

SB 123

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



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Com. Sub. for Com. Sub. for
SENATE BILL NO. 123

(By Senator AITMAN)



PASSED MARCH 13, 1999
In Effect NINETY DAYS FROM Passage

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SENATE OF WEST VIRGINIA

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COMMITTEE SUBSTITUTE

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Senate Bill No. 123

(SENATOR DITTMAR, *original sponsor*)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section twelve-b, all relating to motorboat operation, numbering and registration; increasing registration fees; requiring education certification for certain individuals; providing for certain exemptions; establishing the requirements for a boating safety education certificate; and criminal offenses.

Be it enacted by the Legislature of West Virginia:

That section twelve, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section twelve-b, all to read as follows:

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-12. Motorboat identification numbers required; application for numbers; fee; displaying; reciprocity; change of ownership; conformity with United States regulations; records; renewal of certificate; transfer of interest, abandonment, etc.; change of address; unauthorized numbers; information to be furnished assessors.

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

4 (a) The owner of each motorboat requiring numbering by
5 this state shall file an application for a number with the
6 commissioner on forms approved by the division of motor
7 vehicles. The application shall be signed by the owner of
8 the motorboat and shall be accompanied by a fee of fifteen
9 dollars for a three-year registration period if the motor-
10 boat is propelled by a motor of three or more horsepower:
11 *Provided*, That beginning on the first day of April, two
12 thousand, the fee for a three year registration period is as
13 follows:

14 (1) Class A, motorboats less than sixteen feet in length,
15 thirty dollars;

16 (2) Class 1, motorboats sixteen feet or over and less than
17 twenty-six feet in length, forty-five dollars;

18 (3) Class 2, motorboats twenty-six feet or over and less
19 than forty feet in length, sixty dollars; and

20 (4) Class 3, forty feet in length or over, seventy-five
21 dollars.

22 The fee may be prorated by the commissioner for periods
23 of less than three years. There is no fee for motorboats
24 propelled by motors of less than three horsepower. All
25 fees, including those received under subdivision (b) of this
26 section, shall be deposited in the state treasury and fifty
27 percent shall be credited to the division of motor vehicles
28 and shall be used and paid out upon order of the commis-
29 sioner solely for the administration of the certificate of
30 number system. The remaining fifty percent shall be
31 credited to the division of natural resources and shall be
32 used and paid out upon order of the director solely for the
33 enforcement and safety education of the state boating
34 system. Upon receipt of the application in approved form,
35 the commissioner shall enter the application upon the
36 records of the division and issue to the applicant a number
37 awarded to the motorboat and the name and address of the
38 owner. The owner shall paint on or attach to each side of
39 the bow of the motorboat the identification number in the
40 manner prescribed by rules of the commissioner in order
41 that it is clearly visible. The owner shall maintain the
42 number in legible condition. The certificate of number
43 shall be pocket size and shall be available at all times for
44 inspection on the motorboat for which it is issued, when-
45 ever the motorboat is in operation.

46 (b) In order to permit a motorboat sold to a purchaser by
47 a dealer to be operated pending receipt of the certificate of
48 number from the commissioner, the commissioner may
49 deliver temporary certificates of number to in turn be
50 issued to purchasers of motorboats to dealers, upon
51 application by the dealer and payment of one dollar for
52 each temporary certificate. Every person who is issued a
53 temporary certificate by a dealer shall, under the provi-
54 sions of subdivision (a) of this section, apply for a certifi-
55 cate of number no later than ten days from the date of
56 issuance of the temporary certificate. A temporary
57 certificate expires upon receipt of the certificate, upon
58 rescission of the contract to purchase the motorboat in
59 question or upon the expiration of forty days from the date
60 of issuance, whichever occurs first. It is unlawful for any
61 dealer to issue any temporary certificate knowingly
62 containing any misstatement of fact or knowingly to insert

63 any false information on the face of the temporary certifi-
64 cate. The commissioner may by rule prescribe additional
65 requirements upon the dealers and purchasers that are
66 consistent with the effective administration of this section.

67 (c) The owner of any motorboat already covered by a
68 number in full force and effect which has been awarded to
69 it pursuant to then operative federal law or a federally
70 approved numbering system of another state shall record
71 the number prior to operating the motorboat on the waters
72 of this state in excess of the sixty-day reciprocity period
73 provided for in section fourteen of this article. The
74 recordation shall be in the manner and pursuant to
75 procedure required for the award of a number under
76 subdivision (a) of this section, except that the commis-
77 sioner shall not issue an additional or substitute number.

78 (d) If the ownership of a motorboat changes, the new
79 owner shall file a new application form with the required
80 fee with the commissioner who shall award a new certifi-
81 cate of number in the same manner as provided for in an
82 original award of number.

83 (e) In the event that an agency of the United States
84 government has in force an overall system of identification
85 numbering for motorboats within the United States, the
86 numbering system employed pursuant to this article by the
87 division of motor vehicles shall be in conformity with the
88 federal system.

89 (f) The license is valid for a maximum period of three
90 years. If at the expiration of that period ownership has
91 remained unchanged, the commissioner shall, upon
92 application and payment of the proper fee, grant the
93 owner a renewal of the certificate of number for an
94 additional three-year period.

