

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 872

S. P. 299

In Senate, January 30, 1963

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Campbell of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT to Revise the Boating Law and Extend Boat Registration and Safety Law to Cover Coastal Waters.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 36-B, additional. The Revised Statutes are amended by adding thereto a new chapter 36-B, to read as follows:

‘Chapter 36-B.

Watercraft Registration and Safety Act.

Sec. 1. General definitions. Each word or term defined in this section has the meaning indicated in this section for the purposes of this chapter, unless a different meaning is plainly required by the context.

I. Bow. “Bow” means the forward half of the watercraft.

II. Bureau. “Bureau” means the Bureau of Watercraft Registration and Safety established in section 2.

III. Bureau heads. “Bureau heads” means the Commissioner of Inland Fisheries and Game and the Commissioner of Sea and Shore Fisheries acting in their capacity as heads of the Bureau of Watercraft Registration and Safety.

IV. Bureau personnel. “Bureau personnel” means all persons employed by the Bureau of Watercraft Registration and Safety other than the Bureau heads.

V. Coastal waters. “Coastal waters” means all waters of the State within the rise and fall of the tide and the marine limits of the jurisdiction of the

State, but it does not include waters within or above any fishway or dam when that fishway or dam is normally the dividing line between tidewater and and fresh water, nor does it include waters above any tidal bound that has been legally established in streams flowing into the sea.

VI. Inland waters. "Inland waters" means all the rivers, streams, ponds, lakes and all other bodies of water wholly or partially within the jurisdiction of the State of Maine, except coastal waters as defined in this section.

VII. Motorboat. "Motorboat" means any watercraft propelled by machinery, whether or not such machinery is the principal source of propulsion, and whether or not such machinery is permanently or temporarily attached to the watercraft.

VIII. Motorboat for hire. "Motorboat for hire" means any watercraft which while hired is propelled by machinery, regardless of horsepower, whether or not that machinery is the principal source of propulsion, and whether or not that machinery was leased or hired with the watercraft. It includes any watercraft propelled by outboard motor which carries passengers for hire.

IX. Owner. "Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

X. Person. "Person" includes an individual, a partnership and a corporation.

XI. Undocumented motorboat. An "undocumented motorboat" means an undocumented vessel, any vessel or watercraft which is not required by federal law to have and does not have a valid marine document issued by the federal bureau of customs.

XII. Watercraft. "Watercraft" means any type of vessel, boat or craft used or capable of being used as a means of transportation on water other than a seaplane.

XIII. Waters of this State. "Waters of this State" means all inland waters and all coastal waters within the jurisdiction of the State of Maine.

XIV. Water safety zone. "Water safety zone" means the area of water within 200 feet of any shoreline, whether the shoreline of the main land or of an island.

Sec. 2. Bureau of Watercraft Registration and Safety. The following provisions apply to the Bureau of Watercraft Registration and Safety:

I. Purposes of Bureau. The bureau is established to provide an agency to register watercraft as provided in this chapter and to promote safety for persons and property in connection with the use and operation of watercraft.

II. Bureau heads. The Commissioner of Inland Fisheries and Game and the Commissioner of Sea and Shore Fisheries head the bureau.

III. Bureau composition. The bureau consists of such clerical and administrative personnel as the 2 commissioners find necessary to adequately perform the administrative duties of this chapter and both commissioners shall supply the personnel from their respective departments. All bureau personnel are paid from the Watercraft Fund provided in section 13.

IV. Bureau may adopt regulations. The bureau heads, acting jointly, may adopt and amend regulations under the procedure provided in section 3 which are not inconsistent with this chapter covering the following subject matter:

- A. Regulations to further establish administrative procedure under this chapter,
- B. Regulations further governing the use and operation of watercraft upon the waters of the State to insure safety of persons and property, and
- C. Regulations further governing safety equipment for watercraft, including the type, quality and quantity of such equipment.

