

**12:7-23.1 Short title**

This act shall be known and may be cited as the "Power Vessel Noise Control Act."

**12:7-23.2 Muffler requirement**

Every power vessel used on the waters of this State shall at all times be equipped with a muffler or muffler system in good working order and in constant operation. A person shall not use a muffler or muffler system cutout, bypass or similar method or device designed to prevent or diminish the operational capacity of a muffler or muffler system installed on a power vessel used on the waters of this State. Decibel levels exceeding the limits established pursuant to rules and regulations as measured by a noise meter operated by a trained Marine Police officer shall be evidence of a violation of this act. For the purposes of this act, muffler means a sound dissipative device or system which abates the sound of gases which are emitted from an internal combustion engine and which prevents excessive or unusual noise.

**12:7-23.3 Sales regulated**

A person shall not sell or offer for sale in this State any power vessel which is not equipped with a muffler or muffler system in good working order, or which does not comply with specifications for mufflers or muffler systems as may be required by the rules and regulations adopted by the Boat Regulation Commission established pursuant to section 14 of P.L. 1962, c. 73 (C. 12:7-34.49). The Boat Regulation Commission may by rule or regulation exempt from the requirements of this section certain types of power vessels designed and constructed solely for participation in racing events.

**12:7-23.4 Racing exemption**

The provisions of this act shall not apply to power vessels registered and actually participating in racing events, or tune up periods for racing events, when authorized by the Division of State Police in the Department of Law and Public Safety or by any other public authority with the approval of the Division of State Police.

**12:7-23.5 Violations, penalties**

A person who violates any provision of this act or any regulation adopted pursuant to this act is subject to a fine of not less than \$100 for the first offense, \$300 for the second offense, and \$500 for the third and each subsequent offense.

**12:7-23.6 Fines to State**

Notwithstanding the provisions of N.J.S. 2C:46-4 or any other provision of law, rule or regulation to the contrary, all fines imposed and collected pursuant to this act shall be remitted to the State Treasurer by the court imposing and collecting the fines and shall become part of the General Fund of the State.

**12:7-34.13 Inapplicable to vessels, motors or operators competing in races**

The provisions of this act shall not apply to any power vessel or motor, or to any operator while actually competing in an authorized race as herein provided, held under the auspices of a duly incorporated yacht club or racing association in accordance with rules and regulations prescribed by the department and pursuant to a permit duly issued by the department.

**12:7-34.36. Short title**

This act may be cited as the "New Jersey Boat Act of 1962."

**12:7-34.38 Numbering of vessels required; exemptions**

Except as herein otherwise provided, every vessel which is upon the waters of this State shall be numbered in accordance with the provisions of this act, and no person shall operate or give permission to operate any vessel on such waters unless it is so numbered.

A vessel shall not be required to be numbered under this act if it is:

- (a) A documented vessel;
- (b) Being legally operated and meets all current requirements pursuant to applicable federal law or a federally-approved numbering system of another state; provided that such vessel shall not have been within this State for a period in excess of 180 consecutive days, unless it is in New Jersey for the purpose of wet or dry storage, or for repairs, in which case the actual time for said storage or repair shall not be counted as included within the 180 days aforesaid; provided, however, that a vessel shall be considered to be based within this State if its owner owns, maintains, leases, or rents space in this State for its storage, mooring, or servicing on other than a transient basis;
- (c) From a country other than the United States temporarily using the waters of this State;
- (d) A public vessel of the United States, a state or subdivision or agency thereof;
- (e) A ship's lifeboat;
- (f) Any vessel used exclusively for racing while actually competing in or tuning up for an authorized race held under the auspices of a duly incorporated yacht club or racing association in accordance with the rules and regulations prescribed by the Division of State Police and pursuant to a permit duly issued by that division;
- (g) A sailboat or vessel, except for power vessels, used exclusively on small lakes and ponds wholly within private lands;

(h) A non-motorized, inflatable surfboard, racing shell, rowing scull, tender for direct transportation between a vessel and the shore and for no other purpose (dinghy), or vessel, except power vessels, of 12 feet or less in length;

(i) A canoe or kayak; or

(j) A sailboat of 12 feet or less in length.

A sailboat shall be required to be numbered under this act if it is any class of one-design sailboat, in excess of 12 feet in length, which is temporarily or permanently equipped with power installed either inboard or outboard.

**12:7-34.39. Application for vessel number; certificate; display**

(a) The owner of a vessel required to be numbered in this State shall file an application with the division on forms approved by it. The application shall be signed by the owner and shall be accompanied by the fee prescribed by this act for such vessel. Upon receipt of the application in the approved form and the prescribed fee, the division shall enter the same upon the records of its office and issue to the applicant a pocket-size, laminated or otherwise water resistant certificate of number, which shall state the name and address of the owner, a description of the vessel, its use, and the number assigned.

(b) Except as provided herein, the certificate of number shall be available at all times for inspection on the vessel for which issued whenever such vessel is in operation. The certificate of number for vessels less than 26 feet in length and leased or rented to another for the latter's noncommercial use of less than 24 hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative; provided such substitute as the director may prescribe by regulation is carried on board.

