

No. 2002-199

## AN ACT

SB 463

Amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further defining "passenger-carrying boat"; requiring the establishment of a mandatory boater education program; and fixing additional fees.

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

Section 1. The definition of "passenger-carrying boat" in section 102 of Title 30 of the Pennsylvania Consolidated Statutes is amended to read:  
§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

"Passenger-carrying boat." Any boat that carries more than six passengers either for hire or as part of a commercial enterprise. The following persons shall not be counted in determining the number of passengers:

- (1) The owner or his representative.
- (2) The operator and bona fide members of the crew who have contributed no consideration for their carriage and who may be paid for their services.
- (3) Any guest on board a boat used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage when there are no other passengers on board who have paid any such consideration and when only the owner or owners of the boat are bearing the costs of operating the boat.

*The term shall not include any boat operated exclusively as a part of a cavern operation.*

\* \* \*

Section 2. Section 5103 of Title 30 is amended to read:  
§ 5103. Boating education [programs].

[The commission may inaugurate a comprehensive boating safety and boating educational program and seek the cooperation of organized boaters, the Federal Government and other states. The commission may issue safety certificates to adults and minors who complete courses in boating safety education.]

(a) *Mandatory program of boater education.—Except as otherwise provided in this section, on or after January 1, 2003, any person born on*

or after January 1, 1982, shall not operate, on the waters of this Commonwealth, a motorboat without first obtaining a certificate of boating safety education.

**(b) Compliance.**—Any person who is subject to the provisions of subsection (a) shall:

(1) possess the certificate of boating safety education when operating a vessel on waters of this Commonwealth; and

(2) show the certificate on the demand of a waterways conservation officer or other law enforcement officer.

**(c) Exemptions.**—The following persons are exempt from the requirements of this section:

(1) A person who is a resident of another state and who is visiting this Commonwealth for 60 days or less in a motorboat that is registered in another state if:

(i) the person was born before January 1, 1982; or

(ii) the person has been issued a license or boating safety education certificate in accordance with the provisions of subsection (i).

(2) A person who is visiting this Commonwealth for 90 days or less in a motorboat from a country other than the United States.

(3) A landowner or a member of the landowner's immediate family operating a motorboat on waters located wholly within property owned by the landowner where there is no publicly owned or publicly maintained access to those waters.

(4) A person who operates a motorboat powered by an electric motor or by an internal combustion motor of 25 horsepower or less.

(5) Any other person exempted by regulation of the commission.

**(d) Operational requirements.**—When a motorboat is operated for pleasure on the waters of this Commonwealth, the operator of that vessel shall:

(1) possess the certificate of boating safety education; or

(2) be exempt from the certification requirements of subsection (a).

**(e) Commission duties.**—The commission shall:

(1) Promulgate regulations that establish criteria for a course of instruction in boating safety education.

(2) Administer a written or verbal test when appropriate.

(3) Coordinate a Statewide program of boating safety instruction and certification at such times and locations to make courses convenient for residents of various counties and to maximize attendance.

(4) Issue a certificate of boating safety education to a person who:

(i) passes a commission-approved course in boating safety education; and

(ii) pays the fee set forth in section 5104 (relating to fees).

*(5) Provide boating safety education materials to persons who plan to take the boating safety course.*

*(6) Replace a lost or destroyed certificate.*

*(7) Establish reasonable charges for persons who take boating safety education courses conducted by the commission or commission volunteers. Such charges shall bear a reasonable relationship to the costs of providing the course and the course materials.*

*(f) Additional sources of instruction.—If approved by the commission, any of the following may offer the course of instruction in boating safety education:*

*(1) The commission.*

*(2) The United States Coast Guard Auxiliary.*

*(3) The United States Power Squadron.*

*(4) A political subdivision.*

*(5) A municipal corporation.*

*(6) An agency.*

*(7) A public or nonpublic school.*

*(8) A group.*

*(9) A firm.*

*(10) An association.*

*(11) Any other person.*

*(g) Validity of certificate.—The certificate of boating safety education, once issued, shall be valid for the lifetime of the person to whom it was issued.*

*(h) Temporary certificates.—The commission or its designee may issue a 60-day temporary certificate of boating safety education to a person who has successfully completed a boating safety education course approved by the commission.*

*(i) Other valid documentation.—*

*(1) In lieu of a certificate of boating safety education issued by the Commonwealth, a certificate of boating safety education issued in another state in accordance with criteria of the National Association of State Boating Law Administrators is sufficient to comply with the requirements of this section.*

*(2) In lieu of a certificate of boating safety education issued by the commission, a license issued by the United States Coast Guard is sufficient to comply with the requirements of this section.*

*(j) Penalty.—On or after January 1, 2003, a person who is subject to the provisions of subsection (a) and who operates, on waters of this Commonwealth, a motorboat in violation of any requirement of this section commits a summary offense of the second degree.*

*(k) Others subject to mandatory education requirements.—Notwithstanding any other provision of this section, it is unlawful for a person to operate a watercraft on the waters of this Commonwealth without completing a boat safety education course when:*

**(1) A person convicted on one or more boating violations concerning the operation of, or safety equipment on, a watercraft is required as a condition of probation or sentencing to successfully complete a boating safety education course that is offered or approved by the commission.**

**(2) A person is convicted of any of the following boating safety violations in the operation of a watercraft:**

**(i) negligent operation;**

**(ii) reckless operation; or**

**(iii) operating under the influence of alcohol, any controlled substance, combination of controlled substances or combination of controlled substances and alcohol in violation of this title.**

**(3) If a person convicted of the offenses described in paragraph (1) or (2) had, prior to the date of the conviction, previously completed a boating safety education course or obtained a boating safety certificate, such person shall, prior to operating a watercraft on the waters of this Commonwealth, be required to complete an additional boating safety education course.**

Section 3. Section 5104 introductory paragraph of Title 30 is amended and the section is amended by adding paragraphs to read:

§ 5104. Fees.

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

\* \* \*

**(10) Boating safety education certificate, \$10.**

**(11) Replacement boating safety education certificate, \$5.**

Section 4. This act shall take effect in 60 days.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER