and give the operator's name and address to the owner and the identification of the vessel. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-28)

§13-242-3 Immediate notice of accident; when required. (a) The operator of any vessel which is involved in a boating accident as defined in section 13-240-5, if the casualty results in death or injury of any person sufficient to cause reasonable belief that the injury will require medical treatment beyond first aid or if a person disappears from on board under circumstances which suggest any possibility of their death or injury shall, as soon as possible after fulfilling the requirements of section 13-242-1, by the quickest means of communication, give notice of the accident to a harbor official, police officer or the nearest police station with the following:

- (1) The date, time, and exact location of the occurrence;
- (2) The name of each person who was a casualty;
- (3) The number and name of the vessel; and
- (4) The names and addresses of the owner and operator.

(b) The above action shall be followed up by a written report as required in section 13-242-4.

(c) Whenever the operator of a vessel is physically incapable of giving an immediate notice of an accident as required in subsection (a) and there was another occupant on the vessel at the time of the accident capable of doing so, the occupant shall make or cause to be given the notice not given by the operator. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-28, 200-29)

§13-242-4 Written boating accident report; when required. (a) Whenever a boating accident results in: (1) loss of life or the disappearance of any person; (2) injury causing any person to require medical treatment beyond first aid; or (3) actual damage to any vessel or to any other property in excess of \$200, then the operator of the vessel shall submit within forty-eight hours of the happening thereof, and within seven days of every other accident, a written report to the department on forms furnished by the department which report must contain information as prescribed in section 13-242-7.

(b) This section shall apply to the operator of: (1) any vessel involved in a boating accident in the waters of the State; and (2) any vessel required to be numbered or numbered pursuant to these rules and involved in a boating accident in any waters; provided that the report need not be filed with the department where the operator is required by federal laws and requirements to report the accident to the Coast Guard.

(c) A written accident report is not required under this section from any person who is physically incapable of making a report during the period of the incapacity.

(d) Whenever the operator is physically incapable of making a written report of a boating accident as required in this section and the operator is not the owner of the vessel, then the owner of the vessel involved in the accident shall make the report not made by the operator. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-29)

§13-242-5 Accident reports not public records.

(a) All written reports required in section 13-242-4 to be forwarded to the department by operators or owners of vessels involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state or federal agencies having use of the records for accident prevention purposes, except that the department may disclose the identity of a person involved in an accident when the person is not otherwise known or when the person denies presence at the accident.

(b) No written reports forwarded under section 13-242-4 shall be used as evidence in any trial, civil or criminal, arising out of an accident except that the department shall furnish upon demand of any party to the trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law, and, if the report has been made, the date, time and location of the accident, the name and address of the operator, the owner of the vessel involved, and the investigating officer. The reports may be used as evidence when necessary to prosecute a violation of section 13-242-6. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-29)

§13-242-6 False reports. No person shall give information in oral or written reports as required in this chapter knowing or having reason to believe that such information is false. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-29)

§13-242-7 Boating accident reports; contents.

(a) Written reports of boating accidents submitted in accordance with section 13-242-4 shall be submitted on forms furnished by the department and shall contain the following information:

- (1) The identity of vessels involved.
- (2) The locality where the accident occurred.

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- (3) The time and date when the accident occurred.
- (4) Weather and water conditions at time of accident.
- (5) The name, address, age, and vessel operating experience of the operator of the reporting vessel.
- (6) The names and addresses of operators and identification of vessels or property involved.
- (7) The names and addresses of the owners of vessels or other property involved.
- (8) The names and addresses of any person or persons injured or killed.
- (9) The nature and extent of injury to any person or persons.
- (10) A description of damage to property including vessels and estimated cost of repairs.
- (11) A description of the accident including opinions as to the cause.
- (12) The length, method of propulsion, horsepower, fuel and hull material of the reporting vessel.
- (13) Names and addresses of known witnesses.
- (14) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.
- (15) The availability and use of personal flotation devices.
- (16) The type and amount of each fire extinguisher used.
- (17) A description of each equipment failure that caused or contributed to the cause of the casualty.
- (18) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other).
- (19) The make, model, type of vessel (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horse power, propulsion (outboard,

inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), hull material (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.

- (20) The manufacturer's hull identification number, if any, of the reporting operator's vessel.
- (21) Any other information the department considers necessary.

(b) The department may require any operator of a vessel involved in an accident of which a written report shall be made as provided in section 13-242-4 to file supplemental written reports whenever the original report is insufficient in the opinion of the department. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-29)

§13-242-8 Police reports of boating accidents.