(c) The number assigned to a vessel shall be displayed on each side of the bow thereof, as prescribed by regulations of the division, using letters and numerals not less than three inches in height; except that this provision shall not apply to a one-design class racing sailboat, without power installed either inboard or outboard, which is required to be numbered under section 3 of P.L.1962, c.73 (C.12:7-34.38). No other number shall be displayed on the bow.

**12:7-34.40. Rules, regulations concerning numbering system**

The division shall make and promulgate rules and regulations concerning the numbering system to be used, which system shall conform as near as possible with any over-all system of identification numbering for vessels which is being used by the United States Government or its agencies. Such rules and regulations shall go into effect immediately upon promulgation.

**12:7-34.41. Recording of vessel description, number**

The owner of any vessel identified by a number in full force and effect which has been awarded

to it pursuant to a then operative federal law or federally-approved numbering system of another State shall record with the division the vessel's description and number prior to using such vessel upon the waters of this State in excess of the 180-day reciprocity period provided for in section 3 of P.L.1962, c.73 (C.12: 7-34.38). Such recording shall be in the same manner and pursuant to the same procedure prescribed in section 4 of P.L.1962, c.73 (C.12: 7-34.39) except that no additional or substitute number shall be assigned.

**12:7-34.44. Misstatements in application for numbering**

No person shall make any misstatement of fact in an application for the numbering of a vessel or give a fictitious name or address.

**12:7-34.44a. Documented vessel; certificate of registration**

(a) For the purposes of P.L.1962, c.73 (C.12:7-34.36 et seq.), a documented vessel is based within this State if its owner owns, maintains, leases or rents space in this State for its storage, mooring or servicing on other than a transient basis.

(b) The owner of a documented vessel of 500 gross tons or less based in this State shall file an application for the registration of such vessel with the division on forms approved by it. The application shall be signed by the owner and shall be accompanied by the fee prescribed herein for the vessel. Upon receipt of the application in the approved form and the prescribed fee, the division shall enter the same upon the records of its office and issue to the applicant a pocket-size, laminated or otherwise water resistant certificate of registration which shall state the name and address of the owner, a description of the vessel, and its use.

(c) The certificate of registration shall be available at all times for inspection on the vessel for which issued whenever the vessel is in operation.

(d) The fees for the initial registration of a documented vessel and for each renewal thereof, shall be based on the length of the vessel and shall be the same as provided for in section 12 of P.L.1962, c.73 (C.12:7-34.47) for other vessels of the same length.

**12:7-34.45. Change of address of owner; status of vessel**

(a) Whenever the owner of a vessel numbered pursuant to P.L.1962, c.73 (C.12: 7-34.36 et seq.) changes his address from that shown on his certificate of number, he shall, within one week thereof, notify the division, in writing, of his new address. The division may provide, by regulation, for showing the new address by the alteration of the certificate or for its surrender and replacement by a corrected certificate.

(b) Whenever a vessel numbered under this act is sold, transferred, lost, destroyed or abandoned, the owner of record shall, within one week thereof, notify the division in writing of the change in the status of the vessel. The division may, by regulation, also require the surrender

of the certificate of number, if it was not destroyed by the occurrence.

**12:7-34.46. Accidents involving vessels**

- (a) Whenever any vessel upon the waters of this State is involved in an accident, it shall

be the duty of the operator, so far as he can do so without serious danger to his own passengers, guests, crew, himself or his vessel, to render to all other persons affected by the accident such assistance as may be necessary in order to save them from or to minimize any danger caused by the accident. He shall also give his name, address, and identifying information regarding his vessel to any person injured and to the owner of any property damaged in the accident.

(b) Whenever an accident involves any vessel subject to this act and results in the death, disappearance, or injury of any person, or in property damage in excess of the federal standard for filing an accident report as established pursuant to 33 C.F.R.s.173.55, the operator or operators thereof shall file, with the Division of State Police, a full description of the accident, including such information as that division may, by regulation, require within the times specified in subsection (c) of this section. The Superintendent of State Police shall notify operators, in a manner deemed appropriate, of a change in the federal standard for filing an accident report.

(c) A boating accident that occurs on the waters of this State shall be reported to the Division of State Police by the quickest means of communication possible, if the accident has caused the death or the disappearance of any person; any other reportable boating accident that may result in personal injury or property damage shall be reported within 10 days to the Division of State Police.

(d) The report of a boating accident herein required to be made by the operator of the vessel involved in the boating accident shall not, during any judicial proceeding, be referred to in any way; it shall not be subject to subpoena nor admissible as evidence in any proceeding. Subject to these restrictions, information contained in a boating accident report and any statistical information based thereon will be made available upon request for official purposes to the United States Coast Guard or any federal agency successor thereto.

