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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1673 Session of  
2017

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INTRODUCED BY GILLESPIE, PASHINSKI, D. COSTA, P. COSTA, EVERETT,  
MEHAFFIE, MILLARD, DIGIROLAMO, ROTHMAN, BARBIN, FEE, GERGELY  
AND BERNSTINE, JULY 21, 2017

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REFERRED TO COMMITTEE ON GAME AND FISHERIES, JULY 21, 2017

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AN ACT

1 Amending Title 30 (Fish) of the Pennsylvania Consolidated  
2 Statutes, in property and waters, further providing for  
3 damage to property; in protection of property and waters,  
4 further providing for littering; in dams, bar racks and  
5 migration devices, further providing for marking of dams; in  
6 preliminary provisions, further providing for boating  
7 education and for fees; and, in operation of boats, further  
8 providing for operating watercraft under influence of alcohol  
9 or controlled substance and providing for aggravated assault  
10 by watercraft.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Sections 703, 2503(c) and 3510(h)(1) and (2) of  
14 Title 30 of the Pennsylvania Consolidated Statutes are amended  
15 to read:

16 § 703. Damage to property.

17 (a) Unlawful act.--It is unlawful to intentionally or  
18 recklessly destroy or cause damage to property owned, leased or  
19 otherwise controlled by the commission or any improvements  
20 thereon. Any person who intentionally causes pecuniary loss in  
21 excess of \$5,000 commits a felony of the third degree. Any

1 person who intentionally causes pecuniary loss in excess of  
2 \$1,000 commits a misdemeanor of the second degree. Any person  
3 who intentionally or recklessly causes pecuniary loss in excess  
4 of \$500 commits a misdemeanor of the third degree. Otherwise  
5 destroying or causing damage to commission property or any  
6 improvements thereon is a summary offense of the first degree.

7 (b) Restitution.--A person who intentionally or recklessly  
8 destroys or causes damages to commission property, or an  
9 improvement on commission property, shall, upon conviction, make  
10 restitution in addition to paying the penalty set forth in  
11 section 923 (relating to classification of offenses and  
12 penalties). Restitution shall be based on the total cost as  
13 determined by the commission to repair or replace the destroyed  
14 or damaged property or improvement.

15 § 2503. Littering.

16 \* \* \*

17 (c) Penalty.--Any person who deposits or otherwise disposes  
18 of a thing or substance in violation of this section which  
19 causes or may cause damage to, or destruction of, fish commits a  
20 summary offense of the first degree. Any person who transports  
21 household refuse or garbage from another location and disposes  
22 of it by leaving it on lands or waters open to fishing or  
23 boating commits a summary offense of the second degree. Any  
24 person who otherwise violates this section commits a summary  
25 offense of the third degree. In addition to the penalties set  
26 forth in section 923 (relating to classification of offenses and  
27 penalties), an additional penalty of not less than \$20 nor more  
28 than \$50 for each item or piece of litter thrown, discarded,  
29 left, emitted or deposited in violation of this section may be  
30 imposed on any person who is convicted or acknowledges guilt of

1 a violation of this section. In addition to the penalties set  
2 forth in section 923, a person who is convicted or acknowledges  
3 guilt of a violation of this section shall be liable to pay,  
4 upon demand of the person having legal control of the land or  
5 water, a sum equal to the cost of disposal of the discarded  
6 item.

7 § 3510. Marking of dams.

8 \* \* \*

9 (h) Penalties.--

10 (1) Any person who fails to comply with subsection (a)  
11 or (b) [shall forfeit and pay a civil penalty of not less  
12 than \$500 nor more than \$5,000. The penalty shall be  
13 recovered by civil suit or process in the name of the  
14 Commonwealth] commits a summary offense of the first degree  
15 for the first offense and a misdemeanor of the third degree  
16 for any subsequent offense. Each [calendar year] month of  
17 noncompliance shall constitute a separate violation.

18 (2) Any person who fails to comply with subsection (c)  
19 [shall forfeit and pay a civil penalty of not less than \$250  
20 nor more than \$5,000. The penalty shall be recovered by civil  
21 suit or process in the name of the Commonwealth] commits a  
22 summary offense of the second degree for the first offense  
23 and a summary offense of the first degree for any subsequent  
24 offense. Each [calendar year] month of noncompliance shall  
25 constitute a separate violation.

26 \* \* \*

27 Section 2. Section 5103(a) and (j) of Title 30 are amended  
28 and the section is amended by adding a subsection to read:

29 § 5103. Boating education.

