

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part IX. Boating Safety

Chapter 80: Boating Safety Act of 2021

§ 4214. Collision, accident, or other casualty--Rendering of assistance by vessel operator--Notice--Accident report--Notice to appear--Written report--Drug and alcohol test

Cite as: 21 CNCA § 4214

A. The operator and/or passenger of a vessel involved in a collision, accident, or other casualty, shall render to other persons involved in the collision, accident, or other casualty reasonable assistance as may be necessary and practicable and shall immediately, by the quickest means of communication, give notice of such accident to the local police department if such accident occurs within a municipality, or to the office of the county sheriff or nearest state highway patrol headquarters after complying with the requirements of this section. The operator of a vessel involved in a collision, accident, or other casualty shall give his name, address, and identification of his vessel, in writing, to any person injured in the collision, accident, or other casualty and to the owner of any property damaged in the collision, accident, or other casualty.

B. Any operator of a vessel involved in a collision, accident, or other casualty who could be cited for a violation of the Boating Safety Act of 2021 where the collision, accident or other casualty resulted in the immediate death or great bodily injury, as defined in subsection B of 21 CNCA § 646, of any person shall submit to drug and alcohol testing as soon as practicable after such collision, accident or other casualty occurs. The boating violation shall constitute probable cause for purposes of 47 CNCA § 752 and the procedures found in 47 CNCA § 752 shall be followed to determine the presence of alcohol or controlled dangerous substances within the blood system of the operator of the vessel.

C. If a collision, accident, or other casualty results in death or injury to a person or damage to property in excess of Two Thousand Dollars (\$2,000.00), the operator of the vessel involved in the collision, accident, or other casualty shall file with the Department of Public Safety a full description of the collision, accident, or other casualty, and such information as the Department may require. No person shall be prosecuted or subjected to any penalty for providing such report to the Department and any statement or information included in such report shall not be received against the person upon any criminal investigation, proceeding or trial.

D. Whenever a person is halted by any duly authorized peace officer of this Nation for any violation of this act, which shall be punishable as a misdemeanor, the officer shall prepare

in quadruplicate using the “Uniform Violations Complaint”, a written notice to appear in court, such notices to appear to be serially numbered, containing the name and address of the person, the registration number of the vessel, if any, the offense charged, the time and place when and where the person shall appear in court, and such other pertinent information as may be necessary.

E. The time specified in the notice to appear must be at least five (5) calendar days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

F. The person charged with the violation may give his written promise to appear in court by signing the written notice to appear prepared by the officer, in which event the officer shall deliver a copy of the notice to appear to the person, and thereupon the officer shall not take the person into physical custody for the violation.

G. If the person charged with the violation is a minor, then the citing officer shall ascertain from the minor the name and address of the parents or legal guardian of the minor, and the officer shall cause a copy of the “violation” to be mailed to the address of the parents or legal guardian, within three (3) calendar days after the date of violation.

H. Except for felony violations, any duly authorized peace officer of this Nation at the scene of a boating accident may issue a written notice to appear to the operator of a vessel involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense in connection with the accident.

I. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Department of Public Safety pursuant to this section shall be transmitted to the official or agency of the United States.

J. Any employee or officer of an agency of this Nation, or employee or officer of a municipality or county in this state, shall make a written report to the Department of Public Safety if an occurrence involving a vessel or its equipment results in one or more of the following:

1. A person dies;
2. A person is injured and requires medical treatment beyond first aid;
3. Damage to the vessel and other property totals more than Two Thousand Dollars (\$2,000.00) or there is a complete loss of the vessel;

4. A person disappears from the vessel under circumstances that indicate death or injury;
5. A person drowns in swimming to retrieve a vessel that is adrift from its mooring or dock, having departed from a position of inherent safety such as a shore or pier;
6. A person drowns while swimming from a vessel for pleasure and the vessel does not contribute to the drowning;
7. A person drowns after falling from a vessel that is moored or anchored for use as a swimming platform or other purpose;
8. A person dies or is injured while in the act of launching a vessel into a body of water;
9. A person drowns or is injured while surfing;
10. A fatality or injury occurs to an operator or a crew member while participating in an organized/sanctioned race, or warm-up, in a vessel uniquely designed for racing; or
11. Damage, injury or death on a docked, moored or anchored vessel resulting from unusual wake or wave conditions.

Historical Data

LA 18-21, eff. May 17, 2021.