
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **1185** Session of
2019

INTRODUCED BY MENTZER, BENNINGHOFF, GILLESPIE, KORTZ, MURT,
BERNSTINE, MILLARD, PICKETT, READSHAW, FEE, DeLUCA,
ZIMMERMAN, NEILSON, ECKER, BOBACK, HICKERNELL, GREINER,
B. MILLER, GILLEN AND DELLOSO, APRIL 10, 2019

SENATOR LAUGHLIN, GAME AND FISHERIES, IN SENATE, AS AMENDED,
MAY 27, 2020

AN ACT

1 Amending Title 30 (Fish) of the Pennsylvania Consolidated
2 Statutes, in property and waters, further providing for the
3 offense of damage to property; in protection of property and
4 waters, further providing for the offense of littering; IN <--
5 FISHING LICENSES, FURTHER PROVIDING FOR FORM AND EXPIRATION
6 OF LICENSES; in preliminary provisions relating to boats and
7 boating, further providing for boating education; and, in
8 operation of boats, further providing for the offense of
9 operating watercraft under influence of alcohol or controlled
10 substance and providing for the offense of aggravated assault
11 by watercraft.

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

14 ~~Section 1. Sections 703 and 2503(c) of Title 30 of the~~ <--
15 ~~Pennsylvania Consolidated Statutes are amended to read:~~

16 SECTION 1. SECTIONS 703, 2503(C) AND 2710 OF TITLE 30 OF THE <--
17 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

18 § 703. Damage to property.

19 (a) Unlawful act.--It is unlawful to intentionally or
20 recklessly destroy or cause damage to property owned, leased or

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

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

17 § 2503. Littering.

18 * * *

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

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

8 § 2710. FORM AND EXPIRATION OF LICENSES. <--

9 ALL LICENSES SHALL BE ISSUED ON FORMS PREPARED AND SUPPLIED
10 BY THE COMMISSION AND PAID FOR FROM THE FISH FUND. THE LICENSE
11 SHALL SHOW THE NAME, AGE AND RESIDENCE OF THE LICENSEE AND THE
12 DATE OF ISSUE. IT SHALL ALSO CONTAIN THE SIGNATURE OF THE
13 LICENSEE[, WRITTEN IN INK,] AND SHALL AUTHORIZE THE LICENSEE TO
14 FISH IN ANY WATERS OF THIS COMMONWEALTH OR IN ANY BOUNDARY
15 WATERS SUBJECT TO THE RESTRICTIONS AND REQUIREMENTS OF THIS
16 TITLE AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER. THE
17 LICENSE MAY CONTAIN SUCH OTHER INFORMATION AS THE COMMISSION MAY
18 REQUIRE. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A LICENSE
19 SHALL EXPIRE ON DECEMBER 31 OF THE YEAR FOR WHICH IT IS ISSUED.
20 THERE MAY BE ISSUED WITH EACH LICENSE A LICENSE BUTTON OR OTHER
21 DEVICE BEARING THE LICENSE NUMBER.

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

24 § 5103. Boating education.

25 (a) Mandatory program of boater education.--Except as
26 otherwise provided in this section, [on or after January 1,
27 2003,] any person born on or after January 1, 1982, shall not
28 operate, on the waters of this Commonwealth, a motorboat without
29 first obtaining a certificate of boating safety education.

30 * * *

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

6 (1) A person who is subject to the provisions of
7 subsection (a) and who operates a motorboat on waters of this
8 Commonwealth without first obtaining a certificate of boating
9 safety education commits a summary offense of the second
10 degree.

11 (2) A person who is subject to the provisions of
12 subsection (a) and who operates a motorboat on waters of this
13 Commonwealth without having a valid certificate of boating
14 safety education in the person's possession commits a summary
15 offense of the fourth degree.

16 * * *

17 (1) Boating without a certificate on board.--If a person who
18 is subject to the provisions of subsection (a) is operating a
19 motorboat without a certificate of boating safety education in
20 the person's possession and claims that the person has obtained
21 a certificate of boating safety education, the waterways
22 conservation officer or other law enforcement officer shall give
23 the operator seven days to produce the original certificate. If
24 it is inconvenient for the operator to produce the certificate
25 in person, the officer may permit the operator to mail the
26 original certificate to the officer for verification. If the
27 operator fails to send the original certificate within the
28 seven-day period, the officer may institute summary proceeding
29 against the operator in the manner prescribed by law.

30 Section 3. Sections 5502(b), (b.1), (b.2), (c), (c.1), (d),

1 (g), (j), (m) and (n) of Title 30 are amended to read:
2 § 5502. Operating watercraft under influence of alcohol or
3 controlled substance.

4 * * *

5 (b) Authorized use not a defense.--The fact that any
6 [person] individual charged with violating this section is or
7 has been legally entitled to use alcohol or controlled
8 substances is not a defense to a charge of violating this
9 section.

10 (b.1) Certain arrests authorized.--In addition to any other
11 powers of arrest, an officer authorized to enforce this title is
12 hereby authorized to arrest without a warrant any [person]
13 individual who the officer has probable cause to believe has
14 violated the provisions of this section, regardless of whether
15 the alleged violation was committed in the presence of such
16 officer. This authority to arrest extends to any hospital or
17 other medical treatment facility located beyond the territorial
18 limits of the officer's political subdivision where the [person]
19 individual to be arrested is found or was taken for purposes of
20 emergency treatment, examination or evaluation, provided there
21 is probable cause to believe that the violation of this section
22 occurred within the police officer's political subdivision.