Sec. 3. Bureau regulations; adoption procedure; have the force of law; penalties. The following provisions apply to the regulations authorized in section 2:

I. Adoption procedure. When the two heads of the bureau, acting jointly, decide it is necessary or desirable to adopt or amend any of the regulations authorized in section 2, they shall use the following procedure:

- A. They shall set a time and place for a public hearing and publish notice of the hearing in the State paper at least once 7 days prior to the hearing.
- B. The notice shall state the time and place of the hearing and the substance of the proposed regulations or amendments.
- C. After the bureau heads have held the public hearing, or caused the same to be held, they may adopt any or all of the regulations or amendments proposed in the notice of hearing.
- D. The bureau heads shall cause a copy of the adopted regulations, certified by either of the bureau heads, to be filed with the Secretary of State and one with the clerk of courts of each county where the regulation or amendment is to be in force, and shall publish one copy so certified in the State paper.
- E. The regulations or amendments are in effect and have the force of law on the day following publication.

II. Regulations have force of law, penalties. The regulations authorized in section 2 have the force of law, and whoever violates any provision of them shall be punished by the penalties provided in section 14.

III. Proof of regulation by certificate. A certified copy of any one of the regulations authorized in section 2 is admissible in all courts to prove the regulation, subject to the provisions of this subsection, and is prima facie evidence that the regulation was adopted in accordance with this chapter.

- A. The certified copy must be certified by either of the 2 bureau heads and must be accompanied by the signed statement of either bureau head that it was in force and effect on the date of the alleged violation.

Sec. 4. Certain motorboats required to obtain certificate of number and display numbers. The following provisions apply to every undocumented motorboat on the waters of the State which is propelled by machinery of more than 10 horsepower, whether or not such machinery is the principal source of power, and all motorboats for hire as defined in section 1, except those motorboats specifically exempted under subsection III.

I. Owner must obtain certificate of number; certificate to be available on boat. The owner of any such boat shall obtain a certificate of number for the motorboat from the bureau before operating or giving permission to operate the motorboat on any of the waters within the jurisdiction of this State. The operator shall have the certificate of number available for inspection on the motorboat for which issued at all times whenever the motorboat is in operation.

A. It is unlawful to operate such a motorboat on any waters within the jurisdiction of this State without a current certificate of number.

B. If the operator of such a motorboat fails to produce a current certificate of number for the motorboat he is operating within a reasonable time after demand of a law enforcement officer authorized to enforce this law, it is prima facie evidence that the motorboat is being operated without a current certificate of number.

II. To display identification number. It is unlawful to operate or give permission to operate such a motorboat on any waters within the jurisdiction of this State unless the identification number assigned by the bureau and authorized by this chapter is displayed on each side of the bow of the boat in the following manner:

A. The numbers must be painted or permanently attached to the hull and be of a color which is in contrast to the color of the background so as to provide the highest degree of visibility, i.e., dark numbers on a light background or vice versa, and be plainly visible.

1. A dealer's number may be temporarily attached to any boat covered by his dealer's certificate of number.

B. The identification number must be displayed in 3 parts. The prefix which is the initial letters ME, designating the State of Maine, is to be separated by a hyphen or an equivalent space from the numerals which follow it. The suffix which consists of the ending letter or letters which appear after the numerals is to be likewise separated from the numerals.

C. The identification number must be displayed to read from left to right, of good proportion, with block character capital letters and Arabic numerals, all of which must not be less than 3 inches in height and maintained in a legible condition at all times.

D. It is unlawful to paint, attach or otherwise display any other number, any sign, name or design, on either side of the bow of such a motorboat.

III. Motorboats exempt from numbering provisions. The following motorboats are exempt from this section:

- A. A motorboat already covered by a number in full force and effect issued to it pursuant to federal law, whose owner is a resident of Maine, provided the owner has recorded its number with the bureau as provided in section 5;
- B. A motorboat already covered by a current certificate of number issued under a federally approved numbering system or another state, provided the number so issued is displayed on the motorboat and provided the motorboat has not been within this State for a period in excess of 90 consecutive days;
- C. A motorboat already covered by a number in full force and effect issued to it pursuant to federal law, whose owner is not a resident of Maine, provided the number so issued is displayed on the motorboat and provided the motorboat has not been within this State for a period in excess of 90 consecutive days;
- D. A motorboat whose owner is the United States or the State of Maine;
- E. A ship's lifeboat;
- F. A motorboat under the jurisdiction of the Public Utilities Commission under chapter 49;
- G. A motorboat belonging to a class of boats which has been exempted from numbering by the bureau after they have found that the numbering of motorboats of such class will not materially aid in their identification.

