

No. 400

AN ACT

Amending the title and act of May 28, 1931 (P. L. 202), entitled "An act providing for the licensing and regulation of motor boats operated or navigated upon any public stream, artificial or natural body of water, or non-tidal waters of any river within the Commonwealth; conferring powers and imposing duties on certain police officers and the Board of Fish Commissioners, including the enforcement of certain existing laws; and prescribing penalties," further regulating motor boating, prescribing powers and duties of the Navigation Commission for the Delaware River and its navigable tributaries, bringing certain tidal waters within the scope of the act, providing for registration fees and additional penalties, allocating fines, fees and penalties, and making editorial changes.

Motor Boat Law.

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

Title, act of May 28, 1931, P. L. 202, amended.

Section 1. The title, act of May 28, 1931 (P. L. 202), entitled "An act providing for the licensing and regulation of motor boats operated or navigated upon any public stream, artificial or natural body of water, or non-tidal waters of any river within the Commonwealth; conferring powers and imposing duties on certain police officers and the Board of Fish Commissioners, including the enforcement of certain existing laws; and prescribing penalties," is amended to read:

AN ACT

New title.

Providing for the [licensing] *registration* and regulation of motor boats operated or navigated upon any public stream, artificial or natural body of water, or [non-tidal waters of] any river within the Commonwealth; conferring powers and imposing duties on certain police officers, [and the Board of Fish Commissioners] *the Pennsylvania Fish Commission and the Navigation Commission for the Delaware River and its navigable tributaries*, including the enforcement of certain existing laws; *granting powers and imposing duties upon the Department of Revenue*; and prescribing penalties.

Section 1 of act, amended June 21, 1937, P. L. 1984, further amended.

Section 2. Section 1 of the act, amended June 21, 1937 (P. L. 1984), is amended to read:

Section 1. Be it enacted, &c., That the following words and terms, when used in this act, shall have the meanings ascribed to them in this section:

["Board." The Board of Fish Commissioners of the Commonwealth or its duly authorized representative.]

"Commission." *The Pennsylvania Fish Commission of the Commonwealth or its duly authorized representatives.*

“Inland Waters.” Any [public] *non-tidal* stream, river, lake, artificial or natural body of water within the Commonwealth.

“Motor Boat.” Any [boat electrically propelled or any boat propelled by any type of internal combustion motor of one or more cylinders, including any type of water craft propelled by an out-board motor.] *vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except a vessel possessing a valid marine document issued by the Bureau of Customs of the United States or any Federal agency successor thereto, or by any foreign government.*

“Navigation Commission.” *The Navigation Commission for the Delaware River and its navigable tributaries or its authorized representatives.*

“Operate” means to *navigate or otherwise use a vessel.*

“Owner” means a person, other than a lien holder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to the interest of another person reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

“Person.” An individual, copartnership, association, or corporation.

“Tidal Waters.” *All tidal waters of the Delaware River and its navigable tributaries within the Commonwealth of Pennsylvania.*

“Vessel” means every description of watercraft, other than seaplanes, on the water used or capable of being used as a means of transportation on water or on ice, it being the intent that ice boats shall be regarded as watercraft for the purpose of this act, but shall not include foot and hand propelled craft.

The masculine shall include the feminine or neuter and the singular shall include the plural.

Section 3. Section 1.1 of the act is repealed.

Section 1.1 of act repealed.

Section 4. The act is amended by adding, before section 2, a new section to read:

Act amended by adding a new section 1.2.

Section 1.2. (a) *Within the limitations set forth, the Fish Commission is the primary agency for the administration of this act, for orderly administration especially in official contacts with other states and the Federal Government. All reports, including numbered vessels and boating accident reports, shall emanate from the Fish Commission but be based upon such material as the Fish Commission has obtained from the Navigation Commission for the Delaware River and its naviga-*

ble tributaries as to matters which are within the jurisdiction of the latter commission.

