

FISH AND BOAT CODE (30 PA.C.S.) - SERIOUS UNLAWFUL TAKE, TAKING
OR POSSESSING BY ILLEGAL METHODS AND LAKE ERIE FISHING PERMITS
Act of Oct. 24, 2012, P.L. 1323, No. 167 Cl. 30
Session of 2012
No. 2012-167

HB 2293

AN ACT

Amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for classification of offenses and penalties and for revocation, suspension or denial of license, permit or registration; providing for serious unlawful take and for taking or possessing by illegal methods; and further providing for Lake Erie fishing permits.

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

Section 1. Section 923(a)(1), (2) and (3) and (b) of Title 30 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a subsection to read:

§ 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 [~~\$200~~] **\$250** or imprisonment not exceeding 90 days.

(2) For a summary offense of the second degree, a fine of [~~\$100~~] **\$150** or imprisonment not exceeding 20 days.

(3) For a summary offense of the third degree, a fine of [~~\$50~~] **\$75**.

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(b) Additional fine.--In addition to the penalties in subsection (a), a fine of [~~\$20~~] **not less than \$20 nor more than \$50** may be imposed for each fish taken, caught, killed, possessed or sold in violation of this title **or for each illegal device used by an angler while in the act of fishing**. In computing the number of fish taken, caught, killed, possessed or sold, the number immediately returned unharmed to the water where they were taken shall be omitted.

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(c.1) **Additional penalty for serious unlawful take** .--In addition to the penalties in subsections (a) and (b), a person convicted or acknowledging guilt of violating section 2109 (relating to serious unlawful take) or 2110 (relating to taking or possessing by illegal methods) shall be assessed the costs incurred by the commission for the replacement of the species involved in the violation in an amount determined by regulation of the commission consistent with the values established by the American Fisheries Society or other recognized professional fisheries organization. Replacement costs may only be assessed for violations relating to federally listed threatened or endangered species and any other species of fish designated by the commission.

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Section 2. Section 928(a), (b) and (d) of Title 30 are amended to read:

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

(a) Revocation or denial.--Any fishing license, special license or permit or privilege, including boating privileges, granted under the authority of this title may be revoked by the commission, in its discretion, when the holder of the license, permit or privilege is convicted of **or pleads guilty to** an offense under this title. Further, the commission, in its discretion, may refuse to grant to that person any new fishing license, special license or permit or privilege for a period not exceeding [two] **five** years.

(b) Suspension.--The commission shall for a period of one year suspend the privilege of operating a watercraft on the waters of this Commonwealth of any individual who is convicted of a violation of section 5502 (relating to operating watercraft under influence of alcohol or controlled substance) or 5502.1 (relating to homicide by watercraft while operating under influence) or [an adjudication of delinquency] **is adjudicated delinquent** based on section 5502 or 5502.1. **If an individual is imprisoned for violating section 5502 or 5502.1, the period of suspension imposed under this subsection may not commence until the date of the individual's release from prison.**

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(d) Penalty.--A person commits a [summary offense of the first degree] **misdemeanor of the third degree** if he performs an act for which a fishing license, special license, permit or boat registration is required or exercises a privilege, including the privilege to operate a watercraft on the waters of this Commonwealth, while the license, permit or privilege is suspended or revoked. A person commits a misdemeanor of the [third] **second** degree if he commits a second or subsequent violation of a suspension or revocation during its term.

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Section 3. Title 30 is amended by adding sections to read:
§ 2109. Serious unlawful take .

(a) **Prohibited conduct.--It shall be unlawful to do any of the following from any waters of this Commonwealth, boundary waters or lands:**

(1) During the closed season, take, catch, kill or possess fish having a replacement cost in excess of \$500.

(2) Take, catch, kill or possess three or more times the daily limit of fish.

(b) **Grading.--Any person violating subsection (a) commits a misdemeanor of the second degree.**

§ 2110. Taking or possessing by illegal methods.

(a) **Prohibited conduct.--It shall be unlawful to take, catch, kill or possess fish by any method not specifically authorized by law or regulation from any waters of this Commonwealth, boundary waters or lands.**

(b) **Grading.--The following shall apply:**

(1) Any person violating subsection (a) relating to a single fish commits a summary offense of the second degree.

(2) Any person violating subsection (a) relating to two or more fish, up to and including the legal daily limit, commits a summary offense of the first degree.

(3) Any person violating subsection (a) relating to more than the legal daily limit of fish, or a second or subsequent violation of subsection (a), commits a **misdemeanor of the second degree.**

Section 4. Section 2907.2(f.1) of Title 30 is amended to read:

§ 2907.2. Lake Erie fishing permits.

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(f.1) Lake Erie permits.--The proceeds from the fees for the special Lake Erie fishing permits as provided for under section 2715(a.1)(4) (relating to license, permit and issuing agent fees) and \$6 of the fees for the combination trout/salmon permits and Lake Erie permits as provided for under section 2715(a.1)(5) shall be deposited into a restricted account within the Fish Fund [through December 31, 2014]. The restricted account shall be used to provide public fishing access or to protect or improve fish habitat on or at Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries.

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Section 5. The amendment or addition of the following provisions shall apply to violations occurring on or after the effective date of this section:

- (1) 30 Pa.C.S. § 923(a)(1), (2) and (3), (b) and (c.1).
- (2) 30 Pa.C.S. § 928(a), (b) and (d).
- (3) 30 Pa.C.S. § 2109.
- (4) 30 Pa.C.S. § 2110.

Section 6. This act shall take effect immediately.

APPROVED--The 24th day of October, A.D. 2012.

TOM CORBETT