Sec. 5. Certificate of number. The provisions of this section apply to the owners of all motorboats requiring numbering by this State as provided in section 4.

I. Application, certificate. The owner shall make application to the bureau on forms approved by the 2 bureau heads. Upon receipt of the application in approved form, together with the proper fee, the bureau shall enter the same upon the office records and issue the applicant a certificate of number stating the number assigned to the motorboat and the name and address of the owner. The certificate of number must be pocket size and available at all times for inspection on the motorboat for which issued when it is in operation.

II. Fees. The fees for the certificate of number are as follows:

- A. Motorboats used primarily for commercial fishing on coastal waters \$3
- B. Dealers or manufacturers certificates of number as authorized in subsection VIII. \$10
- C. Any duplicate certificate of number. \$1
- D. Certificate of number issued with transfer of ownership authorized in subsection IV \$1
- E. All other certificates of number. \$5

III. Numbers permanent. A number once awarded under this chapter to a motorboat remains with that boat until the boat is destroyed, abandoned or permanently removed from this State.

IV. Transfer of ownership. Whoever transfers ownership or discontinues the use of a motorboat for which a certificate of number has already been issued under this chapter and applies for a certificate of number for another motorboat is entitled to a new certificate of number upon payment of a transfer fee of \$1 as set forth in subsection II, paragraph D, provided the applicant returns to the bureau the old certificate of number properly signed and executed, showing that ownership of the motorboat has been transferred or its use discontinued.

V. New ownership. If there is a change of ownership of a motorboat for which a certificate of number has previously been issued under this chapter, the new owner shall apply for a new certificate of number and set forth the original boat number in his application. He shall pay the regular fee for the particular motorboat involved and is not entitled to the special transfer fee set forth in subsection IV.

VI. Duplicate certificate. The holder of any certificate of number issued under this chapter may obtain a duplicate from the bureau upon application and payment of the fee set forth in subsection II.

VII. Expiration date, renewal. Every certificate of number awarded under this chapter continues in force until March 31st of the 3rd year following its issuance. The owner may renew his certificate of number at expiration by stating the old number in his application and paying the prescribed fee. The fee is the same fee he would pay for the original issuance.

VIII. Dealer's and manufacturer's certificate of number. Any manufacturer or dealer of new or used motorboats who has a permanent place of business in this State for the manufacture or sale of motorboats may, instead of obtaining a certificate of number for each motorboat owned by him, make application on forms provided by the bureau for a dealer's certificate of number.

A. If the applicant pays the fee provided in subsection II for a dealer's certificate of number, and satisfies the bureau that he is otherwise qualified for a dealer's certificate of number, the bureau shall issue the same to him.

B. The dealer's certificate of number must contain the place of residence and the place of business of the applicant and a general distinguishing number in such form as determined by the two bureau heads.

C. The dealer shall number all boats used under his dealer's certificate of number with the number provided in the certificate. That number must be displayed on such boats while the same are in operation in the manner set forth in section 4, subsection II.

D. The dealer may obtain duplicates of his dealer's certificate of number upon application and payment of \$1.00 for each duplicate in order that he may readily comply with section 4, subsection I.

IX. Public records. All records made by the bureau pursuant to this section are public records.

Sec. 6. Notice of destruction, abandonment, removal, transfer of ownership,

change of address of owner. The owner of any motorboat which has been issued a certificate of number under this chapter shall notify the bureau in writing of the transfer of all or any part of his interest, other than the creation of a security interest, in the motorboat covered by the certificate, of its permanent removal from the State, or of its destruction or abandonment. He shall notify the bureau of any change in his address. The owner shall give the notice within 10 days after the happening of the applicable event.

