

# Arkansas Boating Laws

## *Excerpts from Arkansas Code Laws affecting Paddlers:*

### **27-101-203. Equipment requirements.**

#### **Every vessel shall have aboard**

One (1) type I, II, III, or V, ... personal flotation device which is United States Coast Guard-approved, in good and serviceable condition, and of proper size for each person on board.

Occupants of a vessel **who are twelve (12) years of age or younger** must wear personal flotation devices.... securely fastened to their persons at all times while aboard any vessel.....

### **27-101-103. Definitions**

(11) "Vessel" means every description of watercraft.....used or capable of being used as a means of transportation.....

### **27-101-104. Penalties.**

(a) Any person who violates any provision of §§ ..... 27-101-203..... shall be guilty of a misdemeanor and shall be subject to a fine of not less than **one hundred dollars (\$100)** and not to exceed two hundred fifty dollars (\$250) for each violation.

### **8-6-418. Possession or use of glass containers on navigable waterways.** (revised 2003)

- (a)(1) Except for containers for medicinal substances contained in a first-aid kit or prescribed by a licensed physician, and except as provided under subdivision (a)(2) of this section, **no person shall possess or use glass containers** within a vessel within the banks of Arkansas' navigable waterways.
- (2) A person engaged in **removing glass previously discarded by others and found within the banks of an Arkansas navigable waterway may not be charged with a violation** of this section on the basis of possession of glass, if while underway and upon a waterway, he or she transports the removed glass securely in a trash container.
- (b)(1) A person entering, traveling upon, or otherwise using Arkansas' navigable waterways by canoe, kayak, inner tube, or other vessel easily susceptible to swamping, tipping, rolling, or otherwise discharging its contents into a waterway, **and transporting food stuffs or beverages shall:**
- (A) Transport all foodstuffs and beverages **in a sturdy container and ensure that the container is made to seal or lock in the contents to prevent the contents from spilling into the water;**
  - (B)(i) Carry and affix to the vessel a trash container **or bag suitable for containing** his or her refuse, waste, and trash materials and capable of being securely closed.
    - (ii) The trash container or bag **shall be either a sturdy container, of a construction similar to a sturdy container, or a bag of mesh construction;**
  - (C)(i) Except as provided under subdivision (b)(1)(C)(ii) of this section, transport all his or her refuse, waste, and trash **either in a sturdy container** or in a trash container to a place where the refuse, waste, and trash may be safely and lawfully disposed of.
    - (ii) A person engaged in removing items of refuse, waste, and trash materials previously discarded by others and found by him or her within the banks of an Arkansas navigable waterway and that are **too large to be transported** in a trash container or bag, **may not be charged** with a violation of this section on the basis of possession and transportation of the refuse, waste, and trash; and
  - (D) At all times other than when a beverage is securely contained in a sturdy container or a trash container as in subdivisions (b)(1)(A)-(C) of this section, keep the **beverage attached to or held within a floating holder or other device designed to prevent the beverage from sinking beneath the surface of the waterway.**
- (2) **Neither a sturdy container nor a trash container may be required** of a person traveling without foodstuffs or beverages.
- (c)(1) A violation of this section shall be a misdemeanor and each violation may be prosecuted as a separate offense.
- (2) Each violation shall be punishable by a fine of not more than **five hundred dollars (\$500).**
- (d) For purposes of this section:
- (1) "Navigable waterway" means any navigable river, lake, or other body of water used or susceptible to being used in its natural condition by canoe, kayak, innertube, or other vessel easily susceptible to swamping, tipping, or rolling and located wholly or partly within this state;
  - (2) "**Sturdy container**" **shall not include a container that is:**
    - (A) Primarily constructed of **styrofoam; or**
    - (B) So constructed that it may be **easily broken;** and
  - (3) "Vessel" shall not include a houseboat, party barge, johnboat, runabout, ski boat, bass boat, or similar craft not easily susceptible to swamping, tipping, or rolling.

