

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4274

**FISCAL
NOTE**

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ROMINE, CRISS, DISERIO AND RODIGHIERO

[BY REQUEST OF THE DIVISION OF NATURAL
RESOURCES,

DEPARTMENT OF COMMERCE]

[Introduced January 24, 2018; Referred
to the Committee on Agriculture and Natural
Resources then Finance.]

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 is 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 of
 8 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; and

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.

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 seventy pounds of thrust. There is no fee for motorboats propelled
8 by motors of less than three horsepower or less than seventy pounds of thrust. *Provided, That*
9 beginning on April 1, 2000 The fee schedule for a three-year registration period is as follows, and
10 may be 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, 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 subdivision (b) of this section, shall be deposited
18 in the State Treasury. ~~On and after July 1, 2007, all~~ All moneys deposited pursuant to this section
19 and credited to the Division of Motor Vehicles and fifty percent of all fees collected thereafter shall
20 be credited to the State Road Fund. The remaining fifty percent shall be credited to the Division
21 of 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 subdivision
35 (a) of this section, apply for a certificate of number no later than ten days from the date of issuance
36 of 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 forty
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~~ once its
47 state of principle operation changes to the State of West Virginia. The recordation shall be in the
48 manner and pursuant to procedure required for the award of a number under subdivision (a) of
49 this section, except that the commissioner shall not issue an additional or substitute number.

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

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

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

61 (g) The owner shall furnish the commissioner notice of the transfer of ~~all~~ or any part of an
62 interest, other than the creation of a security interest, in a motorboat numbered in this state
63 pursuant to ~~subdivisions~~ subsections (a) and (b) of this section or of the destruction or
64 abandonment of the motorboat within fifteen days of the transfer of interest, destruction or

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

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

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

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

86 (k) No person may operate an unlicensed motorboat upon any waters of this state without
87 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 forty feet in
6 length;

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

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

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

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

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

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

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

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

24 ~~Third.~~ (C) On the starboard side a green light so constructed as to show an unbroken light
25 over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right
26 ahead to two points abaft the beam on the starboard side. On the port side a red light so
27 constructed as to show an unbroken light over an arc of the horizon of ten points of the compass,

28 so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The
29 said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these
30 lights from being seen across the bow.

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

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

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

47 ~~(c) Any vessel may carry and exhibit the lights required by the federal regulations for~~
48 ~~preventing collisions at sea, 1948, federal act of October 11, 1951, as amended~~ Any vessel may
49 carry and exhibit the lights as contained in the federal navigation laws and rules promulgated by
50 the United States Coast Guard pursuant to 33 C.F.R. Chapter I. as authorized by 46 U.S.C.
51 §4302, in lieu of the lights required by subsection (b) of this section.

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

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

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

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

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

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

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

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

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

79 (h) The provisions of subsections (d), (e), ~~and~~ (g) and subdivision (1), subsection (f) of this

80 section shall not apply to motorboats while competing in any race conducted pursuant to §20-7-
81 20 of this code or, if such boats be designed and intended solely for racing while engaged in such
82 navigation as is incidental to the tuning up of the boats and engines for the race.

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

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

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

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

105 (m) No person shall operate or give permission for the operation of a vessel which is not

106 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 manipulate
5 any water skis, surfboard or similar device while under the influence of alcohol or a controlled
6 substance or drug, under the combined influence of alcohol and any controlled substance or any
7 other drug, or while having an alcohol concentration in his or her blood of eight hundredths of one
8 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 or
12 other casualty such assistance as may be practicable and as may be necessary in order to save

13 them from or minimize any danger caused by the collision, accident or other casualty. ~~and also to~~
14 The operator shall also give his or her name, address and identification of his or her vessel in
15 writing to any person injured and to the owner of any property damaged in the collision, accident
16 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 fifteen may operate a personal watercraft on the waters of
2 this state: *Provided*, That a person that has attained the age of twelve may operate a personal
3 watercraft if a person eighteen 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 ten
30 miles 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 subsection (a) of this section do not apply to a performer engaged in
6 a professional exhibition or a person or persons engaged in an activity authorized under §20-7-
7 20 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 in
10 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.

NOTE: This purpose of this bill relates to the operation of motorboats. The bill defines the term "state of principle operation. The bill" establishes a fee schedule for motorboat registration. The bill establishes motorboat numbering, lighting, fire extinguishers, engine bilges and flotation device requirements. The bill increases the financial amount of property damage before certain accidents need to be reported. The bill clarifies the requirements for the operation of personal watercrafts. The bill limits the hours during the day water skiing and surfing is permitted. The bill authorizes rulemaking.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.