

No. 1989-102

AN ACT

HB 650

Amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for the powers and duties of the commission; changing the penalties for certain violations; further providing for the powers and duties of waterway patrolmen and deputies; providing for additional violations; providing new fees for lakes; providing for reports by emergency room personnel; providing for tagged fish contests on state boundary lakes; further providing for Class A lakes; and further providing penalties for the registration of powered watercraft.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 321, 741, 901(a)(13) and 904 of Title 30 of the Pennsylvania Consolidated Statutes are amended to read:

§ 321. Administration and enforcement.

The commission shall administer and enforce this title and other laws of this Commonwealth relating to:

- (1) The encouragement, promotion and development of the fishery interests.
- (2) The protection, propagation and distribution of fish.
- (3) The management of boating and the operation of boats.
- (4) *The encouragement, promotion and development of recreational boating.*

§ 741. Control of property.

(a) General rule.—The entire control of all lands or waters owned, leased or otherwise controlled shall be under the direction of the commission and the commission may promulgate such rules and regulations for its use and protection as it deems necessary or in the best interests of the Commonwealth.

(b) Penalty.—Any person violating rules and regulations promulgated under subsection (a) commits a summary offense of the second degree, *but a person violating a regulation governing parking of vehicles on commission property commits a summary offense of the fourth degree.*

§ 901. Powers and duties of waterways patrolmen and deputies.

(a) Waterways patrolmen.—Every waterways patrolman shall have the power and duty to:

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(13) Arrange for the administration of chemical tests of breath, blood or urine to persons operating or in actual physical control of watercraft for the purpose of determining the alcoholic content of blood or the presence of a controlled substance under section 5125 (relating to chemical testing to determine amount of alcohol or controlled substance), by qualified personnel of a State or local police department, *qualified waterways patrol-*

men or qualified personnel of a clinical laboratory licensed and approved by the Department of Health. A waterways patrolman may administer chemical tests under this paragraph if he is qualified and the executive director designates him to do so.

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§ 904. Interference with officers.

(a) *General rule.*—Any person who by force, menace, threat or in any manner resists inspection or arrest for violation of any of the provisions of this title or refuses to go with a waterways patrolman or deputy waterways patrolman after an arrest has been made, or interferes with any officer of this Commonwealth in the performance of his duty under the provisions of this title, commits a summary offense of the first degree.

(b) *Bodily injury.*—Any person who attempts to cause or causes bodily harm to an officer performing duties under the provisions of this title commits a misdemeanor of the third degree.

Section 2. Title 30 is amended by adding sections to read:

§ 906. *Fleeing or attempting to elude an officer.*

(a) *General rule.*—A person who has been given a visual or audible signal to stop by a person authorized to enforce this title and who willfully fails or refuses to bring his vehicle or boat to a stop or who otherwise flees or attempts to elude a pursuing officer or enforcement vehicle or boat commits a summary offense of the first degree.

(b) *Definition.*—As used in this section, the term “visual or audible signal” includes a signal by hand, sign, voice, emergency lights, horn or siren.

§ 907. *Operation of vehicle or boat without lights to avoid identification or arrest.*

A person who operates a vehicle or boat without lights or who turns off any or all lights on a vehicle or boat for the purpose of avoiding identification or apprehension commits a summary offense of the first degree.

§ 908. *False identification or false or fraudulent statements on reports, etc.*

A person who gives false identification to an officer authorized to enforce this title or who makes any false or fraudulent statement on any report or application required by this title, or to any representative of the commission, commits a summary offense of the second degree.

Section 3. Section 923 of Title 30 is amended to read:

§ 923. Classification of offenses and penalties.

(a) *General rule.*—The following penalties shall be imposed for violations of this title:

(1) For a summary offense of the first degree, a fine of \$100 or imprisonment not exceeding 90 days.

(2) For a summary offense of the second degree, a fine of ~~[\$25]~~ \$50 or imprisonment not exceeding 20 days.