**History.** Acts 2001, No. 803, § 1; 2003, No. 1101, § 1.

### **Arkansas Paddlesport Activities Act ACA 27-101-901 of 2013.**

Defines Assumption of risk by participant and limits Liability of outfitter (individual and clubs)

\*345ark\*issue8\*sc4\* 9 July 2001 **Supreme Court of Arkansas** No. 00-1116

**Plant Vs. Wilbur And Wilbur** d/b/a Northwest Arkansas Speedway  
**Release of liability** for recreation may be enforced in certain situations

**Arkansas Code Annotated 27-101-901. Title.**

<http://www.lexisnexis.com/hottopics/arcodes/Default.asp>

This subchapter shall be known and may be cited as the "Arkansas Paddlesport Activities Act".

**HISTORY:** Acts 2013, No. 221, § 2.

**27-101-902. Definitions.**

As used in this subchapter:

- (1) "Canoe" means a watercraft that has an open top and is designed to hold one (1) or more participants;
- (2) "Canoeing, rafting, kayaking, or tubing" means riding, training, using, paddling, or being a passenger in or on a canoe, kayak, raft, or tube, including a person assisting a participant;
- (3) "Equipment" means an accessory to a watercraft that is used for propulsion, safety, comfort, or convenience, including without limitation paddles, oars, and personal flotation devices;
- (4) "Inherent risk of paddlesport activity" means the dangers, hazards, or conditions that are an integral part of paddlesport activities in the free-flowing streams or rivers of this state, including without limitation:
  - (A) A risk typically associated with watercraft, including change in water flow or current, submerged, semisubmerged, and overhanging objects, capsizing, swamping, or sinking of watercraft and resultant injury, hypothermia, or drowning;
  - (B) Cold weather- or heat-related injuries and illnesses, including hypothermia, frostbite, heat exhaustion, heat stroke, and dehydration;
  - (C) An act of nature, including without limitation rock fall, inclement weather, thunder and lightning, severe or varied temperature, weather conditions, winds, and tornadoes;
  - (D) Operator error or equipment failure due to operator error;
  - (E) Attack or bite by an animal;
  - (F) The aggravation of an injury or illness because the injury or illness occurred in a remote place where medical facilities are not available; and
  - (G) Nothing in this subsection is intended to circumvent an outfitter's duty to provide safe equipment and watercraft;
- (5) "Kayak" means a watercraft similar to a canoe with a covered top that may have more than one (1) circular opening to hold participants or is designed to permit a participant to sit on top of an enclosed formed seat;
- (6) "Outfitter" means an individual, group, club, partnership, corporation, or business entity, whether or not operating for profit, or an employee or authorized agent, which sponsors, organizes, rents, or provides to the public the use of a watercraft by a participant in a free-flowing stream or river in this state;
- (7) "Paddlesport activity" means canoeing, rafting, kayaking, or tubing in or on a watercraft as a:
  - (A) Competition, exercise, or undertaking that involves a watercraft;
  - (B) Training or teaching activity; or
  - (C) Ride, trip, tour, or other activity, however informal or impromptu, whether or not a fee is paid, or guided or not, that is sponsored by an outfitter;
- (8) "Participant" means a person, whether amateur or professional, whether or not a fee is paid, who rents, leases, or uses watercraft or is a passenger on a rented, leased, or used watercraft participating in a paddlesport activity;

(9) "Raft" means an inflatable watercraft that has an open top and is designed to hold one (1) or more participants;

(10) "Tube" means an inflatable tire inner tube or similar inflatable watercraft that has an open top capable of holding one (1) or more participants; and

(11) "Watercraft" means a canoe, kayak, raft, or tube propelled by the use of paddles, oars, hands, poles, or other nonmechanical or nonmotorized means of propulsion.

**HISTORY:** Acts 2013, No. 221, § 2.

### **27-101-903. Assumption of risk by participant -- Liability of outfitter -- Exceptions.**

(a) Except as provided in subsection (c) of this section:

(1) (A) A participant assumes the inherent risk of a paddlesport activity by engaging in the paddlesport activity.

