

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2569 Session of
1994

INTRODUCED BY MAYERNIK AND FEE, FEBRUARY 9, 1994

REFERRED TO COMMITTEE ON GAME AND FISHERIES, FEBRUARY 9, 1994

AN ACT

1 Amending Title 30 (Fish) of the Pennsylvania Consolidated
2 Statutes, providing for fishing and boating and violations of
3 laws and regulations related thereto.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 901 heading and subsection (a)
7 introductory paragraph of Title 30 of the Pennsylvania
8 Consolidated Statutes are amended and the subsection is amended
9 by adding a paragraph to read:

10 § 901. Powers and duties of waterways [patrolmen] conservation
11 officers and deputies.

12 (a) Waterways [patrolmen] conservation officers.--Every
13 waterways [patrolman] conservation officer shall have the power
14 and duty to:

15 * * *

16 (14) When in the performance of their duties, to take
17 fish and operate watercraft or vehicles in manners necessary
18 to carry out enforcement duties subject to such limitations

1 as the executive director may prescribe.

2 * * *

3 Section 2. Sections 902, 903, 904, 923, 925 and 927 of Title
4 30 are amended to read:

5 § 902. Enforcement of other laws.

6 (a) Commonwealth laws.--All waterways [patrolmen]
7 conservation officers and deputy waterways [patrolmen]
8 conservation officers are authorized to enforce all the laws of
9 this Commonwealth, and rules and regulations promulgated
10 thereunder, relating to game, parks and forestry, under the
11 direction of the Pennsylvania Game Commission and of the
12 Department of Environmental Resources, respectively.

13 (b) Federal laws.--The executive director may enter into
14 agreements with the United States Secretary of the Interior and
15 other appropriate Federal officials or their designees
16 authorizing such waterways conservation officers and deputy
17 waterways conservation officers as may be designated by the
18 executive director to enforce Federal laws and regulations
19 relating to fish and wildlife or boats and boating.

20 § 903. Delegation of enforcement powers.

21 (a) Commonwealth officers and officials.--Any person
22 employed or elected by the Commonwealth or by any municipality,
23 whose duty it is to preserve the peace or to make arrests or to
24 enforce the laws of this Commonwealth, may be designated and
25 empowered by the executive director, with the approval of the
26 commission, to enforce the provisions of this title[.] under
27 such conditions as the executive director may prescribe.

28 (b) Federal officers and officials.--The executive director
29 may enter into agreements with the United States Secretary of
30 the Interior and other appropriate Federal officials or their

designees authorizing persons employed and empowered by the
Federal Government, whose duty it is to enforce Federal laws or
regulations relating to fish and wildlife or boats or boating to
enforce any of the provisions of this title under such
conditions as the executive director may prescribe.

§ 904. Interference with officers.

(a) General rule.--Any person who [by force, menace, threat or in any manner resists inspection or arrest for violation of any of the provisions of this title or refuses to go with a waterways patrolman or deputy waterways patrolman after an arrest has been made, or] interferes with any officer of this Commonwealth in the performance of his duty under the provisions of this title, commits a summary offense of the first degree.

(b) Resisting inspection or apprehension.-- Any person who
by force, menace, threat or in any manner resists inspection or
arrest for violations of any of the provisions of this title or
who refuses to go with an officer authorized to enforce this
title after an arrest has been made commits a misdemeanor of the
third degree.

~~[(b)]~~ (c) Bodily injury.--Any person who knowingly or
intentionally attempts to cause or causes bodily harm to an officer performing duties under the provisions of this title commits a misdemeanor of the [third] first degree.

§ 923. Classification of offenses and penalties.

(a) General rule.--The following penalties shall be imposed for violations of this title:

(1) For a summary offense of the first degree, a fine of
[~~\$100~~] not less than \$200 nor more than \$2,500 or
imprisonment not exceeding 90 days.

(2) For a summary offense of the second degree, a fine

1 of [~~\$50~~] \$75 or imprisonment not exceeding 20 days.

2 (3) For a summary offense of the third degree, a fine of
3 [~~\$25~~] \$50 or imprisonment not exceeding ten days.

4 (4) For a summary offense of the fourth degree, a fine
5 of \$10.