(3) For a summary offense of the third degree, a fine of ~~[\$10]~~ \$25.

(4) For a summary offense of the fourth degree, a fine of \$10.

~~[(4)]~~ (5) For a misdemeanor of the third degree, a fine of not less than \$250 nor more than ~~[\$2,500]~~ \$5,000, or imprisonment not exceeding 90 days, or both.

(6) For a misdemeanor of the first degree, a fine of not less than \$2,500 nor more than \$10,000, or imprisonment not exceeding five years, or both.

[(5)] (7) For a felony of the third degree, a fine of not less than \$2,500 nor exceeding \$15,000, or imprisonment not exceeding seven years, or both.

(b) Additional fine.—In addition to the penalties in subsection (a), a fine of \$10 may be imposed for each fish taken, caught, killed, possessed or sold in violation of this title. In computing the number of fish taken, caught, killed, possessed or sold, the number immediately returned unharmed to the water where they were taken shall be omitted.

(c) Additional penalty for fishing without license or permit or operating boat without registration.—In addition to the penalties in subsection (a), a person convicted or acknowledging guilt of the offense of fishing without a license in violation of section 2703 (relating to possession and display of licenses) or 2908 (relating to penalties) or operating an unregistered boat for which registration is required shall pay an additional penalty equal to two times the cost of the annual license, permit or registration which the person was required to possess in order to fish or operate a boat requiring registration.

(d) Repeat offenders.—A person who is convicted or acknowledges guilt of a second or subsequent violation of this title or the regulations promulgated under this title within 12 months of a prior offense under this title shall, in addition to the fines provided in subsections (a), (b) and (c), pay an additional fine of two times the maximum fine provided in subsection (a) for the second or subsequent offense. An extract from commission records maintained in the ordinary course of business showing that the person was convicted or acknowledged guilt of the prior offense shall be sufficient evidence of the existence of the prior offense.

[(c)] (e) Title 18 inapplicable.—Title 18 (relating to crimes and offenses) is inapplicable to this title insofar as it relates to fines and imprisonment for convictions of summary offenses, misdemeanors and felonies.

Section 4. Sections 2102(a) and (b), 2104, 2105 and 2106 of Title 30 are amended to read:

§ 2102. Rules and regulations.

(a) General rule.—The commission may promulgate such general and special rules and regulations as it deems necessary and appropriate concerning fish and fishing in the waters of, and elsewhere in, this Commonwealth, including regulations concerning the protection, preservation and management of fish and fish habitat, permitting and prohibiting fishing, the ways, manner, methods and means of fishing, and the health and safety of persons who fish or may be in the vicinity of such persons on, in or along the waters of, or elsewhere in, this Commonwealth. [Unless specifically provided otherwise by this title, any] Any person violating a rule or regulation [relating to fish or fishing] promulgated under this subsection which the commission designates as being for the protection of fish or fish habitat or for the health and safety of persons who fish commits a summary offense of the second degree.

Any person violating any other rule or regulation promulgated under this subsection commits a summary offense of the third degree.

(b) Seasons, sizes, creel limits and devices.—The rules and regulations may establish seasons, sizes, and possession limits for fish and fishing, regulate the possession of certain species, the number and types of devices and tackle allowed, the identification of such devices and the use and possession of such devices. Any person who violates a rule or regulation promulgated under this subsection commits a summary offense of the [second] *third* degree.

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§ 2104. Sunday fishing from private land.

(a) General rule.—No person shall fish on any Sunday from privately owned land without the express or implied consent of the owner or lessee of the land abutting on a stream or body of water and of the bed thereunder. The consent shall be implied unless the landowner takes any reasonable action to negate his consent to Sunday fishing.

(b) Penalty.—Any person who violates this section commits a summary offense of the [second] *third* degree.

§ 2105. Farm fish ponds.

(a) Exemption from regulation.—The restrictions on fishing imposed by this part do not apply to a resident owner or lessee of a farm, his family and other persons who are regularly employed upon the farm, all of the class which must permanently reside upon the farm, while fishing in an artificial pond constructed thereon holding water the source of which is wholly within the limits of the farm.

