

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 347

BY SENATOR MAYNARD

[Originating in the Committee on the Judiciary;

reported on February 12, 2018]

1 A BILL to amend and reenact §20-7-11, §20-7-12, §20-7-13, §20-7-14, §20-7-18, §20-7-18d, and
2 §20-7-19 of the Code of West Virginia, 1931, as amended, all relating to the operation of
3 motorboats; defining the term “state of principle operation”; establishing a fee schedule for
4 motorboat registration; establishing motorboat numbering, lighting, fire extinguishers,
5 engine bilges, and flotation device requirements; increasing the financial amount of
6 property damage before certain accidents need to be reported; clarifying the requirements
7 for the operation of personal watercrafts; limiting the hours during the day water skiing and
8 surfboarding are permitted; and authorizing rulemaking.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

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

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

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

5 (2) “Motorboat” means any vessel propelled by an electrical, steam, gas, diesel, or other
6 fuel propelled or driven motor, whether or not the motor is the principal source of propulsion, but
7 does not include a vessel which has a valid marine document issued by the Bureau of Customs
8 of the United States government or any federal agency successor thereto;

9 (3) “Owner” means a person, other than a lienholder, having the property in or title to a
10 motorboat. The term includes a person entitled to the use or possession of a motorboat subject
11 to an interest in another person, reserved or created by agreement and securing payment or
12 performance of an obligation, but the term excludes a lessee under a lease not intended as
13 security;

14 (4) “Commissioner” means the Commissioner of the Division of Motor Vehicles;

15 (5) “Director” means the Director of the Division of Natural Resources;

16 (6) "Personal watercraft" means a small vessel of less than 16 feet in length which uses
17 an inboard motor powering a water jet pump as its primary source of motive power and which is
18 designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the
19 conventional manner of sitting or standing inside the vessel. For purposes of this article, the term
20 "personal watercraft" also includes "specialty prop-crafts" which are vessels similar in appearance
21 and operation to a personal watercraft but which are powered by an outboard motor or propeller
22 driven motor; and

23 (7) "State of principle operation" means the state in whose waters a vessel is or will be
24 used, operated, navigated, or employed more than on the waters of any other state during a
25 calendar year.

§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 upon public waters whose principle
2 operation is within the territorial limits of this state shall be numbered as provided in this section:

3 (a) The owner of each motorboat requiring numbering by this state shall file an application
4 for a number with the commissioner on forms approved by the Division of Motor Vehicles. The
5 application shall be signed by the owner of the motorboat and shall be accompanied by a the
6 appropriate fee of \$15 for a three-year registration period if the motorboat is propelled by a motor
7 of three or more horsepower or 70 pounds of thrust. There is no fee for motorboats propelled by
8 motors of less than three horsepower or less than 70 pounds of thrust. ~~Provided, That beginning~~
9 on April 1, 2000 The fee schedule for a three-year registration period is as follows, and may be
10 prorated by the commissioner for periods of less than three years:

11 (1) Class A motorboats less than 16 feet in length, \$30;

12 (2) Class 1 motorboats 16 feet or over and less than 26 feet in length, \$45;

13 (3) Class 2 motorboats 26 feet or over and less than 40 feet in length, \$60; and

14 (4) Class 3 motorboats 40 feet in length or over, \$75.

15 ~~The fee may be prorated by the commissioner for periods of less than three years. There~~
16 ~~is no fee for motorboats propelled by motors of less than three horsepower~~

17 All fees, including those received under §20-7-12(b) of this code, shall be deposited in the
18 State Treasury. ~~On and after July 1, 2007, all~~ All moneys deposited pursuant to this section and
19 credited to the Division of Motor Vehicles and 50 percent of all fees collected thereafter shall be
20 credited to the State Road Fund. The remaining 50 percent shall be credited to the Division of
21 Natural Resources and shall be used and paid out upon order of the director solely for the
22 enforcement and safety education of the state boating system.

