



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 1185

PRINTERS NO. 1371

PRIME SPONSOR: Mentzer

### COST / (SAVINGS)

FUND	FY 2018/19	FY 2019/20
Fish Fund	\$0	\$0
Boat Fund	\$0	\$0

### SUMMARY:

Amends Title 30 (Fish and Boat Code) to increase and/or clarify penalties relating to damage to PFBC property; littering; boating education; boating under the influence; and aggravated assault by watercraft.

### ANALYSIS:

#### Damage to PFBC Property:

HB 1185 amends Section 703 (relating to damage to property) by adding a new subsection (b) requiring that an individual who intentionally or recklessly destroys or causes damages to PFBC property, or an improvement on PFBC property, shall, upon conviction, make restitution in addition to paying the penalty currently provided for in statute. The restitution is to be based on the total cost to repair or replace the destroyed or damaged property.

#### Littering:

The bill also amends Section 2503 (relating to littering) to require an individual who is convicted or acknowledges guilt of a violation of littering be liable to pay, upon demand of the person having legal control of the land or water, a sum equal to the cost of disposal of the discarded item, in addition to paying the penalty currently provided for in statute.

#### Boating Education:

Section 5103 (relating to boating education) is amended to provide that an individual who is required to complete mandatory boater education, and operates a motorboat on Commonwealth waters:

- without first obtaining a certificate of boating safety education commits a summary offense of the second degree (fine of \$150 or imprisonment not exceeding 20 days).
- without having a valid certificate of boating safety education in the person's possession commits a summary offense of the fourth degree (fine of \$25).

If an individual operates a motorboat without a certificate of boating safety education in their possession and claims that they have obtained a certificate, the waterways conservation officer or other law enforcement officer must give the operator seven days to produce the original certificate. If it is inconvenient for the operator to produce the certificate in person, the officer may permit the operator

to mail the original certificate to the officer for verification. If the operator fails to send the original certificate within the seven-day period, the officer may then institute the summary proceeding against the operator.

Boating Under the Influence:

Section 5502 (relating to operating a watercraft under the influence) is amended to provide that Accelerated Rehabilitative Disposition (ARD) may not be brought as a charge option if:

- the defendant has been found guilty or accepted ARD for either Boating Under the Influence (BUI) under Title 30 or Driving Under the Influence (DUI) under Title 75 (Vehicle Code) within the last 10 years, unless the charge was an ungraded misdemeanor under Title 75.
- there was a passenger under 14 years of age in the watercraft the defendant was operating.

Section 5502, subsection (c) (relating to grading) is also amended to provide that an individual who operates a watercraft under the influence with a minor passenger under the age of 18 commits a misdemeanor of the first degree (fine of \$1,500 to \$10,000, or imprisonment not exceeding five years, or both). Subsection (c) (1) (relating to penalties) is also amended to provide that such action will result in an additional penalty of a fine of no less than \$1,000 and completion of 100 hours of community service for a first offense; a fine of not less than \$2,500 and imprisonment of one to six months for a second offense; and imprisonment of six months to two years for a third or subsequent offense.

Aggravated Assault by Watercraft:

Additionally, language is added in a new section, Section 5502.4 (related to aggravated assault by watercraft) to provide that an individual who recklessly or with gross negligence causes serious bodily injury to another person while engaged in a violation of the title or regulations promulgated under the title applying to the operation or equipment of boats or watercraft, except operating watercraft under influence, commits aggravated assault by watercraft, a felony of the third degree (a fine of \$2,500 to \$15,000, or imprisonment not exceeding seven years, or both), when the violation is the cause of the injury.

The bill also makes technical wording changes, updates terminology and removes outdated language.

Effective Date: 60 days.

**FISCAL IMPACT:** According to the Pennsylvania Fish & Boat Commission, the enactment of this legislation will have no adverse fiscal impact on Commonwealth funds.

**PREPARED BY:** Thomas Gwinn  
House Appropriations Committee (R)

**DATE:** June 20, 2019

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*