(b) Transporting fish from premises.—Any person may lawfully possess and transport any fish lawfully taken from a farm pond from the premises during the closed season for such fish when accompanied by a signed written statement from the owner or lessee of the farm showing:

- (1) The date, place and by whom the fish were taken.
- (2) The number and species of fish.
- (3) The name and address of the person transporting the fish.
- (4) The date they are being transported.

(c) Other prohibitions unaffected.—Nothing in this section shall authorize any person to transport, introduce or import any fish, bait fish or fish bait, the transportation, introduction or importation of which is prohibited by law, rule or regulation.

(d) Penalty.—Any person violating any of the provisions of this section commits a summary offense of the [second] *third* degree.

§ 2106. Fishing in hatchery or nursery waters.

(a) General rule.—No person shall fish, or trespass with intent to fish, in any hatchery waters or waters designated by the commission as nursery waters, upon the bed or bank of any such waters or upon any hatchery lands controlled, owned or occupied by the commission, Federal Government or cooperative nursery approved by the commission.

(b) Penalty.—Any person violating the provisions of this section *by fishing or trespassing with intent to fish in any hatchery or nursery waters*

commits a summary offense of the first degree. *Any person violating the provisions of this section by taking fish from hatchery or nursery waters commits:*

(1) *A summary offense of the first degree if the market value of the fish taken from the hatchery or nursery waters is not shown or is less than \$50.*

(2) *A misdemeanor of the third degree if the market value of the fish taken from hatchery or nursery waters is \$50 or more.*

Section 5. Title 30 is amended by adding sections to read:

§ 2107. *Sale of fish taken from hatchery or nursery waters.*

(a) *General rule.—A person shall not sell, offer for sale or knowingly purchase fish taken from any hatchery waters or waters designated by the commission as nursery waters in violation of section 2106 (relating to fishing in hatchery or nursery waters).*

(b) *Penalty.—A person violating the provisions of this section commits a summary offense of the first degree if the market value of the fish sold, offered for sale or purchased is not shown or is less than \$50. A person violating the provisions of this section commits a misdemeanor of the third degree if the market value or price of fish sold, offered for sale or purchased is \$50 or more.*

§ 2108. *Retrieval and disposition of fish.*

(a) *General rule.—It is unlawful for a person who kills fish while engaged in activities permitted by this title to refuse or neglect to make a reasonable effort to lawfully dispose of such fish.*

(b) *Penalty.—A violation of this section is a summary offense of the third degree.*

Section 6. Sections 2306, 2307, 2501, 2503, 2703 and 2711(a) and (b) of Title 30 are amended to read:

§ 2306. *Refuge areas.*

(a) *General rule.—The commission may set aside, in its discretion, such areas as it may judge best as refuge areas in which fishing or entry shall be prohibited for such periods of time as the commission prescribes. Notices of these closings shall be posted at the refuge areas.*

(b) *Penalty.—Any person fishing in a refuge area posted under subsection (a) commits a summary offense of the first degree. Any person entering a refuge area commits a summary offense of the [second] third degree.*

§ 2307. *Waters limited to specific purposes.*

(a) *General rule.—The commission may designate certain water areas for specific purposes and promulgate such rules and regulations as are deemed necessary to protect and manage the fishery therein.*

(b) *Penalty.—Any person violating any rule and regulation promulgated under subsection (a) commits a summary offense of the [second] third degree.*

§ 2501. *Misuse of property and waters.*

(a) *General rule.—It is unlawful for any person to commit any of the following acts in or along any waters or lands adjacent to or contiguous to waters within or bordering on this Commonwealth:*

(1) Park or leave standing any motor vehicle or other means of conveyance in such a manner as to obstruct the owner or his lessee ingress, egress or regress to his property or cattlegrounds without the permission of the owner or lessee of the land.

(2) Drive a motor vehicle or other type of conveyance on or over any cleared or cultivated lands without the permission of the owner or lessee of the land.