23 Upon receipt of the application in approved form, the commissioner shall enter the
24 application upon the records of the division and issue to the applicant a number awarded to the
25 motorboat and the name and address of the owner. The owner shall paint on or attach to each
26 side of the bow of the motorboat the identification number in the manner prescribed by rules of
27 the commissioner in order that it is clearly visible. The owner shall maintain the number in legible
28 condition. The certificate of number shall be pocket size and shall be available at all times for
29 inspection on the motorboat for which it is issued, whenever the motorboat is in operation.

30 (b) ~~In order to~~ To permit a motorboat sold to a purchaser by a dealer to be operated
31 pending receipt of the certificate of number from the commissioner, the commissioner may deliver
32 to dealers temporary certificates of number to in turn be issued to purchasers of motorboats, ~~to~~
33 ~~dealers~~ upon application by the dealer and payment of \$1 for each temporary certificate. Every
34 person who is issued a temporary certificate by a dealer shall, under the provisions of §20-12-(a)
35 of this code, apply for a certificate of number no later than 10 days from the date of issuance of
36 the temporary certificate. A temporary certificate expires upon receipt of the certificate, upon
37 rescission of the contract to ~~purchase~~ buy the motorboat in question, or upon the expiration of 40
38 days from the date of issuance, whichever occurs first. It is unlawful for any dealer to issue any
39 temporary certificate knowingly containing any misstatement of fact or knowingly to insert any

40 false information on the face of the temporary certificate. The commissioner may by rule prescribe
41 additional requirements upon the dealers and purchasers that are consistent with the effective
42 administration of this section.

43 (c) The owner of any motorboat already covered by a number in full force and effect which
44 has been awarded to it pursuant to then operative federal law or a federally approved numbering
45 system of another state shall record the number prior to operating the motorboat on the waters of
46 this state in excess of the 60-day reciprocity period provided for in ~~§20-7-14 of this article~~ 33
47 C.F.R. § 173.17 et seq. once its state of principle operation changes to the State of West Virginia.
48 The recordation shall be in the manner and pursuant to procedure required for the award of a
49 number under §20-7-12(a) of this code, except that the commissioner shall not issue an additional
50 or substitute number.

51 (d) If the ownership of a motorboat changes, the new owner shall file a new application
52 form with the required fee with the commissioner who shall award a new certificate of number in
53 the same manner as provided for in an original award of number.

54 (e) ~~In the event that~~ If an agency of the United States government has in force an overall
55 system of identification numbering for motorboats within the United States, the numbering system
56 employed pursuant to this article by the Division of Motor Vehicles shall be in conformity with the
57 federal system.

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

62 (g) The owner shall furnish the commissioner notice of the transfer of ~~all~~ or any part of an
63 interest, other than the creation of a security interest, in a motorboat numbered in this state
64 pursuant to ~~subdivisions~~ §20-7-12(a) and §20-7-12(b) of this code or of the destruction or
65 abandonment of the motorboat within 15 days of the transfer of interest, destruction, or
66 abandonment. The transfer, destruction, or abandonment shall terminate the certificate of number

67 for the motorboat, except that in the case of a transfer of a part interest which does not affect the
68 owner's right to operate the motorboat, the transfer shall not terminate the certificate of number.

69 (h) Any holder of a certificate of number shall notify the commissioner within 15 days if his
70 or her address no longer conforms to the address appearing on the certificate and shall, as a part
71 of the notification, furnish the commissioner with his or her new address. The commissioner may
72 provide by rule for the surrender of the certificate bearing the former address and its replacement
73 with a certificate bearing the new address or for the alteration of an outstanding certificate to show
74 the new address of the holder.

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

78 (j) The commissioner shall on or before August 30 of each year forward to the assessor
79 of each county a list of the names and addresses of all persons, firms, and corporations owning
80 vessels and operating the vessels or other boats registered with the commissioner under the
81 provisions of this article. In furnishing this information to each county assessor, the commissioner
82 shall include information on the make and model of the vessels and other equipment required to
83 be registered for use by the owner or operator of the boats under the provisions of this article:
84 *Provided*, That the commissioner is not required to furnish the information to the assessor if the
85 ~~cost price~~ true and actual value of the vessel does not exceed \$500 or the cost of the motor does
86 not exceed \$250.

