

Mark A. Anderson's

# LAW TALK



JULY 2009

## SUMMER BOATING: Here's the Law

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Summertime means fun outdoor activities and boating is one of the favorites for many Texans. It's no wonder since our state has more square miles of inland water than any other state. But with any recreational activity involving a motorized vehicle, one has to be careful to avoid accidents. Last year in Texas, there were 271 boating accidents resulting in 61 fatalities.



Many people boat and aren't fully aware of basic laws surrounding the sport. Here are a few of the relevant Texas laws:

#### Who May Operate:

- A person under the age of 13 may operate a boat or a personal watercraft if they are accompanied on board by a person 18 years or older.
- A person 13 to 17 may operate if he or she is accompanied on board by a person 18 years or older OR has passed a boater education course approved by the Texas Parks and Wildlife Department.

#### Personal Watercraft (PWC) laws:

- Each person riding on or being towed behind a PWC must wear a U.S. Coast Guard Approved personal flotation device.
- If the PWC comes with a lanyard-type ignition safety switch, then it must be used by attaching it to clothing or a life vest.
- It is illegal to:
  - Operate a PWC between sunset and sunrise.
  - Operate a PWC within 50 feet of another boat or PWC, a person, a stationary platform or the shoreline.
  - Operate a PWC in a manner that causes the operator to swerve at the last possible moment to avoid

a collision.

- Chase, harass or disturb wildlife with a PWC.
- Operate a PWC with more than the rated number of persons allowed.

#### Water Ski laws:

- It is illegal to tow a water skier from 1/2 hour after sunset to 1/2 before sunrise.
- Every vessel towing a skier must either have an observer (13 years or older) other than the vessel operator OR have a firmly mounted rear-view mirror at least 4-inches by 4-inches in size (most PWC mirrors do not meet these requirements).

#### Drinking Alcohol:

- Having open containers is legal (remember, it's *not* legal to have open containers in cars), but it is illegal to boat while intoxicated.
- Like vehicular DWI, your driver's license will be suspended for 180 days if you refuse to give a breath specimen.

A complete copy of The Handbook of Texas Boating Laws and Responsibilities can be obtained from the TP & W website [www.boat-ed.com](http://www.boat-ed.com).



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## Becoming a Landlord For the First Time? KNOW THE LAW...

The current economic downturn is eliminating many jobs, but it's also creating new second jobs as many folks are now becoming landlords for the first time. The new landlords I am talking about are the ones who have fled the uncertainties of the stock market and have decided to buy a foreclosed property. Having handled several evictions in the past, I know first-hand how important it is for a landlord to know the relevant Texas law.

How much about tenant law you have to learn depends on whether you decide to manage the property yourself or hire a professional management company to do it for you. If you go at it alone, the best way to jump right in is to look at Chapters 91 and 92 of the Texas Property Code. I have loaded these chapters onto my website: [www.maafirm.com](http://www.maafirm.com) under the Resources tab. You can also view and copy the TPC at your local law library.

### Some of the laws you need to know are:

- You must rekey the property after each tenant.
- You must provide a keyless deadbolt and an "eyehole" for each outside door.
- You must keep the property in a livable condition
- You must keep any security deposits separately, account for any money retained, and refund any amount due to tenant within 30 days of when tenant vacates the premises
- You must have an operable smoke alarm for each bedroom (and the law is very particular about location and types of alarms)

One of the most important set of laws pertains to the **eviction process**. You cannot evict a tenant for non-payment of rent or breach of the rental contract without following a strict procedure. Stated simply, this procedure requires a notice letter, then a court filing at the local Justice of the Peace, service of the court filing, on the tenant, a Court hearing to determine if the eviction is proper, a waiting period to see if an appeal is pursued by the tenant, then service of a Writ of Possession on the tenant, then the actual "move out" which must be overseen by the Constable. It really is a lot of steps!

**Written leases** are the best way to govern the landlord-tenant relationship. One of the best ones is put out by the Texas Apartment Association—it's several pages long and full of rules that you might not think of, like the regulation of parking, of long term overnight guests, of law breaking, etc. While it costs money to join the TAA and be able to use its lease, membership also allows you to purchase the TAA's "Red Book" which has all of the applicable laws, forms and lots of helpful hints.

So, new landlords, do yourselves a favor and review the law. I can guarantee you will learn something you didn't know before. None of the laws will discourage you from becoming a landlord, but they will sure cause you problems if you don't follow them.

**NOTE:** If you are about to become a **tenant** for the first time, or the first time in a long time, there is probably not a need to learn the law on landlord-tenant relationships, but it's a good idea to require that the lease be in writing. Plus, if your landlord makes promises to fix up a place prior to you moving in, then get those promises in writing. In fact, it is always best to communicate all problems you have in writing.

## WHAT WE DO AT THE ANDERSON LAW FIRM

The Anderson Law Firm is dedicated to helping those injured as a result of others' negligence. We work off a contingency fee, which means we only get paid if we are able to win the case for our client.

The types of cases we handle vary, but some of the more common kinds of accidents we see are: car crashes, motorcycle wrecks and 18-wheeler accidents. We are not limited to vehicle-related injuries, however, so if you think you have a claim, give us a call.