(3) Start, build, tend or abandon any open fire without the permission of the owner or lessee of the land.

(4) Dig, cut or disturb in any manner lands, shrubs, trees or other vegetation without the permission of the owner or lessee of the land.

(5) Sever fences or cause any other change to *public or private property without the permission of the owner or lessee of the land.*

(6) Run any vehicle, except fording in the most direct manner, in any stream.

(7) *Refuse to identify himself upon request to the owner or the lessee of the land or waters upon which he is present.*

(b) Penalty.—[Any]

(1) *Except as provided in paragraph (2), any person violating any of the provisions of this section commits a summary offense of the second degree [and, in addition may].*

(2) *Any person who violates subsection (a)(1), (3), (6) or (7) commits a summary offense of the third degree.*

(3) *Any person convicted of violations under paragraph (1) or (2) may, in addition to any penalty imposed, have his fishing license revoked for a period of one year.*

§ 2503. Littering.

(a) General rule.—It is unlawful for any person to throw, discard, leave, emit, deposit or allow the depositing of any garbage, bottles, cans, rubbish, wire, glass, paper, cardboard or wooden boxes or cartons or any other type of debris, trash or other thing or substance in or along any waters or on any lands adjacent or contiguous to waters or in such manner that the thing or substance deposited flows into or is carried by wind into such waters or lands.

(b) Evidence.—In prosecutions for violations of this section the operator of a motor vehicle or watercraft shall be deemed to have allowed the depositing of any thing or substance thrown, discarded, emitted or deposited from such motor vehicle or watercraft.

(c) Penalty.—Any person who deposits or otherwise disposes of a thing or substance in violation of this section which causes or may cause damage to, or destruction of, fish commits a summary offense of the first degree. *Any person who transports household refuse or garbage from another location and disposes of it by leaving it on lands or waters open to fishing or boating commits a summary offense of the second degree.* Any person who otherwise violates this section commits a summary offense of the [second] third degree. *In addition to the penalties set forth in section 923 (relating to classification of offenses and penalties), an additional penalty of \$10 for*

each item or piece of litter thrown, discarded, left, emitted or deposited in violation of this section may be imposed on any person who is convicted or acknowledges guilt of a violation of this section.

§ 2703. Possession and display of licenses.

(a) General rule.—No person shall fish in any of the waters of this Commonwealth or in any boundary waters without first procuring the proper license required by this chapter. The license shall be kept about the person while fishing and shown upon the request of any waterways patrolman or other officer designated by the commission. In addition to showing the license to the officer, the holder thereof shall, upon demand, establish his further identity to the satisfaction of the officer by producing some other positive means of identification. The commission may promulgate rules and regulations for the displaying of the license certificate, license button or other device, as it deems necessary.

(b) Penalties.—

(1) Except as provided in paragraph (2), any person who violates this section commits a summary offense of the **[second] third** degree.

(2) Any person who violates any regulation concerning the displaying of the license certificate, button or other device promulgated under this section commits a summary offense of the **[third] fourth** degree.

§ 2711. Issuing agents.

(a) Appointment and bond.—The commission may appoint such persons as it deems necessary to issue fishing licenses *and permits*, and the persons so appointed shall be required to post a bond **[with] or other security in a form satisfactory** to the commission in an amount it determines.

(b) Compensation and fees.—For services rendered in collecting and paying over license fees, issuing agents, as long as they continue to act in that capacity, may collect and retain the sum of 50¢ for each fishing license sold *and the sum of 50¢ for each special license and permit sold*, which amount shall be full compensation for services rendered by them under the provisions of this title. The compensation shall be retained by the respective issuing agents and shall cover, among other things, the cost of issuing licenses, *special licenses and permits*, postage, mailing, returns and bonding of said agents. All license, *special license and permit* fees paid to an issuing agent under this title shall be paid by those agents into the State Treasury *for deposit in the Fish Fund* through the commission at least once a month and they shall be applied to the purposes provided for in this title. An issuing agent shall make a return to the commission upon a form to be supplied by the commission. Any issuing agent failing to comply with any of the provisions of this section shall not be entitled to retain the fee fixed in this subsection for his services but shall pay those fees to the State Treasurer *for deposit in the Fish Fund. Delinquent agents are subject to a penalty of 10% per month on any outstanding balance of license money due the commission, which penalty shall be compounded on a monthly basis.* If those sums are not so paid, the Commonwealth may recover them by suit in the same manner as like amounts are now recoverable by law. *The commission may recall the agency of any agent after a delinquency period of 30 days.*

