

DELAWARE RIVER COMMISSIONERS OF NAVIGATION ESTABLISHED

Act of Jun. 8, 1907, P.L. 496, No. 322

Cl. 74

AN ACT

To establish a Board of Commissioners of Navigation for the river Delaware and its navigable tributaries; regulating their jurisdiction over ships, vessels, and boats, and wharves, piers, bulkheads, docks, slips, and basins; and exempting cities of the first class from certain of its provisions; and making an appropriation therefor.

Compiler's Note: Section 5(a) of Act 197 of 1976 provided that Act 322 is repealed insofar as it is inconsistent with Act 197.

Section 1. Be it enacted, &c., That there is hereby created a departmental administrative commission in the Department of State, to be known as the Navigation Commission for the Delaware River and its navigable tributaries, consisting of nine members, four to be appointed by the Governor, with the advice and consent of the Senate; two of whom shall be appointed from among the residents of Delaware County; one of whom shall be appointed from among residents of Bucks County; and one of whom shall be appointed from among the residents of Philadelphia County; two to be appointed by the Mayor of the City of Philadelphia; one to be the Secretary of Environmental Protection who shall serve ex officio or the designee of the secretary; one to be the Secretary of the Commonwealth who shall serve ex officio or the designee of the secretary and who shall be chairperson; and one of whom shall be the Director of Commerce of the City of Philadelphia who shall serve ex officio or the designee of the Director. Meetings of the commission shall be held in the City of Philadelphia or at a location determined by a majority vote of the commission. Public notice of the time and place of meetings of the commission shall be given as provided in 65 Pa.C.S. Ch. 7 (relating to open meetings).

(1 amended June 22, 2001, P.L.582, No.41)

Section 2. The members of the Navigation Commission for the Delaware River and its navigable tributaries, hereinafter referred to as the Commissioners, shall hold office for a term of four years, and until their successors are appointed and qualified, and may be eligible for reappointment to office. They shall serve without compensation, but shall be reimbursed for necessary expenses. A majority of the Commissioners, appointed by the Governor and the Mayor of the City of Philadelphia, shall constitute a quorum for the transaction of business.

(2 amended Jun. 21, 1937, P.L.1960, No.385)

Section 3. The Commissioners shall have a secretary, and such clerks as may be necessary to keep accurate minutes and entries of all orders, regulations, and transactions of the said Commissioners, in a book or books to be kept for that purpose; and the said minutes and entries shall be submitted to the inspection of any person or persons who shall desire to see and peruse the same; and the said Commissioners shall give true copies of all such entries or minutes, made in the said book or books as may be required, to such person or persons as shall demand the same, he or they paying to the said Commissioners one cent per line for each copy thereof. The Commissioners may also have, if the Secretary of Forests and Waters approve, a civil engineer, and such other employes as are necessary to the proper transaction of the business of the Navigation Commission for the Delaware River and its navigable

tributaries. The said Commissioners shall have authority to maintain adequate offices and a meeting room.

The Secretary of Forests and Waters shall appoint the secretary and all employes of the commission, other than counsel, whose salaries shall be fixed as provided in The Administrative Code. The Attorney General shall furnish such advice or legal service as may be needed, or may designate counsel to represent the commission, and fix his compensation as provided by The Administrative Code.

(3 amended June 21, 1937, P.L.1960, No.385)

Compiler's Note: Section 502 of Act 164 of 1980 provided that the powers and duties of the Attorney General and/or the Department of Justice contained in section 3 were transferred to the Office of General Counsel.

Section 4. The Commissioners shall make rules for regulating, stationing and anchoring ships, vessels, and boats in the river Delaware and its navigable tributaries, or at the wharves, piers, or bulkheads, or in the docks, slips, or basins, extending into or on the said river and its navigable tributaries; for removing, from time to time, ships, vessels, and boats, in order to accommodate and make room for others, or for admitting river craft to pass in and out of the docks, slips, and basins, and for compelling the masters and captains of ships, vessels, and boats to accommodate each other, so that ships, vessels, and boats shall, for a reasonable time, be entitled to berths next to the wharves, piers, and bulkheads, until they have landed or loaded their cargoes.

Section 5. The commissioners shall have power to make surveys and soundings to ascertain the capacities of the aforesaid river and its navigable tributaries for commercial purposes, and to prepare plans therefrom, and to keep records thereof. They shall also have power to regulate, fix, and establish bulkhead and pierhead lines, and the distance between piers, subject to the regulation of the United States Government; to adopt and promulgate rules and regulations for the construction, extension, alteration, improvement, and repair of wharves, piers, bulkheads, docks, slips, and basins: Provided, That, for the purposes of this section, the commissioners shall not have jurisdiction within any city of the first class.