6 (5) For a misdemeanor of the third degree, a fine of not
7 less than \$250 nor more than \$5,000, or imprisonment not
8 exceeding 90 days, or both.

9 (6) For a misdemeanor of the second degree, a fine of
10 not less than \$500 nor more than \$7,500 or imprisonment not
11 exceeding two years, or both.

12 [~~(6)~~] (7) For a misdemeanor of the first degree, a fine
13 of not less than \$2,500 nor more than \$10,000, or
14 imprisonment not exceeding five years, or both.

15 [~~(7)~~] (8) For a felony of the third degree, a fine of
16 not less than \$2,500 nor exceeding \$15,000, or imprisonment
17 not exceeding seven years, or both.

18 (b) Additional fine.--In addition to the penalties in
19 subsection (a), a fine of \$10 may be imposed for each fish
20 taken, caught, killed, possessed or sold in violation of this
21 title. In computing the number of fish taken, caught, killed,
22 possessed or sold, the number immediately returned unharmed to
23 the water where they were taken shall be omitted.

24 (c) Additional penalty for fishing without license or permit
25 or operating boat without registration.--In addition to the
26 penalties in subsection (a), a person convicted or acknowledging
27 guilt of the offense of fishing without a license in violation
28 of section 2703 (relating to possession and display of licenses)
29 or 2908 (relating to penalties) or operating an unregistered
30 boat for which registration is required shall pay an additional

1 penalty equal to two times the cost of the annual license,
2 permit or registration which the person was required to possess
3 in order to fish or operate a boat requiring registration.

4 (d) Repeat offenders.--A person who is convicted or
5 acknowledges guilt of a second or subsequent violation of this
6 title or the regulations promulgated under this title within 12
7 months of a prior offense under this title [shall, in addition
8 to the fines provided in subsections (a), (b) and (c), pay an
9 additional fine of two times the maximum fine provided in
10 subsection (a) for the second or subsequent offense.] may be
11 sentenced to pay an additional fine calculated as follows:

12 (1) \$100 if all the offenses committed within the 12-
13 month period were classified as summary offenses of the third
14 or fourth degree.

15 (2) \$200 if all the offenses committed within the 12-
16 month period were classified as summary offenses and any of
17 the offenses were summary offenses of the second degree and
18 none were summary offenses of the first degree.

19 (3) \$500 if all the offenses committed within the 12-
20 month period were classified as summary offenses and any of
21 them were summary offenses of the first degree.

22 (4) \$1,000 if any of the offenses committed within the
23 12-month period were classified as misdemeanors of the third
24 degree and none were classified as misdemeanors of the first
25 degree or felonies.

26 (5) \$2,500 if any of the offenses committed within the
27 12-month period were classified as misdemeanors of the first
28 degree or felonies.

29 An extract from commission records maintained in the ordinary
30 course of business showing that the person was convicted or

1 acknowledged guilt of the prior offense shall be sufficient
2 evidence of the existence of the prior offense.

3 (e) Title 18 inapplicable.--Title 18 (relating to crimes and
4 offenses) is inapplicable to this title insofar as it relates to
5 fines and imprisonment for convictions of summary offenses,
6 misdemeanors and felonies.

7 (f) Nonpayment of fines and costs.--Each person who fails to
8 pay a fine imposed under this title may, after hearing before a
9 district justice in accordance with the Rules of Criminal
10 Procedure, be imprisoned until the fine is paid in full. No term
11 of imprisonment for nonpayment of fines for summary offenses
12 under this title shall exceed 90 days.

13 § 925. [Acknowledgment of guilt and receipts for payment.]

14 (Reserved)

15 [(a) General rule.--A person charged with violating any
16 provision of this title which is a summary offense may sign,
17 within five days of the commission of the offense, an
18 acknowledgment of the offense committed and pay to any waterways
19 patrolman of the commission the penalty in full as fixed by this
20 title. The printed receipt for this payment shall only prove
21 full satisfaction of the monetary fine for the offense committed
22 and in no way shall limit the commission from further revoking
23 fishing privileges.

