

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3020**

4 (By Delegates Miley, Iaquinta, Longstreth, Guthrie, White, Boggs,
5 Caputo, Skaff, P. Smith, Moye and Ferro)

6
7 (Originating in the House Committee on Finance.)

8
9 [March 28, 2013]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto six new sections to article seven, chapter
12 twenty, designated § 20-7-24, §20-7-25, §20-7-26, §20-7-27,
13 §20-7-28, and §20-7-29, all relating to boat, boat dock and
14 marina safety; providing definitions; requiring compliance
15 with certain standards; requiring work by certified
16 electricians; establishing a date for compliance; and
17 providing penalties.

18 PREAMBLE

19 THIS LEGISLATION SHALL BE KNOWN AS THE "MICHAEL
20 CUNNINGHAM ACT." WHEREAS, WEST VIRGINIA IS KNOWN FOR ITS
21 BEAUTIFUL AND ABUNDANT WATERWAYS, LAKES AND RIVERS, WHICH
22 PROVIDE A DRAW FOR TOURISM AND A BOOST FOR OUR ECONOMY;
23 AND
24 WHEREAS, OUR WATERWAYS, LAKES AND RIVERS SHOULD BE A SAFE
25 PLACE FOR CHILDREN AND FAMILIES TO ENJOY; AND
26 WHEREAS, THERE HAVE BEEN CASES RECENTLY WHERE CHILDREN
27 HAVE DIED BECAUSE THE WATER WHERE THEY WERE SWIMMING WAS
28 ELECTRIFIED BY THE UNGROUNDED AND IMPROPER CONNECTION OF
29 ELECTRICITY TO BOAT DOCKS AND MARINAS; AND

1 WHEREAS, ELECTRICITY AND WATER CREATE A DEADLY
2 COMBINATION THAT CAN PARALYZE A SWIMMER WHICH CAN RESULT
3 IN THE SWIMMER DROWNING; AND WHEREAS, CHILDREN WHO ARE
4 SWIMMING ARE PARTICULARLY VULNERABLE TO ELECTROCUTION AND
5 SHOCK IN THE WATER; AND
6 WHEREAS, BRINGING BOAT DOCKS AND MARINAS UP TO THE
7 NATIONAL FIRE PROTECTION ASSOCIATION AND NATIONAL
8 ELECTRIC CODE STANDARDS FOR MARINAS AND BOATYARDS IS
9 NECESSARY FOR THE PROTECTION AND SAFETY OF ALL OF THOSE
10 WHO ENJOY OUR WATERWAYS, LAKES AND RIVERS FOR RECREATION
11 AND TO PROTECT OUR TOURISM INDUSTRY.

12 *Be it enacted by the Legislature of West Virginia:*

13 That the Code of West Virginia, 1931, as amended, be
14 amended by adding thereto six new sections, designated § 20-7-
15 24, §20-7-25, §20-7-26 and §20-7-27, §20-7-28 and §20-7-29,
16 all to read as follows:

17 **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

18 PART III. THE MICHAEL CUNNINGHAM ACT - BOAT, BOAT DOCK AND
19 MARINA SAFETY REQUIREMENTS.

20 **§20-7-24. Definitions.**

21 As used in Part III of this article:

22 (1) "ABYC" means the American Boat and Yacht Council;

23 (2) "Boat dock" means a man-made structure that protrudes
24 into a body of water for the purpose of mooring a boat or for
25 other water-related recreation, including boat liveries, and
26 that is connected to an electrical power source in any manner:
27 Provided, That "boat dock" does not include structures that
28 are privately owned and used exclusively by the owner or the
29 owner's guests for non-commercial purposes;

1 (3) "Boat dock or marina owner or operator" means any
2 person who:

3 (A) Has an ownership interest in a boat dock or marina,
4 other than a lienholder; or

5 (B) Operates a boat dock or marina;

6 (4) "Ground fault circuit interrupter" means a device
7 that functions to de-energize a circuit, or a portion thereof,
8 within an established period of time when current to ground
9 exceeds a predetermined value that is less than required to
10 operate the over current protective device of the supply
11 circuit;

12 (5) "Marina" means a dock including a boat dock or basin
13 providing moorings for motorboats and offering supply, repair
14 or other services, including electrical power supply, for
15 remuneration: *Provided*, That "marina" does not include docks
16 that are privately owned and used exclusively by the owner or
17 the owner's guests for non-commercial purposes;