**12:7-34.47 Fees**

The fees for the initial numbering of all vessels and for each renewal of the certificate of number issued thereto, unless otherwise provided by law, shall be:

(a) For all vessels less than 16 feet, \$12 per year; 16 feet or more but less than 26 feet, \$28 per year; 26 feet or more but less than 40 feet, \$52 per year; 40 feet or more but less than 65 feet, \$80 per year; 65 feet or more, \$250 per year. The revenue derived from the increase, pursuant to the amendatory provisions of section 12 of P.L.2002, c.34, in the amount of the fees imposed under this subsection shall be deposited into the "Maritime Industry Fund" established pursuant to section 8 of P.L.2001, c.429 (C.27:1A-82), as follows: in fiscal year 2003, 50% of the revenue derived from the increase in fees, in fiscal year 2004, 75% of the revenue derived from the increase in fees; and in fiscal year 2005 and thereafter, 100% of the revenue derived from the increase in fees.

(b) (Deleted by amendment.)

(c) Special numbers including up to three duplicates thereof and up to four sets of temporary numbers bearing a number corresponding to the special number, shall be assigned to boat dealers and manufacturers, as provided for under rules and regulations to be promulgated by the division, and such numbers shall be displayed temporarily upon boats being tested, demonstrated, photographed or transported, said display to be as prescribed in the rules and regulations aforementioned.

For each such special number so assigned the fee shall be \$75 for one year.

(d) A fee shall not be charged for the numbering of any marine equipment operated and maintained by the State of New Jersey; a county; a municipality; a volunteer first aid, rescue, or emergency squad; a search and rescue unit established within a fire district created pursuant to N.J.S.40A:14-70; or a volunteer fire company created pursuant to N.J.S.40A:14-70.1. This subsection shall apply only to marine equipment which is used exclusively in the performance of the prescribed duties of the governmental entities and organizations described above.

**12:7-34.47b. Documented power vessel based within state**

For the purposes of this act a documented power vessel is based within this State if its owner owns, maintains, leases or rents space in this State for its storage, mooring or servicing on other than a transient basis.

**12:7-34.49. Boat Regulation Commission established**

(a) There is established within the department a seven-member Boat Regulation Commission which shall consist of the Attorney General as ex officio member and six public members. The public members shall be appointed by the Governor with the advice and consent of the Senate for four-year terms commencing on April 1 of the year of the appointment, except that of those first appointed, two shall be appointed for a term of one year, two for a term of two years, one for a term of three years and one for a term of four years. As far as possible the public members shall be experienced boaters and shall represent the various geographical sections and boating interests of the State. At least one of the public members shall be actively employed in the marine industry.

The chairman shall be designated by the Governor. Each member of the commission shall serve at the pleasure of the Governor during his term and until the successor of the commission member has been appointed and has qualified. Vacancies shall be filled only for the unexpired term.

(b) The members of the commission shall serve without compensation except for the actual expenses incurred while engaged in their duties as members of the commission.

(c) The commission will promulgate rules and regulations, subject to the approval of the

Attorney General, not inconsistent with the provisions of this act and including, but not limited to the inspection, operation, equipping, anchorage, racing and safety of vessels upon the waters of this State.

These rules and regulations shall be such as are reasonably necessary for the protection of the health, safety and welfare of the public and for the free and proper use of said waters by any persons or vessels in, on or about such waters. These regulations shall not be inconsistent with regulations issued by the agency or agencies of the United States having jurisdiction with respect to power vessels upon the waters of this State.

The commission shall meet monthly or at the call of the Attorney General or the chairman of the commission or when requested by any three members of the commission. The Attorney General shall designate a staff from the department to handle administrative matters for the commission. The commission shall maintain minutes of its meetings and, within within five working days following the commission's approval of the minutes, submit them to the: Governor; President of the Senate; Minority leader of the Senate; Speaker of the General Assembly; and Minority Leader of the General Assembly.

**12:7-34.50. Rules and regulations; effective date of changes**

(a) (Deleted by amendment.)

(b) No changes in the rules and regulations shall go into effect from May 1 to September

30 of any year unless the Boat Regulation Commission shall find a need for the adoption of emergency rules and regulations pursuant to subsection (c) of section 4 of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-4(c)).

(c) (Deleted by amendment.)

**12:7-34.53. Construction of chapter 7 of title 12; special rules, regulations**

No provision of chapter 7 of Title 12 of the Revised Statutes shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of chapter 7 of Title 12, amendments thereto or regulations issued thereunder: Provided, that such ordinance or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of chapter 7 of Title 12, amendments thereto or regulations issued thereunder.

(a) Any subdivision of this State may, at any time, but only after public notice, make formal application to the commission for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth herein the reasons which make such special rules and regulations necessary or appropriate.

(b) The commission is hereby authorized to make, adopt and promulgate special rules and regulations, subject to the approval of the Attorney General, with reference to the operation of vessels on the waters of this State within the territorial limits of any subdivision of this State.

**12:7-34.54. Repeals**

The following sections of P.L.1954, c. 236 are repealed: Sections 2, 3, 5, 8, 10, 11, 12, 15, 16, 17, 21, 24, 26 and 32.

