

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959



ENROLLED

HOUSE BILL No. 461

(By Mr. Mr. Coy of Pendleton and) MR. BAKER



PASSED March 12, 1959

In Effect July 1, 1959 Passage



Filed in Office of the Secretary of State
of West Virginia MAR 19 1959

JOE F. BURDETT
SECRETARY OF STATE

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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:

Article 12. Motor Boats.

Section 1. *Declaration of Policy.*—It is the policy of this
2 state to promote safety for persons and property in and
3 connected with the use, operation and equipment of ves-
4 sels and to promote uniformity of laws relating thereto.

Sec. 2. *Definitions.*—As used in this article, unless the
2 context clearly requires a different meaning:

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

6 (2) "Motorboat" means any vessel propelled by ma-
7 chinery, whether or not such machinery is the principal
8 source of propulsion, but shall not include a vessel which
9 has a valid marine document issued by the bureau of
10 customs of the United States government or any federal
11 agency successor thereto, nor to a vessel powered by a
12 motor of five horse-power or less.

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

17 served or created by agreement and securing payment
18 or performance of an obligation, but the term excludes
19 a lessee under a lease not intended as security.

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

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

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

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

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

Sec. 3. Additional Powers and Duties of the Director

2 *and the Commissioner.*—The director, in addition to the
3 other powers and duties granted by this chapter, shall
4 have the authority to exercise the powers granted by
5 this article, and the commission shall act as an advisory
6 body to the director in the exercise of the powers granted
7 by the provisions hereof as provided in section eleven,
8 article one of this chapter.

Sec. 4. *Identification Number.*—(a) The owner of each
2 motorboat requiring numbering by this state shall file
3 an application for a number with the director on forms
4 approved by him. The application shall be signed by
5 the owner of the motorboat and shall be accompanied by
6 a fee of five dollars. All such fees shall be deposited in the
7 state treasury to the credit of the conservation fund. Upon
8 receipt of the application in approved form, the director
9 shall enter the same upon the records of his office and issue
10 to the applicant a license and a certificate of number
11 stating the number awarded to the motorboat and the
12 name and address of the owner. The owner shall paint
13 on or attach to each side of the bow of the motorboat
14 the identification number in such manner as may be pre-
15 scribed by rules and regulations of the director in order
16 that it may be clearly visible. The number shall be main-
17 tained in legible condition. The certificate of number
18 shall be pocket size and shall be available at all times
19 for inspection on the motorboat for which issued, when-
20 ever such motorboat is in operation.

21 (b) The owner of any motorboat already covered by

22 a number in full force and effect which has been awarded
23 to it pursuant to then operative federal law or a federally-
24 approved numbering system of another state shall record
25 the number prior to operating the motorboat on the waters
26 of this state in excess of the ninety day reciprocity period
27 provided for in section six, subsection one of this article.
28 Such recordation shall be in the manner and pursuant to
29 the procedure required for the award of a number under
30 subsection (a) of this section, except that no additional
31 or substitute number shall be issued.

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

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

43 (e) The director may designate as issuing agent the
44 clerk of any county court and such other persons in each
45 county, as he deems advantageous to provide for the issu-
46 ance of certificates of number in accordance with the
47 provisions of this article. For services rendered in issuing
48 such certificates, and collecting and paying over such
49 numbering fees, each issuing agent shall charge and re-
50 tain an additional fee of fifteen cents from the person
51 obtaining the certificate of number. Every such issuing
52 agent, unless already under bond with the commission
53 as an agent for the collection of its monies, shall file a
54 bond with the commission, payable to the state of West
55 Virginia, in an amount to be fixed by the director at not
56 more than one thousand dollars, before the supply of
57 certificates of number is delivered to him, conditioned
58 upon the faithful performance of his obligation to issue
59 certificates only in conformance with the provisions of
60 this article and the regulations of the director. Each
61 issuing agent, on the first day of each month, shall remit
62 to the commission all monies collected for the commission
63 during the preceding month, and shall accompany his

64 remittance with a report showing the name of the county,
65 the names and addresses of the persons paying the same,
66 and the date of the receipt thereof.