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

26 (1) The defendant has been found guilty of or accepted
27 Accelerated Rehabilitative Disposition of a charge brought
28 under this section or 75 Pa.C.S. § 3802 (relating to driving
29 under influence of alcohol or controlled substance) within
30 [seven] 10 years of the date of the current offense unless

1 the charge was for an ungraded misdemeanor under 75 Pa.C.S. §
2 3802(a)(2) and was the defendant's first offense under this
3 section or 75 Pa.C.S. § 3802.

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

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

10 (c) Grading.--

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

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

17 (ii) An individual who violates subsection (a) and
18 who has more than one prior offense commits a misdemeanor
19 of the second degree.

20 (2) (i) An individual who violates subsection (a)(1)
21 where there was an accident resulting in bodily injury,
22 serious bodily injury or death of any [person] individual
23 or in damage to a watercraft or other property and who
24 has no more than one prior offense 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 (ii) An individual who violates subsection (a.1) or
29 (a.4) and who has no more than one prior offense commits
30 a misdemeanor for which the individual may be sentenced

1 to a term of imprisonment for not more than six months
2 and to pay a fine under subsection (c.1).

3 (iii) An individual who violates subsection (a)(1)
4 where the individual refused testing of blood or breath
5 and who has no prior offenses commits a misdemeanor for
6 which the individual may be sentenced to a term of
7 imprisonment for not more than six months and to pay a
8 fine under subsection (c.1).

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

14 (v) An individual who violates subsection (a)(1)
15 where there was an accident resulting in bodily injury,
16 serious bodily injury or death of any [person] individual
17 or in damage to a watercraft or other property and who
18 has more than one prior offense commits a misdemeanor of
19 the first degree.

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

23 (vii) An individual who violates subsection (a)(1)
24 where the individual refused testing of blood or breath
25 and who has one or more prior offenses commits a
26 misdemeanor of the first degree.

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

30 (ix) An individual who violates this section when a

1 minor under 18 years of age was a passenger in the
2 watercraft when the violation occurred commits a
3 misdemeanor of the first degree.

4 (c.1) Penalties.--

5 (1) Except as set forth in paragraph (2), (3) [or], (4)
6 or (5), an individual who violates subsection (a) shall be
7 sentenced as follows:

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

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

16 (iii) For a third or subsequent offense, to undergo
17 imprisonment for not less than ten days and to pay a fine
18 of not less than \$500 nor more than \$5,000 and
19 successfully complete an approved boating safety course.

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

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

30 (ii) For a second offense, to undergo imprisonment

1 for not less than 30 days and to pay a fine of not less
2 than \$750 nor more than \$5,000 and successfully complete
3 an approved boating safety course.

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

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

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

16 (i) For a first offense, to undergo imprisonment for
17 not less than 72 consecutive hours and to pay a fine of
18 not less than \$1,000 nor more than \$5,000 and
19 successfully complete an approved boating safety course.

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

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

28 (4) Notwithstanding the provisions of this subsection
29 relating to mandatory minimum sentences, if the court makes a
30 finding that the county jail population exceeds its capacity,

1 the court may allow an individual who violated this section
2 and is serving a mandatory minimum term of imprisonment to be
3 released on parole to serve some or all of the individual's
4 term of imprisonment on house arrest with electronic
5 surveillance. This shall not apply to an individual who
6 violates subsection (a)(1) where there was an accident
7 resulting in serious bodily injury or the death of any
8 [person] individual.

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

13 (i) For the first offense:

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

15 (B) Complete 100 hours of community service.

16 (ii) For a second offense:

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

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

20 (iii) For a third or subsequent offense, undergo
21 imprisonment for not less than six months nor more than
22 two years.

23 (d) Subsequent conviction.--Acceptance of Accelerated
24 Rehabilitative Disposition, an adjudication of delinquency or a
25 consent decree under 42 Pa.C.S. Ch. 63 or any other form of
26 preliminary disposition of any charge brought under this section
27 or a conviction or guilty plea under 75 Pa.C.S. § 3802
28 [(relating to driving under influence of alcohol or controlled
29 substance)] shall be considered a first conviction for the
30 purpose of computing whether a subsequent conviction of a

1 violation of this section shall be considered a second, third or
2 subsequent conviction.

3 * * *

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

19 * * *

20 (j) Litter collection program.--In addition to the
21 conditions set forth under subsection (i) for Accelerated
22 Rehabilitative Disposition of any charge brought under this
23 section, the judge may impose and the [person] individual shall
24 accept the condition that the [person] individual engage in a
25 program of collecting litter from public and private property
26 along Commonwealth waterways, especially property which is
27 littered with alcoholic beverage containers. The duration of the
28 [person's] individual's participation in a litter collection
29 program shall not exceed the duration of the probationary period
30 imposed on the [person] individual under Accelerated

1 Rehabilitative Disposition.

2 * * *

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

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

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

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

16 Section 4. Title 30 is amended by adding a section to read:
17 § 5502.4. Aggravated assault by watercraft.

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

27 (b) Definition.--As used in this section, the term "serious
28 bodily injury" means any bodily injury that creates a
29 substantial risk of death or that causes serious permanent
30 disfigurement or protracted loss or impairment of the function

1 of any bodily member or organ.

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