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

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

1 (a) Motorboats subject to the provisions of this article shall be divided into four classes. ~~as~~
2 follows:

3 (1) Class A-Less includes motorboats less than 16 feet in length;

4 (2) Class 1 ~~Sixteen~~ includes motorboats 16 feet or over and less than 26 feet in length;

5 (3) Class 2 ~~Twenty-six~~ includes motorboats 26 feet or over and less than 40 feet in length;

6 (4) Class 3 ~~Forty~~ includes motorboats 40 feet or over.

7 (b) ~~Classes 1, 2 and 3~~ Except as provided in §20-7-18d of this code, Class A, Class 1,
8 Class 2, and Class 3 motorboats in all weathers from sunset to sunrise shall carry and exhibit the
9 following lights when under way, ~~and during such time~~ no other lights which may be mistaken for
10 those prescribed shall be exhibited.

11 (1) Every motorboat of Class A and Class 1 shall carry the following lights:

12 ~~First.~~ (A) A bright white light aft to show all around the horizon;

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

16 (2) Every motorboat of ~~Classes 2 and 3~~ Class 2 and Class 3 shall carry the following lights:

17 ~~First.~~ (A) A bright white light in the fore part of the vessel as near the stem as practicable,
18 so constructed as to show an unbroken light over an arc of the horizon of 20 points of the
19 compass, so fixed as to throw the light 10 points on each side of the vessel; namely, from right
20 ahead to two points abaft the beam on either side;

21 ~~Second.~~ (B) A bright white light aft to show all around the horizon and higher than the
22 white light forward;

23 ~~Third.~~ (C) On the starboard side a green light so constructed as to show an unbroken light
24 over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right
25 ahead to two points abaft the beam on the starboard side. On the port side a red light so
26 constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass,
27 so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The
28 said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these
29 lights from being seen across the bow.

30 ~~(3) Motorboats of Class 1 when propelled by sail alone shall carry the combined lantern,~~
31 ~~but not the white light aft, prescribed by this section. Motorboats of Classes 2 and 3 when so~~
32 ~~propelled, shall carry the colored side lights, suitably screened, but not the white lights, prescribed~~
33 ~~by this section. Motorboats of all classes, when so propelled, shall carry, ready at hand, a lantern~~
34 ~~or flashlight showing a white light which shall be exhibited in sufficient time to avert collision~~ When
35 propelled by sail alone, motorboats of Class A and Class 1 shall exhibit the combined lantern but
36 not the white light aft. When propelled by sail alone, motorboats of Class 2 and Class 3 shall
37 exhibit the colored side lights, suitably screened, but not the white lights. Motorboats of all classes
38 when propelled by sail alone, or manually propelled vessels, shall carry, ready at hand, a lantern
39 or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

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

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

46 (c) ~~Any vessel may carry and exhibit the lights required by the federal regulations for~~
47 ~~preventing collisions at sea, 1948, federal act of October 11, 1951, as amended~~ Any vessel may
48 carry and exhibit the lights as contained in the federal navigation laws and rules promulgated by
49 the United States Coast Guard pursuant to 33 C.F.R. Chapter I. as authorized by 46 U.S.C.
50 §4302, in lieu of the lights required by §20-7-13(b) of this code.

51 (d) Every motorboat of Class ~~1, 2 or 3~~ A, Class 1, Class 2, or Class 3 shall be provided
52 with an efficient whistle or other sound-producing mechanical appliance.