18 (6) "Motorboat" means any vessel propelled by an
19 electrical, steam, gas, diesel or other propelled or driven
20 motor, whether or not the motor is the principal source of
21 propulsion, but does not include a vessel with a valid marine
22 document issued by the United States Bureau of Customs or any
23 federal agency that is the successor to the Bureau of Customs;

24 (7) "Operate" means to navigate or otherwise use a

1 vessel;

2 (8) "Owner" means a person, other than a lienholder,
3 having the property in or title to a motorboat. The term
4 includes a person entitled to the use or possession of a
5 motorboat subject to an interest in another person, reserved
6 or created by agreement and securing payment or performance of
7 an obligation, but the term excludes a lessee under a lease
8 not intended as security;

9 (9) "Person" means an individual, partnership, firm,
10 corporation, association or other entity; and

11 (10) "Vessel" means every description of watercraft,
12 other than a seaplane on the water, used or capable of being
13 used as a means of transportation on the water.

14 **§20-7-25. Boat Dock and Marina Safety Requirements - Swimming**
15 **and Signage.**

16 All boat dock or marina owners or operators shall install
17 permanent safety signage with print legible at eighty feet of
18 distance and placed to give adequate notice, to persons using
19 the boat dock or marina or swimming near the boat dock or
20 marina, of the electric shock hazard risks of the waters
21 around the boat dock or marina. The signage shall state:
22 "ELECTRIC SHOCK HAZARD RISK: NO SWIMMING WITHIN 100 YARDS OF
23 THE BOAT DOCK".

24 **§20-7-26. Boat Dock and Marina Safety**

1 **Requirements-Electrical Shock and Electrocutation.**

2 (a) All boat dock or marina owners or operators shall
3 comply with the following requirements to prevent electrical
4 shock, electrocution or injury to users of their facilities
5 and the surrounding areas:

6 (1) All electrical wiring involving 110 AC or 220 AC
7 shall be installed by and maintained by a holder of a valid
8 West Virginia electrician license or master electrician
9 license in accordance with the most recently adopted versions
10 of the National Fire Protection Association's Standards for
11 Marinas and Boatyards (NFPA) 303 and the National Electric
12 Code (NFPA 70);

13 (2) Install ground fault circuit interrupters on all boat
14 dock and marina electrical wiring circuits; and

15 (3) Cause annual inspection by a West Virginia certified
16 electrical inspector or master electrician of all sources of
17 electrical supply, including ship-to-shore power pedestals,
18 submergible pumps, and sewage pump-out facilities, that could
19 result in unsafe electrical current in the water: *Provided,*
20 That the inspection required by this subdivision be done
21 between January 1 and May 1 each year.

22 (c) All work performed on rental motor boats or vessels
23 shall be performed by electricians licensed in West Virginia
24 who are familiar with ABYC standards or by an ABYC certified

1 electrical technician.

2 **§20-7-27. Boat and vessel safety requirements-electrical shock**
3 **and electrocution.**

4 (a) Every vessel shall have aboard all equipment meeting
5 the ABYC standards necessary to ensure the safety of the
6 passengers and the public from electric shock, electrocution,
7 and electric shock drowning.

8 (b) Electrical wiring on a motorboat involving 110 AC or
9 220 AC shall be performed by electricians licensed in West
10 Virginia who are familiar with ABYC standards or by an ABYC
11 certified electrical technician.

12 **§20-7-28. Compliance date.**

13 Each vessel, motorboat, boat dock and marina shall be in
14 full compliance with this section by August 1, 2014.

15 **§20-7-29. Penalties.**

16 (a) On or after August 1, 2014, a boat dock or marina
17 owner or operator, or a boat operator who violates this
18 article and the violation does not result in the injury or
19 death of a person, shall, for the first offense, be issued a
20 warning citation with no court appearance or penalty, and for
21 a second or subsequent offense, be fined one hundred dollars
22 (\$100);

23 (b) A boat dock or marina owner or operator who violates
24 section twenty-five or twenty-six of this article, and the

1 violation results in the injury of a person, shall be guilty
2 of a misdemeanor and, upon conviction, shall be fined not more
3 than five hundred dollars, and for a second offense or
4 subsequent offense shall be fined not more than \$1,000 or
5 confined in jail for not more than six months or both fined
6 and imprisoned.

7 (c) A boat dock or marina owner who violates section
8 twenty-five or twenty-six of this article, and the violation
9 results in the death of a person, shall be guilty of a
10 misdemeanor and upon conviction, shall be confined in jail for
11 not more than one year, or fined not more than one thousand
12 dollars, or both fined and imprisoned.

13