WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 461

(By Mr. M. D. Baker of Pendleton and...) M. D. BAKER

PASSED March 12, 1959

In Effect July 1, 1959

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JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

House Bill No. 461
(By Mr. McCoy, of Pendleton, and Mr. Baker)

[Passed March 12, 1959; in effect July 1, 1959.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve, relating to the use, identification number, operation and equipment of vessels on any public waters within the territorial limits of this state, and authorizing the conservation commission of this state and the director thereof to exercise the powers granted by this article, and prescribing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve, to read as follows:

Section 1. Declaration of Policy.—It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

Sec. 2. Definitions.—As used in 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.

(2) “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 valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto, nor to a vessel powered by a motor of five horse-power or less.

(3) “Owner” means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, re-
served 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.

(4) "Waters of this state" means any public waters
within the territorial limits of this state.

(5) "Person" means an individual, partnership, firm,
corporation, association, or other entity.

(6) "Operate" means to navigate or otherwise use a
motorboat or a vessel.

(7) "Commission" means the conservation commission
of West Virginia.

(8) "Director" means the director of conservation of
the conservation commission of West Virginia.

Sec. 3. Additional Powers and Duties of the Director
and the Commissioner.—The director, in addition to the
other powers and duties granted by this chapter, shall
have the authority to exercise the powers granted by
this article, and the commission shall act as an advisory
body to the director in the exercise of the powers granted
by the provisions hereof as provided in section eleven,
article one of this chapter.
Sec. 4. Identification Number.—(a) The owner of each motorboat requiring numbering by this state shall file an application for a number with the director on forms approved by him. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of five dollars. All such fees shall be deposited in the state treasury to the credit of the conservation fund. Upon receipt of the application in approved form, the director shall enter the same upon the records of his office and issue to the applicant a license and a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the director in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

(b) The owner of any motorboat already covered by
a number in full force and effect which has been awarded
to it pursuant to then operative federal law or a federally-
approved numbering system of another state shall record
the number prior to operating the motorboat on the waters
of this state in excess of the ninety day reciprocity period
provided for in section six, subsection one of this article.
Such recordation shall be in the manner and pursuant to
the procedure required for the award of a number under
subsection (a) of this section, except that no additional
or substitute number shall be issued.
(c) Should the ownership of a motorboat change, a
new application form with fee shall be filed with the
director and a new certificate of number shall be awarded
in the same manner as provided for in an original award
of number.
(d) In the event that an agency of the United States
government shall have in force an over-all system of
identification numbering for motorboats within the
United States, the numbering system employed pursuant
to this article by the commission shall be in conformity
therewith.
(e) The director may designate as issuing agent the clerk of any county court and such other persons in each county, as he deems advantageous to provide for the issuance of certificates of number in accordance with the provisions of this article. For services rendered in issuing such certificates, and collecting and paying over such numbering fees, each issuing agent shall charge and retain an additional fee of fifteen cents from the person obtaining the certificate of number. Every such issuing agent, unless already under bond with the commission as an agent for the collection of its monies, shall file a bond with the commission, payable to the state of West Virginia, in an amount to be fixed by the director at not more than one thousand dollars, before the supply of certificates of number is delivered to him, conditioned upon the faithful performance of his obligation to issue certificates only in conformance with the provisions of this article and the regulations of the director. Each issuing agent, on the first day of each month, shall remit to the commission all monies collected for the commission during the preceding month, and shall accompany his
remittance with a report showing the name of the county,
the names and addresses of the persons paying the same,
and the date of the receipt thereof.

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

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

(h) The owner shall furnish the commission notice of the transfer of all or any part of his interest, other than the creation of a security interest, in a motorboat numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat, except that in the case of a transfer of a part interest which does not affect
the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

(i) Any holder of a certificate of number shall notify the commission within fifteen days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the commission with his new address. The director may provide in his rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alternation of an outstanding certificate to show the new address of the holder.

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

(k) It shall be the duty of the director of conservation on or before January thirtieth of each year, commencing with the year one thousand nine hundred sixty, to forward to the assessor of each county a list of the names and addresses of all persons, firms and corporations owning
vessels or other boats registered with the director of conservation under the provisions of this article. In furnishing this information to each county assessor, the director of conservation shall include in his report such information as is made available to him in the reports and registrations he receives as to make, model, value and cost price of such vessels and other equipment required to be registered under the provisions of this article: Provided, however, That the director of conservation need not furnish such information to the assessor if the cost price of such vessel does not exceed two hundred dollars nor the cost of the motor does not exceed one hundred seventy-five dollars.

