

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

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BERTHA W. JOHNSON, Clerk

Presented by Mr. Kelley of Southport.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT to Revise Maine Boat Law to Conform with Federal Law.**

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

**Sec. 1.** R. S., T. 38, § 201, sub-§§ 5-7, repealed and replaced. Subsections 5 to 7 of section 201 of Title 38 of the Revised Statutes are repealed and the following enacted in place thereof:

5. Carrying passengers for hire. "Carrying passengers for hire" means the use of a motorboat for the purpose of the carriage of any person or persons as passengers for valuable consideration, whether directly or indirectly flowing to the owner, charterer, agent or any other person interested in the watercraft. A passenger includes every person carried on board the watercraft other than the owner or his representative; the operator; bonafide members of the crew engaged in the business of the watercraft who have contributed no consideration for their carriage and who are paid for their services; and any guest on board a watercraft which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly for his carriage.

5-A. Federal waters. "Federal waters" means all other waters not internal and subject to the jurisdiction of the United States.

6. Internal waters. "Internal waters" means waters under the exclusive jurisdiction of the State of Maine.

7. Motorboat. "Motorboat" means any watercraft equipped with propulsion machinery of any type, whether or not such machinery is the principal

source of propulsion, or is permanently or temporarily attached or is available for propulsion on the watercraft.

**Sec. 2. R. S., T. 38, § 201, sub-§ 10-A, additional.** Section 201 of Title 38 of the Revised Statutes is amended by adding a new subsection 10-A to read as follows:

**10-A. Operator.** "Operator" means the person who is in control or in charge of a watercraft while it is in use.

**Sec. 3. R. S., T. 38, § 201, sub-§§ 11-15, repealed and replaced.** Subsections 11 to 15 of section 201 of Title 38 of the Revised Statutes are repealed and the following enacted in place thereof:

**11. Owner.** "Owner" means a person who claims lawful possession of a watercraft by virtue of legal title or equitable interest therein which entitles him to such possession.

**12. Person.** "Person" includes an individual, firm, association or other entity.

**12-A. State of principal use.** "State of principal use" means the state on whose waters a watercraft is used or to be used most during a calendar year.

**13. Use.** "Use" means operate, navigate or employ.

**14. 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.

**15. Waters of this State.** "Waters of this State" means all internal waters and all federal waters within the jurisdiction of this State.

**Sec. 4. R. S., T. 38, § 203, sub-§ 3, ¶ B, amended.** The first sentence of paragraph B of subsection 3 of section 203 of Title 38 of the Revised Statutes is amended to read as follows:

Each fiscal year any amount in the Watercraft Fund, which in the discretion of the 2 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 subchapter from ~~inland internal waters and coastal federal waters~~ respectively during the fiscal year last completed.

**Sec. 5. R. S., T. 38, § 205, sub-§ 1, additional.** Section 205 of Title 38 of the Revised Statutes, as repealed and replaced by section 22 of chapter 431 of the public laws of 1965 and as amended by section 3 of chapter 123 of the public laws of 1969, is further amended by adding a new subsection 1 to read as follows:

**1. Watercraft to stop.** It is unlawful for the operator of any watercraft to fail to stop or move his watercraft upon being order or directed to do so by any law enforcement officer empowered to enforce this subchapter. Said

**watercraft may be ordered ashore to correct a violation or if in the opinion of the law enforcement officer the safety of the occupants is in jeopardy.**

**Sec. 6. R. S., T. 38, § 231, sub-§ 1, amended.** Subsection 1 of section 231 of Title 38 of the Revised Statutes is amended to read as follows:

**1. Purposes of bureau.** The bureau is established to provide an agency to register watercraft as provided in this subchapter and to promote safety for persons and property in connection with the use and operation of watercraft and may participate in such federal grants in aid as may be forthcoming to this State from the Federal Boat Safety Act of 1971 (Public Law 92-75).

**Sec. 7. R. S., T. 38, § 231, sub-§ 3, amended.** The first sentence of subsection 3 of section 231 of Title 38 of the Revised Statutes is amended to read as follows:

The bureau consists of such clerical and administrative personnel as the 2 commissioners find necessary to adequately perform the administrative duties of this subchapter and both commissioners shall supply the personnel from their respective departments.

