

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. ^{Com. Sub. pr} 182

(By Mr. Gaer original sponsor)

PASSED March 10, 1967

In Effect July 1, 1967 ~~Passage~~

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67

#182

ENROLLED
NATURAL RESOURCES
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 182
(MR. GAINER original sponsor)

[Passed March 10, 1967; in effect July 1, 1967.]

AN ACT to repeal sections thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-five of article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article seven, chapter twenty of said code, by adding thereto thirteen new sections, designated sections eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, and twenty-three, all relating to motorboating.

Be it enacted by the Legislature of West Virginia:

That sections thirteen through twenty-five, all of article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that article seven of said code be amended by adding thereto thirteen new sections, designated sections eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three all to read as follows:

ARTICLE 7. LAW ENFORCEMENT, PROCEDURES AND PENALTIES.

§20-7-11. Motorboats and other terms defined.

As used in this section and subsequent sections of this article, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

"Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a

10 valid marine document issued by the bureau of customs
11 of the United States government or any federal agency
12 successor thereto, nor to a vessel powered by a motor of
13 five horsepower or less; and

14 (3) "Owner" means a person, other than a lienholder,
15 having the property in or title to a motorboat. The term
16 includes a person entitled to the use or possession of a
17 motorboat subject to an interest in another person, re-
18 served or created by agreement and securing payment or
19 performance of an obligation, but the term excludes a
20 lessee under a lease not intended as security.

**§20-7-12. Motorboat identification numbers required; applica-
tion for numbers; fee; displaying; reciprocity; change
of ownership; conformity with U. S. regulations; issu-
ing agents; records; renewal of certificate; transfer of
interest, abandonment, etc.; change of address; un-
authorized numbers; information to be furnished
assessors.**

Every motorboat, as herein defined, operating upon
2 public waters within the territorial limits of this state,
3 shall be numbered as herein provided:

4 (a) The owner of each motorboat requiring number-
5 ing by this state shall file an application for a number
6 with the director on forms approved by him. The appli-
7 cation shall be signed by the owner of the motorboat and
8 shall be accompanied by a fee of five dollars. All such
9 fees shall be deposited in the state treasury to the credit
10 of the state general fund. Upon receipt of the application
11 in approved form, the director shall enter the same upon
12 the records of his office and issue to the applicant a
13 number awarded to the motorboat and the name and
14 address of the owner. The owner shall paint on or attach
15 to each side of the bow of the motorboat the identification
16 number in such manner as may be prescribed by rules
17 and regulations of the director in order that it may be
18 clearly visible. The number shall be maintained in
19 legible condition. The certificate of number shall be
20 pocket size and shall be available at all times for inspec-
21 tion on the motorboat for which issued, whenever such
22 such motorboat is in operation.

23 (b) The owner of any motorboat already covered by
24 a number in full force and effect which has been awarded

25 to it pursuant to then operative federal law or a federally-
26 approved numbering system of another state shall record
27 the number prior to operating the motorboat on the
28 waters of this state in excess of the ninety-day reciprocity
29 period provided for in section fourteen of this article.
30 such recordation shall be in the manner and pursuant to
31 procedure required for the award of a number under
32 subsection (a) of this section, except that no additional
33 or substitute number shall be issued.

34 (c) Should the ownership of a motorboat change, a
35 new application form with fee shall be filed with the
36 director and a new certificate of number shall be awarded
37 in the same manner as provided for in an original award
38 of number.

39 (d) In the event that an agency of the United States
40 government shall have in force an over-all system of
41 identification numbering for motorboats within the United
42 States, the numbering system employed pursuant to this
43 article by the commission shall be in conformity there-
44 with.

45 (e) The director may designate as issuing agent the

46 clerk of any county court and such other persons in each
47 county as he deems advantageous to provide for the
48 issuance of certificates of number in accordance with the
49 provisions of this article. For services rendered in issuing
50 such certificates, and collecting and paying over such
51 numbering fees, each issuing agent, other than a state
52 or county official, shall charge and retain an additional
53 fee of twenty-five cents from the person obtaining the
54 certificate of number. Every such issuing agent, unless
55 already under bond with the director as an agent for the
56 collection of its moneys, shall file a bond with the director,
57 payable to the state of West Virginia, in an amount to be
58 fixed by the director at not more than one thousand dol-
59 lars, before the supply of certificates of number is deliv-
60 ered to him, conditioned upon the faithful performance
61 of his obligation to issue certificates only in conformance
62 with the provisions of this article and the regulations
63 of the director. Each issuing agent, on the first day of
64 each month, shall remit to the director all moneys col-
65 lected for the director during the preceding month, and
66 shall accompany his remittance with a report showing

67 the name of the county, the names and addresses of the
68 persons paying the same, and the date of receipt thereof.