(b) *The navigation commission for the Delaware River and its navigable tributaries is authorized to assume concurrent jurisdiction and enforce this act upon the tidal waters of Pennsylvania and is also authorized to accept any additional jurisdictional authority which may be delegated to it by the Fish Commission and which it is granted under this act.*

(c) *There is hereby created in the Fish Commission an Advisory Board for Boating which shall consist of the Secretary of Forests and Waters, or his designate, and the assistant executive director of the Fish Commission in charge of the Watercraft Safety Division, both of whom shall be ex officio members, and five members to be appointed by the Governor who shall be experienced boatmen as evidenced by (1) the ownership of a vessel, and (2) active membership in representative boating associations, yacht clubs, or other similar organizations. As far as possible the members of the board shall be bipartisan and represent the various geographical sections and boating interests of the Commonwealth. The members of the board shall receive no salary or traveling expenses or other reimbursement.*

(d) *The advisory board shall consist of five voluntary members all of whom shall be appointed for terms of office as follows: two members to serve terms of three years, two members to serve terms of four years and one member to serve a term of five years from the first day of February, 1964. Upon expiration of said original terms, subsequent appointments shall be for five years, except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term. The committee shall annually select one of its members as chairman.*

(e) *The committee shall meet at such times as may be specified upon call of the chairman, three members or the commission. The place, date and time of meetings shall be set by the committee in cooperation with commission requests.*

(f) *The assistant director of the Fish Commission in charge of Watercraft Safety Division shall serve as secretary of the board.*

Section 2 of act,
amended.

Section 5. Section 2 of the act is amended to read :

Section 2. It shall be unlawful for any person to operate or navigate, or cause to be operated or navigated, any motor boat upon, over, or through inland or tidal waters unless the [owner of the] boat [possesses a license] is registered and a proper [metallic license plate] registration number is displayed on each side of the bow of

the boat as hereinafter required, and unless the boat is operated or navigated in conformity with the rules and regulations prescribed by the [board] *commission* by authority of this act. *The certificate of registration shall be renewable pocket size and available at all times for inspection on the vessel for which issued whenever such vessel is in operation.*

Section 6. Section 3 of the act, amended May 24, 1951 (P. L. 400) and August 22, 1961 (P. L. 1042), is amended to read:

Section 3 of act, amended May 24, 1951, P. L. 400 and August 22, 1961, P. L. 1042, further amended.

Section 3. A. Any person owning a motor boat and desiring to operate or navigate the boat, or cause it to be operated or navigated, on any inland [water,] or *tidal waters of the Commonwealth of Pennsylvania*, shall make a written application to the Department of Revenue or to any issuing agent authorized by the department, as hereinafter provided, for a [license] *registration* for such boat. Such application shall be made on a form prescribed, prepared, and furnished by the Department of Revenue, and, together with such other information as the [Department of Revenue] *commission* may require, shall state:

[(a)] 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.

[(b)] The size, seating or other capacity, gross weight, and type of the boat.

(c) The type, number of cylinders, the horse power, and maximum speed of the motor, and the type of muffler or under-water exhaust used in connection with such motor.

(d) The engine number of the motor which propels the boat.]

B. Upon receipt of [an] *a signed* application, and upon the payment of [a license fee of one dollar for each cylinder of the motor built in or attached to the boat, or a fee of two dollars in the case of electrically propelled boat,] *an annual registration fee*, and in the event that the [license] *registration* is issued by an issuing agent, a fee of twenty-five cents (25¢) for the use of the issuing agent, the Department of Revenue or its issuing agent shall issue to the applicant owner a [license] *certificate of registration* for his boat [, which shall contain a serial number corresponding with the number on the license issued to the owner, and shall be displayed conspicuously at all times, one on each side of the bow of the boat. Such license shall be used only on the boat the engine of which bears the number set forth in the application]. *The registration number shown on the certificate of regis-*

tration shall be painted on or attached to each side of the bow of the motor boat in order that it may be clearly visible. No other number shall be displayed on the bow. The number shall be maintained in a legible condition. Registration fees for a one-year period shall be four dollars (\$4) for any boat of less than sixteen (16) feet. The annual registration fee for boats of sixteen (16) feet or more in length shall be six dollars (\$6). Watercraft other than motor boats may be similarly registered at the option of the owner.