**Sec. 8. R. S., T. 38, § 231, sub-§ 4, amended.** Subsection 4 of section 231 of Title 38 of the Revised Statutes, as amended by section 47 of chapter 403 of the public laws of 1971, is further amended by inserting before the first sentence a new sentence to read as follows:

**It shall be the intent of any regulation required that it shall be in accord with federal regulation as may be promulgated under the Federal Boat Safety Act of 1971.**

**Sec. 9. R. S., T. 38, § 231, sub-§ 4, ¶ D, amended.** Paragraph D of subsection 4 of section 231 of Title 38 of the Revised Statutes, as enacted by section 47 of chapter 403 of the public laws of 1971, is amended to read as follows:

**D.** Regulations governing the horsepower of motors used to propel watercraft on ~~inland~~ **internal** waters of less than 50 acres in area. In promulgating such regulations the bureau heads shall take into consideration the area of the ~~inland~~ **internal** waters, the use of which the ~~inland~~ **internal** waters are put, the depth of water and the amount of water borne traffic upon the waters and determine whether or not such regulation is necessary to insure the safety of persons and property. The adoption of regulations under this paragraph is governed by section 232 except that such regulations may be only adopted as a result of a petition from the municipal officers of the municipality or municipalities in which the waters exist or from 25 citizens of the municipalities in which the waters exist, by the county commissioners of the county in which the waters exist if they are located in unorganized territory or 25 citizens of the unorganized territory in which the waters exist, requesting the issuance of such a regulation for a particular body of ~~inland~~ **internal** water and stating the proposed horsepower limitation.

**Sec. 10. R. S., T. 38, § 233, repealed and replaced.** Section 233 of Title 38 of the Revised Statutes, as amended by chapter 14 of the public laws of 1965

and by section 5 of chapter 123 of the public laws of 1969, is repealed and the following enacted in place thereof:

**§ 233. Certificate required; display of numbers and validation stickers**

The following provisions apply to every undocumented motorboat used on the waters of the State as the state of principal use, except those motorboats specifically exempted under subsection 3.

1. Owner must obtain certificate of number; certificate to be available on boat. The owner of any such motorboat 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 a motorboat on any waters within the jurisdiction of this State without a current certificate of number or a current temporary 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.

C. The certificate of number for watercraft less than 26 feet in length and leased or rented to another for the latter's noncommercial use may be retained on shore by the owner of said watercraft or his representative at the place where the watercraft departs or returns to the possession of the owner or his representative, provided that the person leasing or renting the watercraft has a copy of the lease or rental agreement which shows the watercraft number thereon and the period of time for which the watercraft is leased or rented and signed by the owner or his representative.

D. Only the certificate of number or temporary certificate of number as issued by the bureau is valid. A facsimile or copy of said certificate is not valid.

2. Display of identification number and validation stickers. It is unlawful to operate or give permission to operate a motorboat on any waters within the jurisdiction of this State unless the identification number and validation stickers assigned by the bureau and authorized by this subchapter are displayed on each side of the bow of the boat in the following manner.

A. The identification numbers must be painted or permanently attached to the bow 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 and validation stickers may be painted or attached to removable plates temporarily attached to the bow of 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 space equal to width of a letter, other than the letter "I", 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 vertical 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. No number other than the assigned boat number shall be displayed on the bow of such a motorboat.

E. The validation sticker, as issued by the bureau, must be displayed approximately 3 inches behind the last letter of the identification number and on a level with the number on both sides of the bow. vis: ME-123-A .

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

A. A watercraft which has or is required to have a valid marine document as a watercraft of the United States;

B. A motorboat already covered by a current certificate of number issued under a federally approved numbering system of another state or a federal law, provided that the number so issued is displayed on the motorboat and provided that the motorboat has not been within this State for a period in excess of 60 consecutive days after the state of principal use has been changed;

C. Military or public watercraft except recreational type watercraft of the United States;

D. A motorboat whose owner is the United States, a state or subdivision thereof which is used for governmental purposes and which is clearly identifiable as such;

E. A ship's lifeboat;

F. Motorboats from a country other than the United States, provided the motorboat has not been within this State for a period in excess of 60 consecutive days;

G. Motorboats used exclusively for racing purposes which display on their hulls in a prominent manner a valid boat number issued by a recognized racing association.

4. Numbering at request of owner. Nothing in this section shall prohibit the numbering of any watercraft upon the request of the owner. Said owner shall comply with all applicable requirements of this subchapter if he chooses to number his watercraft.

**Sec. 11. R. S., T. 38, § 234, repealed and replaced.** Section 234 of Title 38 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

**§ 234. Application and issuance; fees**

The provisions of this section apply to the owners of all motorboats requiring numbering by this State as provided in section 233.

1. **Application, certificate.** The owner shall make application to the bureau on forms approved by the bureau. Such application shall show the legal residence of the applicant and the place where the boat is situated. Upon receipt of the approved application 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, its description, the name and address of the owner and such other information as the bureau deems appropriate. 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.