24 (b) Notice of right to hearing.--Before any person signs an
25 acknowledgment pursuant to this section, he will be advised of
26 his right to a hearing in a judicial proceeding. The printed
27 receipt shall have prominently printed thereon a statement that
28 the person charged has a right to a hearing and that if he
29 elects to sign the acknowledgment he is forfeiting that right.

30 (c) Stopping payment of check.--Any person who makes payment

1 to the commission by personal check for an acknowledgment
2 pursuant to this section and who stops payment on the check
3 commits a summary offense of the second degree. The official
4 receipt for payment of the penalty, issued by a waterways
5 patrolman, shall become void and the prosecution of the person
6 or persons named on the receipt shall be allowed to continue.]
7 § 927. Forfeiture of fish and devices.

8 (a) General rule.--A person convicted of an offense under
9 this title shall forfeit any fish seized under section 901(6)
10 (relating to powers and duties of waterways [patrolmen]
11 conservation officers and deputies) [and any device confiscated
12 under this title.] and any thing or device seized under section
13 901(11).

14 (b) Disposition of confiscated property.--Any property
15 seized or confiscated by the commission under this title shall
16 be sold or otherwise disposed of by the executive director.
17 These dispositions shall be recorded on the books of the
18 commission.

19 Section 3. Section 928(a) of Title 30 is amended and the
20 section is amended by adding a subsection to read:

21 § 928. Revocation, suspension or denial of license, permit or
22 registration.

23 (a) Revocation or denial.--Any fishing license, special
24 license or permit or privilege, including boating privileges,
25 granted under the authority of this title may be revoked by the
26 commission, in its discretion, when the holder of the license,
27 permit or privilege is convicted of an offense under this title.
28 Further, the commission, in its discretion, may refuse to grant
29 to that person any new fishing license, special license or
30 permit or privilege for a period not exceeding two years.

1 * * *

2 (e) Approved courses.--In addition to, or in lieu of, a
3 revocation, denial or suspension of any licenses or privileges
4 under this section, the commission may, in its discretion,
5 require the individual to successfully complete a commission-
6 approved safe boating course, in the case of boating violations,
7 or a fishing ethics or conservation course, in the case of
8 fishing violations. The commission may revoke, deny or suspend
9 any licenses or fishing and boating privileges of a person who,
10 having been ordered to complete a course under this subsection,
11 fails to do so. An order to complete a course under this
12 subsection shall be appealable in accordance with 2 Pa.C.S. Ch.
13 5 Subch. A, known as the Administrative Agency Law and the
14 regulations promulgated thereunder.

15 Section 4. Sections 929, 2501(a)(2), 2502, 2504(d), 2506,
16 2906, 3506(a), 5122(b) and 5125(j) of Title 30 are amended to
17 read:

18 § 929. Suspension of privileges pending payment of penalties.

19 All fishing privileges of a person convicted of a fishing
20 violation and all boating privileges of a person convicted of a
21 boating violation shall automatically be suspended until such
22 time as all assessed penalties are paid in full.

23 § 2501. Misuse of property and waters.

24 (a) General rule.--It is unlawful for any person to commit
25 any of the following acts in or along any waters or lands
26 adjacent to or contiguous to waters within or bordering on this
27 Commonwealth:

28 * * *

29 (2) Drive a motor vehicle or other type of conveyance on
30 or over any [cleared or cultivated] lands without the

1 permission of the owner or lessee of the land.

2 * * *

3 § 2502. Disturbance of waterways and watersheds.

4 (a) General rule.--No person shall alter or disturb any
5 stream, stream bed, fish habitat, water or watershed in any
6 manner that might cause damage to, or loss of, fish without or
7 in violation of any of the terms and conditions of the necessary
8 permits or plans.

9 (b) Penalty.--Any person violating the provisions of this
10 section commits [a misdemeanor of the third degree.]:

11 (1) A summary offense of the first degree when
12 paragraphs (2), (3) or (4) are not applicable.

13 (2) A misdemeanor of the third degree when the person
14 acts negligently as defined in 18 Pa.C.S. § 302 (relating to
15 general requirements of culpability) with respect to the
16 violation.

17 (3) A misdemeanor of the second degree when the person
18 acts recklessly as defined in 18 Pa.C.S. § 302 with respect
19 to the violation.