**12:7-44. Additional powers of department**

In addition to the powers conferred upon the Department of Law and Public Safety by the provisions of Title 12 of the Revised Statutes, the department is hereby authorized and empowered to regulate the operation, docking, mooring and anchoring of power vessels operating on the waters of this State.

**12:7-45. Speed of power vessels**

The speed of power vessels shall at all times be regulated so as to avoid danger or injury to all manner of craft whether floating, moored, anchored or underway, or to piers, wharfs, bulkheads, draw spans or other water-front construction, either directly or by the effect of the wash or wave raised by such power vessel through its speed or otherwise.

**12:7-46 Penalties for operating vessel under the influence.**

(a). No person shall operate a vessel on the waters of this State while under the influence of intoxicating liquor, a narcotic, hallucinogenic, or habit-producing drug or with a blood alcohol concentration of 0.08% or more by weight of alcohol. No person shall permit another who is under the influence of intoxicating liquor, a narcotic, hallucinogenic or habit-producing drug, or who has a blood alcohol concentration of 0.08% by weight of alcohol, to operate any vessel owned by the person or in his custody or control.

As used in this section, "vessel" means a power vessel as defined by section 2 of P.L.1995, c.401 (C.12:7-71) or a vessel which is 12 feet or greater in length.

A person who violates this section shall be subject to the following:

(1) For a first offense:

(i) if the person's blood alcohol concentration is 0.08% or higher but less than 0.10%, or the person operates a vessel while under the influence of intoxicating liquor, or the person permits another person who is under the influence of intoxicating liquor to operate a vessel owned by him or in his custody or control or permits another person with a blood alcohol concentration of 0.08% or higher but less than 0.10% to operate a vessel, to a fine of not less than \$250 nor more than \$400; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of one year from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of three months;



(ii) if the person's blood alcohol concentration is 0.10% or higher, or the person operates a vessel while under the influence of a narcotic, hallucinogenic or habit-producing drug, or the person permits another person who is under the influence of a narcotic, hallucinogenic or habit-producing drug to operate a vessel owned by him or in his custody or control, or permits another person with a blood alcohol concentration of 0.10% or more to operate a vessel, to a fine of not less than \$300 nor more than \$500; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of one year from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of not less than seven months nor more than one year.

(2) For a second offense, to a fine of not less than \$500 nor more than \$1,000; to the performance of community service for a period of 30 days, in the form and on the terms as the court deems appropriate under the circumstances; and to imprisonment for a term of not less than 48 hours nor more than 90 days, which shall not be suspended or served on probation; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of two years after the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of two years.

(3) For a third or subsequent offense, to a fine of \$1,000; to imprisonment for a term of not less than 180 days, except that the court may lower this term for each day not exceeding 90 days during which the person performs community service, in the form and on the terms as the court deems appropriate under the circumstances; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of 10 years from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of 10 years.

Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Chief Administrator of the New Jersey Motor Vehicle Commission. In the event that a person convicted under this section is the holder of any out-of-State motor vehicle driver's or vessel operator's license, the court shall not collect the license but shall notify forthwith the Chief Administrator of the New Jersey Motor Vehicle Commission, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle and the nonresident's privilege to operate a vessel in this State.

b. A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section against a second or subsequent offender. If a second offense occurs more than 10 years after the first offense, the court shall treat a second conviction as a first offense for sentencing purposes and, if a third offense occurs more than 10 years after the second offense, the court shall treat a third conviction as a second offense for sentencing purposes.

c. If a court imposes a term of imprisonment under this section, the person may be sentenced to the county jail, to the workhouse of the county where the offense was committed, or to an inpatient rehabilitation program approved by the Chief Administrator of the New Jersey Motor Vehicle Commission and the Director of the Division of Alcoholism and Drug Abuse in the Department of Health and Senior Services.

d. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not less than three months after the day the person reaches the age of 17 years. If the driving or vessel operating privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this title or Title 39 of the Revised Statutes at the time of any conviction of any offense defined in this section, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension or postponement. A second offense shall result in the suspension or postponement of the person's privilege to operate a motor vehicle for six months. A third or subsequent offense shall result in the suspension or postponement of the person's privilege to operate a motor vehicle for two years. The court before whom any person is convicted of or adjudicated delinquent for a violation shall collect forthwith the New Jersey driver's license or licenses of the person and forward such license or licenses to the Chief Administrator of the New Jersey Motor Vehicle Commission along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the chief administrator. That report shall include the complete name, address, date of birth, eye color, and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle or a vessel during the period of license suspension or postponement imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40 or section 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40 or section 14 of P.L.1995, c.401 (C.12:7-83). If the person is the holder of a driver's or vessel operator's license from another jurisdiction, the court shall not collect the license but shall notify forthwith the chief administrator who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving or vessel operating privilege, whichever is appropriate, in this State.