67 (f) All records of the commission made or kept pur-
68 suant to this section shall be public records.

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

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

85 the owner's right to operate such motorboat, such trans-
86 fer shall not terminate the certificate of number.

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

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

101 (k) It shall be the duty of the director of conservation
102 on or before January thirtieth of each year, commencing
103 with the year one thousand nine hundred sixty, to forward
104 to the assessor of each county a list of the names and
105 addresses of all persons, firms and corporations owning

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C.A. [unclear]
by [unclear]
C.C.P.

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106 vessels or other boats registered with the director of con-
 107 servation under the provisions of this article. In furnish-
 108 ing this information to each county assessor, the director
 109 of conservation shall include in his report such informa-
 110 tion as is made available to him in the reports and regis-
 111 trations he receives as to make, model, value and cost
 112 price of such vessels and other equipment required to be
 113 registered *for use by said owner or operator thereof* under the provisions of this article: *Provided,*
 114 *however,* That the director of conservation need not fur-
 115 nish such information to the assessor if the cost price of
 116 such vessel does not exceed two hundred dollars nor the
 117 cost of the motor does not exceed one hundred seventy-
 118 five dollars.

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C.A. [unclear]
by [unclear]
C.C.P.

Sec. 5. *Classification and Required Equipment.*—(a)

2 Motorboats subject to the provisions of this act shall be
3 divided into four classes as follows:

4 Class A. Less than sixteen feet in length.

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

7 Class 2. Twenty-six feet or over and less than forty
8 feet in length.

9 Class 3. Forty feet or over.

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

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

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

19 Second. A combined lantern in the fore part of the vessel
20 and lower than the white light aft, showing green to star-
21 board and red to port, so fixed as to throw the light from
22 right ahead to two points abaft the beam on their respec-
23 tive sides.

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

26 First. A bright white light in the fore part of the vessel
27 as near the stem as practicable, so constructed as to show
28 an unbroken light over an arc of the horizon of twenty
29 points of the compass, so fixed as to throw the light ten

30 points on each side of the vessel; namely, from right
31 ahead to two points abaft the beam on either side.

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

34 Third. On the starboard side a green light so con-
35 structed as to show an unbroken light over an arc of
36 the horizon of ten points of the compass, so fixed as to
37 throw the light from right ahead to two points abaft the
38 beam on the starboard side. On the port side a red light
39 so constructed as to show an unbroken light over an arc
40 of the horizon of ten points of the compass, so fixed as
41 to throw the light from right ahead to two points abaft
42 the beam on the port side. The said side lights shall be
43 fitted with inboard screens of sufficient height so set as
44 to prevent these lights from being seen across the bow.

45 (3) Motorboats of class 1 when propelled by sail alone
46 shall carry the combined lantern, but not the while light
47 aft, prescribed by this section. Motorboats of classes 2 and
48 3 when so propelled, shall carry the colored side lights,
49 suitably screened, but not the white lights, prescribed by
50 this section. Motorboats of all classes, when so propelled,

51 shall carry, ready at hand, a lantern or flashlight showing
52 a white light which shall be exhibited in sufficient time to
53 avert collision.

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

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

64 (c) Any vessel may carry and exhibit the lights re-
65 quired by the Federal Regulations for Preventing Col-
66 lisions at Sea, one thousand nine hundred forty-eight,
67 Federal Act of October eleven, one thousand nine hun-
68 dred fifty-one, (33 USC 143-147d) as amended, in lieu of
69 the lights required by subsection (b) of this section.

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

72 mechanical appliance.