20 (4) A misdemeanor of the first degree when the person
21 acts intentionally or knowingly as defined in 18 Pa.C.S. §
22 302 with respect to the violation.

23 § 2504. Pollution of waters.

24 * * *

25 (d) Penalty.--Any person violating the provisions of this
26 section commits [a misdemeanor of the third degree.]:

27 (1) A summary offense of the first degree when
28 paragraphs (2), (3) or (4) are not applicable.

29 (2) A misdemeanor of the third degree when the person
30 acts negligently as defined in 18 Pa.C.S. § 302 (relating to

1 general requirements of culpability) with respect to the
2 violation.

3 (3) A misdemeanor of the second degree when the person
4 acts recklessly as defined in 18 Pa.C.S. § 302 with respect
5 to the violation.

6 (4) A misdemeanor of the first degree when the person
7 acts intentionally or knowingly as defined in 18 Pa.C.S. §
8 302 with respect to the violation.

9 § 2506. Commonwealth actions for damage to fish.

10 (a) Declaration of policy.--The Commonwealth has sufficient
11 interest in fish living in a free state to give it standing,
12 through its authorized agencies, to recover damages in a civil
13 action against any person who kills any fish or who injures any
14 streams or streambeds [by pollution or littering.] or other
15 waters of this Commonwealth in violation of this chapter. The
16 proprietary ownership, jurisdiction and control of fish, living
17 free in nature, are vested in this Commonwealth by virtue of the
18 continued expenditure of its funds and its efforts to protect,
19 perpetuate, propagate and maintain the fish population as a
20 renewable natural resource of this Commonwealth.

21 (b) General rule.--The commission, as an agency of the
22 Commonwealth authorized to regulate, control, manage and
23 perpetuate fish may, in addition to criminal penalties provided
24 in this title, bring civil suits in trespass on behalf of the
25 Commonwealth for the value of any fish killed or any stream or
26 streambed or other waters of this Commonwealth destroyed or
27 injured in violation of this chapter. In determining the value
28 of fish killed, the commission may consider all factors that
29 give value to such fish. These factors may include, but need not
30 be limited to, the commercial resale value, the replacement

1 costs or the recreational value of angling for the fish killed.
2 In addition, the commission is entitled to recover the costs of
3 gathering the evidence, including expert testimony, in any civil
4 suit brought under this section where the defendant is found
5 otherwise liable for damages.

6 § 2906. Permits for use of explosives.

7 The executive director, with the approval of the commission,
8 may grant permits for the use of explosives in waters for
9 engineering purposes upon the payment of a fee of [\$10] \$50. The
10 executive director may waive the payment of the fee for
11 Commonwealth agencies and political subdivisions. Any person
12 using explosives under a permit shall make restitution to the
13 commission for all fish destroyed.

14 § 3506. Drawing off waters or interference with dams or
15 devices.

16 (a) Drawing off waters or obstructing dams.--No person shall
17 draw off dam or other waters inhabited by fish without first
18 applying for and receiving written permission from the
19 commission, nor shall any person obstruct the flow of water
20 through any such dam or withdraw water from any stream or other
21 waterway without allowing a minimum flow of water determined by
22 the commission to be sufficient at all times to flow in the
23 natural stream on which the dam is located or from which the
24 water is withdrawn to enable the fish to live. Any person
25 violating the provisions of this subsection commits a summary
26 offense of the first degree.

27 * * *

28 § 5122. Registrations, licenses, permits, plates and
29 statistics.

30 * * *

1 (b) Penalty.--Any person who violates a rule or regulation
2 promulgated under this section commits a summary offense of the
3 fourth degree except that a person who operates a passenger-
4 carrying boat without a license or who violates a regulation
5 applicable to livery operators commits a summary offense of the
6 second degree.

7 § 5125. Chemical testing to determine amount of alcohol or
8 controlled substance.