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Section 7. Title 30 is amended by adding sections to read:

§ 2714. License issuing fees.

In order to help defray the issuing costs, the commission may collect an issuing fee not to exceed the fee charged by issuing agents under sections 2701 (relating to resident fishing licenses), 2702 (relating to nonresident and tourist licenses), 2704 (relating to lost fishing licenses) and 2711 (relating to issuing agents) on licenses and stamps issued by the commission.

§ 2907.1. Tagged fish contests on boundary lakes.

The commission shall issue permits for tagged fish contests on boundary lakes where the other state which bounds the lake permits such contests, unless the commission finds that the proposed contest threatens the fisheries resources of the Pennsylvania portion of the boundary lake where the contest is to be conducted.

Section 8. Sections 2908, 3101, 3102, 3106(a), 3313 and 3507 of Title 30 are amended to read:

§ 2908. Penalties.

(a) General rule.—Except as provided in subsection (b), a person engaging in any activity for which a permit or special license is required under this chapter without acquiring the license or permit or who violates any provision of this chapter or regulations promulgated thereunder commits a summary offense of the [first] *third* degree.

(b) Boundary lakes.—A person engaged in any activity for which a permit or special license under section 2903 (relating to boat and net licenses for boundary lakes) is required without obtaining such license or permit or who violates any provision of section 2903 or regulations promulgated thereunder commits a misdemeanor of the third degree.

§ 3101. Licenses.

Upon application accompanied by a license fee prescribed in this chapter, the commission shall issue an annual regulated fishing lake license *to an applicant whose application meets the eligibility criteria specified in commission regulations*. The license shall be effective until December 31 of the year in which it is issued. Each application for a license or a renewal thereof shall be signed by the owner or operator of the regulated fishing lake and shall state the approximate total area of fishing water on the premises to be licensed and whether the area consists of one body of water or more than one, together with any other information relative thereto as the commission may prescribe. *The commission may promulgate regulations for the licensing and operation of regulated fishing lakes.*

§ 3102. Fees.

(a) *Class A lakes*.—The annual license fee for a *Class A* regulated fishing lake (*except portable trout fishing ponds operated as regulated fishing lakes*) shall be based on the total area of fishing water on the premises to be licensed, whether the area consists of one body of water or more than one.

(1) Where the total area of water is less than [five] *20* acres, the fee shall be [\$50] *\$100*.

(2) Where the *total water* area is [five acres or more but less than ten] *20 acres or more but less than 40* acres, the fee shall be [\$60] *\$250*.

(3) Where the area is [ten] 40 acres or more [but less than 20 acres], the fee shall be [~~\$80~~] \$500.

[(4) Where the area is 20 acres or more but less than 40 acres, the fee shall be \$100.

(5) Where the area is 40 acres or more but less than 80 acres, the fee shall be \$120.

(6) Where the area is 80 or more acres, the fee shall be \$150.]

(b) Class B lakes.—The annual license fee for a Class B regulated fishing lake (except portable trout fishing ponds operated as regulated fishing lakes) shall be based on the total area of fishing water on the premises to be licensed, whether the area consists of one body of water or more than one.

(1) Where the total area of water is less than 30 acres, the fee shall be \$50.

(2) Where the total area of water is 30 acres or more, the fee shall be \$100.