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

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

84 (g) Every motorboat shall be provided with such num-
85 ber, size, and type of fire extinguishers, capable of
86 promptly and effectually extinguishing burning gasoline,
87 as may be prescribed by the regulations of the commis-
88 sion, which fire extinguishers shall be at all times kept
89 in condition for immediate and effective use and shall be
90 so placed as to be readily accessible.

91 (h) The provisions of subsections (d), (e) and (g)
92 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

114 the federal navigation laws or with the navigation rules
115 promulgated by the United States coast guard.

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

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

Sec. 6. Exemption From Numbering Provisions of This

2 *Article.*—A motorboat shall not be **required** to be num-
3 bered under this article if it is:

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

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

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

Sec. 7. *Dealers' and Manufacturers' Certificate of Num-*
2 *ber; Fees.*—Dealers' and manufacturers' certificate of
3 number, containing the word "manufacturer" or "dealer",
4 as appropriate, may be used in connection with the op-
5 eration of any motorboat in the possession of such dealer
6 or manufacturer, when the boat is being used for demon-
7 strative purposes. Application for a dealers' or manufac-
8 turers' certificate of number shall be made upon a form
9 provided by the commission, and shall contain such in-
10 formation as may be required by the commission. Upon
11 receipt of the application and upon the payment of a fee
12 of five dollars for the initial certificate of number, and
13 five dollars for each additional certificate of number, the
14 commission shall issue to the applicant a manufacturers'
15 or dealers' certificate of number which shall contain the
16 word "manufacturer" or "dealer" in lieu of a description
17 of the boat. The manufacturer or dealer may have the

18 number awarded to him printed upon or attached to a
19 removable sign or signs to be temporarily but firmly
20 mounted upon or attached to the boat being demonstrated,
21 so long as the display meets the requirements of the pro-
22 visions of this article, and regulations issued hereunder.

Sec. 8. *Boat Liveries.*—(a) The owner of a boat livery
2 shall cause to be kept a record of the name and address
3 of the person or persons hiring any vessel which is de-
4 signed or permitted by him to be operated as a motorboat,
5 the identification number thereof, and the departure date
6 and time, and the expected time of return. The record
7 shall be preserved for 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 been
12 provided, either by owner or renter, with the equipment
13 required pursuant to section five of this article and any
14 rules and regulations made pursuant thereto.

Sec. 9. *Muffling Devices.*—The exhaust of every internal
2 combustion engine used on any motorboat shall be effec-

3 tively muffled by equipment so constructed and used as
4 to muffle the noise of the exhaust in a reasonable manner.
5 The use of cutouts is prohibited, except for motorboats
6 competing, in a regatta or boat race approved as provided
7 in section fourteen of this article, and for such motor-
8 boats while on trial runs, during a period not to exceed
9 seventy-two hours immediately preceding such regatta or
10 race and for such motorboats while competing in official
11 trials for speed records during a period not to exceed
12 seventy-two hours immediately following such regatta or
13 race.

Sec. 10. *Prohibited Operation.*—(a) No person shall
2 operate any motorboat or vessel, or manipulate any water
3 skis, surfboard, or similar device in a reckless or negligent
4 manner so as to endanger the life, limb, or property of
5 any person.

6 (b) No person shall operate any motorboat or vessel,
7 or manipulate any water skis, surfboard, or similar device
8 while intoxicated or under the influence of any narcotic
9 drug, barbituate or marijuana.

Sec. 11. *Collisions, Accidents and Casualties.*—(a) It

2 shall be the duty of the operator of a vessel involved in
3 a collision, accident, or other casualty, so far as he can
4 do so without serious danger to his own vessel, crew,
5 and passengers (if any), to render to other persons
6 affected by the collision, accident, or other casualty such
7 assistance as may be practicable and as may be necessary
8 in order to save them from or minimize any danger caused
9 by the collision, accident, or other casualty, and also to
10 give his name, address, and identification of his vessel in
11 writing to any person injured and to the owner of any
12 property damaged in the collision, accident, or other
13 casualty.