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

54 (f) ~~Every motorboat shall carry at least one life preserver, or life belt, or ring buoy, or other~~
55 ~~device of the sort prescribed by regulations of the commission for each person on board, so~~

56 ~~placed as to be readily accessible: *Provided*, That every motorboat carrying passengers for hire~~
57 ~~shall carry so placed to be readily accessible at least one life preserver of the sort prescribed by~~
58 ~~the regulations of the director for each person on board.~~

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

63 (f) Every vessel shall have on board the following personal flotation devices as defined
64 and approved by the United States Coast Guard pursuant to 33 C.F.R. §175.13 2014 *et seq.* as
65 authorized by 46 U.S.C. §4302:

66 (1) At least one immediately accessible throwable personal flotation device, except
67 motorboats or vessels less than 16 feet and except as provided in 33 C.F.R §175.17 2017 as
68 authorized by 46 U.S.C §4302;

69 (2) At least one readily accessible wearable personal flotation device per person on board;
70 and

71 (3) Except, that every motorboat carrying passengers for hire shall have on board readily
72 accessible wearable personal flotation devices according to rules that may be promulgated by the
73 director in accordance with the provisions of §29A-3-1 *et seq.* of this code.

74 (g) Every motorboat shall be equipped with the number, size, and type of fire extinguishers
75 capable of promptly and effectually extinguishing burning gasoline, according to rules that may
76 be promulgated by the director in accordance with the provisions of §29A-3-1 *et seq.* of this code.
77 The fire extinguishers shall be readily accessible and in condition for immediate and effective use.

78 (h) The provisions of §20-7-13(d), §20-7-13(e), §20-7-13(g) and §20-7-13(f)(1) of this code
79 shall not apply to motorboats while competing in any race conducted pursuant to §20-7-20 of this
80 code or, if such boats be designed and intended solely for racing while engaged in such navigation
81 as is incidental to the tuning up of the boats and engines for the race.

82 (i) Every motorboat shall have the carburetor or carburetors of every engine therein
83 (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrester,
84 backfire trap, or other similar device ~~as may be prescribed by regulations of the director~~ according
85 to rules that may be promulgated by the director in accordance with the provisions of §29A-3-1 et
86 seq. of this code.

87 ~~(j) Every such motorboat and every such vessel, except open boats using as fuel any~~
88 ~~liquid of a volatile nature, shall be provided with such means as may be prescribed by the~~
89 ~~regulations of the director for properly and efficiently ventilating the bilges of the engine and fuel~~
90 ~~tank compartments so as to remove any explosive or inflammable gases. Every motorboat and~~
91 every vessel shall be equipped with the means to properly and efficiently ventilate the bilges of
92 the engine and fuel tank compartments, except open boats, according to rules that may be
93 promulgated by the director in accordance with the provisions of §29A-3-1. et seq. of this code.

94 (k) ~~The director is hereby authorized to make rules and regulations~~ may promulgate rules
95 in accordance with the provisions of §29A-3-1 et seq. of this code modifying the equipment
96 requirements contained in this section to the extent necessary to keep these requirements in
97 conformity with the provisions of the federal navigation laws or with the navigation rules
98 promulgated by the United States Coast Guard.

99 ~~(l) The director is hereby authorized to establish and maintain, for the operation of vessels~~
100 ~~on the waters of this state~~ may promulgate rules in accordance with the provisions of §29A-3-1 et
101 seq. of this code, pilot rules in conformity with the pilot rules contained in the federal navigation
102 laws, or the navigation rules promulgated by the United States Coast Guard for the operation of
103 vessels on the waters of this state.

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

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

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

2 (1) Already covered by a number in full force and effect which has been awarded to it
3 pursuant to federal law or a federally approved numbering system of another state: *Provided,*
4 That ~~such the~~ boat shall ~~not have been within this state for a period in excess of sixty consecutive~~
5 ~~days~~ be registered in the state of principle operation;

6 (2) ~~a~~A motorboat from a country other than the United States temporarily using the waters
7 of this state; or

8 (3) ~~motorboats~~ A motorboat used exclusively for racing while participating in races, and
9 the preparation therefor, which have been authorized pursuant to the provisions of §20-7-20 of
10 this code.

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

1 (a) No person shall operate a motorboat, jet ski, or other motorized vessel or manipulate
2 any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger
3 the life, limb, or property of any person.