C. The Department of Revenue may designate as issuing agents the county treasurer or such other persons in each county, as it deems advantageous, to provide for the issuance of motor boat [licenses] *registration* in accordance with the provisions of this section. For services rendered in collecting and paying over such [license] *registration* fees, each issuing agent shall charge and retain an additional fee of twenty-five cents (25¢) from the person securing the [license] *registration*.

D. Every issuing agent [, unless already under bond with the Department of Revenue as an agent for the collection of its moneys,] shall give bond to the Commonwealth, in the sum of one thousand dollars (\$1000), before any supply of [licenses] *registration forms* is delivered to him.

E. Each issuing agent, other than a county treasurer, shall remit all moneys collected for the Commonwealth within five (5) days after the end of each month to the State Treasurer, through the Department of Revenue, together with a copy of a list of [licenses] *registrations* issued during the preceding month.

F. The numbering requirements of this act shall not apply to:

(a) Any boat awarded a number by another state under a numbering system approved by Federal authority for the same period of time during which that state extends a similar reciprocal privilege to boats from this State, but in no event less than ninety (90) days, nor shall such requirements apply to any boat numbered by Federal authority until the expiration date of the Federal numbering.

(b) A foreign vessel temporarily using the waters of this Commonwealth.

(c) A public boat of the United States or State or municipal boat.

(d) A ship's lifeboat.

Sections 4 and 5
of act, amended
June 21, 1937,
P. L. 1984, fur-
ther amended.

Section 7. Sections 4 and 5 of the act, amended June 21, 1937 (P. L. 1984), are amended to read:

Section 4. Dealers' [license plates] *registration numbers*, bearing the additional mark "X," may be

used on any motor boat in the possession of such manufacturer, jobber, or dealer when the boat is being used for demonstration *trial or test* purposes. Application for dealers' [licenses] *registrations* shall be made upon a form provided by the Department of Revenue, and shall set forth the full name and business address of the applicant and such other information as the Department of Revenue shall require, and shall be signed by such manufacturer, jobber or dealer. Upon receipt of the application, and upon the payment of a [license] *registration* fee of five dollars for the initial set and five dollars for each additional set, the Department of Revenue shall issue to the applicant manufacturer, jobber, or dealer a dealer's [license, together with duplicate metallic license plates, which plates shall contain the letter "X" and a serial number corresponding with the number on the license issued to the dealer, and] *registration number which* shall be displayed conspicuously [one] on each side of the bow of the boat being used by the dealer.

Section 5. Dealers' and owners' [license plates] *registrations* shall be valid only for the license year April first of one year to March thirty-first of the succeeding year. [Upon the renewal of a license for any subsequent year, new license plates shall be issued by the department.] *All records relating to registration or numbering made or kept pursuant to this act shall be public records.*

Section 8. Sections 6 and 7 of the act, added May 31, 1933 (P. L. 1122), are amended to read:

Sections 6 and 7 of act, added May 31, 1933, P. L. 1122, amended.

Section 6. Special [licenses and license plates] *registrations* shall be issued free of charge by the Department of Revenue for State owned and operated motor boats.

Section 7. [Upon the transfer of ownership or the destruction of any motor boat, the owner shall remove the license plates therefrom immediately and forward same to Department of Revenue. In the case of transfer of ownership, the facsimile of the license plates of the transferor must be removed. In the event the license plates have been destroyed, a sworn statement to that effect shall be submitted to the Department of Revenue in lieu of the license plates. The owner may transfer license plates to another motor boat which he owns and which is propelled by a motor having the same or less number of cylinders as the one for which the license was originally procured, provided he notifies the Department of Revenue within ten (10) days of such transfer. The notice shall specify the engine number of the motor boat to which the license plates were transferred. Trans-

fer of license plates from a motor boat in one classification to a motor boat of a higher classification is prohibited.]