9 * * *

10 (j) Immunity from civil liability and reports.--No
11 physician, nurse or technician or hospital employing the
12 physician, nurse or technician and no other employer of the
13 physician, nurse or technician shall be civilly liable for
14 [properly] withdrawing blood or obtaining a urine sample and
15 reporting test results to [the waterways patrolman] an officer
16 authorized to enforce this title at the request [of a waterways
17 patrolman] under this section of the commission or an officer
18 authorized to enforce this title. No physician, nurse or
19 technician or hospital employing the physician, nurse or
20 technician may administratively refuse to perform the tests and
21 provide the results to the waterways patrolman except as may be
22 reasonably expected from unusual circumstances that pertain at
23 the time the request is made.

24 * * *

25 Section 5. The heading of section 5126 of Title 30 is
26 amended and the section is amended by adding a subsection to
27 read:

28 § 5126. Reports by emergency room and medical personnel.

29 * * *

30 (c) Toxicology tests of victims.--If one or more persons die

1 as a result of a watercraft accident, any emergency room or
2 other medical facility in which the deceased victim is treated
3 shall take blood samples of such victims and transmit them
4 within 24 hours for testing to the Department of Health or a
5 clinical laboratory approved by the Department of Health and
6 specifically designated for such purpose to determine the drug
7 and alcohol contents of the blood. The provisions of subsection
8 (b) shall apply to all medical personnel who perform duties
9 under this subsection.

10 Section 6. Section 5304 of Title 30 is amended by adding a
11 subsection to read:

12 § 5304. Issuing agents.

13 * * *

14 (e) Penalty.--Any issuing agent violating any provisions of
15 this section or the rules and regulations of the commission
16 commits a summary offense of the second degree and, in addition,
17 may have his agency recalled in the discretion of the
18 commission.

19 Section 7. Sections 5311 and 5502 of Title 30 are amended to
20 read:

21 § 5311. Tampering with identification numbers or capacity
22 plates.

23 (a) General rule.--No unauthorized person shall erase,
24 deface, change, paint on, alter, remove, destroy or in any way
25 tamper with any registration number or card, capacity plate,
26 hull identification number or any other identification number on
27 a boat or motor.

28 (b) Penalty.--Any person who violates this section commits a
29 summary offense of the second degree.

30 § 5502. Operating watercraft under influence of alcohol or

1 controlled substance

2 (a) General rule.--No person shall operate or be in actual
3 physical control of the movement of a watercraft upon, in or
4 through the waters of this Commonwealth [while]:

5 (1) while under the influence of alcohol to a degree
6 which renders the person incapable of safe operation of the
7 watercraft;

8 (2) while under the influence of any controlled
9 substance, as defined by the laws of this Commonwealth and
10 rules and regulations promulgated thereunder, to a degree
11 which renders the person incapable of safe operation of a
12 watercraft;

13 (3) while under the combined influence of alcohol and a
14 controlled substance; [or]

15 (4) while the amount of alcohol by weight in the blood
16 of the person is 0.10% or greater[.]; or

17 (5) if the amount of alcohol by weight in the blood of
18 the person is 0.10% or greater at the time of a chemical test
19 of a sample of the person's breath, blood or urine, which
20 sample is:

21 (i) obtained within three hours after the person
22 operated or was in actual physical control of the
23 watercraft; or

24 (ii) if the circumstances of the incident prevent
25 collecting the sample within three hours, obtained with a
26 reasonable additional time after the person operated or
27 was in actual physical control of the watercraft. It
28 shall be a defense to a prosecution under this subsection
29 if the person proves by a preponderance of the evidence
30 that the person consumed alcohol after the last instance

1 in which he operated or was in actual physical control of
2 the watercraft and that the amount of alcohol by weight
3 in his blood would not have exceeded 0.10% at the time of
4 the test but for such consumption.

5 (b) Legal use no defense.--The fact that any person charged
6 with violating this section is or has been legally entitled to
7 use alcohol or controlled substances is not a defense to a
8 charge of violating this section.

9 (c) Certain arrests authorized.--In addition to any other
10 powers of arrest, an officer authorized to enforce this title is
11 hereby authorized to arrest without a warrant any person who the
12 officer has probable cause to believe has violated the
13 provisions of this section, regardless of whether the alleged
14 violation was committed in the presence of such officer. This
15 authority to arrest extends to any hospital or other medical
16 treatment facility located beyond the territorial limits of the
17 officer's political subdivision at which the person to be
18 arrested is found or was taken or removed to for purposes of
19 emergency treatment examination or evaluation provided there is
20 probable cause to believe that the violation of this section
21 occurred within the police officer's political subdivision.