30 (a) Mandatory program of boater education.--Except as

1 otherwise provided in this section, [on or after January 1,  
2 2003,] any person born on or after January 1, 1982, shall not  
3 operate, on the waters of this Commonwealth, a motorboat without  
4 first obtaining a certificate of boating safety education.

5 \* \* \*

6 (j) Penalty.--[On or after January 1, 2003, a person who is  
7 subject to the provisions of subsection (a) and who operates, on  
8 waters of this Commonwealth, a motorboat in violation of any  
9 requirement of this section commits a summary offense of the  
10 second degree.]

11 (1) A person who is subject to the provisions of  
12 subsection (a) and who operates a motorboat on waters of this  
13 Commonwealth without first obtaining a certificate of boating  
14 safety education commits a summary offense of the second  
15 degree.

16 (2) A person who is subject to the provisions of  
17 subsection (a) and who operates a motorboat on waters of this  
18 Commonwealth without having a valid certificate of boating  
19 safety education in the person's possession commits a summary  
20 offense of the fourth degree.

21 \* \* \*

22 (1) Boating without a certificate on board.--If a person who  
23 is subject to the provisions of subsection (a) is operating a  
24 motorboat without a certificate of boating safety education in  
25 the person's possession and claims that the person has obtained  
26 one, the waterways conservation officer or other law enforcement  
27 officer shall give the operator seven days to produce the  
28 original certificate. If it is inconvenient for the operator to  
29 produce the certificate in person, the officer may permit the  
30 operator to mail the original certificate to the officer for

1 verification. If the operator fails to send the original  
2 certificate within the seven-day period, the officer may  
3 institute summary proceeding against the operator in the manner  
4 prescribed by law.

5 Section 3. Sections 5104(a)(7) and 5502(b), (b.1), (b.2),  
6 (c), (c.1), (g), (j), (m) and (n) of Title 30 are amended to  
7 read:

8 § 5104. Fees.

9 (a) General rule.--The following fees apply to  
10 registrations, licenses, permits and capacity plates and  
11 certificates issued under this part and the fees collected shall  
12 be deposited in the State Treasury in the Boat Fund:

13 \* \* \*

14 [(7) Capacity plate, \$5 each.]

15 \* \* \*

16 § 5502. Operating watercraft under influence of alcohol or  
17 controlled substance.

18 \* \* \*

19 (b) Authorized use not a defense.--The fact that any  
20 [person] individual charged with violating this section is or  
21 has been legally entitled to use alcohol or controlled  
22 substances is not a defense to a charge of violating this  
23 section.

24 (b.1) Certain arrests authorized.--In addition to any other  
25 powers of arrest, an officer authorized to enforce this title is  
26 hereby authorized to arrest without a warrant any [person]  
27 individual who the officer has probable cause to believe has  
28 violated the provisions of this section, regardless of whether  
29 the alleged violation was committed in the presence of such  
30 officer. This authority to arrest extends to any hospital or

1 other medical treatment facility located beyond the territorial  
2 limits of the officer's political subdivision where the [person]  
3 individual to be arrested is found or was taken for purposes of  
4 emergency treatment, examination or evaluation, provided there  
5 is probable cause to believe that the violation of this section  
6 occurred within the police officer's political subdivision.

7 (b.2) Certain disposition prohibited.--The attorney for the  
8 Commonwealth shall not submit a charge brought under this  
9 section for Accelerated Rehabilitative Disposition if:

10 (1) The defendant has been found guilty of or accepted  
11 Accelerated Rehabilitative Disposition of a charge brought  
12 under this section or 75 Pa.C.S. § 3802 (relating to driving  
13 under influence of alcohol or controlled substance) within  
14 [seven] 10 years of the date of the current offense[.] unless  
15 the charge was for an ungraded misdemeanor under subsection  
16 (a) (2) or 75 Pa.C.S. § 3802(a) (2) and was the defendant's  
17 first offense under this section or 75 Pa.C.S. § 3802.

18 (2) An accident occurred in connection with the events  
19 surrounding the current offense and any [person] individual  
20 other than the defendant was killed or seriously injured as a  
21 result of the accident.

22 (3) There was a passenger under 14 years of age in the  
23 watercraft the defendant was operating.

24 (c) Grading.--

25 (1) Notwithstanding the provisions of paragraph (2):

26 (i) An individual who violates subsection (a) and  
27 who has no more than one prior offense commits a  
28 misdemeanor for which the individual may be sentenced to  
29 a term of imprisonment for not more than six months and  
30 to pay a fine under subsection (c.1).