4 (b) No person shall operate any motorboat, jet ski, or other motorized vessel, or
5 manipulate any water skis, surfboard, or similar device while under the influence of alcohol or a
6 controlled substance or drug, under the combined influence of alcohol and any controlled
7 substance or any other drug, or while having an alcohol concentration in his or her blood of eight
8 hundredths of one percent or more, by weight.

9 (c) ~~It shall be the duty of the~~ The operator of a vessel involved in a collision, accident, or
10 other casualty, so far as he or she can do so without serious danger to his or her own vessel,
11 crew, and any passengers, ~~(if any)~~ to render to other persons affected by the collision, accident,
12 or other casualty such assistance as may be practicable and as may be necessary in order to
13 save them from or minimize any danger caused by the collision, accident, or other casualty. ~~and~~
14 ~~also to~~ The operator shall also give his or her name, address, and identification of his or her vessel

15 in writing to any person injured and to the owner of any property damaged in the collision,
16 accident, or other casualty.

17 (d) The operator of a vessel involved in a collision, accident, or other casualty shall file an
18 accident report with the director if the incident results in a loss of life, in a personal injury that
19 requires medical treatment beyond first aid or in excess of ~~\$500~~ \$2,000 damage to a vessel or
20 other property. The report shall be made on such forms and contain information as prescribed by
21 the director. Upon a request duly made by an authorized official or agency of the United States,
22 any information compiled or otherwise available to the director pursuant to this subsection shall
23 be transmitted to the official or agency.

§20-7-18d. Operation of personal watercrafts.

1 (a) No person under the age of 15 may operate a personal watercraft on the waters of this
2 state: *Provided*, That a person that has attained the age of 12 may operate a personal watercraft
3 if a person 18 years of age or older is aboard the personal watercraft.

4 (b) A person may not operate a personal watercraft unless each person on board or being
5 towed behind is wearing a ~~type I, type II, type III, or type V~~ personal flotation device defined and
6 approved by the United States Coast Guard pursuant to 33 C.F.R. §175.13 2014 et seq. as
7 authorized by 46 U.S.C. §4302. Inflatable personal flotation devices do not meet the requirements
8 of this section.

9 (c) A person operating a personal watercraft equipped by the manufacturer with a lanyard-
10 type engine cutoff switch must attach the lanyard to his or her person, clothing, or personal
11 flotation device as appropriate for the specific vessel.

12 (d) A person may not operate a personal watercraft at ~~anytime~~ any time between the hours
13 of sunset and sunrise. However, an agent or employee of a fire rescue, emergency rescue unit,
14 or law-enforcement division is exempt from this subsection while performing his or her official
15 duties.

16 (e) A personal watercraft must at all times be operated in a reasonable and prudent
17 manner. Maneuvers which unreasonably or unnecessarily endanger life, limb, or property
18 constitute reckless operation of a vessel and include, but are not limited to:

19 (1) Weaving through congested traffic;

20 (2) Jumping the wake of another vessel unreasonably or unnecessarily close to the other
21 vessel or when visibility around the other vessel is obstructed or restricted;

22 (3) Becoming airborne or completely leaving the water while crossing the wake of another
23 vessel within 100 feet of the vessel creating the wake;

24 (4) Operating at a greater than slow or no-wake speed within 100 feet of an anchored or
25 moored vessel, shoreline, dock, pier, swim float, marked swim areas, swimmers, surfers, persons
26 engaged in angling, or any manually powered vessel;

27 (5) Operating contrary to navigation rules including following too closely to another vessel,
28 including another personal watercraft. For the purpose of this subdivision, "following too closely"
29 is construed as a proceeding in the same direction and operating at a speed in excess of 10 miles
30 per hour within 100 feet to the rear or 50 feet to the side of another vessel which is underway,
31 unless said vessels are operating in a narrow channel, in which case the personal watercraft may
32 operate at the speed and flow of the other vessel traffic within the channel.

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

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

5 (b) The provisions of §20-7-19(a) of this code do not apply to a performer engaged in a
6 professional exhibition or a person or persons engaged in an activity authorized under §20-7-20
7 of this code.

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