2. **Fees.** The fees for each original or renewal certificate of number with 2 validation stickers are as follows:

A. All watercraft requiring or requesting certificate of number;	\$5
B. Dealer's or manufacturer's certificate of number;	\$10
C. Duplicate certificate of number;	\$1
D. Duplicate validation sticker (each one);	25¢
E. Certificate of number issued with transfer of ownership authorized in subsection 4.	\$2

3. **Numbers permanent.** A number once awarded under this subchapter to a motorboat remains with that boat until the boat is destroyed, abandoned, permanently removed or no longer principally used in this State.

4. **Transfer of ownership.** Whoever transfers ownership of a motorboat for which a certificate of number has already been issued under this subchapter 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 \$2 as set forth in subsection 2, paragraph E, 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 and that there are at least 6 months of unexpired time on his old certificate of number.

5. **New ownership.** If there is a change of ownership of a motorboat for which a certificate of number has previously been issued under this subchapter, 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 4.

6. Duplicate certificate and validation stickers. The holder of any certificate of number issued under this subchapter may obtain a duplicate certificate or validation stickers from the bureau upon application and payment of the fee set forth in subsection 2.

7. Expiration date, renewal. Every certificate of number awarded under this subchapter continues in force until December 31st of the 2nd complete calendar year after the year of 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.

8. 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 2 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 business of the applicant and a general distinguishing number in such form as determined by the bureau.

C. The dealer or manufacturer shall display the number and validation stickers issued under his dealer's certificate of number on the motorboat being demonstrated or tested and may transfer that number from one motorboat owned by him to another motorboat owned by him by temporarily attaching the number and validation stickers to the motorboat as provided in section 233, subsection 2, paragraph A, subparagraph (1).

D. The bureau may issue temporary 10-day boat numbers and registrations to bona fide dealers who request them under such rules as it may deem necessary and shall receive 50¢ for each 10-day temporary plate.

Upon the sale or exchange by a dealer of any motorboat which requires numbering, the new owner may secure from him a temporary 10-day boat number and registration to operate said craft for one period of 10 consecutive days only after the date of sale in lieu of a permanent boat number as required in section 233, provided that the owner shall make application to the bureau on the date of sale for a certificate of boat number by the bureau. Said application and fee for certificate of boat number, together with a copy of the temporary registration issued by the dealer, shall be forwarded by said dealer to the bureau within 48 hours after the date of sale of said motorboat. The dealer shall affix the temporary 10-day boat number to the bow of the motorboat and shall clearly mark thereon the date issued, date of expiration and his Maine dealer's number.

The temporary 10-day boat number is nontransferable and must be conspicuously displayed on the bow of the motorboat notwithstanding any



other requirements of display of boat number. The operator of said craft must have the temporary registration aboard at all times while the motor-boat is in operation. After the expiration of the 10-day period, the owner must remove and discard the temporary 10-day boat number and display the permanent boat number and validation stickers assigned by the bureau in accordance with section 233.

9. Public records. All records made by the bureau pursuant to this section are public records. An annual report of the certificates of number issued by the bureau shall be made to the U. S. Coast Guard as required under federal law.

10. Notice to assessors. Within 30 days of receipt of an application for a certificate of number, the bureau shall comply with the following: Where the legal residence of the applicant is a municipality within the State, the bureau shall mail a copy of the application or list of registrations issued to the assessors or assessor of such municipality. Where the legal residence is outside of the State and the boat is situated within a municipality in the State, the bureau shall mail a copy of the application or list of registrations issued to the assessors or assessor of such municipality. In all other cases, the bureau shall transfer a copy of the application or list of registrations issued to the Bureau of Taxation.

Sec. 12. R. S., T. 38, § 235, repealed and replaced. Section 235 of Title 38 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 235. Notice of destruction, abandonment, removal, transfer of ownership, change of address

1. Owner. The owner of any watercraft which has been issued a certificate of number 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 watercraft covered by the certificate, of its permanent removal from the State, or of its destruction or abandonment and the theft or recovery of the watercraft. 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.

2. Termination of certificate of number. The transfer, documentation, change in state of principal use, permanent removal from the State, abandonment or destruction, false or fraudulent information on application, if the required fee is not paid, or the owner involuntarily loses his interest in the watercraft due to legal process, terminates or invalidates the certificate of number. In any of the foregoing conditions, the certificate of number issued by the bureau shall be returned within 10 days. The transfer of a partial interest which does not affect the original owners right to operate the watercraft does not terminate or invalidate the certificate of number.

3. Sale or transfer. Upon sale or transfer of ownership of any registered watercraft the owner or dealer shall remove and destroy any validation stickers on said craft. The validation sticker is nontransferable.