1           (ii) An individual who violates subsection (a) and  
2 who has more than one prior offense commits a misdemeanor  
3 of the second degree.

4           (2) (i) An individual who violates subsection (a) (1)  
5 where there was an accident resulting in bodily injury,  
6 serious bodily injury or death of any [person] individual  
7 or in damage to a watercraft or other property and who  
8 has no more than one prior offense commits a misdemeanor  
9 for which the individual may be sentenced to a term of  
10 imprisonment for not more than six months and to pay a  
11 fine under subsection (c.1).

12           (ii) An individual who violates subsection (a.1) or  
13 (a.4) and who has no more than one prior offense commits  
14 a misdemeanor for which the individual may be sentenced  
15 to a term of imprisonment for not more than six months  
16 and to pay a fine under subsection (c.1).

17           (iii) An individual who violates subsection (a) (1)  
18 where the individual refused testing of blood or breath  
19 and who has no prior offenses commits a misdemeanor for  
20 which the individual may be sentenced to a term of  
21 imprisonment for not more than six months and to pay a  
22 fine under subsection (c.1).

23           (iv) An individual who violates subsection (a.2) or  
24 (a.3) and who has no prior offenses commits a misdemeanor  
25 for which the individual may be sentenced to a term of  
26 imprisonment for not more than six months and to pay a  
27 fine under subsection (c.1).

28           (v) An individual who violates subsection (a) (1)  
29 where there was an accident resulting in bodily injury,  
30 serious bodily injury or death of any [person] individual

1 or in damage to a watercraft or other property and who  
2 has more than one prior offense commits a misdemeanor of  
3 the first degree.

4 (vi) An individual who violates subsection (a.1) or  
5 (a.4) and who has more than one prior offense commits a  
6 misdemeanor of the first degree.

7 (vii) An individual who violates subsection (a)(1)  
8 where the individual refused testing of blood or breath  
9 and who has one or more prior offenses commits a  
10 misdemeanor of the first degree.

11 (viii) An individual who violates subsection (a.2)  
12 or (a.3) and who has one or more prior offenses commits a  
13 misdemeanor of the first degree.

14 (ix) An individual who violates this section when a  
15 minor under 18 years of age was a passenger in the  
16 watercraft when the violation occurred commits a  
17 misdemeanor of the first degree.

18 (c.1) Penalties.--

19 (1) Except as set forth in paragraph (2), (3) or (4), an  
20 individual who violates subsection (a) shall be sentenced as  
21 follows:

22 (i) For a first offense, to undergo a mandatory  
23 minimum term of six months' probation and to pay a fine  
24 of \$300 and successfully complete an approved boating  
25 safety course.

26 (ii) For a second offense, to undergo imprisonment  
27 for not less than five days and to pay a fine of not less  
28 than \$300 nor more than \$2,500 and successfully complete  
29 an approved boating safety course.

30 (iii) For a third or subsequent offense, to undergo

1 imprisonment for not less than ten days and to pay a fine  
2 of not less than \$500 nor more than \$5,000 and  
3 successfully complete an approved boating safety course.

4 (2) Except as set forth in paragraph (3) or (4), an  
5 individual who violates subsection (a)(1) where there was an  
6 accident resulting in bodily injury, serious bodily injury or  
7 death of any [person] individual or damage to a watercraft or  
8 other property or who violates subsection (a.1) or (a.4)  
9 shall be sentenced as follows:

10 (i) For a first offense, to undergo imprisonment for  
11 not less than 48 consecutive hours and to pay a fine of  
12 not less than \$500 nor more than \$5,000 and successfully  
13 complete an approved boating safety course.

14 (ii) For a second offense, to undergo imprisonment  
15 for not less than 30 days and to pay a fine of not less  
16 than \$750 nor more than \$5,000 and successfully complete  
17 an approved boating safety course.

18 (iii) For a third offense, to undergo imprisonment  
19 for not less than 90 days and to pay a fine of not less  
20 than \$1,500 nor more than \$10,000 and successfully  
21 complete an approved boating safety course.

22 (iv) For a fourth or subsequent offense, to undergo  
23 imprisonment for not less than one year and to pay a fine  
24 of not less than \$1,500 nor more than \$10,000 and  
25 successfully complete an approved boating safety course.

26 (3) Except as set forth in paragraph (4), an individual  
27 who violates subsection (a)(1) and refused testing of blood  
28 or breath or an individual who violates subsection (a.2) or  
29 (a.3) shall be sentenced as follows:

30 (i) For a first offense, to undergo imprisonment for

1 not less than 72 consecutive hours and to pay a fine of  
2 not less than \$1,000 nor more than \$5,000 and  
3 successfully complete an approved boating safety course.