(c) Portable fishing ponds.—

(1) The annual license fee for a portable trout fishing pond which the operator seeks to operate as a Class A regulated fishing lake shall be \$200.

(2) The annual license fee for a portable trout fishing pond which the operator seeks to operate as a Class B regulated fishing lake shall be \$50.

§ 3106. Classification of lakes.

(a) Class A.—A lake that is wholly opened to the general public for fishing and is operated solely as a commercial venture may be issued a Class A regulated fishing lake license. *A lake situated on a privately owned campground may be issued a Class A regulated fishing lake license provided the campground is open to the general public and operated as a commercial venture, regardless of whether the campground operator sells admission to the lake to members of the public who are not camping at the campground.* Persons patronizing a Class A regulated fishing lake may catch, kill and possess fish without regard to any size, season or possession limit and need not possess a Pennsylvania fishing license. All other provisions of this title are applicable.

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§ 3313. Penalty.

[Any] (a) *General rule.—Except as provided in subsection (b), any person who violates any provision of this chapter commits a summary offense of the first degree.*

(b) Penalty for sale of fish.—Any person who violates section 3311 (relating to sale of certain fish prohibited) by selling, offering for sale or purchasing fish with a market value or sale price of \$50 or more commits a misdemeanor of the third degree. Any violation of section 3311 where the market value or sale price is not shown or is less than \$50 is a summary offense of the first degree.

§ 3507. Protection of fish near dams.

(a) General rule.—The commission shall promulgate such rules and regulations as it deems necessary to protect and manage fish within one mile or such lesser distance as it deems appropriate of any chute, slope, fishway, gate, dam, reflector, retards or similar devices.

(b) Penalty.—Any person violating any of the rules or regulations promulgated under this section commits a summary offense of the **[first]** *second* degree.

Section 9. Sections 5104, 5122, 5123(b) and 5124 of Title 30 are amended to read:

§ 5104. Fees.

The following fees apply to registrations, licenses, permits and capacity plates issued under this part and the fees collected shall be deposited in the State Treasury in the Boat Fund:

- (1) Owner registration (boats less than 16 feet in length), \$4 per year.
- (2) Owner registration (boats 16 feet or longer), \$6 per year.
- (3) Duplicate owner registration, \$1 each.
- (4) Dealer registration, \$15 per year.
- (5) Additional dealer registration, \$5 each.
- (6) License for operator of passenger-carrying boat, \$5 each.
- (7) Capacity plate, \$2 each.
- (8) **[Permit for special marine event, \$2 each]** *Transfer of a multi-year boat registration, \$5.*

§ 5122. Registrations, licenses, permits, plates and statistics.

(a) General rule.—The commission may promulgate rules and regulations relating to:

- (1) Permanent and temporary registration of motorboats.
- (2) Special provisions applicable to livery operators, *outfitters*, dealers, manufacturers and the owners or operators of passenger-carrying boats.
- (3) Display of numbers.
- (4) Renewal of certificates of registration.
- (5) Transfer of ownership of or interest in boats or the abandonment or destruction of registered boats.
- (6) Licensing of operators of passenger-carrying boats.
- (7) Display of capacity plates by boats, the information to be displayed thereon and the issuance of capacity plates.
- (8) Issuance of permits for special marine events.
- (9) Compilation and release of statistics on accidents and registered boats.

(b) Penalty.—Any person who violates a rule or regulation promulgated under this section commits a summary offense of the **[third]** *fourth* degree except that a person who operates a passenger-carrying boat without a license commits a summary offense of the second degree.

§ 5123. General boating regulations.

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(b) Penalties.—Any person who violates a rule or regulation promulgated under this section which the commission designates as being for the protection of the health and safety of persons as provided by subsection (a)(1) commits a summary offense of the **[first]** *second* degree. Any person who violates any other regulation promulgated under this section commits a summary offense of the **[second]** *third* degree. In addition to any other

penalty, any person who is convicted or acknowledges guilt for an offense of possessing insufficient, nonapproved or unserviceable safety equipment on a boat, *or for* passengers, or persons being towed by a boat on the waters of this Commonwealth may be fined an additional \$10 for every piece of safety equipment required that is missing, not worn[,] when required, not of an approved type or unserviceable.