(B) A participant or a participant's representative shall not make a claim against, maintain an action against, or recover from an outfitter for the injury, loss, damage, or death of the participant resulting from any of the inherent risk of a paddlesport activity; and

(2) An outfitter is not liable for an injury to or the death of a participant resulting from the inherent risk of paddlesport activities.

(b) This section does not apply to a relationship between an employer and employee under the Workers' Compensation Law, § 11-9-101 et seq.

(c) This section does not prevent or limit the liability of an outfitter or its agent that:

(1) Intentionally injures a participant;

(2) Commits an act or omission of gross negligence concerning the safety of a participant that proximately causes injury, damage, or death to the participant;

(3) Provides unsafe equipment or watercraft to a participant and knew or should have known that the equipment or watercraft was unsafe to the extent that it could cause an injury;

(4) Fails to provide a participant with the equipment required by § 27-101-203(a);

(5) Fails to use that degree of care that an ordinarily careful and prudent person would use under the same or similar circumstances; or

(6) Commits other acts, errors, or omissions that constitute willful or wanton misconduct, gross negligence, or criminal conduct that proximately causes injury, damage, or death.

(d) The limitation of liability provided by this section is in addition to any other limitation of liability provided by law.

**HISTORY:** Acts 2013, No. 221, § 2.

### **27-101-904. Warning required.**

An outfitter shall post and maintain signage in a clearly visible location at or near areas where the outfitter conducts paddlesport activities and in black letters at least one inch (1") high containing the following warning:

"WARNING -- Under Arkansas law, an outfitter is not liable for the injury or death of a participant in a paddlesport activity resulting from the inherent risk of paddlesport activity under the Arkansas Paddlesport Activities Act, Arkansas Code § 27-101-901 et seq. You are assuming the risk of participating in a paddlesport activity."

**HISTORY:** Acts 2013, No. 221, § 2.

**27-102-101. Right to take up property lost or wrecked on river.**

When any boat, vessel, raft, or other property shall be lost or wrecked and in a perishable condition upon any river in this state, or any river making a boundary of the state, any person may take up and secure it at or near the place where found.

**HISTORY:** Rev. Stat., ch. 134, § 1; C. & M. Dig., § 8733; Pope's Dig., § 11426; A.S.A. 1947, § 21-301.

**27-102-102. Owner's right to recover.**

When any person shall set up a claim to salvaged property and shall prove his or her title to it by competent testimony before any justice of the peace of the proper county, the taker up shall restore the property to the owner if he or she pays the taker up a premium for salvage, at the rate of not exceeding ten percent (10%) of the value of all the property, to be adjudged by a justice of the peace of the county.

**HISTORY:** Rev. Stat., ch. 134, § 2; C. & M. Dig., § 8734; Pope's Dig., § 11427; A.S.A. 1947, § 21-302.

**27-102-103. Right to salvage payment.**

The taker up of a boat, vessel, raft, or other property shall be entitled to retain it against the rightful owner until salvage be paid, or he or she may have and maintain a civil action against the owner for the amount of salvage due in accordance with this chapter.

**HISTORY:** Rev. Stat., ch. 134, § 3; C. & M. Dig., § 8735; Pope's Dig., § 11428; A.S.A. 1947, § 21-303.

**27-102-104. Affidavit by taker up.****27-102-105. Advertisement of property recovered.****27-102-106. Salvage of rafts.****27-102-107. Perishable property.****27-102-108. Property found afloat.**

When boats are wrecked or staved and property is found afloat on any watercourse in this state, and the value thereof does not exceed one hundred dollars (\$100), the taker up of the property shall be entitled to salvage not exceeding one-fourth (1/4) part thereof for taking up and securing the property, to be adjudged by a justice of the peace of the county.

**HISTORY:** Rev. Stat., ch. 134, § 13; C. & M. Dig., § 8744; Pope's Dig., § 11437; A.S.A. 1947, § 21-313.

**27-102-109. Vesting of ownership in taker up.****27-102-110. Search warrant for lost property.**