Sec. 5. Classification and Required Equipment.—(a) Motorboats subject to the provisions of this act shall be divided into four classes as follows:

1. Class A. Less than sixteen feet in length.
2. Class 1. Sixteen feet or over and less than twenty-six feet in length.
3. Class 2. Twenty-six feet or over and less than forty feet in length.
Class 3. Forty feet or over.

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

(1) Every motorboat of class 1 shall carry the following lights:

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

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

(2) Every motorboat of classes 2 and 3 shall carry the following lights:

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

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

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

(3) Motorboats of class 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by this section. Motorboats of classes 2 and 3 when so propelled, shall carry the colored side lights, suitably screened, but not the white lights, prescribed by this section. Motorboats of all classes, when so propelled,
shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

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

(5) When propelled by sail and machinery any motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.

(c) Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, one thousand nine hundred forty-eight, Federal Act of October eleven, one thousand nine hundred fifty-one, (33 USC 143-147d) as amended, in lieu of the lights required by subsection (b) of this section.

(d) Every motorboat of class 1, 2, or 3 shall be provided with an efficient whistle or other sound-producing
(e) Every motorboat of class 2 or 3 shall be provided with an efficient bell.

(f) Every motorboat shall carry at least one life preserver, or life belt, or ring buoy, or other device of the sort prescribed by regulations of the commission for each person on board, so placed as to be readily accessible: Provided, That every motorboat carrying passengers for hire shall carry so placed as to be readily accessible at least one life preserver of the sort prescribed by the regulations of the commission for each person on board.

(g) Every motorboat shall be provided with such number, size, and type of fire extinguishers capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the commission, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

(h) The provisions of subsections (d), (e) and (g) of this section shall not apply to motorboats while com-
93  peting in any race conducted pursuant to section fourteen
94  of this article or, if such boats be designed and intended
95  solely for racing while engaged in such navigation as is
96  incidental to the tuning up of the boats and engines for
97  the race.
98  (i) Every motorboat shall have the carburetor or car-
99  buretors of every engine therein (except outboard
100  motors) using gasoline as fuel, equipped with such effi-
101  cient flame arrestor, backfire trap, or other similar device
102  as may be prescribed by the regulations of the commission.
103  (j) Every such motorboat and every such vessel, ex-
104  cept open boats, using as fuel any liquid of a volatile
105  nature, shall be provided with such means as may be
106  prescribed by the regulations of the commission for prop-
107  erly and efficiently ventilating the bilges of the engine
108  and fuel tank compartments so as to remove any explosive
109  or inflammable gases.
110  (k) The commission is hereby authorized to make rules
111  and regulations modifying the equipment requirements
112  contained in this section to the extent necessary to keep
113  these requirements in conformity with the provisions of
the federal navigation laws or with the navigation rules promulgated by the United States coast guard.

(1) The commission is hereby authorized to establish and maintain for the operation of vessels on the waters of this state pilot rules in conformity with the pilot rules contained in the federal navigation laws or the navigation rules promulgated by the United States coast guard.

(m) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

Sec. 6. Exemption From Numbering Provisions of This Article.—A motorboat shall not be required to be numbered under this article if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally-approved numbering system of another state: Provided, That such boat shall not have been within this state for a period in excess of ninety consecutive days.

(2) A motorboat from a country other than the United States temporarily using the waters of this state.
(3) Motorboats used exclusively for racing while participating in races, and the preparation therefor, which have been authorized pursuant to the provisions of section fourteen of this article.

Sec. 7. Dealers' and Manufacturers' Certificate of Number; Fees.—Dealers' and manufacturers' certificate of number, containing the word “manufacturer” or “dealer”, as appropriate, may be used in connection with the operation of any motorboat in the possession of such dealer or manufacturer, when the boat is being used for demonstrative purposes. Application for a dealers' or manufacturers' certificate of number shall be made upon a form provided by the commission, and shall contain such information as may be required by the commission. Upon receipt of the application and upon the payment of a fee of five dollars for the initial certificate of number, and five dollars for each additional certificate of number, the commission shall issue to the applicant a manufacturers' or dealers' certificate of number which shall contain the word “manufacturer” or “dealer” in lieu of a description of the boat. The manufacturer or dealer may have the
number awarded to him printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the boat being demonstrated, so long as the display meets the requirements of the provisions of this article, and regulations issued hereunder.

Sec. 8. Boat Liveries.—(a) The owner of a boat livery shall cause to be kept a 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 motorboat, the identification number thereof, and the departure date and time, and the expected time of return. The record shall be preserved for at least six months.

(b) Neither the owner of a boat livery, nor his agent or employee shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to section five of this article and any rules and regulations made pursuant thereto.