e. In addition to any other requirements provided by law, a person convicted under this section shall satisfy the screening, evaluation, referral program and fee requirements of the Division of Alcoholism's Intoxicated Driving Programs Unit. A fee of \$80 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established under section 3 of P.L.1983, c.531 (C.26:2B-32), by the convicted person in order to defray the costs of the

screening, evaluation and referral by the Intoxicated Driving Programs Unit. Failure to satisfy this requirement shall result in the immediate forfeiture of the privilege to operate a vessel on the waters of this State or the continuation of revocation until the requirements are satisfied.

f. In addition to any other requirements provided by law, a person convicted under this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

#### **12:7-47. Reckless operation of vessel; penalties, fines**

a. A person who disregards the rights or safety of others and operates a vessel on the waters of this State in a manner which unnecessarily interferes with the free and proper use of any waters, or which unnecessarily creates a risk of damage or injury to other craft therein, or to person or property, shall be guilty of reckless operation of a vessel and subject to a term of imprisonment not to exceed 60 days, or to a fine of not less than \$50 nor more than \$200, or both.

On a second or subsequent conviction, a person guilty of reckless operation of a vessel shall be subject to a term of imprisonment not to exceed three months, or to a fine of not less than \$100 nor more than \$500, or both.

b. In addition to any other requirements provided by law, a person convicted under this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate forfeiture of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

#### **12:7-47.1. Child under 12 required to wear personal flotation device on vessel underway**

a. Every person who operates a vessel on the waters of this State with a child 12 years of age or under on board shall have the child wear at all times a properly fitted United States Coast Guard approved personal flotation device whenever the vessel is underway.

b. Any person guilty of violating this act shall be fined not less than \$25 or more than \$50.

c. The operator of a vessel shall not be guilty of a violation of this act if a United

States Coast Guard flotation device of a size to properly fit the child is not commercially available.

**12:7-47.2. Rules, regulations**

The Boat Regulation Commission shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations necessary to effectuate the purposes of this act. The commission shall exempt any class of vessel from the requirements of this act if it deems that the size or purpose of the vessels in a specific class make the requirements unnecessary or inappropriate. The class of vessel exempt from the requirements of this act shall include, but need not be limited to, the class of vessels in which large commercial tour or ferry boats are listed.

**12:7-48. Mooring, grounding or abandoning hulk or derelict on State lands**

No power vessel shall be used to moor, ground or abandon any hulk or derelict on State lands below mean high-water mark.

**2:7-49. Dredges having in tow excessive lines of pontoons or other equipment**

No person shall operate a dredge which shall have in tow excessive lines of pontoons and other equipment and thereby endanger buoys, lights and other aids to navigation. A length of pontoon or other tow exceeding one hundred fifty feet measured from the stern of the towing vessel shall be deemed for the purposes of this act presumptive evidence of a violation of this section where damage is shown to have occurred within twenty-four hours after the passage of such pontoon or tow.

**12:7-50. Appointment of harbor masters**

The department may, whenever in its discretion it shall be deemed necessary, appoint harbor masters who shall have controlling jurisdiction under the law governing the Department of Law and Public Safety to supervise the use of tidal waters within the jurisdiction of this State. Such harbor masters shall be appointed for one year and shall serve without salary and in accordance with rules and regulations promulgated by the commission. Harbor masters appointed under this act shall be supplied with a shield or badge indicating their office and with an insignia to be carried on their boats while being used on official duty under this act.

**12:7-51. General penalties**

Any person who shall violate any provision of chapter 7 of Title 12 of the Revised Statutes, or of any rule or regulation issued thereunder, where the penalty therefor is not specifically prescribed, shall be subject to a fine of \$25 for a first offense, \$50 for a second offense and \$100 for a third and each subsequent offense of the same violation.

**12:7-55 Implied consent.**

a. (1) A person who operates a power vessel or a vessel which is 12 feet or greater in length on the waters of this State shall be deemed to have given his consent to the taking of samples of his breath for the purpose of making chemical tests to determine the content of

alcohol in his blood, except that the taking of samples shall be made in accordance with the provisions of P.L.1986, c.39 and at the request of a member of the State Police or a law enforcement officer who has reasonable grounds to believe that the person has been operating a vessel in violation of the provisions of section 3 of P.L.1952, c.157 (C.12:7-46).

(2) Whenever an operator has been involved in an accident resulting in death, bodily injury or property damage, an officer shall consider that fact along with all other facts and circumstances in determining under paragraph (1) of this subsection whether there are reasonable grounds to believe a person is operating a vessel in violation of the provisions of section 3 of P.L.1952, c.157 (C.12:7-46).

b. A record of the taking of the sample, disclosing the date and time thereof, as well as the result of any chemical test, shall be made and a copy shall be furnished or made available to the person so tested, upon his request.

c. In addition to the samples taken and tests made at the direction of a member of the State Police or a law enforcement officer, the person tested shall be permitted to have samples taken and chemical tests of his breath, urine or blood made by a person or physician of his own selection.

d. A member of the State Police or a law enforcement officer shall inform the person tested of his rights under subsections b. and c. of this section.

e. No chemical test, as provided in this section, or specimen necessary for a test, may be made or taken forcibly and against physical resistance thereto by the defendant. A member of the State Police or a law enforcement officer shall, however, inform the person arrested of the consequences of refusing to submit to the test, in accordance with section 9 of P.L.1986, c.39 (C.12:7-57). A standard statement, prepared by the Chief Administrator of the New Jersey Motor Vehicle Commission shall be read by a member of the State Police or a law enforcement officer to the person under arrest.