95 (g) The owner shall furnish the commissioner notice of
96 the transfer of all or any part of an interest, other than the
97 creation of a security interest, in a motorboat numbered in
98 this state pursuant to subdivisions (a) and (b) of this
99 section, or of the destruction or abandonment of the
100 motorboat, within fifteen days of the transfer of interest,
101 destruction or abandonment. The transfer, destruction or

102 abandonment shall terminate the certificate of number for
103 the motorboat, except that in the case of a transfer of a
104 part interest which does not affect the owner's right to
105 operate the motorboat, the transfer shall not terminate the
106 certificate of number.

107 (h) Any holder of a certificate of number shall notify the
108 commissioner within fifteen days if his or her address no
109 longer conforms to the address appearing on the certificate
110 and shall, as a part of the notification, furnish the commis-
111 sioner with his or her new address. The commissioner may
112 provide by rule for the surrender of the certificate bearing
113 the former address and its replacement with a certificate
114 bearing the new address or for the alteration of an out-
115 standing certificate to show the new address of the holder.

116 (i) An owner shall not paint, attach or otherwise display
117 a number other than the number awarded to a motorboat
118 or granted reciprocity pursuant to this article on either
119 side of the bow of the motorboat.

120 (j) The commissioner shall on or before the thirtieth day
121 of August of each year, forward to the assessor of each
122 county a list of the names and addresses of all persons,
123 firms and corporations owning vessels and operating the
124 vessels or other boats registered with the commissioner
125 under the provisions of this article. In furnishing this
126 information to each county assessor, the commissioner
127 shall include information on the make and model of the
128 vessels and other equipment required to be registered for
129 use by the owner or operator of the boats under the
130 provisions of this article: *Provided*, That the commissioner
131 is not required to furnish the information to the assessor
132 if the cost price of the vessel does not exceed five hundred
133 dollars or the cost of the motor does not exceed two
134 hundred fifty dollars.

135 (k) No person may operate an unlicensed motorboat
136 upon any waters of this state without first acquiring the
137 certificate of number or license as required by law.

§20-7-12b. Boating safety education certificate.

1 (a) Except as otherwise provided in subsection (c) of this
2 section, beginning on the first day of January, two thou-
3 sand one, no person born on or after the thirty-first day of
4 December, one thousand nine hundred eighty-six, may
5 operate a motorboat or personal watercraft on any waters
6 of this state without first having obtained a certificate of
7 boating safety education from this or any other state,
8 which certificate was obtained by satisfactorily complet-
9 ing a course of instruction in boating safety education
10 administered by the United States coast guard auxiliary;
11 the United States power squadron; the West Virginia
12 division of natural resources; any person certified to teach
13 the course administered by West Virginia natural re-
14 sources boating safety education section personnel; or any
15 person authorized to teach the course prescribed by the
16 national association of state boating law administrators in
17 this or any other state.

18 (b) Any person who is subject to subdivision (a) of this
19 section shall possess the certificate of boating safety
20 education when operating a motorboat or personal
21 watercraft on the waters of this state and shall show the
22 certificate on demand of any West Virginia conservation
23 officer or other law-enforcement officer authorized to
24 enforce the provisions of this chapter.

25 (c) The following persons are exempt from the require-
26 ments of subsection (a) of this section:

27 (1) A person who is a nonresident of this state and who
28 is visiting the state for sixty days or less in a motorboat or
29 personal watercraft from another state if that person:

30 (A) Is fifteen years of age or older; and

31 (B) Has been issued a boating safety education certifi-
32 cate by his or her state of residence in accordance with the
33 criteria recommended by the national association of state
34 boating law administration;

35 (2) A person who is visiting the state for ninety days or
36 less in a motorboat or personal watercraft from a country
37 other than the United States;

38 (3) A person who is operating a motorboat or personal
39 watercraft in connection with commercial purposes; and

40 (4) A person who is operating a motorboat or personal
41 watercraft which was purchased by the person within the
42 previous forty-five-day period and who has not been
43 previously charged with a violation of any provision of
44 this chapter involving the use or registration of a motor-
45 boat or personal watercraft.

46 (d) The division shall issue a certificate of boating safety
47 education to a person who:

48 (1) Passes any course prescribed in subsection (a) of this
49 section; or

50 (2) Passes a boating safety equivalency examination
51 administered by persons authorized to administer a
52 boating safety education course as outlined in subsection
53 (a) of this section. Upon request, the division shall pro-
54 vide, without charge, boating safety education materials
55 to persons who plan to take the boating safety equivalency
56 examination.

57 (e) No person who owns a motorboat or personal
58 watercraft or who has charge over a motorboat or personal
59 watercraft may authorize or knowingly permit it to be
60 operated in violation of subsection (a) of this section.

61 (f) The provisions of subsection (a) of this section may
62 only be enforced as a secondary action when the officer
63 detains an operator of a motorboat or personal watercraft
64 upon probable cause of a violation of another provision of
65 this code or rules adopted in accordance with the code. A
66 person may not be taken immediately to a court or deten-
67 tion facility solely for a violation of subsection (a) of this
68 section.

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

Ray Johnson

Chairman Senate Committee

John F. Smith
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Barrett Holmes
Clerk of the Senate

Gregory M. Bond
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

John W. Row
Speaker House of Delegates

The within *approved* this the *3rd*
Day of *March*, 1999

Earl Ray Tomblin
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/99

Time 1:40 pm