§ 5124. Particular areas of water.

(a) General rule.—The commission may promulgate special rules and regulations for particular artificial or natural areas of water for further limiting, restricting or prohibiting the operation or navigation of boats thereon to promote the interests of the public or to preserve aquatic life.

(b) Penalty.—Any person who violates a rule or regulation promulgated under this section commits a summary offense of the ~~[second]~~ *third* degree.

Section 10. Title 30 is amended by adding a section to read:

§ 5126. *Reports by emergency room personnel.*

(a) *General rule.*—*If, as a result of a watercraft accident, the person who operated or was in actual physical control of any watercraft involved in the accident requires medical treatment in an emergency room of a hospital and if probable cause exists to believe that a violation of section 5502 (relating to operating watercraft under influence of alcohol or controlled substance) was involved, the emergency room physician or his designee shall promptly take blood samples from those persons and transmit them within 24 hours for testing to the Department of Health or a clinical laboratory licensed and approved by the Department of Health and specifically designated for such purpose. This section shall be applicable to all injured occupants who were capable of watercraft operation if the operator or person in actual physical control of the movement of the watercraft cannot be determined. Test results shall be released upon request of the person tested, his attorney, his physician, the commission, the investigating officer or other governmental officials or agencies.*

(b) *Immunity from civil or criminal liability.*—*No physician, nurse or technician or hospital employing such physician, nurse or technician and no other employer of such physician, nurse or technician shall be civilly or criminally liable for withdrawing blood or obtaining a urine sample and reporting test results to the commission pursuant to this section or for performing any other duty imposed by this title. No physician, nurse or technician or hospital employing such physician, nurse or technician may administratively refuse to perform such tests and provide the results to the commission except when such refusal is based on unusual medical circumstances that pertain at the time of admission.*

Section 11. Sections 5301, 5304, 5305, 5306, 5308, 5310 and 5311 of Title 30 are amended to read:

§ 5301. Registration of motorboats required.

(a) General rule.—It is unlawful for any person to operate or navigate, or cause to be operated or navigated, any motorboat upon, over or through the waters of this Commonwealth unless the motorboat is registered in accordance with this chapter.

(b) **Penalty.**—Any person who violates this section commits a summary offense of the [second] *third* degree.

§ 5304. Issuing agents.

(a) **Designation.**—The commission may designate as issuing agents the county treasurer (or in counties where, by virtue of an optional plan of government or home rule charter, there is no county treasurer, the official who performs the ordinary functions of a county treasurer) or such other persons in each county, as it deems advantageous, to provide for the issuance of [motorboat] *boat* registrations in accordance with the provisions of this chapter.

(b) **Fee.**—For all services rendered in collecting and paying over registration fees, each issuing agent shall charge and retain an additional fee not exceeding \$2 from the person securing the registration. If the issuing agent is a county treasurer or other official who performs that function, the fee shall be retained for the use of the county.

(c) **Bond.**—Every issuing agent shall give bond to the Commonwealth, in a sum determined by the executive director, before any supply of registration forms is delivered to him.

(d) **Disposition of moneys.**—Every issuing agent shall forward all moneys collected, along with all appropriate forms, to the commission within [five] *ten* days after receipt of each and every registration. *Delinquent agents are subject to a penalty of 10% per month or portion of a month on any outstanding balance of registration money due the commission which is not paid when due, which penalty shall be compounded monthly. The commission may recall the agency of any issuing agent after a delinquency period of 30 days.*

§ 5305. Application for registration.

(a) **General rule.**—Any person owning a motorboat and desiring to operate or navigate the motorboat, or cause it to be operated or navigated, on any inland or tidal waters of this Commonwealth shall make a written application to the commission or to a designated issuing agent for a registration for the motorboat.