#### **12:7-56 Methods, techniques.**

Chemical analyses of the arrested person's breath, to be considered valid under the provisions of section 7 of P.L.1986, c.39 (C.12:7-55) shall have been performed according to methods approved by the Attorney General and by a person certified for this purpose by the Attorney General. The Attorney General is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct the analyses, and to make certifications of the individuals. Certifications shall be subject to termination or revocation at the discretion of the Attorney General. The Attorney General shall prescribe a form for reports of the chemical analysis of breath to be used by law enforcement officers and others acting in accordance with the provisions of section 7 of P.L.1986, c.39 (C.12:7-55). The forms shall be sequentially numbered. Each chief of police, in the case of forms distributed to law enforcement officers and others in his municipality, or the other officer, board, or official having charge or control of the law enforcement department, where there is no chief, and the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police, in the case

of forms distributed to law enforcement officers and other personnel in their divisions, shall be responsible for the furnishing and proper disposition of the forms. Each responsible party shall prepare or have prepared records and reports relating to the forms and their disposition, in the manner and at such times as the Attorney General shall prescribe.

**12:7-57 Refusal to submit to chemical test; revocation of privileges, fines.**

a. A court shall revoke the privilege of a person to operate a power vessel or a vessel which is 12 feet or greater in length, if after being arrested for a violation of section 3 of P.L.1952, c.157 (C.12:7-46), the person refuses to submit to the chemical test provided for in section 7 of P.L.1986, c.39 (C.12:7-55) when requested to do so. The revocation shall be for one year unless the refusal was in connection with a second offense under section 3 of P.L.1952, c.157 (C.12:7-46), in which case the revocation period shall be for two years. If the refusal was in connection with a third or subsequent offense under section 3 of P.L.1952, c.157 (C.12:7-46), the revocation shall be for 10 years. The court also shall revoke the privilege of a person to operate a motor vehicle over the highways of this State for a period of: not less than seven months or more than one year for a first offense; two years for a second offense; and 10 years for a third or subsequent offense. The court shall also fine a person convicted under this section: not less than \$300 nor more than \$500 for a first offense; not less than \$500 or more than \$1,000 for a second offense; and \$1,000 for a third or subsequent offense.

b. The court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been operating or was in actual physical control of the vessel while under the influence of intoxicating liquor, or a narcotic, hallucinogenic or habit-producing drug, whether the person was placed under arrest, and whether the person refused to submit to the test upon request of the officer. If these elements of the violation are not established, no conviction shall issue.

c. In addition to any other requirements provided by law, a person whose privilege to operate a vessel is revoked for refusing to submit to a chemical test shall satisfy the screening, evaluation, referral and program requirements of the Bureau of Alcohol Countermeasures in the Division of Alcoholism in the Department of Health and Senior Services. A fee of \$40 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established under section 3 of P.L.1983, c.531 (C.26:2B-32), by the convicted person in order to defray the costs of the screening, evaluation and referral by the Bureau of Alcohol Countermeasures and the cost of an education or rehabilitation program. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State or the continuation of revocation until the requirements are satisfied. The revocation for a first offense may be concurrent with or consecutive to a revocation imposed for a conviction under the provisions of section 3 of P.L.1952, c.157 (C.12:7-46) arising out of the same incident; the revocation for a second or subsequent offense shall be consecutive to a revocation imposed for a conviction under the provisions of section 3 of P.L.1952, c.157 (C.12:7-46).

d. In addition to any other requirements provided by law, a person convicted under this section shall be required after conviction to complete a boat safety course from the list

approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

**12:7-58. Work release program**

a. A person who has been convicted of violating section 3 of P.L.1952, c.157 (C.12:7-46), and who has been imprisoned in a county jail or workhouse in the county in which the offense was committed, shall not be released after commitment until the term of imprisonment imposed has been served. A person imprisoned in the county jail or workhouse may, at the discretion of the court, be released on a work release program.

b. A warden or other officer having custody of the county jail or workhouse shall not release a person until the sentence has been served, except that a person may be released by the court on a work release program. A person sentenced to an inpatient rehabilitation program may be released by the court, upon the petition of the treating agency, to an outpatient rehabilitation program for the duration of the original sentence.

c. This section shall not be construed to interfere in any way with the operation of a writ of habeas corpus, a proceeding in lieu of the prerogative writ, or an appeal.

**12:7-59. Written notice of penalties**

A person shall receive written notice of the penalties under section 3 of P.L.1952, c.157 (C.12:7-46) and section 9 of P.L.1986, c.39 (C.12:7-57), when that person is issued a license to operate a vessel, a registration certificate, a certificate of number or a certificate of ownership under chapters 7 and 7A of Title 12 of the Revised Statutes.