22 (d) Certain dispositions prohibited.--The attorney for the
23 Commonwealth shall not submit a charge brought under this
24 section for Accelerated Rehabilitative Disposition if:

25 (1) the defendant has been found guilty of or accepted
26 Accelerated Rehabilitative Disposition of a charge brought
27 under this section or 75 Pa.C.S. § 3731 (relating to driving
28 under the influence or alcohol or controlled substance)
29 within seven years of the date of the current offense;

30 (2) an accident occurred in connection with the events

1 surrounding the current offense and any person, other than
2 the defendant, was killed or seriously injured as a result of
3 the accident.

4 [(c)] (e) Penalty.--

5 (1) A person violating any of the provisions of this
6 section commits a misdemeanor of the [third degree] second
7 degree and the sentencing court shall order the person to pay
8 a fine of not less than \$500 and serve a minimum term of
9 imprisonment of:

10 (i) Not less than 48 consecutive hours.

11 (ii) Not less than 30 days if the person has
12 previously accepted Accelerated Rehabilitative
13 Disposition or any other form of preliminary disposition,
14 been convicted of, adjudicated delinquent or granted a
15 consent decree under 42 Pa.C.S. Ch. 63 (relating to
16 juvenile matters) based on an offense under this section,
17 an offense under 75 Pa.C.S. § 3731 or of an equivalent
18 offense in this or other jurisdictions within the
19 previous seven years.

20 (iii) Not less than 90 days if the person has two
21 times or more previously been convicted of, adjudicated
22 delinquent or granted a consent decree under 42 Pa.C.S.
23 Ch. 63 based on an offense under this section, an offense
24 under 75 Pa.C.S. § 3731 or of an equivalent offense in
25 this or other jurisdictions within the previous seven
26 years.

27 (2) Acceptance of Accelerated Rehabilitative
28 Disposition, an adjudication of delinquency or a consent
29 decree under 42 Pa.C.S. Ch. 63 or any other form of
30 preliminary disposition of any charge brought under this

1 section or under 75 Pa. C.S. § 3731 shall be considered a
2 first conviction for the purpose of computing whether a
3 subsequent conviction of a violation of this section shall be
4 considered a second, third, or subsequent conviction.

5 (3) The sentencing guidelines promulgated by the
6 Pennsylvania Commission on Sentencing shall not supersede the
7 mandatory penalties of this section.

8 (4) The Commonwealth has the right to appeal directly to
9 the Superior Court any order of court which imposes a
10 sentence for violation of this section which does not meet
11 the requirements of this section. The Superior Court shall
12 remand the case to the sentencing court for imposition of a
13 sentence in accordance with the provisions of this section.

14 (5) Notwithstanding the provision for direct appeal to
15 the Superior Court, if, in a city of the first class, a
16 person appeals from a judgment of sentence under this section
17 from the municipal court to the common pleas court for a
18 trial de novo, the Commonwealth shall have the right to
19 appeal directly to the Superior Court, from the order of the
20 common pleas court if the sentence imposed is in violation of
21 this section. If, in a city of the first class, a person
22 appeals to the court of common pleas after conviction of a
23 violation of this section in the municipal court and
24 thereafter withdraws his appeal to the common pleas court,
25 thereby reinstating the judgment of sentence of the municipal
26 court, the Commonwealth shall have 30 days from the date of
27 the withdrawal to appeal to the Superior Court if the
28 sentence is in violation of this section.

29 (6) Any person who accepts Accelerated Rehabilitative
30 Disposition of any charge brought under this section shall

1 accept as conditions the imposition of and the judge shall
2 impose in addition to any other condition all of the
3 following:

4 (i) A mandatory suspension of watercraft operating
5 privileges for a period of not less than six months but
6 not more than 12 months.

7 (ii) A condition that the defendant, as a condition
8 to entering the program, make restitution to any person
9 who incurred determinable financial loss as a result of
10 the defendant's actions which resulted in a charge of
11 violating this section.