69 (f) All records of the director made or kept pursuant
70 to this section shall be public records.

71 (g) Such license shall be valid only until the last day
72 of the fiscal year in which the same is issued. If at the
73 end of such year ownership has remained unchanged, such
74 owner shall, upon application and payment of a fee of two
75 dollars, be granted a renewal of such certificate of num-
76 ber for an additional one-year period.

77 (h) The owner shall furnish the director notice of
78 the transfer of all or any part of his interest, other than
79 the creation of a security interest, in a motorboat num-
80 bered in this state pursuant to subsections (a) and (b)
81 of this section, or of the destruction or abandonment of
82 such motorboat, within fifteen days thereof. Such trans-
83 fer, destruction or abandonment shall terminate the cer-
84 tificate of number for such motorboat, except that in the
85 case of a transfer of a part interest which does not affect
86 the owner's right to operate such motorboat, such transfer
87 shall not terminate the certificate of number.

88 (i) Any holder of a certificate of number shall notify
89 the director within fifteen days if his address no longer
90 conforms to the address appearing on the certificate and
91 shall, as a part of such notification, furnish the director
92 with his new address. The director may provide in his
93 rules and regulations for the surrender of the certificate
94 bearing the former address and its replacement with a
95 certificate bearing the new address or for the alteration
96 of an outstanding certificate to show the new address of
97 the holder.

98 (j) No number other than the number awarded to a
99 motorboat or granted reciprocity pursuant to this article
100 shall be painted, attached or otherwise displayed on
101 either side of the bow of such motorboat.

102 (k) It shall be the duty of the director on or before
103 August thirty-first of each year, commencing with the
104 year one thousand nine hundred sixty-seven, to forward
105 to the assessor of each county a list of the names and
106 addresses of all persons, firms and corporations owning
107 vessels and operating the same or other boats registered
108 with the director under the provisions of this article. In

109 furnishing this information to each county assessor, the
110 director shall include in his report such information as
111 is made available to him in the reports and registra-
112 tions he receives as to make, model, value and cost price
113 of such vessels and other equipment required to be reg-
114 istered for use by said owner or operator thereof under
115 the provisions of this article: *Provided*, That the director
116 need not furnish such information to the assessor if the
117 cost price of such vessel does not exceed two hundred
118 dollars or the cost of the motor does not exceed one
119 hundred seventy-five dollars. In order to deal equitably
120 with overlapping license periods, the director may issue
121 a six months' license from the period January, one thou-
122 sand nine hundred sixty-eight through June, one thou-
123 sand nine hundred sixty-eight. This six months' license
124 is to be issued to avoid the necessity of motorboat owners
125 who have purchased their licenses from January thirtieth,
126 one thousand nine hundred sixty-eight, losing a six
127 months period of license entitlement.

128 (1) No person shall operate an unlicensed motorboat
129 upon any waters of this state without first acquiring such
130 certificate of number or license as required by law.

§20-7-13. Motorboat classification; required lights and equipment; rules and regulations; pilot rules.

(a) Motorboats subject to the provisions of this article

2 shall be divided into four classes as follows:

3 Class A. Less than sixteen feet in length;

4 Class 1. Sixteen feet or over and less than twenty-six
5 feet in length;

6 Class 2. Twenty-six feet over and less than forty feet
7 in length;

8 Class 3. Forty feet or over.

9 (b) Classes 1, 2 and 3 motorboats in all weathers from
10 sunset to sunrise shall carry and exhibit the following
11 lights when under way, and during such time no other
12 lights which may be mistaken for those prescribed shall
13 be exhibited.

14 (1) Every motorboat of Class 1 shall carry the follow-
15 ing lights:

16 First. A bright white light aft to show all around the
17 horizon;

18 Second. A combined lantern in the fore part of the
19 vessel and lower than the white light aft, showing green

20 to starboard and red to port, so fixed as to throw the
21 light from right ahead to two points abaft the beam on
22 their respective sides.