Sec. 9. Muffling Devices.—The exhaust of every internal combustion engine used on any motorboat shall be effec-
tively muffled by equipment so constructed and used as
to muffle the noise of the exhaust in a reasonable manner.
The use of cutouts is prohibited, except for motorboats
competing, in a regatta or boat race approved as provided
in section fourteen of this article, and for such motor-
boats while on trial runs, during a period not to exceed
seventy-two hours immediately preceding such regatta or
race and for such motorboats while competing in official
trials for speed records during a period not to exceed
seventy-two hours immediately following such regatta or
race.

Sec. 10. Prohibited Operation.—(a) No person shall
operate any motorboat or vessel, or manipulate any water
skis, surfboard, or similar device in a reckless or negligent
manner so as to endanger the life, limb, or property of
any person.
(b) No person shall operate any motorboat or vessel,
or manipulate any water skis, surfboard, or similar device
while intoxicated or under the influence of any narcotic
drug, barbituate or marijuana.

Sec. 11. Collisions, Accidents and Casualties.—(a) It
shall be the duty of the operator of a vessel involved in
a collision, accident, or other casualty, so far as he can
do so without serious danger to his own vessel, crew,
and passengers (if any), to render to other persons
affected by the collision, accident, or other casualty such
assistance as may be practicable and as may be necessary
in order to save them from or minimize any danger caused
by the collision, accident, or other casualty, and also to
give his name, address, and identification of his vessel in
writing to any person injured and to the owner of any
property damaged in the collision, accident, or other
casualty.

(b) In the case of a collision, accident, or other casualty
involving a vessel, the operator thereof, if the collision,
accident, or other casualty results in death or injury to
a person or damage to property in excess of one hundred
dollars, shall file with the commission a full description
of the collision, accident, or other casualty, including such
information as said commission may, by regulation, re-
quire.

Sec. 12. Transmittal of Information.—In accordance
with any request duly made by an authorized official or
agency of the United States, any information compiled or
otherwise available to the commission pursuant to section
eleven, subsection (b) shall be transmitted to said official
or agency of the United States.

Sec. 13. Water Skis and Surfboards.—(a) No person
shall operate a vessel on any waters of this state towing
a person or persons on water skis, surfboard, or similar
device, nor shall any person engage in water skiing, surf-
boarding, or similar activity at any time between the
hours from one hour after sunset to one hour before sun-
rise.

(b) The provisions of subsection (a) of this section do
not apply to a performer engaged in a professional ex-
hibition, or a person or persons engaged in an activity
authorized under section fourteen of this article.

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

Sec. 14. Regattas, Races, Marine Parades, Tournaments or Exhibitions.—(a) The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least fifteen days prior thereto, file an application with the commission for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the commission in writing.

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

Sec. 15. Local Regulation Prohibited.—(a) The provisions of this article, and of other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this article shall take place thereon, but nothing in this article shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of this article, amendments thereto or regulations issued thereunder: Provided, That such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this article, amendments thereto or regulations issued thereunder.

(b) Any subdivision of this state may, at any time, but only after public notice, make formal application to
the commission for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

(c) The director is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this state.

Sec. 16. *Incapacity of Operator.*—No person who is the owner of any motorboat or has such in his charge or control shall act or permit the same to be operated by any person who by reason of any physical or mental disability is incapable of operating such motorboat under all the prevailing circumstances.

Sec. 17. *General Rules and Regulations.*—The director is hereby authorized and empowered to prescribe, and to enforce:

(a) General rules and regulations to be observed in the operation or navigation of motorboats upon, over or
through the waters of this state which he shall deem necessary for the public health or 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 water, for further limiting, restricting, or prohibiting the operation or navigation of motorboats thereof to protect the public health or to protect and preserve useful aquatic life.

Sec. 18. Enforcement.—The director shall be charged with the duty of enforcing the provisions of this article. Any person charged with the duty of enforcing the provisions of this article shall, while in the exercise thereof, have the authority to stop and board any vessel subject to the provisions of this article.

Sec. 19. Penalties.—Any person who shall violate any of the provisions of this article or the rules and regula-
tions promulgated hereunder shall be deemed guilty of
a misdemeanor, and, upon conviction thereof, shall be
fined not less than twenty-five or more than five hundred
dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

\[Signature\]
Chairman Senate Committee

\[Signature\]
Chairman House Committee

Originated in the House of Delegates.

Takes effect \[July 1, 1959\] passage.

\[Signature\]
Clerk of the Senate

\[Signature\]
Clerk of the House of Delegates

\[Signature\]
President of the Senate

\[Signature\]
Speaker House of Delegates

The within approved this the 18th day of \[March\], 1959.

\[Signature\]  
Governor