12 (iii) A condition that the defendant, as a condition
13 to entering the program, attend and successfully complete
14 at his own expense an approved alcohol highway safety
15 school established under 75 Pa.C.S. § 1549 (relating to
16 establishment of schools) and a commission-approved
17 boating safety course.

18 (iv) Court supervision for a period of not less than
19 six months. In cases where the defendant is required to
20 make restitution or submit to counseling or treatment,
21 the court supervision shall be for a period of not less
22 than 12 months or until the treatment or counseling is
23 completed and the restitution is paid in full, whichever
24 is longer.

25 (7) Accelerated Rehabilitative Disposition or other
26 preliminary disposition of any charge of violating this
27 section may be revoked and the court shall direct the
28 attorney for the Commonwealth to proceed on the charges as
29 prescribed in general rules if the defendant:

30 (i) is charged with or commits any crime enumerated

1 in Title 18 (relating to crimes and offenses) within the
2 probationary period;

3 (ii) fails to make restitution as provided for in
4 this section;

5 (iii) fails to successfully complete the alcohol
6 highway safety school or the boating safety course;

7 (iv) fails to successfully complete any program of
8 counseling or treatment, or both, required as a condition
9 of Accelerated Rehabilitative Disposition; or

10 (v) violates the terms and conditions of Accelerated
11 Rehabilitative Disposition in any other way.

12 (8) In addition to the conditions set forth in paragraph
13 (7) for Accelerated Rehabilitative Disposition of any charge
14 brought under this section, the judge may impose, and the
15 person shall accept, the condition that the person engage in
16 a program of collecting litter from public and private
17 property along Commonwealth waterways, especially property
18 which is littered with alcoholic beverage containers. The
19 duration of the person's participation in a litter collection
20 program shall not exceed the duration of the probationary
21 period imposed on the person under Accelerated Rehabilitative
22 Disposition.

23 (9) With the exception of court costs, program costs for
24 the alcohol highway safety course and boating safety course
25 or any restitution referred to in this section, any fee or
26 financial condition imposed by a judge as a condition of
27 Accelerated Rehabilitative Disposition or any other
28 preliminary disposition of any charge under this section
29 shall be paid into the Boat Fund under section 531 (relating
30 to establishment and use of Boat Fund).

1 (f) Preliminary hearing or arraignment.--The presiding
2 judicial officer at the preliminary hearing or preliminary
3 arraignment, relating to any charge of a violation of this
4 section, shall not reduce or modify the original charges.

5 (g) Suspension of motor vehicle operating privilege.--
6 Whenever a person is convicted or admitted to a preadjudication
7 program for a violation of this section, the court shall order
8 the motor vehicle operating privilege of the person suspended
9 for a period of six months for a first offense under this
10 section or one year for second or subsequent offense under this
11 section. A copy of the court order shall be transmitted to the
12 Department of Transportation.

13 Section 8. Title 30 is amended by adding sections to read:
14 § 2507. Potential pollution.

15 (a) Administrative order.--Whenever the commission finds
16 that any unpermitted activity, or activity conducted in
17 violation of applicable permits or plans, in, on or along the
18 waters of this Commonwealth creates a danger that substances
19 deleterious, destructive or poisonous to fish will be allowed to
20 run, flow, wash or be emptied into such waters, the commission
21 may take appropriate administrative action to abate the danger
22 or reduce the potential pollution. Any administrative order
23 issued by the commission under this section shall be subject to
24 the provisions of the 2 Pa.C.S. (relating to administrative law
25 and procedure).

26 (b) Rules and regulations.--The commission may promulgate
27 rules and regulations for the administration of this section.

28 (c) Penalty.-- A person violating a final administrative
29 order issued under this section commits a summary offense of the
30 first degree.

1 § 2508. Civil penalties.

2 (a) General rule.--In addition to proceeding under any other
3 remedy available at law or in equity for a violation of a
4 provision of this chapter, the executive director may assess a
5 civil penalty not to exceed \$25 for each game fish killed in
6 violation of this chapter or \$10 for each other fish killed in
7 violation of this chapter.

8 (b) Notice and hearing.--No civil penalty shall be assessed
9 unless the person charged shall have been given written notice
10 and the opportunity for a hearing on such charge in accordance
11 with law.