A. The owner of a vessel numbered in this State pursuant to subsection B of section 3 of this act, or by the Federal Government pursuant to the Federal Boating Act of 1958, shall furnish the Department of Revenue notice of the transfer of all or any part of his interest other than the creation of a security interest in a vessel, or of the destruction, or abandonment of such vessel, within fifteen (15) days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of registration for such vessel, except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of registration.

B. Any holder of a certificate of registration shall notify the Department of Revenue within fifteen (15) days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the Department of Revenue with his new address. The commission shall provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address of the holder.

Section 8 of act,
added May 31,
1933, P. L. 1122,
repealed.

Section 9. Section 8 of the act, added May 31, 1933 (P. L. 1122), is repealed.

Section 9 of act,
amended June 21,
1937, P. L. 1984,
further amended.

Section 10. Section 9 of the act, amended June 21, 1937 (P. L. 1984), is amended to read:

Section 9. No boat propelled by any type of internal combustion motor of one or more cylinders, including out-board motors, shall be operated on any of the inland or tidal waters of the Commonwealth unless the same is equipped with a muffling device supplied by the manufacturer of the motor for that particular model, without modification, to prevent excessive or unusual noise, which shall, at all times, be maintained in good working order. No person shall operate a motor boat with the cut-out open or muffler removed: Provided, That nothing contained in this section shall be construed to require motors to be so muffled when boats are engaged in [legitimate] authorized racing contests or in preparation for the same.

Section 10 of act,
added May 31,
1933, P. L. 1122,
amended.

Section 11. Section 10 of the act, added May 31, 1933 (P. L. 1122), is amended to read:

Section 10. Every owner of a motor boat causing or knowingly permitting any person to operate a motor boat on any inland or tidal waters, and any person who leases or furnishes a motor boat to any other person,

shall be jointly and severally liable with such other person for any damages caused by the negligence of such other person in operating such motor boat.

Section 12. The act is amended by adding, after section 10 thereof, two new sections to read:

Act amended by adding two new sections 10.1 and 10.2.

Section 10.1. (a) The owner of a boat livery shall cause to be kept a legible record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motor-boat, the identification number thereof, and the departure date and time and the expected or actual time of return. This record shall be preserved for at least one year.

(b) Neither the owner of a boat livery nor his agent or employe shall permit any vessel designed or permitted by him to be operated as a motor-boat to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to this act and its implementing regulations.

Section 10.2. (a) No person shall operate any vessel in a negligent manner so as to endanger any other person, vessel or property.

(b) No person shall operate a vessel while intoxicated.

(c) No person shall operate or manipulate any vessel tow rope or other device by which the direction, speed or location of water skis, an aquaplane or similar device may be affected or controlled in such a way as to cause the water skis, aquaplane or similar device, or any person thereon, to collide with or strike against any object or person, or in any way cause damage or injury to said object or person. No person shall violate any safety regulation which has been established by the commission to protect persons or property.

(d) No unauthorized person shall erase, deface, change, paint on, or in any way tamper with any identification number on the bow of a vessel.

(e) The commission may make special or specific rules which may vary from locality to locality to meet local conditions for the regulation of water skiing and aquaplaning and, in addition, may require the presence of two persons in the towing vessel or a wide angle rear view mirror. The provisions of section 11 shall be applicable to these rules.

Section 13. Section 4 of the act, renumbered section 11, and amended May 31, 1933 (P. L. 1122), is amended to read:

Section 4 of act, renumbered 11, and amended May 31, 1933, P. L. 1122, further amended.