23 (2) Every motorboat of Classes 2 and 3 shall carry
24 the following lights:

25 First. A bright white light in the fore part of the
26 vessel as near the stem as practicable, so constructed as to
27 show an unbroken light over an arc of the horizon of
28 twenty points of the compass, so fixed as to throw the
29 light ten points on each side of the vessel; namely, from
30 right ahead to two points abaft the beam on either side;

31 Second. A bright white light aft to show all around the
32 horizon and higher than the white light forward;

33 Third. On the starboard side a green light so con-
34 structed as to show an unbroken light over an arc of the
35 horizon of ten points of the compass, so fixed as to throw
36 the light from right ahead to two points abaft the beam
37 on the starboard side. On the port side a red light so
38 constructed as to show an unbroken light over an arc of
39 the horizon of ten points of the compass, so fixed as to
40 throw the light from right ahead to two points abaft the

41 beam on the port side. The said side lights shall be fitted
42 with inboard screens of sufficient height so set as to pre-
43 vent these lights from being seen across the bow.

44 (3) Motorboats of Class 1 when propelled by sail alone
45 shall carry the combined lantern, but not the white light
46 aft, prescribed by this section. Motorboats of Classes 2
47 and 3 when so propelled, shall carry the colored side
48 lights, suitably screened, but not the white lights, pre-
49 scribed by this section. Motorboats of all classes, when
50 so propelled, shall carry, ready at hand, a lantern or
51 flashlight showing a white light which shall be exhibited
52 in sufficient time to avert collision.

53 (4) Every white light prescribed by this section shall
54 be of such character as to be visible at a distance of at
55 least two miles. Every colored light prescribed by this
56 section shall be of such character as to be visible at a
57 distance of at least one mile. The word "visible" in this
58 subsection, when applied to lights, shall mean visible on
59 a dark night with clear atmosphere.

60 (5) When propelled by sail and machinery any motor-
61 boat shall carry the lights required by this section for a
62 motorboat propelled by machinery only.

63 (c) Any vessel may carry and exhibit the lights re-
64 quired by the federal regulations for preventing collisions
65 at sea, one thousand nine hundred forty-eight, federal act
66 of October eleven, one thousand nine hundred fifty-one,
67 as amended, in lieu of the lights required by subsection
68 (b) of this section.

69 (d) Every motorboat of Class 1, 2 or 3 shall be pro-
70 vided with an efficient whistle or other sound-producing
71 mechanical appliance.

72 (e) Every motorboat of Class 2 or 3 shall be provided
73 with an efficient bell.

74 (f) Every motorboat shall carry at least one life pre-
75 server, or life belt, or ring buoy, or other device of the
76 sort prescribed by regulations of the commission for each
77 person on board, so placed as to be readily accessible:
78 *Provided*, That every motorboat carrying passengers for
79 hire shall carry so placed to be readily accessible at least
80 one life preserver of the sort prescribed by the regula-
81 tions of the director for each person on board.

82 (g) Every motorboat shall be provided with such
83 number, size and type of fire extinguishers, capable of

84 promptly and effectually extinguishing burning gasoline,
85 as may be prescribed by the regulations of the director,
86 which fire extinguishers shall be at all times kept in con-
87 dition for immediate and effective use and shall be so
88 placed as to be readily accessible.

89 (h) The provisions of subsections (d), (e) and (g)
90 of this section shall not apply to motorboats while com-
91 peting in any race conducted pursuant to section twenty
92 of this article, or, if such boats be designed and intended
93 solely for racing while engaged in such navigation as is
94 incidental to the tuning up of the boats and engines for
95 the race.

96 (i) Every motorboat shall have the carburetor or
97 carburetors of every engine therein (except outboard
98 motors) using gasoline as fuel, equipped with such effi-
99 cient flame arrestor, backfire trap, or other similar device
100 as may be prescribed by regulations of the director.

101 (j) Every such motorboat and every such vessel, ex-
102 cept open boats using as fuel any liquid of a volatile
103 nature, shall be provided with such means as may be pre-
104 scribed by the regulations of the director for properly

105 and efficiently ventilating the bilges of the engine and
106 fuel tank compartments so as to remove any explosive
107 or inflammable gases.

108 (k) The director is hereby authorized to make rules
109 and regulations modifying the equipment requirements
110 contained in this section to the extent necessary to keep
111 these requirements in conformity with the provisions of
112 the federal navigation laws or with the navigation rules
113 promulgated by the United States coast guard.

114 (1) The director is hereby authorized to establish and
115 maintain, for the operation of vessels on the waters of
116 this state, pilot rules in conformity with the pilot rules
117 contained in the federal navigation laws or the naviga-
118 tion rules promulgated by the United States coast guard.

119 (m) No person shall operate or give permission for
120 the operation of a vessel which is not equipped as re-
121 quired by this section or modification thereof.

§20-7-14. Motorboats exempt from numbering.