Pursuant to section 200-27, Hawaii Revised Statutes, for the purpose of enforcement, it shall be incumbent upon the police chief of each political subdivision of the State to transmit to the department a copy of every investigation report hereafter submitted by any subordinate officers which relate to boating accidents involving vessels required to be numbered pursuant to these rules. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-27)

§13-242-9 Transmittal of statistical information. In accordance with any request duly made by an authorized official or agency of the United States, any information relating to boating accidents compiled or otherwise available to the department pursuant to this chapter shall be transmitted to the official or agency of the United States. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-29)

§13-242-10 Reporting nonresident boating accidents. The department upon receiving a written boating accident report, concerning a vessel numbered in another state which was involved in the accident, is authorized to forward a certified copy of the report to the boating administrator of the state wherein the vessel is numbered. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-29, 200-30)

§13-242-11 Investigation of accidents by department. The department may investigate any boating accident and prepare a report which shall be for the confidential use of administrative and enforcement agencies only, including but not limited to agencies of the United States. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

§13-242-12 Boating accident records; held five years. Records pertaining to any boating accident shall be retained by the department for a period of five years. At the expiration of five years the records shall be destroyed except in those instances where litigation or other circumstances, considered reasonable by the department, warrant retention for an additional period. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

§13-242-13 Repealed. [R 3/30/09]

§13-242-14 Enforcement personnel. Pursuant to section 200-2, Hawaii Revised Statutes, the chairperson of the board of land and natural resources, officers and employees of the department designated by the chairperson, and every state and county officer charged with the enforcement of state laws, hereafter called enforcement personnel, shall enforce and assist in the enforcement of chapter 200,

Hawaii Revised Statutes and these rules. [Eff 2/24/94]
(Auth: HRS §200-24) (Imp: HRS §§200-24)

§13-242-15 Stopping vessels for inspection. For the purpose of enforcing chapter 200, Hawaii Revised Statutes, or these rules, any person operating or in charge of a vessel on the waters of the State shall stop the vessel after having been requested or signaled to do so by an enforcement officer. The operator or the person in charge of the vessel and any other person on board shall give their correct name and address, exhibit the certificate of number awarded for the vessel, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24)

§13-242-16 Termination of unsafe use. If any enforcement officer observes a vessel being used without sufficient lifesaving or firefighting or in an overloaded or other unsafe condition, and in the officer's judgment the use creates an especially hazardous condition, the officer may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to the vessel's mooring and to remain there until the situation creating the hazard is corrected or ended. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

§13-242-17 Powers of arrest. An enforcement officer who observes any violation by any person of chapter 200, Hawaii Revised Statutes, or of these rules may forthwith arrest the person without a warrant. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-26)

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§13-242-18 Citation of violation. Except when required by state law to take immediately before a magistrate a person arrested for a violation of these rules, any person authorized to enforce these rules, hereinafter referred to as an enforcement officer, upon arresting a person for violation of these rules shall, in the discretion of the enforcement officer as provided in section 200-26, Hawaii Revised Statutes, either: (1) issue to the purported violator a summons or citation, warning the violator to appear and answer to charges at a certain place and at a time within seven days after the arrest; or (2) take the violator without unnecessary delay before a magistrate. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-26)

§13-242-19 Taking legal custody of the vessel or property. As an incident to a lawful arrest, the arresting authority may take legal custody of the vessel or any personal property which is the subject of or related to any violation of chapter 200, Hawaii Revised Statutes, or of these rules. In the event the operator or the person in charge of the vessel refuses to obey the lawful command of an enforcement officer to navigate his vessel back to shore, the vessel may be towed at the owner's risk and expense and without liability to the department for any damages which may result. The vessel or personal property shall be released according to law. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-26)

§13-242-20 Attorney general. The attorney general may bring appropriate proceedings to enjoin the continuance of any act or omission in violation of the provisions of chapter 200, Hawaii Revised Statutes, or of these rules. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

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§13-242-21 Records of conviction. The department shall file all abstracts of records of conviction received relating to violation of the state boating law, these rules, federal laws or regulations governing vessel operations, from other states or elsewhere and in connection therewith shall maintain convenient records by name of the violator in order that the individual record of each person convicted is readily ascertainable. The department shall retain the abstract for a period of five years at which time it shall be destroyed. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

§13-242-22 Records furnished to courts. The department shall, upon written request of a court, furnish to the court a certified copy of the individual record of any person. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

§13-242-23 Reporting nonresident convictions. The department upon receiving a record of conviction in the State of an operator of a vessel numbered in another state of any offense of chapter 200, Hawaii Revised Statutes, or of these rules, shall forward a certified copy of the record to the boating administration of the state wherein the vessel is numbered. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-30)