**12:7-60. Approved boat safety courses**

a. The Superintendent of State Police in the Department of Law and Public Safety shall establish a list of approved boat safety courses, offered by public or private persons or agencies for profit or otherwise and taught by approved boat safety instructors. Approved courses shall provide formal instruction in power vessel handling and safety. The superintendent may approve a boat safety course upon the initiative of the superintendent or by application on a form to be created by the superintendent.

For the purposes of this section, "approved boat safety course" means a boat safety course that meets qualifications set forth in regulations promulgated by the Superintendent of State Police, in consultation with the Attorney General; the regulations shall require at least eight hours of instruction, with a minimum of six hours of classroom instruction, or, if the boat safety course

is offered via the Internet, require at least the equivalent of eight hours of instruction; whether offered in a classroom or via the Internet, the boat safety course shall conclude with a closed-book written examination administered by an instructor in person and present with the person taking the written examination.

For the purposes of this section, an "approved boat safety instructor" means an individual who is trained and experienced in the art and science of navigation and seamanship and who holds a United States Coast Guard operator's license, or a certification as an instructor as provided by the United States Coast Guard Auxiliary, the United States Power Squadron, the National Safe Boating Council or other certification program that is determined to be acceptable by the Superintendent of State Police. A public or private entity which offers a course that was approved by the superintendent prior to the effective date of this act may continue to offer that course until that approval has expired.

The superintendent shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations to implement this section. While developing these rules and regulations, the Superintendent of State Police shall consult with the National Association of State Boating Law Administrators, or its successor organization, concerning the provisions of the rules and regulations being adopted pursuant to this subsection.

b. A public or private entity authorized to offer a boat safety course pursuant to subsection a. of this section shall not employ an instructor who:

(1) does not possess a valid boat safety certificate required by section 2 of P.L.1987, c.453 (C.12:7-61); or

(2) has been convicted of any of the following crimes and offenses as evidenced by a criminal history record background check:

(a) In New Jersey, any crime or disorderly persons offense:

(i) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.;

(ii) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.;

(iii) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes;



(iv) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10;

(v) involving weapons or firearms, meaning those crimes and disorderly persons offenses set forth in chapters 39 and 58 of Title 2C of the New Jersey Statutes;

(vi) involving falsification of records under N.J.S.2C:21-4 or tampering with public records or information under N.J.S.2C:28-7.

(b) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subparagraph a. of this paragraph.

The Marine Services Bureau in the Division of State Police shall obtain the instructor's name, address, fingerprints and written consent for a criminal history record background check to be performed pursuant to this paragraph. The Marine Services Bureau is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The Marine Services Bureau shall determine whether the person is disqualified from employment as an instructor based on the person's criminal history record background check and render the decision to the public or private entity.

The instructor shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, but a volunteer instructor shall be afforded a fee reduction as authorized by applicable State and federal law, rule and regulation.

**12:7-61      Operation of power vessels, personal watercraft; boat safety course requirements; violations**

A person who is under 16 years of age shall not operate a power vessel on the waters of this State, except that:

(1) a person who is under 16 years of age but at least 13 years of age and possesses a certificate certifying that person's successful completion of a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety may operate:

(a) a power vessel powered solely by an electric motor; or

(b) a power vessel which is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(2) A person who is under 16 years of age and has successfully completed an approved boat safety course prior to July 1, 1996 may operate a power vessel on the tidal waters of this State, provided that the person complies with all other requirements of law, rule and regulation; and

(3) A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

b. As provided in the schedule set forth in section 7 of P.L.2005, c.292, as of June 1, 2008, a person who is 16 years of age or older shall not operate a power vessel, including a personal watercraft, on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, except that:

(1) (Deleted by amendment, P.L.2005, c.292).

(2) an out-of-State resident, or a resident of a foreign country who is 16 years of age or older and who will be in this State for less than 90 days may operate a power vessel on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety if the person presents:

(i) written proof of successful completion of a boat safety course endorsed or approved by another state, the National Association of State Boating Law Administrators or its successor organization, or the United States Coast Guard;

(ii) written proof of successful completion of a boat safety course substantially similar to the boat safety course required pursuant to this section as determined by the Superintendent of State Police; or

(iii) a boat safety certificate issued by the state or country in which the person resides;

(3) a person who is 18 years of age or older may operate on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, a rented power vessel that is not a personal watercraft, under the following conditions:

(a) the person rents the power vessel from a business engaged in renting power vessels for use on the waters of the State;

(b) the person has successfully completed a State-approved pre-rental instruction course provided by the owner or lessor of the power vessel prior to operating the power vessel on the waters of the State; and

(c) the owner of the power vessel rental business is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

(4) A person required to take the boat safety course pursuant to this section and section 7 of P.L.2005, c.292 who purchases a power vessel that is not a personal watercraft at a boat dealership may operate that power vessel for 30 days without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety provided that the person successfully completes a State-approved pre-purchase instruction course provided by the owner or operator of the boat dealership prior to operating the power vessel, and the owner or operator of the boat dealership is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police. The State-approved pre-purchase instruction course required by this paragraph shall be a uniform, standardized course developed by the Superintendent of State Police. The State-approved pre-purchase instruction course shall not replace the requirement that a person shall successfully complete an approved boat safety course pursuant to the other provisions of P.L.2005, c.292 (C.12:7-61.1 et al.). The provisions of this paragraph shall not apply to a person purchasing a power vessel from another private party.