A motorboat shall not be required to be numbered
2 under this article if it is:

3 (1) Already covered by a number in full force and

4 effect which has been awarded to it pursuant to federal
5 law or a federally-approved numbering system of an-
6 other state: *Provided*, That such boat shall not have been
7 within this state for a period in excess of ninety con-
8 secutive days;

9 (2) A motorboat from a country other than the United
10 States temporarily using the waters of this state;

11 (3) Motorboats used exclusively for racing while par-
12 ticipating in races, and the preparation therefor, which
13 have been authorized pursuant to the provisions of sec-
14 tion twenty of this article.

**§20-7-15. Dealers' and manufacturers' certificate of number;
applications and fees.**

Dealers' and manufacturers' certificate of number, con-
2 taining the word "manufacturer" or "dealer", as appro-
3 priate, may be used in connection with the operation of
4 any motorboat in the possession of such dealer or manu-
5 facturer, when the boat is being used for demonstrative
6 purposes. Application for a dealer's or manufacturer's
7 certificate of number shall be made upon a form pro-
8 vided by the director and shall contain such informa-

9 tion as may be required by the director. Upon receipt of
10 the application and upon payment of a fee of five dollars
11 for the initial certificate of number, and five dollars for
12 each additional certificate of number, the director shall
13 issue to the applicant a manufacturer's or dealer's cer-
14 tificate of number which shall contain the word "manu-
15 facturer" or "dealer" in lieu of a description of the boat.
16 The manufacturer or dealer may have the number
17 awarded to him printed upon or attached to a removable
18 sign or signs to be temporarily but firmly mounted upon
19 or attached to the boat being demonstrated, so long as the
20 display meets the requirements of the provisions of this
21 article and regulations issued hereunder.

§20-7-16. Boat liveries.

(a) The owner of a boat livery shall cause to be kept
2 a record of the name and address of the person or per-
3 sons hiring any vessel which is designed or permitted by
4 him to be operated as a motorboat, identification number
5 thereof, and the departure date and time, and the ex-
6 pected time of return. The record shall be preserved for
7 at least six months.

8 (b) Neither the owner of a boat livery, nor his agent
9 or employee, shall permit any motorboat or any vessel
10 designed or permitted by him to be operated as a motor-
11 boat to depart from his premises unless it shall have
12 been provided, either by owner or renter, with the equip-
13 ment required pursuant to section thirteen of this article
14 and any rules and regulations made pursuant thereto.

§20-7-17. Motorboat muffling.

The exhaust of every internal combustion engine used
2 on any motorboat shall be effectively muffled by equip-
3 ment so constructed and used as to muffle the noise of
4 the exhaust in a reasonable manner. The use of cutouts
5 is prohibited, except for motorboats competing in a
6 regatta or boat race approved as provided in section
7 twenty of this article, and for such motorboats while on
8 trial runs during a period not to exceed seventy-two
9 hours immediately preceding such regatta or race, and for
10 such motorboats while competing in official trials for
11 speed records during a period not to exceed seventy-two
12 hours immediately following such regatta or race.

**§20-7-18. Care in handling watercraft; prohibited operation;
duty to render aid in collision, accident or casualty;
reports.**

(a) No person shall operate any motorboat or vessel,
2 or manipulate any water skis, surfboard, or similar de-
3 vice in a reckless or negligent manner so as to endanger
4 the life, limb or property of any person.

(b) No person shall operate any motorboat or vessel,
6 or manipulate any water skis, surfboard or similar de-
7 vice while intoxicated or under the influence of any nar-
8 cotic drug, barbiturate or marijuana.

(c) It shall be the duty of the operator of a vessel
10 involved in a collision, accident or other casualty, so for
11 as he can do so without serious danger to his own vessel,
12 crew and passengers (if any), to render to other persons
13 affected by the collision, accident or other casualty such
14 assistance as may be practicable and as may be necessary
15 in order to save them from or minimize any danger caused
16 by the collision, accident or other casualty, and also to
17 give his name, address and identification of his vessel in
18 writing to any person injured and to the owner of any

19 property damaged in the collision, accident or other
20 casualty.

21 (d) In the case of collision, accident or other casualty
22 involving a vessel, the operator thereof, if the collision,
23 accident or other casualty results in death or injury to
24 person or damage to property in excess of one hundred
25 dollars, shall file with the director a full description of
26 the collision, accident or other casualty, including such
27 information as the director may, by regulation, require.
28 In accordance with any request duly made by an author-
29 ized official or agency of the United States, any informa-
30 tion compiled or otherwise available to the director pur-
31 suant to this subsection shall be transmitted to such
32 official or agency of the United States.