I. Termination. The transfer, permanent removal from the State, abandonment or destruction, terminates the certificate of number, except the transfer of a partial interest which does not affect the original owner's right to operate the motorboat does not terminate the certificate of number.

Sec. 7. Motorboats for hire. The following provisions apply to all motorboats for hire as defined in section 1.

I. Certificate required. The owner shall apply to and obtain from the bureau a certificate authorizing its use for that purpose before renting the motorboat or carrying passengers for hire or offering to do either.

A. Before the certificate may be issued, the owner must satisfy the bureau that the boat is safe to operate and will be maintained in safe condition.

B. The bureau may cause such boats to be examined from time to time. If it is found upon examination that any motorboat for hire so certified is unsafe, the bureau heads shall immediately suspend the certificate covering the particular motorboat under the procedure set forth in subsection III.

II. Operator's license. Every operator of a motorboat propelled by an outboard motor, regardless of horsepower, which carries passengers for hire on the inland waters of this State, must obtain a license from the bureau as provided in this subsection before operating an outboard motorboat carrying passengers for hire.

A. The operator shall make written application for the license on forms provided by the bureau and enclose a fee of \$1 with his application.

B. The 2 bureau heads shall cause operators applying for a license for the first time to be examined as to their qualifications and shall issue the license only after the applicant has satisfactorily passed the examination.

C. The bureau may grant a renewal of license upon written application and payment of the \$1 fee without examination.

D. Every license expires on December 31st of the year for which issued.

E. The bureau heads shall immediately suspend an operator's license upon satisfactory evidence of intemperance, incompetency or willful violation of law under the procedure in subsection III.

III. Suspension and revocation of certificates and licenses. The bureau heads shall suspend and revoke the certificate and license authorized by this section under the following procedure:

A. They shall give written notice to the holder of the certificate or license containing the following:

1. A statement that his certificate or license is temporarily suspended immediately upon receipt of the notice until hearing;
2. The reasons for the suspension;
3. The date, time and place of the hearing.

B. Only one of the bureau heads need be present at the hearing. If the holder fails to appear in person or by attorney, or does appear but fails to show cause why his license or certificate should not be permanently revoked to the satisfaction of the bureau head conducting the hearing, then he shall order the license or certificate permanently revoked. If the holder does appear in person or by attorney and satisfies the bureau head conducting the hearing that the license or certificate should not be permanently revoked, then he shall immediately reinstate it.

Sec. 8. Operation of boats. The following provisions apply to all specified watercraft and other specified devices operated upon any of the waters within the jurisdiction of this State.

I. Reckless operation prohibited. It is unlawful for any person to operate any watercraft, water skis, surfboard or similar device recklessly.

II. Operating under influence prohibited. It is unlawful to operate any watercraft or to operate or manipulate any water skis, surfboard or similar device while intoxicated, or under the influence of narcotic drugs, barbiturates or marijuana.

III. Operating to endanger prohibited. It is unlawful for any person to operate any watercraft, water skis, surfboard or similar device so as to endanger any person or property.

IV. Prudent speed required. It is unlawful to operate any watercraft within 200 feet of the shoreline, or in a water safety zone, except at a reasonable and prudent speed for the existing conditions.

V. Operation in bathing areas prohibited. It is unlawful to operate a motorboat within any bathing area marked or buoyed for bathing.

VI. Age restriction for operation. It is unlawful for any person under 12 years of age to operate any motorboat propelled by machinery of more than 10 horsepower unless he is under the immediate supervision of a person located in the motorboat who is at least 16 years of age.

Sec. 9. Operation on Inland Waters. The following provisions apply only to the inland waters of this State:

I. Equipment. All motorboats requiring numbering under this chapter, while in operation on the inland waters, shall comply with the same requirements pertaining to life preservers, lights, fire extinguishers and other equipment required by federal laws and regulations for legal operation on coastal waters.