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

Sec. 12. *Transmittal of Information.*—In accordance

2 with any request duly made by an authorized official or
3 agency of the United States, any information compiled or
4 otherwise available to the commission pursuant to section
5 eleven, subsection (b) shall be transmitted to said official
6 or agency of the United States.

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

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

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

17 to collide with or strike against any object or person.

Sec. 14. *Regattas, Races, Marine Parades, Tournaments*

2 *or Exhibitions.*—(a) The department may authorize the
3 holding of regattas, motorboat or other boat races, marine
4 parades, tournaments or exhibitions on any waters of
5 this state. It shall adopt and may, from time to time,
6 amend regulations concerning the safety of motorboats
7 and other vessels and persons thereon, either observers
8 or participants. Whenever a regatta, motorboat or other
9 boat race, marine parade, tournament or exhibition is
10 proposed to be held, the person in charge thereof, shall,
11 at least fifteen days prior thereto, file an application with
12 the commission for permission to hold such regatta, motor-
13 boat or other boat race, marine parade, tournament or
14 exhibition. The application shall set forth the date, time
15 and location where it is proposed to hold such regatta,
16 motorboat or other boat race, marine parade, tournament
17 or exhibition, and it shall not be conducted without au-
18 thorization of the commission in writing.

19 (b) The provisions of this section shall not exempt
20 any person from compliance with the applicable federal

21 law or regulation, but nothing contained herein shall be
22 construed to require the securing of a state permit pur-
23 suant to this section if a permit therefor has been ob-
24 tained from an authorized agency of the United States.

Sec. 15. *Local Regulation Prohibited.*—(a) The pro-
2 visions of this article, and of other applicable laws of this
3 state shall govern the operation, equipment, numbering
4 and all other matters relating thereto whenever any ves-
5 sel shall be operated on the waters of this state, or when
6 any activity regulated by this article shall take place
7 thereon, but nothing in this article shall be construed to
8 prevent the adoption of any ordinance or local law relat-
9 ing to operation and equipment of vessels the provisions
10 of which are identical to the provisions of this article,
11 amendments thereto or regulations issued thereunder:
12 *Provided,* That such ordinances or local laws shall be
13 operative only so long as and to the extent that they
14 continue to be identical to provisions of this article,
15 amendments thereto or regulations issued thereunder.

16 (b) Any subdivision of this state may, at any time,
17 but only after public notice, make formal application to

18 the commission for special rules and regulations with
19 reference to the operation of vessels on any waters within
20 its territorial limits and shall set forth therein the reasons
21 which make such special rules or regulations necessary
22 or appropriate.

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

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

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

4 (a) General rules and regulations to be observed in
5 the operation or navigation of motorboats upon, over or

6 through the waters of this state which he shall deem
7 necessary for the public health or safety of persons or
8 property on or in such waters, or for the preservation
9 of all forms of useful aquatic life, particularly as to speed,
10 running, lights, signals, courses, channels, rights of way,
11 and the disposal of oil, gas, gasoline or other wastes from
12 such boats.

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

Sec. 18. *Enforcement.*—The director shall be charged
2 with the duty of enforcing the provisions of this article
3 Any person charged with the duty of enforcing the pro-
4 visions of this article shall, while in the exercise thereof,
5 have the authority to stop and board any vessel subject
6 to the provisions of this article.

Sec. 19. *Penalties.*—Any person who shall violate any
2 of the provisions of this article or the rules and regula-

3 tions promulgated hereunder shall be deemed guilty of
4 a misdemeanor, and, upon conviction thereof, shall be
5 fined not less than twenty-five or more than five hundred
6 dollars.

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

W. D. Jasper Jr
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates.

Takes effect *July 1, 1959* passage.

J. Rowan Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

H. R. Bailey
Speaker House of Delegates

The within *approved* this the *18th*

day of *March*, 1959.

Geoff H. Underwood
Governor