§20-7-19. Water skiing and surfboarding.

(a) No person shall operate a vessel on any waters
2 of this state towing a person or persons on water skis,
3 surfboard or similar device, nor shall any person engage
4 in water skiing, surfboarding or similar activity at any
5 time between the hours from one hour after sunset to
6 one hour before sunrise.

7 (b) The provisions of subsection (a) of this section
8 do not apply to a performer engaged in a professional
9 exhibition or a person or persons engaged in an activity
10 authorized under section twenty of this article.

11 (c) No person shall operate or manipulate any vessel,
12 tow rope or other device by which the direction or loca-
13 tion of water skis, surfboard or similar device may be
14 affected or controlled in such a way as to cause water
15 skis, surfboard or similar device, or any person thereon
16 to collide with or strike against any object or person.

**§20-7-20. Regattas, races and exhibitions; applications and
permits.**

(a) The department may authorize the holding of
2 regattas, motorboat or other boat races, marine parades,
3 tournaments or exhibitions on any waters of this state.
4 It shall adopt and may from time to time amend regu-
5 lations concerning the safety of motorboats and other
6 vessels and persons thereon, either observers or partici-
7 pants. Whenever a regatta, motorboat or other boat race,
8 marine parade, tournament or exhibition is proposed to
9 be held, the person in charge thereof, shall, at least fifteen

10 days prior thereto, file an application with the director
11 for permission to hold such regatta, motorboat or other
12 boat race, marine parade, tournament or exhibition. The
13 application shall set forth the date, time and location
14 where it is proposed to hold such regatta, motorboat or
15 other boat race, marine parade tournament or exhibition
16 and it shall not be conducted without authorization of
17 the director in writing.

18 (b) The provisions of this section shall not exempt
19 any person from compliance with the applicable federal
20 law or regulation, but nothing contained herein shall be
21 construed to require the securing of a state permit pur-
22 suant to this section if a permit therefor has been obtained
23 from an authorized agency of the United States.

**§20-7-21. Responsibility of owner, etc., for incapable operators
of motorboats.**

No person who is the owner of any motorboat, or has
2 such in his charge or control, shall act or permit the same
3 to be operated by any person who, by reason of any
4 physical or mental disability, is incapable of operating
5 such motorboat under all the prevailing circumstances.

**§20-7-22. General rules and regulations for motorboating;
special rules.**

The director is hereby authorized and empowered to
2 prescribe and to enforce;

3 (a) General rules and regulations to be observed in
4 the operation or navigation of motorboats upon, over or
5 through the waters of this state which he shall deem
6 necessary for the public health or safety of persons or
7 property on or in such waters, or for the preservation
8 of all forms of useful aquatic life, particularly as to
9 speed, running, lights, signals, courses, channels, rights
10 of way, and the disposal of oil, gas, gasoline or other
11 wastes from such boats;

12 (b) Special rules and regulations for such particular,
13 artificial or natural areas of water, for further limiting,
14 restricting or prohibiting the operation or navigation of
15 motorboats thereon to protect the public health or to
16 protect and preserve useful aquatic life.

§20-7-23. Local rules and regulations.

(a) The provisions of this article, and of other appli-
2 cable laws of this state, shall govern the operation, equip-

3 ment, numbering and all other matters relating thereto
4 whenever any vessel shall be operated on the waters of
5 this state, or when any activity regulated by this article
6 shall take place thereon, but nothing in this article shall
7 be construed to prevent the adoption of any ordinance
8 or local law relating to operation and equipment of vessels
9 the provisions of which are identical to the provisions of
10 this article, amendments thereto or regulations issued
11 thereunder: *Provided*, That such ordinances or local laws
12 shall be operative only so long as and to the extent that
13 they continue to be identical to provisions of this article,
14 amendments thereto or regulations issued thereunder.

15 (b) Any subdivision of this state may, at any time,
16 but only after public notice, make formal application to
17 the director for special rules and regulations with ref-
18 erence to the operation of vessels on any waters within
19 its territorial limits and shall set forth therein the reasons
20 which make such special rules or regulations necessary
21 or appropriate.

22 (c) The director is hereby authorized to make special
23 rules and regulations with reference to the operation of

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24 vessels on any waters within the territorial limits of any

25 subdivision of this state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tomper
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

Howard Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

The within *approved* this the *21*
day of *March*, 1967.

Street C. Smith
Governor

PRESENTED TO THE
GOVERNOR

Date 3/31/67

Time 2:20 PM