(b) **Form and content.**—The application shall be made on a form prescribed, prepared and furnished by the commission and, together with such other information as the commission may require, shall state the name and address of the applicant and, if the applicant is a partnership, the names and addresses of all the partners, and, if the applicant is a corporation, the names and addresses of the officers.

(c) **Penalty.**—*Any person violating any of the provisions of this section commits a summary offense of the third degree.*

§ 5306. Certificate of registration.

(a) **Issuance.**—Upon receipt of a signed application and upon the payment of the annual registration fee, the commission shall issue to the applicant owner a certificate of registration for his motorboat. The certificate of registration shall be pocket size.

(b) **Carrying on motorboat.**—The certificate of registration shall be available at all times for inspection on the motorboat for which issued when-

ever the motorboat is in operation, *and shall be carried in such manner that it can be handed to any Federal, State or local law enforcement officer authorized to inspect it. The commission may, by regulation, exempt certain classes of boats from this requirement or prescribe alternate compliance requirements.*

(c) Retention on shore.—The certificate of registration for motorboats less than 26 feet long, leased or rented for noncommercial use of less than seven days, may be retained on shore by the owner of the motorboat or his representative at the place from which the motorboat departs or returns to the possession of the owner or his representative. A motorboat that does not have the certificate of registration on board shall be identifiable while in use and shall comply with all other requirements.

(d) Duplicates.—[Upon application of the owner on a form prescribed by the commission, the commission may issue the owner a duplicate registration certificate upon payment of the applicable fee.] *The commission may issue a duplicate certificate of registration to the owner of a properly registered boat upon application by the owner on a form prescribed by the commission together with payment of the applicable fee.*

(e) Penalty.—Any person [operating a properly registered motorboat who does not have available for inspection on the motorboat the certificate of registration] *violating any provision of this section* commits a summary offense of the [third] *fourth* degree.

§ 5308. Period of registration.

Registrations issued under this chapter to owners and dealers shall be valid from April 1 of one year to March 31 of the succeeding year and shall be renewable. A registration for any year shall be valid and may properly be displayed prior to April 1 within that year. *The commission may determine to issue registrations valid for a period not to exceed three years upon payment of a fee equal to the annual registration fee times the number of years for which the multiple-year registration is valid. A multiple-year registration shall be valid from April 1 of the year of its issuance until March 31 of the last year of its validity, but a multiple-year license issued prior to April 1 of any year is valid and may be displayed at any time within that year. The commission may, by regulation, provide for the transfer of multiple-year registrations upon the sale or conveyance of a boat upon payment of the fee provided in section 5104(8) (relating to fees).*

§ 5310. Display of registration number.

(a) General rule.—The registration number shown on the certificate of registration shall be painted on or attached to each side of the bow of the motorboat in order that it may be clearly visible. No other number may be displayed on the bow. The number shall be maintained in a legible condition.

(b) Penalty.—A person who operates a properly registered motorboat that does not display a proper registration number commits a summary offense of the [third] *fourth* degree.

§ 5311. Tampering with identification numbers.

(a) General rule.—No unauthorized person shall erase, deface, change, paint on or in any way tamper with any registration number or card or any other identification number on a [motorboat] *boat* or motor.

(b) Penalty.—Any person who violates this section commits a summary offense of the second degree.

Section 12. Title 30 is amended by adding a section to read:

§ 5502.2. Homicide by watercraft.

Any person who unintentionally causes the death of another person while engaged in the violation of any provision of this title or regulation promulgated under this title applying to the operation or equipment of boats or watercraft, except section 5502 (relating to operating watercraft under influence of alcohol or controlled substance), commits homicide by watercraft, a misdemeanor of the first degree, when the violation is the cause of death.

Section 13. Section 7314 of Title 30 is amended to read:

§ 7314. Penalty.

Any person violating the provisions of this chapter commits a summary offense of the **[first] second** degree.

Section 14. This act shall take effect January 1, 1990.

APPROVED—The 22nd day of December, A. D. 1989.

ROBERT P. CASEY