

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 1402

**PRINTER'S NO.** 2415

**AMOUNT**

\$645 - \$8310 Revenue Increase Annually  
(\$350) Annual Revenue Loss

**FUND**

Boat  
Fish

**DATE INTRODUCED**

January 31, 2012

**PRIME SPONSOR**

Senator Alloway

**HISTORY OF BILL**

Referred to GAME AND FISHERIES, Jan. 31, 2012

Reported as amended, June 5, 2012

First consideration, June 5, 2012

Re-referred to APPROPRIATIONS, June 25, 2012

Re-reported as amended, Sept. 25, 2012

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 1402 makes numerous updates and changes to Title 30, the Fish Code. The bill clarifies the definition of the word, fishing, to include the words, "lands within or" because reptiles and amphibians are included in their definition of fish, despite spending little or no time in the water.

The bill updates the Fish Code to conform with current law which provides that a majority of the Senate confirm the Governor's appointments to the Fish and Boat Commission.

The bill allows the Executive Director to approve equivalent training requirements have been met for deputy waterways conservation officers. It also clarifies that deputy conservation officers are volunteers.

Senate Bill 1402 provides that it is unlawful to intentionally or recklessly destroy Commission property and provides proportional degrees of penalties to the amount of damage caused. The penalties are consistent with the Crimes Code. The current fine is \$50 regardless of the amount of damage cause.

The bill also provides that Commission shall exercise sole control of lands controlled by the Commission and that such lands are not subject to regulation by counties or municipalities.

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The bill clarifies the powers and duties of a waterways conservation officer, including the use of vehicles equipped with devices authorized under the Vehicle Code for emergency vehicles.

The bill provides that it is unlawful to use a computer to create a fraudulent fishing license, boat registration, or other Commission-issue license, permit or privilege.

It defines an accomplice and provides for the actions of such a person for purposes of violations of the act.

The bill clarifies that all fishing and boating privileges granted by this Title are suspended if a person fails to respond to a citation or summons or pay penalties after a conviction or guilty plea.

It prohibits the use of all terrain vehicles in addition to motor vehicles near waterways unless the driver has permission of the land owner. Also makes fishing in a clearly marked no-fishing zone a violation of this act.

The bill increases the penalty for littering, commensurate with the amount of litter thrown or discarded. The additional penalty is increased from \$10 to a sliding scale of not less than \$20 but not more than \$50 for each littering violation. The amount of the additional penalty will be at the discretion of the Magisterial District Judge.

The bill further provides for additional types of institutional licenses for resident patients in the Commonwealth. It also exempts students in educational programs from licensing requirements.

The bill establishes a lower annual \$25 fee for a temporary fishing pond operated on behalf of a non-profit sportsmen's, conservation or charitable organization.

The bill changes the fine for a conviction of unsafe operation of boats, in violation of regulations, from a flat fine of \$20 to a possible fine of not less than \$20 but no more than \$50 for each piece of safety equipment missing, not worn, or unserviceable. The actual amount of the penalty will be at the discretion of the Magisterial Court Judge.

The bill adds a new section which provides for the offense of unauthorized operation of boats. It also adds a new section specifically addressing the violation and penalties for knowingly allowing a person clearly under the influence to operate the owner's boat.

Senate Bill 1402 establishes the duties of watercraft operators involved in boating accidents to include the duty to provide information, render aid, and remain at or near the scene. It establishes penalties for those who do not fulfill those specified duties.

The act shall take effect in 60 days.

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### **FISCAL IMPACT:**

Section 703 increases the penalties and subsequent fines for damage to property controlled by the commission, dependent on the severity of the damage inflicted. The current penalty is \$50 regardless of the amount of damage caused. The Fish and Boat Commission state that they do not have historical data necessary to determine the impact of the increased fines commensurate with the level of damage inflicted on the property.

Section 2503 provides for enhanced optional penalties for littering. The current enhanced penalty is \$10 for each piece of litter thrown or discarded. The Fish and Boat Commission reported in 2011, 129 of the 320 littering cases had enhanced penalties imposed by the Magisterial District Judge. Of the 129, it is assumed that about half were for the minimum \$10 enhanced penalty amount, based on 2010 actual data. Assuming 50% of the enhanced penalties imposed in 2011 were \$10, the estimated annual increased revenue resulting from increasing the potential penalty to no less than \$20 and no more than \$50, would be a minimum increase of \$645 ( $\$10 \text{ increase} \times [50\% \text{ of } 129] \text{ enhanced cases}$ ) to a maximum increase of \$2,580 ( $\$40 \text{ increase} \times [50\% \text{ of } 129] \text{ enhanced cases}$ ).

Section 5123 provides for enhanced optional penalties for operation of an unsafe boat after conviction or a guilty plea. The current additional penalty is \$20. The Fish and Boat Commission reports that in 2011, nearly all of the 191 enhanced cases of the 1,510 total boating equipment cases had enhanced penalties of \$20 imposed by the Magisterial District Judge. Therefore the possible increased revenue resulting from increasing the potential penalty to no less than \$20 and no more than \$50, could be estimated to be a minimum of zero increase (or equal to the current penalty of  $\$20 \times 191 \text{ enhanced cases}$  or \$3,820) to a maximum of  $\$30 \times 191 \text{ cases}$  or \$5,730 if the maximum penalty of \$50 is imposed by the Magisterial District Judge.

Section 3102 provides a new special annual license fee of \$25 for a temporary fishing pond which will be operated as a Class A regulated fishing lake on behalf of a non-profit sportsmen's, conservation or charitable organization. Prior to this change, the fee would have been \$200. The Fish and Boat Commission states that only 2 applicants met the criteria for this new license fee in the last year. Therefore, the estimated annual revenue loss is \$350.