4 (ii) For a second offense, to undergo imprisonment  
5 for not less than 90 days and to pay a fine of not less  
6 than \$1,500 and successfully complete an approved boating  
7 safety course.

8 (iii) For a third or subsequent offense, to undergo  
9 imprisonment for not less than one year and to pay a fine  
10 of not less than \$2,500 and successfully complete an  
11 approved boating safety course.

12 (4) Notwithstanding the provisions of this subsection  
13 relating to mandatory minimum sentences, if the court makes a  
14 finding that the county jail population exceeds its capacity,  
15 the court may allow an individual who violated this section  
16 and is serving a mandatory minimum term of imprisonment to be  
17 released on parole to serve some or all of the individual's  
18 term of imprisonment on house arrest with electronic  
19 surveillance. This shall not apply to an individual who  
20 violates subsection (a)(1) where there was an accident  
21 resulting in serious bodily injury or the death of any  
22 [person] individual.

23 (5) An individual who violates this section when a minor  
24 under 18 years of age was a passenger in the watercraft when  
25 the violation occurred, in addition to any penalty imposed  
26 under this section, shall be sentenced as follows:

27 (i) For the first offense to both:

28 (A) Pay a fine of not less than \$1,000.

29 (B) Complete 100 hours of community service.

30 (ii) For a second offense to both:

1                   (A) Pay a fine of not less than \$2,500.

2                   (B) Undergo imprisonment for not less than one  
3                   month nor more than six months.

4                   (iii) For a third or subsequent offense, undergo  
5                   imprisonment for not less than six months nor more than  
6                   two years.

7                   \* \* \*

8           (g) City of first class.--Notwithstanding the provision for  
9 direct appeal to the Superior Court, if, in a city of the first  
10 class, [a person] an individual appeals from a judgment of  
11 sentence under this section from the municipal court to the  
12 common pleas court for a trial de novo, the Commonwealth shall  
13 have the right to appeal directly to the Superior Court from the  
14 order of the common pleas court if the sentence imposed is in  
15 violation of this section. If, in a city of the first class, [a  
16 person] an individual appeals to the court of common pleas after  
17 conviction of a violation of this section in the municipal court  
18 and thereafter withdraws his appeal to the common pleas court,  
19 thereby reinstating the judgment of sentence of the municipal  
20 court, the Commonwealth shall have 30 days from the date of the  
21 withdrawal to appeal to the Superior Court if the sentence is in  
22 violation of this section.

23                   \* \* \*

24           (j) Litter collection program.--In addition to the  
25 conditions set forth under subsection (i) for Accelerated  
26 Rehabilitative Disposition of any charge brought under this  
27 section, the judge may impose and the [person] individual shall  
28 accept the condition that the [person] individual engage in a  
29 program of collecting litter from public and private property  
30 along Commonwealth waterways, especially property which is

1 littered with alcoholic beverage containers. The duration of the  
2 [person's] individual's participation in a litter collection  
3 program shall not exceed the duration of the probationary period  
4 imposed on the [person] individual under Accelerated  
5 Rehabilitative Disposition.

6 \* \* \*

7 (m) Work release.--In any case in which [a person] an  
8 individual is sentenced to a period of imprisonment as a result  
9 of a conviction for violating any provision of this section, the  
10 judicial officer imposing that sentence shall consider assigning  
11 that [person] individual to a daytime work release program  
12 pursuant to which the [person] individual would be required to  
13 collect litter from public and private property, especially  
14 property which is littered with alcoholic beverage containers.

15 (n) Definitions.--As used in this section, the following  
16 words and phrases shall have the meanings given to them in this  
17 subsection:

18 "Adult." [A person] An individual 21 years of age or older.

19 "Minor." [A person] An individual under 21 years of age.

20 Section 4. Title 30 is amended by adding a section to read:  
21 § 5502.4. Aggravated assault by watercraft.

22 A person who recklessly or with gross negligence causes  
23 serious bodily injury to another person while engaged in the  
24 violation of a provision of this title or regulations  
25 promulgated under this title applying to the operation or  
26 equipment of boats or watercraft, except section 5502 (relating  
27 to operating watercraft under influence of alcohol or controlled  
28 substance), commits aggravated assault by watercraft, a felony  
29 of the third degree, when the violation is the cause of the  
30 injury.

1 Section 5. This act shall take effect in 60 days.