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Drew's Law Means Prison for Drunk Boaters

Child's Death Spurs South Carolina to Teach the South

By Bob Campbell

Drew Smith died instantly that summer on Lake Murray four years ago when an intoxicated woman at the helm of a speedboat slammed into the bass boat where Drew and his father fished beneath the stars.

Drew was 11-years old. Since Drew's death and as a result of a his family's efforts to pass a tough anti-drinking statute, the state's boating accident fatalities have been in a free fall, declining by 50 percent.

Before Drew's Law, 30 to 35 persons on average would die annually in the Palmetto State because of boating accidents. It's not just South Carolina. The U.S. Coast Guard reports that better than 50 percent of all boating accidents nationwide are alcohol related.

Drew's law has made a difference.

"Fifteen people died in boating accidents in the state in 2000," said Captain Glenn Ward, supervisor of the S.C. Department of Natural Resources (DNR) Boating Safety and Education Section. That's the lowest ever for South Carolina records."



Drew and his father were underway fishing in a bass boat when they were hit broadside by a speedboat in the part of the boat where Drew was sitting.

According to the accident report, Drew was killed instantly when he was hit by the bow of the speeding boat. He was wearing his Personal Flotation Device when he was killed.

The woman charged in the case "never did any jail time," according to SCDNR spokesman Mike Willis. A plea bargain was struck.

Deadly Awareness

The state's lack of censure for an incident as reckless and senseless as Drew's death set the stage for the new law that was passed by the South Carolina Legislature three years ago. Drew's law greatly fortified penalties for Boating Under the Influence and other serious boating related offenses, including reckless and negligent operation.

Before the new law, said Willis, a boat operator convicted of BUI, "wouldn't do jail time, would have received a minimum fine, if any, and would not have been required to take a boater education course or participate in a drug intervention program or have his or her boating privileges suspended."

"The penalties," he noted, "were really nothing more than a slap on the wrist."

Now for felony BUI, a convicted boat operator "probably will go to jail and pay a stiff fine," said Willis.

The Smiths succeeded in the midst of a guzzling culture by forming a citizens group and launching a lobbying campaign with the legislature. While drinking and boating is still legal in South Carolina, they criminalized drunkenness by humanizing the awful loss of a child crushed by a speeding boat, under the stars, sharing a moment of warmth and security with his father.

Drew's Law, said Ward, "increases the penalties for boating crimes and cracks down on boating under the influence. "Fewer people are drinking and operating a boat," he said, "and that has decreased the number of serious accidents and fatalities."

Now, he explains, "if you are convicted of felony BUI you can do up to 25 years in jail. It's just been in the last couple of years that we've seen some real hefty sentences handed down," one a nine-year prison term and another for seven years, he noted.

Also officers who suspect a boat operator is under the influence may administer a breath test (Datamaster) and if the boat operator refuses to take the test, his or her boating privileges will be suspended automatically.

Officers can likewise arrest offenders, take them into custody and place them behind bars, said Willis, before they have a chance to cause damage, injury or death.

While the state's BUI laws have been brought up to parity, as Willis puts it, with highway DUI laws, there is no "open container" law for South Carolina boaters.

"You can still have an open container of beer or wine on a boat," Willis explained. "It's just that the operator cannot be illegally intoxicated."

Not illegally drunk

Drinking while operating a boat is not illegal in South Carolina, unless the operator is determined to be legally intoxicated. "The operator of a boat should never drink while running a boat," Willis strongly advises, even moderately.

"That's always been the law," he said, "but the penalties were very minimal. Drew's Law increased those penalties dramatically."

A blood alcohol level of .10 can get a boat operator into serious trouble in South Carolina, and it should be noted that boating while intoxicated is a violation of law in every state. BUI is also prohibited by federal law, enforced by the U.S. Coast Guard.

South Carolina's neighboring states each provide strict enforcement of BUI laws and severe penalties for felony BUI, described as property damage (\$500 or more), personal injury or death caused by an intoxicated boat operator.

North Carolina, Georgia and Florida use a blood alcohol concentration of .08 percent as the threshold for determining legal intoxication. In South Carolina it's set at .10 percent.

Like South Carolina, neighboring states also provide for fines, up to \$25,000 in South Carolina, and up to \$1,000 in the other states. Suspension of boating privileges for periods of time are standard penalties in the four states.

For the most serious felony BUI cases, jail terms may be imposed by judges in neighboring states and up to 25 years under South Carolina's new law. Jail terms ranging from 30 days, six months or up to a year are standard in neighboring states for felony BUI.

NC Six Pack

Law Enforcement Officer Ed Jenkins, speaking for the North Carolina Wildlife Resources Commission, said maximum BUI penalties in his state go up to a \$1,000 fine and jail sentences are rare.

But he added, in a number of cases "judges go far beyond that," including revoking boating privileges, requiring boating education and drug intervention programs.

Severe penalties are reducing deaths in South Carolina, but other factors also added to the improved South Carolina statistics, Ward said, including more officers on the payroll, more boating safety patrols and better education and public awareness.

DNR added 27 new officers last year and boat patrols have been stepped up statewide to monitor the state's 460,000 acres of lakes, 8,000 miles of rivers and 3,000 miles of coastline and other inland waterways.

Another significant reason for the decline, said Ward, "is mandatory boater education for young boaters." He credits another recently passed law, the Watercraft Safety Act of 1996, for improved boating safety statewide.

This law requires "anyone under age 16 to complete a DNR approved boater education course before operating a boat alone," said the boating law enforcement captain.

South Carolina ranks eight in the nation in the number of boats with about 400,000 watercraft registered in the state, according to Willis, and third per capita.

With so many boats in the state, mixing the boating fun with alcohol can be a recipe for trouble if not disaster, according to state boating officials.

Willis believes Drew's Law has "really discouraged a lot of drinking and boating in South Carolina. I hear more and more officers telling me that people just aren't drinking and boating like they used to.

"It's just not an accepted practice," he concluded.

For a more information on the BUI law and Boater Safety call:

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<http://www.boat-ed.com/sc/handbook>

<http://www.boat-ed.com/sc/handbook/alcohol.htm>

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