(5 amended Apr. 26, 1921, P.L.297, No.149)

Section 6. It shall be the duty of the president of commissioners to take the necessary action to enforce the laws of the Commonwealth and the rules and regulations made and promulgated by the commissioners pursuant to the authority conferred upon them by sections four and five of said act as hereby amended; and if any person or persons shall refuse or neglect to comply with the directions of the president of the commissioners in matters within the jurisdiction of his office, or shall knowingly fail to comply with the rules and regulations by the commissioners duly made, promulgated, and established, as aforesaid, or if any person or persons whosoever shall obstruct or prevent the said president of the commissioners in the execution of his duties, such person or persons shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay, for each and every offense, a fine not exceeding five hundred dollars.

(6 amended Apr. 26, 1921, P.L.297, No.149)

Section 7. (7 repealed Nov. 26, 1978, P.L.1375, No.325)

Section 8. (8 repealed Nov. 26, 1978, P.L.1375, No.325)

Section 9. Whenever the owner or owners, or lessee or lessees, of any wharf, pier, or bulkhead shall fail to keep and

maintain the adjoining dock or docks cleaned and free from obstruction, it shall be lawful for the President of the Commissioners, upon default for thirty days after the service of notice on such owner or owners, lessee or lessees, to clean or cause said dock or docks to be cleaned and freed from obstructions, and to apportion the expense thereof among the owner or owners, lessee or lessees, of the wharves, piers, and bulkheads adjoining such dock or docks, in proportion to the extent of their wharves, piers, or bulkheads having the privilege of use of such dock or docks; and to collect the cost and expense of the same by filing liens therefor, in the name of the Commonwealth of Pennsylvania, and issuing process thereupon as is provided by law in the case of liens filed for work done by a municipal corporation; and all liens for the said work shall be filed by the Attorney General of the Commonwealth, and shall have the same force and effect as in the case of liens for municipal work under existing laws: Provided, That, for the purposes of this section, the Commissioners shall not have jurisdiction within any city of the first class.

Section 10. The Navigation Commission, after a hearing of the parties in interest, is authorized to regulate the services and to fix the maximum rates for wharfage, crantage, and dockage: Provided, That, for the purposes of this section, the commissioners shall not have jurisdiction within any city of the first class.

(10 amended Jun. 21, 1937, P.L.1960, No.385)

Section 11. (11 repealed Apr. 28, 1978, P.L.202, No.53)

Section 12. If any person or persons whosoever, shall, from and after the passage of this act, cast or place or leave in position where the same may be washed or drifted into the tideway of the river Delaware, or into the river Schuylkill from the lower falls thereof to its junction with the river Delaware, any ballast, cinders, ashes, dirt, refuse, or any heavy article whatever, he or they so offending, for every such offense, shall forfeit and pay a sum not exceeding one hundred dollars, to be sued for and recovered, with costs of suit, by the President of said Commissioners, for the use of the Commonwealth, before any magistrate of the city of Philadelphia, or justice of the peace of the proper county.

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 12.1. Whenever any wharf, pier, bulkhead, piling or harbor structures, within the limits of said cities, has not been used for a period of three years and is no longer capable of being used for the purpose for which it was constructed, the Director of Commerce of such city may serve written notice upon the owner and lessee thereof, if any, requiring that, within 60 days from service of said notice, work commence for the removal of said wharf, pier, bulkhead, pilings or other harbor structure and to complete such removal within a period of one year from the date of service of such notice.

(12.1 added Dec. 8, 1959, P.L.1716, No.630)

Section 12.2. Upon the failure of the owner or lessee to begin such removal within 60 days of service of notice and to complete said removal within one year from service of notice, the Director of Commerce may remove or cause to be removed said wharf, pier, bulkhead, piling or other harbor structure. Upon the completion of the removal work, the cost and expense thereof

shall be a charge against the owner and lessee thereof, if any, of the wharf, pier, bulkhead, pilings or other harbor structure, and shall be a lien until paid: Provided, That the claim is filed therefor, in accordance with the law providing for the filing and collection of municipal claims.

(12.2 added Dec. 8, 1959, P.L.1716, No.630)

Section 13. (13 repealed Apr. 28, 1978, P.L.202, No.53)

Section 14. At least once a month, and before the tenth day thereof, the President of the Commissioners shall certify to the Commissioners, for their audit and approval, all money received during the preceding month, with the sources thereof, and all expenditures made in said month, with the purposes thereof.

Section 15. The Commissioners shall make an annual report to the Governor of the Commonwealth, showing an itemized account of the income and expenditures made by them.