Of course, we offer free consultations, so if you think you might need an attorney for an injury matter, call us. We'll give you an IMMEDIATE case evaluation.

817-294-1900

## Announcing New Ride Sober Program Sponsored by the ALF

This summer, the Anderson Law Firm has teamed up with Terry Purdom, owner and operator of Ride Safe & Secure Motorcycle Roadside Rescue to start the new, **RIDE SAFE, RIDE SOBER** program.

The Anderson Law Firm is the sole sponsor of this program which now offers free tows to motorcycle riders who have had too much to drink. The plan is to save lives and keep streets safe from drunk drivers. Motorcycle wrecks are usually more devastating and cause far more serious injuries than typical car accidents because of the vulnerability of riders and their

lack of protection when crashes occur.

Mark hopes to save some lives by offering this public service.

You can also check out more information at: [www.RideSafeRideSober.com](http://www.RideSafeRideSober.com).

Below are Mark and Terry pictured next to Mark's trailer which will be used to "get the word out" about the new program.



Visit and become friends with Mark Anderson on Facebook!

[www.Facebook.com/LawyerAnderson](http://www.Facebook.com/LawyerAnderson)

## ACCIDENT TIP:

If you're in an accident, **ALWAYS, ALWAYS CALL THE POLICE** no matter how minor the accident is! This serves as the best way to document what happened. It's worth the time—wait for the police to fill out an accident report.

Texas Peace Officer's Crash Report	
Department of Transportation, Texas Department of Transportation, Texas Department of Transportation	
1. Date of Crash	2. Time of Day
3. Location of Crash	4. County
5. Highway	6. Milepost
7. Direction of Travel	8. Direction of Wind
9. Direction of Traffic	10. Direction of Light
11. Direction of Sound	12. Direction of Smell
13. Direction of Heat	14. Direction of Rain
15. Direction of Snow	16. Direction of Ice
17. Direction of Fog	18. Direction of Haze
19. Direction of Dust	20. Direction of Smoke
21. Direction of Vapor	22. Direction of Gas
23. Direction of Liquid	24. Direction of Solid
25. Direction of Other	26. Direction of Unknown
27. Direction of Unidentified	28. Direction of Unrecorded
29. Direction of Unobserved	30. Direction of Unavailable
31. Direction of Unobtainable	32. Direction of Unusable
33. Direction of Unreliable	34. Direction of Unverified
35. Direction of Unchecked	36. Direction of Unconfirmed
37. Direction of Unvalidated	38. Direction of Unapproved
39. Direction of Unlicensed	40. Direction of Unregistered
41. Direction of Uninsured	42. Direction of Uninspected
43. Direction of Unexamined	44. Direction of Unassessed
45. Direction of Unanalyzed	46. Direction of Uninterpreted
47. Direction of Unconcluded	48. Direction of Unsummarized
49. Direction of Unreported	50. Direction of Unrecorded
51. Direction of Unfiled	52. Direction of Unsubmitted
53. Direction of Unreturned	54. Direction of Unretrieved
55. Direction of Unrecovered	56. Direction of Unrelocated
57. Direction of Unreinstated	58. Direction of Unrenewed
59. Direction of Unreissued	60. Direction of Unrenewed
61. Direction of Unrenewed	62. Direction of Unrenewed
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99. Direction of Unrenewed	100. Direction of Unrenewed

NEXT MONTH! Look for:

ANALYSIS OF THE NEW TEXAS LAWS



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**ACCIDENT &  
INJURY LAW**

*The Anderson Law Firm handles all types of personal injury cases including every kind of motor-vehicle accident (car crashes, truck and bus wrecks, motorcycle collisions), pedestrian-crosswalk and bicycle accidents, drunk-driving accidents, dog attacks, dangerous drug cases, injuries to children and wrongful death claims. If we're unable to help you with a particular legal matter, we're happy to refer you to an attorney who can.*

**WE GET QUESTIONS...**

**Q: SOMEONE HIT MY CAR AND I'M NOT HURT, BUT MY CAR IS DAMAGED. SHOULD I GET ESTIMATES OR JUST CALL THE OTHER DRIVER'S INSURANCE COMPANY?**

**A:** Neither. I say you should first call *your own* insurance company if you have full coverage. Your company will move much faster and will generally treat you better. You will have to pay a deductible, but you should get that back later when your insurance company "subrogates" back to the other driver's company.

If you don't have collision coverage insurance, then quickly call the other driver's company and report the claim. They will move slower, but ultimately, you should be able to get them to pay for the repairs and provide you with a rental car. There is no need to go get estimates on your own—the insurance company will send out an estimator for you, or will ask you to take your vehicle into a shop.

Other notes: You have the right to pick your own body shop. But don't expect to get a big, fancy SUV for your rental; you usually are only authorized a small \$25-per-day car.



Want to learn more about the injury claims process? Order your free copy of:

***15 Mistakes That Will Wreck Your  
Texas Accident Case***

By calling **817-294-1900** or visiting: **[www.DontWreckYourCase.com](http://www.DontWreckYourCase.com)**