12 (c) Prosecution not prerequisite.--The commission may
13 initiate an action for a civil penalty under this section
14 without regard to whether the violation has been the subject of
15 prosecution under the Rules of Criminal Procedure. The
16 commission may not collect a civil penalty for any fish for
17 which the commission has collected an additional fine under
18 section 923 (relating to classification of offenses and
19 penalties).

20 (d) Collection.--In cases of inability to collect such civil
21 penalty or failure of the person to pay all or such portion of
22 the penalty as the executive director may determine, the
23 executive director may refer the matter to the Office of
24 Attorney General which shall recover such amount by action in
25 the appropriate court.

26 § 5505. Liquor or malt or brewed beverages.

27 (a) General rule.--In an action or proceeding under this
28 title in which a material element of the offense or action is
29 that a substance is liquor or a malt or brewed beverage, all the
30 following shall apply:

1 (1) Chemical analysis is not required to prove that the
2 substance is liquor or a malt or brewed beverage.

3 (2) Circumstantial evidence is sufficient to prove that
4 the substance is liquor or a malt or brewed beverage.

5 (b) Evidence presented by a defendant.--Notwithstanding
6 subsection (a), nothing shall prevent a defendant from
7 presenting evidence that a substance is not liquor or a malt or
8 brewed beverage.

9 (c) Applicability.--The provisions of this section shall
10 apply to proceedings under this title, Titles 18 (relating to
11 crimes and offenses), 42 (relating to judiciary and judicial
12 procedure), 75 (relating to vehicles) and the act of April 12,
13 1951 (P.L.90, No.21), known as the Liquor Code.

14 § 5506. Permitting unauthorized person to operate watercraft.

15 (a) General rule.--No person shall authorize or knowingly
16 permit a watercraft owned by him or under his control to be
17 operated upon any waters of this Commonwealth by any person who
18 is not authorized under this title or the regulations
19 promulgated hereunder to operate the watercraft or whose boating
20 privileges are under suspension or revocation.

21 (b) Penalty.--Any person violating the provisions of this
22 section is guilty of a summary offense of the second degree.

23 § 5507. Duties of operators involved in watercraft accidents.

24 (a) General rule.--The operator of any watercraft involved
25 in an accident shall immediately stop the watercraft at the
26 scene of the accident or as close thereto as possible and shall
27 remain at the scene of the accident until he has fulfilled the
28 requirements of subsection (b). Every stop shall be made without
29 obstructing the safe navigation of other watercraft more than is
30 necessary.

1 (b) Duty to give information and render aid.--The operator
2 of any watercraft involved in an accident resulting in injury to
3 or death of any person or damage to any property shall give his
4 name, address and the registration number of his watercraft to:

5 (1) Any officer authorized to enforce this title.

6 (2) The operator or any occupants of any other
7 watercraft involved in the accident.

8 (3) Any person who owns or is in control of any property
9 damaged in the accident.

10 The operator shall also render reasonable assistance to any
11 person injured in the accident, including, making of
12 arrangements for carrying injured persons for necessary medical
13 or surgical treatment if it is apparent that treatment is
14 necessary.

15 (c) Penalties.--

16 (1) A person violating subsection (a) commits:

17 (i) A summary offense of the second degree if no
18 person is injured in the accident.

19 (ii) A summary offense of the first degree if one or
20 more persons are injured in the accidents but none of the
21 victims suffer serious bodily injury as defined in
22 subsection (d) or death.

23 (iii) A misdemeanor of the third degree if any
24 victim of the accident suffers serious bodily injury or
25 death.

26 (iv) A misdemeanor of the first degree if the
27 violation of subsection (a) materially contributes to the
28 serious bodily injury of a victim.

29 (v) A felony of the third degree if the violation of
30 subsection (a) materially contributes to the death of a

1 victim of the accident.

2 (2) A person violating subsection (b) commits a summary
3 offense of the second degree.

4 (d) Definition.--As used in this section, the term "serious
5 bodily injury" means any bodily injury that creates a
6 substantial risk of death or which causes serious, permanent
7 disfigurement or protracted loss or impairment of the function
8 of any bodily member or organ.

9 Section 9. This act shall take effect in 60 days.