4. Removal of numbers. The person whose name appears on the certificate of number as the owner of a watercraft shall remove the number and validation stickers from the craft when:

- A. The watercraft is documented;
- B. The watercraft is no longer used principally in the State of Maine;
- C. The application for certificate of number contains false or fraudulent statements or information;
- D. The fees for the issuance of a certificate of number are not paid.

Sec. 13. R. S., T. 38, § 236, repealed and replaced. Section 236 of Title 38 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 236. Motorboats carrying passengers for hire

The following provisions apply to all motorboats carrying passengers for hire as defined in section 201, except those subject to federal inspection requirements which have or are required to have a current valid federal inspection certificate on board.

1. Certificate required. The owner shall apply to and obtain from the bureau a certificate of number authorizing its use for that purpose before carrying passengers for hire.

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 carrying passengers for hire so certified is unsafe, the bureau heads shall immediately suspend the operators license or licenses covering the particular motorboat under the procedure set forth in subsection 3.

2. Operator's license. Every operator of a motorboat, except those operators who have been issued and have or are required to have in their possession a current valid federal operator's license which carries passengers for hire on the internal waters of this State, must obtain an operator's license from the bureau as provided in this subsection before operating a 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 bureau 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 3.

3. Suspension and revocation of operator licenses. The bureau heads shall suspend and revoke the operator's license authorized by this section under the following procedure:

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

- (1) A statement that his 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 should not be permanently revoked to the satisfaction of the bureau head conducting the hearing, then he shall order the license permanently revoked. If the holder does appear in person or by attorney and satisfies the bureau head conducting the hearing that the license should not be permanently revoked, then he shall immediately reinstate it.

Sec. 14. R. S., T. 38, § 237, sub-§ 4, repealed and replaced. Subsection 4 of section 237 of Title 38 of the Revised Statutes is repealed and the following enacted in place thereof:

4. Prudent speed required. It is unlawful to operate any watercraft except at a reasonable and prudent speed for the existing conditions. The speed of watercraft shall at all times be so regulated as to avoid danger or injury or unnecessary inconvenience in all manner to other watercraft or any occupants therein whether anchored or under way, waterfront piers, floats or other property or shorelines either directly or by the effect of the wash or wave created by such watercraft through its speed or otherwise.

Sec. 15. R. S., T. 38, § 238, repealed and replaced. Section 238 of Title 38 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

#### § 238. Safety equipment and regattas

##### 1. Safety equipment.

A. All watercraft while in use on the waters of this State shall comply with the same requirements pertaining to lights, life saving devices, fire extinguishers and other safety equipment as required by federal laws and regulations on federal navigable waters as promulgated under the Federal Boat Safety Act of 1971 (public law 92-75). The bureau may prescribe additional equipment not in conflict with Federal Navigation Laws if there is a demonstrated need.

B. The operator shall be responsible to see that watercraft are equipped as specified in this section before operating said watercraft on the waters of this State.

C. Canoes, owned by a boys' or girls' summer camp located upon internal waters in Maine and duly licensed by the Department of Health and Welfare, utilized by campers under the direction and supervision of a camp counselor, at least 18 years of age, during training and instruction periods on waters adjacent to the main camp within a distance of 500 feet from the shoreline of such camp shall be exempt from this subsection.

2. Regattas, races, exhibitions. Whenever a regatta, race, boat or water ski exhibition is to be held on any of the internal 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. 16. R. S., T. 38, § 239, sub-§ 3, repealed and replaced. Subsection 3 of section 239 of Title 38 of the Revised Statutes is repealed and the following enacted in place thereof:

3. Accident report required. The operator or owner of any watercraft involved in any casualty or accident while using a watercraft which results in the death of a person, a person losing consciousness or receives medical treatment or is disabled for more than 24 hours or a person disappears from a watercraft under circumstances that indicate death or injury, damage to the watercraft or other property of more than \$100 must file a written accident report on forms provided by the bureau containing such information as required by the bureau. Said report must be made within 48 hours of the occurrence if a person dies or disappears, loses consciousness or receives medical treatment or is disabled for more than 24 hours. A report involving property damage only may be made within 5 days of the occurrence.

In addition to making a written report to the bureau the owner or operator shall report said occurrence to the nearest available law enforcement officer where the accident occurred.

Sec. 17. General provisions. All certificates of number issued prior to the effective date of this Act shall continue in full force and effect until they ex-

pire and the owners of these watercraft are not required to display the validation stickers as required in the Revised Statutes, Title 38, section 233 until they renew their certificate of number under this Act. They must comply with all other requirements of this Act.

**Sec. 18. Effective date.** This Act shall become effective January 1, 1974.

#### STATEMENT OF FACT

The purpose of this bill is to amend the Maine Boat Law to conform with the Federal Boat Safety Act of 1971. (Public Law 92-75)