Section 11. The [board] *Pennsylvania Fish Commission* is hereby authorized and empowered to prescribe, promulgate, and enforce:

(a) General rules and regulations to be observed in the operation or navigation of motor boats upon, over, or through inland or tidal waters which it shall deem necessary for the public health or the safety of persons or property on or in such waters, or for the preservation of all forms of useful aquatic life, particularly as to speed, [running] lights, signals, courses, channels, rights of way, and the disposal of oil, gas, gasoline, or other wastes from such boats.

(b) Special rules and regulations for such particular, artificial or natural areas of waters, for further limiting or restricting or prohibiting the operation or navigation of motor boats thereon to protect the public health, or to protect and preserve useful aquatic life.

(c) *Rules and regulations governing the numbering of all motor boats, special provisions applicable to livery operators, dealers and manufacturers; the display of numbers, the renewal of certificates or registration; the notices required in event of transfer of ownership, transfer of interest, abandonment or destruction of numbered vessels, and changes in owner's address; the procedures to be followed and information to be furnished by owners or operators of vessels involved in reportable boating accidents; the compilation and release of statistics on accidents and vessels numbered; safety equipment; and governing operation of vessels, including water skiing, the issuance of permits for races, regattas and marine parades: Provided, That such rules and regulations are not in conflict with Federal laws, rules and regulations on the same subject matter.*

(d) *The commission shall issue uniform numbering, safety equipment and operating regulations for vessels subject to this act. However, for regulations on tidal waters, concurrence of the Navigation Commission for the Delaware River and its navigable tributaries shall be obtained. In the case of numbering regulations, the concurrence of the Department of Revenue shall be obtained. The numbering system to be used shall conform to the system promulgated by the Federal Government.*

(e) *On any proposed regulations affecting the equipment and/or operation of any vessel subject to this act, the commission shall solicit the advice and opinions of the advisory board.*

(f) *A copy of the regulations adopted pursuant to this act and of any amendments thereto shall be filed in the office of the Secretary of the Commonwealth. A copy of any regulations or amendments thereto shall be furnished by the commission to any person requesting it.*

(g) *While recognizing the unusual situation surrounding water navigation in the tidal area under the*

jurisdiction of the Navigation Commission for the Delaware River and its navigable tributaries, it is the intent of the Legislature that there be, so far as practicable, uniformity of regulations, requirements, procedures, reports and methods with respect to the numbering, operation and equipment for the safety of life and property of all vessels which may be within the jurisdiction of either the Fish Commission or the Navigation Commission for the Delaware River and its navigable tributaries, that the highest degree of cooperation shall exist between these agencies, and that to the fullest extent possible they shall foster the development, use and enjoyment of all the waters of the Commonwealth of Pennsylvania.

(h) All net fees, fines and penalties collected on boats owned by residents of the Counties of Bucks, Delaware and Philadelphia in the Commonwealth of Pennsylvania are hereby appropriated to the Navigation Commission for the Delaware River and its navigable tributaries for that commission's use in administering its responsibilities under this act.

Section 14. Sections 5 and 6 of the act, renumbered sections 12 and 13, and amended May 31, 1933 (P. L. 1122), are repealed.

Sections 5 and 6 of act, renumbered 12 and 13, amended May 31, 1933, P. L. 1122, repealed.

Section 15. The act is amended by adding, immediately before section 14, a new section to read:

Act amended by adding a new section 13.1.

Section 13.1. (a) The commission is hereby empowered, and its duty shall be, to supervise the administration and the enforcement of the provisions of this act, the rules and regulations prescribed and promulgated hereunder, and any existing laws regulating the operation and equipment of vessels whenever such vessels are operated on any waters of this Commonwealth, the establishment of educational programs and the improvement of waterway facilities, including aids to navigation. It is the intent of this section that the commission shall cooperate to the fullest extent feasible with the boating agencies of other states, to promote uniformity of rules and navigation aids and to facilitate safe unhindered movement of vessels between states.