A. All other watercraft not requiring numbering and in operation between the hours of sunset and sunrise must display a single illuminated white light, capable of showing all around the horizon, so as to make its presence known to all other watercraft in every direction which are within a reasonable distance. Nothing shall prohibit the display of lights required by federal laws or regulations in lieu of the single white light.

II. Water skiing. The following provisions apply to water skiing or similar activity:

A. It is unlawful to water ski or use a similar device within 200 feet of any shore line except to launch or discharge a person and the launching or discharging must be done in a careful and prudent manner so as not to injure or endanger any person or property.

B. It is unlawful to operate any watercraft engaged in towing any person on water skis, or similar device, unless there is a person in the watercraft other than the operator who is at least 12 years of age, who is in a position to continually observe the progress of the person or persons towed.

C. It is unlawful to water ski or use a similar device towed behind any watercraft between the hours of $\frac{1}{2}$ hour after sunset until $\frac{1}{2}$ hour before sunrise of the following morning.

1. It is unlawful to operate any watercraft which is engaged in towing any person on water skis or similar device within those hours.

D. It is unlawful to ride on water skis or similar device without wearing a life preserver, life belt or similar device designed to keep a person afloat.

III. Regattas, races, exhibitions. Whenever a regatta, race, boat or water ski exhibition is to be held on any of the inland waters of this State, the person or persons in charge of it shall request written permission from the bureau at least 15 days prior to the event.

A. The request must be in writing, set forth the date, time and location of the event.

B. It is unlawful to hold such an event without written permission from the bureau.

C. The person or organization obtaining the permission is responsible for providing reasonable protection as prescribed by the bureau from water traffic interference and hazards and must take reasonable precautions to safeguard persons and property.

D. During any authorized event, the officials conducting it shall conspicuously display one or more orange warning flags of a size not less than 4 feet by 4 feet while the event is in progress. It is unlawful for any watercraft other than the participants to cross or traverse the course or area of the authorized event when said warning flag is displayed, except in an emergency. The officials conducting the event shall remove the

warning flag or flags for reasonable periods of time during the event to allow non-participating watercraft to pass through the area.

Sec. 10. Accidents. The provisions of this section apply to all watercraft operated on any waters within the jurisdiction of this State.

I. Duty to render aid. It is the duty of every operator of any watercraft involved in a collision, accident or other casualty to render all necessary aid and assistance to all persons involved so far as he can do so without serious danger to his watercraft, crew and passengers, if any.

II. Operators involved in accident to identify themselves. The operator of any watercraft involved in an accident or collision, shall give his name, address and identification of his watercraft in writing to any person injured and to the owner of any property damaged.

III. Accident reports. The operator of any watercraft involved in any accident or casualty, which results in death or injury to any person or damage to property to the estimated amount of \$100 or more, shall report the same by the quickest means possible to the nearest available inland fisheries and game warden, coastal warden or state police officer. He shall file a written accident report on forms provided by the bureau within 72 hours. He shall include the following information in his report.

- A. The number of and the name of watercraft involved;
- B. Time, date and locality of accident;
- C. The name, address, age and boat operating experience of the operator of the reporting watercraft;
- D. The name and address of the watercraft owner;
- E. The length, propulsion, horsepower, fuel type and construction of reporting watercraft;
- F. Weather and water conditions;
- G. Operation of boat at time of accident;
- H. Type, nature of classification of accident;
- I. The nature and extent of injury to any person or persons;
- J. A description of the accident;
- K. The names and addresses of all operators of other watercraft or property involved;
- L. The names and addresses of any person or persons injured or killed;
- M. A description of damage to property and estimated cost of repairs;
- N. Names and addresses of known witnesses and assistance furnished;
- O. Physical condition, dress and other data concerning the victim or victims in drowning cases;

P. Life saving and fire fighting equipment.

Sec. 11. Local regulation prohibited. No municipality or political subdivision of this State may adopt any ordinance, law or regulation dealing with the operation or numbering of watercraft or any other subject matter of this chapter.

