

Introduced by

Senator Erbele

Representative Brandenburg

1 A BILL ~~for an Act to create and enact a new section to chapter 20.1-13 of the North Dakota~~
2 ~~Century Code, relating to restrictions on noises resulting from the operation of boats and other~~
3 ~~watercraft; and to provide a penalty;~~ for an Act to create and enact a new section to chapter
4 20.1-13 of the North Dakota Century Code, relating to regulation of airboats to prevent
5 excessive noise; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** ~~A new section to chapter 20.1-13 of the North Dakota Century Code is created~~
8 ~~and enacted as follows:~~

9 ~~—~~ **Watercraft noise restrictions.**

10 ~~—~~ 1. An individual may not operate a boat or other watercraft if the operation of the boat or
11 watercraft results in a loud, unnecessary, or unusual noise; or a noise that annoys,
12 disturbs, injures, or endangers the comfort, repose, health, peace, or safety of a
13 reasonable person hearing the noise. Except as set forth in subsection 2, the following
14 factors must be considered when determining whether a reasonable person hearing a
15 noise resulting from the operation of a boat or other watercraft would find the noise
16 violates this section:

17 ~~—~~ a. The volume of the noise;

18 ~~—~~ b. The intensity of the noise;

19 ~~—~~ c. Whether the noise is unusual;

20 ~~—~~ d. Whether the origin of the noise is natural or unnatural;

21 ~~—~~ e. The volume and intensity of any background noise;

22 ~~—~~ f. The proximity of the noise to residential sleeping facilities;

23 ~~—~~ g. The nature and zoning of the area from which the noise emanates;

24 ~~—~~ h. The population density of the area from which the noise emanates;

- 1 ~~_____ i. The time of day or night;~~
2 ~~_____ j. The duration of the noise; and~~
3 ~~_____ k. Whether the noise is recurrent, intermittent, or constant.~~
4 ~~_____ 2. An individual who creates a noise exceeding eighty-eight decibels by operating a boat~~
5 ~~_____ or watercraft between the hours of ten p.m. and seven a.m. is in violation of section 1.~~
6 ~~_____ The noise must be measured at a distance of twenty five feet [7.62 meters] from the~~
7 ~~_____ source of the noise.~~
8 ~~_____ 3. The following noises are exempt from this section:~~
9 ~~_____ a. Noises from safety signals, warning devices, and emergency relief valves;~~
10 ~~_____ b. Noises from emergency response boats or other watercraft responding to an~~
11 ~~_____ emergency or otherwise acting in a declared emergency;~~
12 ~~_____ c. Noises resulting from work of an emergency nature;~~
13 ~~_____ d. Noises from construction or reasonable and necessary maintenance activities~~
14 ~~_____ performed by an individual on a boat or other watercraft, unless the construction~~
15 ~~_____ or maintenance activities are in areas zoned for residences between ten p.m. and~~
16 ~~_____ seven a.m.; and~~
17 ~~_____ e. Noises resulting from temporary activities permitted by law and for which a~~
18 ~~_____ special permit has been granted under subsection 4.~~
19 ~~_____ 4. An individual may apply to the department for a permit for an exemption from this~~
20 ~~_____ section. A permit granted by the department under this subsection must specify a~~
21 ~~_____ reasonable time during which the permit is effective and any conditions the~~
22 ~~_____ department places on the exemption to minimize adverse effects on the surrounding~~
23 ~~_____ area. The department may grant a permit under this subsection if the department~~
24 ~~_____ finds:~~
25 ~~_____ a. Additional time is necessary for the applicant to alter or modify an activity or~~
26 ~~_____ operation to comply with this section, or an activity that otherwise would violate~~
27 ~~_____ this section will be temporary and cannot be done in a manner that would comply~~
28 ~~_____ with this section; and~~
29 ~~_____ c. No reasonable alternative is available to the applicant.~~
30 ~~_____ 5. An individual who violates this section is guilty of a class 2 noncriminal offense.~~

1 **SECTION 1.** A new section to chapter 20.1-13 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Airboat regulation - Penalty.**

4 1. For purposes of this section, unless context otherwise requires:

5 a. "Airboat" means a vessel designed primarily for use in shallow waters and
6 powered by an internal combustion engine with an airplane-type propeller
7 mounted above the stern and used to push air across a set of rudders.

8 b. "Muffler" means an automotive-style sound-suppression device or system
9 designed to abate effectively the sound of exhaust gases emitted from an internal
10 combustion engine and prevent excessive sound when installed on an engine.

11 2. The exhaust of an internal combustion engine used on an airboat operated on the
12 waters of this state must be equipped with an automotive-style factory muffler,
13 underwater exhaust, or other manufactured device capable of adequately muffling the
14 sound of the exhaust of the engine. The use of cutouts or flex pipe as the sole source
15 of muffling is prohibited. This subsection does not apply to authorized law enforcement
16 airboats or other emergency response airboats.

17 3. An airboat operator who violates subsection 2 is guilty of a class 1 noncriminal
18 offense.

19 4. An airboat operator cited for a violation of subsection 2 may not operate the airboat
20 that is not in compliance with subsection 2 until a muffler is installed.