

July 15, 1996

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

CITY'S AUTHORITY TO REGULATE PERSONAL WATERCRAFT

At the Rules, Finance and Intergovernmental Relations Committee meeting of

Mayor Golding inquired whether the City could regulate the operation of personal watercraft (jet skis and wave riders/runners) which have become a problem especially in the City of San Diego. Specifically, our office was asked whether the City could regulate the minimum age for the operation of personal watercraft in conflict with a State statute which prohibits the operation of personal watercraft by persons under 12 years of age from operating a personal watercraft. However, the City may adopt regulations relating to time-of-day restrictions, speed zones, special-use areas, and safety controls, as long as they do not conflict with any regulations adopted by the State in our brief analysis.

AUTHORITY

Harbors and Navigation Code section 268 states in part: "Cities may adopt

ordinances concerning the navigation and operation of vessels and water skis, aquaplaning, and other water sports subject to the provisions of subdivision (a) of Section 660" Sect

Any ordinance, law, regulation, or rule relating to vessels, which is adopted

pursuant to provisions of law other than this chapter by any . . . city

to time-of-day restrictions, speed zones, special-use areas, and sanitat and the measure shall not conflict with this chapter or the regulations department. Emphasis added.

The "department" in section 660 refers to the Department of Boating and Wat Navigation Code section 651(e). The term "vessel" or "boat" would include " Harbors and Navigation Code section 651(g) and (h).

APPLICATION

Consequently, Section 660 precludes the City from regulating "personal wat inconsistent with the Department of Boating and Waterways. Harbors and Nav 658.5(a) provides a minimum age requirement to operate a personal watercraf

Any person who permits any other person under 12 years of age to operate any of the following is guilty of an infraction:

- (1) A motorboat engaged in towing a person on water skis, an aquaplane, or similar device.

 - (2) A motorboat designed to carry only one person.

 - (3) A motorboat propelled by machinery having an aggregate of more than 10 horsepower without the supervision of a person 18 years of age or older aboard the motorboat, except for a dinghy used directly between a moored vessel and the shoreline, and return.
- (b) Any person under 12 years of age who operates any motorboat, when prohibited under subdivision (a), is guilty of a infraction.

The term "motorboat" includes personal watercraft. See Harbors and Navigat Since the Department of Boating and Waterways ("department") has establishe

requirement, the City would be precluded from adopting a regulation in conf

The City may adopt regulations regarding time-of-day restrictions, speed z areas, and sanitation and pollution controls not in conflict with State sta department has promulgated regulations in these areas.

NOTICE

Section 660(a) provides that "any measure relating to boats or vessels ado governmental entity other than the department shall be submitted to the dep and at least 30 days prior to the effective date thereof." Thus, in adopti the City is required to put the department on notice prior to the adoption 30 days before the regulation becomes effective.

CONCLUSION

The City does have the authority to regulate personal watercraft in time-o speed zones, special-use areas, and sanitation and pollution controls as lo conflict with State statutes. In addition, the City is required to put the regulations. Our office will work closely with City staff to ensure that r regulating personal watercraft will not conflict with the State statutes an are met.

Respectfully submitted,

JOHN W. WITT
City Attorney

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