(b) The assistant executive director of the Fish Commission in charge of the Watercraft Safety Division, provided for in section 249 of "The Fish Law of 1959," shall direct, administer and coordinate the activities of enforcement, regulations and records, improving and maintaining the waterway facilities, including aids to navigation, accounting and contracting and educational programs, and shall cooperate with the chief law enforcement officer of the Fish Commission. He shall reside in Pennsylvania and have at least a college degree

or ten years' administrative experience and five or more years of ship or motorboat experience.

(c) Any person employed or elected by this Commonwealth or by any county, municipality or township, whose duty it is to preserve the peace or to make arrests or to enforce the law, including, but not limited to, members of the Pennsylvania State Police, game, fish or forest wardens, or deputies or other qualified persons, may, on the recommendation of the assistant executive director be designated and empowered by the commission to enforce the provisions of this act.

(d) Every person designated to enforce the provisions of this act shall have the authority to stop and board any vessel subject to this act for the purpose of inspection or compliance with this act, and is empowered to issue a summons for appearance in court or before a magistrate for all violations of this act or of the rules and regulations prescribed hereunder, which they may witness: Provided, That any vessel lying at its regular mooring or berth shall not be boarded without the owner's permission or a legal search warrant. Vessels of enforcement personnel shall be marked to identify them as State boat patrols.

(e) Any power, duty or jurisdiction conferred or imposed by this act shall be deemed to be supplemental to any existing power, duty or jurisdiction conferred or imposed by law on any other administrative department, board or commission of the Commonwealth over, upon or in any waters of this Commonwealth, and it shall be the duty of every such department, board or commission to cooperate with the commission and the assistant executive director in carrying out the purposes of this act.

(f) The services of other departments of the Commonwealth of Pennsylvania may be used by the assistant executive director to accomplish any of the provisions of this act. If there is adequate efficiency by so doing, the various departments and commissions shall cooperate to the maximum extent that is feasible.

(g) The commission shall have authority to inaugurate a comprehensive boating safety and boating educational program and to seek the cooperation of organized boatmen, the Federal Government and other states. The commission may issue safety certificates to adults and minors who complete courses in boating safety education.

Sections 7 and 8 of act, renumbered 14 and 15, and amended May 31, 1933, P. L. 1122, further amended.

Section 16. Sections 7 and 8 of the act, renumbered sections 14 and 15 and amended May 31, 1933 (P. L. 1122), are amended to read:

Section 14. All [license] registration fees, fines and penalties, collected or received under the provisions of

this act, shall be paid into the State Treasury, through the Department of Revenue, and credited to the [Fish Fund] *Boating Fund of the Fish Commission with the exception of such sums resulting from application of the provisions of subsection (h) of section 11 of this act. All moneys received under the provisions of this act shall be expended for the purposes of the act and shall be shown in detail by the respective commissions receiving such funds in every annual report or annual statement rendered by them.*

Section 15. Any person violating any provision of this act, or any rule or regulation prescribed by the [board] *commission* under this act, shall, upon conviction thereof in a summary proceeding before a justice of the peace, alderman or magistrate, be sentenced to pay a fine of not less than five dollars and costs, nor more than one hundred dollars and costs, or, in default of payment thereof, thirty days in jail; and, in addition, the Department of Revenue may revoke the [license] *registration* issued for the motor boat used by such person.

Section 17. The act is amended by adding, after section 15, two new sections to read:

Act amended by adding two new sections 15.1 and 15.2.

Section 15.1. Any person who shall by threat, menace or force or in any manner attempt to deter or prevent any person authorized to make arrests for violation of the motor boat laws or regulations from enforcing or carrying into effect any provisions of this act, or who shall resist the inspection of his registration card or boat, or seizure of boats illegally used, shall, on conviction thereof as provided in the motor boat laws be sentenced to pay a fine of one hundred dollars (\$100) and costs of prosecution, or to undergo imprisonment for one hundred (100) days, or both.

Section 15.2. This act shall be known and may be cited as the "Motor Boat Law."

Section 18. This act shall take effect February 1, 1964.

Effective date.

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 401

AN ACT

Amending the act of June 24, 1895 (P. L. 212), entitled "An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its rela-