

Mark A. Anderson's

LAW TALK



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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.



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**ACCIDENT &
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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 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.

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**Check us out at:
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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