I. Bureau regulations excepted. Nothing in this section is to be construed to prohibit the adoption of regulations by the bureau heads as authorized in section 2.

Sec. 12. Enforcement. Inland fisheries and game wardens, coastal wardens, state police officers and all other law enforcement officers of this State have authority to enforce this chapter and to arrest persons in violation of this chapter.

I. All such officers when in uniform have authority to stop any watercraft, inspect any watercraft and its certificate of number and to board all watercraft where necessary to enforce this chapter and to make arrests.

Sec. 13. Disposition of fines and fees, Watercraft Fund. All fines and fees collected under this chapter are disposed of as follows:

I. Fees collected. All fees collected for certificates, licenses and permits by the bureau are paid daily to the Treasurer of the State and accrue to the Watercraft Fund provided in this section.

II. Fines and costs collected. Each county shall pay all fines, forfeitures and penalties collected for violations of this chapter and all officers' costs collected for either coastal wardens or inland fisheries and game wardens to the Treasurer of the State monthly and all of them accrue to the Watercraft Fund provided in this section.

III. Watercraft Fund established. All the revenue acquired under this section constitutes a separate fund to be known as the "Watercraft Fund." The fund does not lapse and the proceeds are to be used for the following purposes:

A. To pay the bureau personnel and all office and administrative costs of the bureau;

B. At the end of each fiscal year any amount in the Watercraft Fund, which in the discretion of the two bureau heads is not needed for the bureau personnel, office and administrative expenses, is to be paid over to the Department of Inland Fisheries and Game and the Department of Sea and Shore Fisheries in proportion to all revenues paid into the Watercraft Fund under this chapter from inland waters and coastal waters respectively during the fiscal year just completed. The amounts thus paid the departments are to help defray the costs of the enforcement of this chapter.

Sec. 14. Penalties. Whoever violates any provision of this chapter or any regulation adopted under authority of this chapter shall be guilty of a misdemeanor and, if no specific penalty is provided for the particular offense, shall be punished by a fine of not less than \$10 nor more than \$500, or by imprisonment for not more than 90 days or by both.

Sec. 15. Certificate of bureau head admissible in evidence. A certificate signed by either bureau head, stating what the records of the bureau show on any given matter are admissible in evidence in all courts of this State to prove what the records of the bureau are on that matter.

I. Certificate prima facie evidence person not the holder of a certificate of number, license or permit. A certificate signed by either of the bureau heads, stating that the records of the bureau do not show that a particular person on a stated date held a certificate of number, a license or permit issued under this chapter, as the case may be, is admissible in evidence in all courts of this State and is prima facie evidence that the particular person named in the certificate did not hold a certificate of number license, or permit as specified in the certificate on the date specified in the certificate.

II. Certificate prima facie evidence of certificate, license and permit revocation. A certificate signed by either bureau head stating that the records of the bureau show that a particular person's certificate, license or permit issued under this chapter was under revocation or suspension on a particular stated date is admissible in evidence in all courts of this State and is prima facie evidence that the particular certificate, license or permit stated, on the date stated, of the particular person stated was under suspension or revocation.

III. Regulations not proved by this section. This section does not apply to the proof of bureau regulations. Proof of them by certificate is provided in section 3.'

Sec. 2. R. S., c. 36-A, repealed. Chapter 36-A of the Revised Statutes, as enacted by section 1 of chapter 349 of the public laws of 1959 and as amended by chapter 374 of the public laws of 1959 and by chapter 335 of the public laws of 1961, is repealed.

Sec. 3. General savings clause. All certificates of number, all numbers, all licenses and all permits issued under the Revised Statutes of 1954, chapter 36-A, prior to the effective date of this act which are in force immediately prior to the effective date of this act are continued in force until their normal expiration date under the former law. The owners of motorboats having such certificates of number may keep the number covered by their certificate on their boats as is, as long as the prior certificates of number are in force. When such certificates of number, licenses and permits expire, the holder shall apply for new ones under the Revised Statute of 1954, chapter 36-B.