(5) A person holding a United States Coast Guard operator's license may operate a power vessel on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

The Superintendent of State Police shall establish appropriate guidelines to implement the provisions of this subsection.

c. Except as provided pursuant to section 18 of P.L.1995, c.401 (C.12:7-86), a person shall not operate a personal watercraft on the waters of this State without having successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety or a written test pursuant to section 8 of P.L.2005, c.292.

d. Whenever a person who is required by this section or by section 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57) to have completed a boat safety course operates a power vessel or personal watercraft, as appropriate, on the waters of this State, that person shall have in possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

e. A person who violates subsection a., b., c. or d. of this section or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than \$100 nor more than \$500.

f. A person who owns or has control or custody of a power vessel and allows the power vessel to be operated on the waters of this State by a person who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course but who does not possess such certificate is subject to a fine of not more than \$100.

g. A person making application to the Chief Administrator of the New Jersey Motor Vehicle Commission for a power vessel operator's license issued pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course shall submit proof of successful completion of the course or the written examination for experienced boaters with the application. The chief administrator shall not issue a power vessel operator's license to such person who fails to submit this proof. A permanent State of New Jersey boating safety certificate or a temporary boating safety certificate issued on a Division of State Police application for boating safety certificate form shall satisfy this requirement.

#### **12:7-61.1 Schedule for completion of mandatory boat safety course.**

Before operating a power vessel, including a personal watercraft, on the waterways of this State, the mandatory boat safety course required by section 2 of P.L.1987, c.453 (C.12:7-61) shall be successfully completed as follows:

- a. by persons born after December 31, 1978;
- b. before June 1, 2006, by persons born after December 31, 1968 and on or before December 31, 1978;
- c. before June 1, 2007, by persons born after December 31, 1958 and on or before December 31, 1968;
- d. before June 1, 2008, by persons born after December 31, 1948 and on or before December 31, 1958; and
- e. before June 1, 2009 by all other persons.

#### **12:7-61.2 Written test in lieu of boat safety course for experienced boaters.**

a. The Superintendent of State Police shall develop, and the superintendent, or a designee, shall administer, a written test for experienced boaters which shall be issued in lieu of completing the boat safety course required pursuant to section 2 of P.L.1987, c.453 (C.12:7-61). The superintendent shall determine the criteria that shall be met for a person to qualify as an "experienced boater" pursuant to subsection d. of this section. When developing the written test, the superintendent shall consult with groups concerned with the nationwide standardization of such tests. Upon successful completion of the test, the person shall be given a certificate which shall fulfill the certificate requirement under subsection d. of section 2 of P.L.1987, c.453

(C.12:7-61) and shall be required to be in the person's possession as provided in that section. A person may only take one test pursuant to this subsection.

b. A person who takes a test pursuant to subsection a. of this section shall pay a fee as determined by the superintendent to defray the costs of developing and administering the test and issuing certificates to persons who successfully complete the test.

c. In addition to all other penalties provided by law, a person who provides false information on an application for a written test issued pursuant to subsection a. of this section shall be subject to a fine of \$100.

d. The superintendent shall determine the qualifications for application and all other requirements under this section.

e. The superintendent shall be exempt from the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in performing the requirements of this section.

#### **12:7-62. "Personal watercraft" defined**

For the purposes of this act, "personal watercraft" shall mean a power vessel defined as a Class "A" vessel by the United States Coast Guard, and which:

- a. Is designed to be operated from a sitting, standing or kneeling position;
- b. Is equipped with an internal combustion engine which powers a water jet pump;  
and
- c. Cannot be operated in a manner so as to disengage the pump so as to prevent the vessel from making headway.

#### **12:7-63. Restrictions on operation of personal watercraft**

A person shall not operate a personal watercraft:

a. On the waters of this State between sunset and sunrise, or during any time of restricted visibility as determined by an agent or officer of the Marine Law Enforcement Bureau, Division of State Police;

b. Within the confines of the Point Pleasant Canal in the County of Ocean, or the Cape May Canal in the County of Cape May;

c. Above idle speed within 50 feet of:

- (1) A bathing beach that has its boundaries marked by buoys or signs;

- (2) The shoreline; or
- (3) Any person in the water; or

d. In such a manner as to make the vessel completely leave the water or otherwise become airborne, while crossing within 100 feet of the wake of another vessel.

**12:7-64. Requirements for operator of personal watercraft**

A person operating a personal watercraft shall at all times:

- a. Wear the safety switch lanyard while the personal watercraft is underway, provided that the personal watercraft is equipped with such a lanyard cut-off device; and
- b. Proceed at a safe speed that shall allow the person operating the personal watercraft to take proper and effective action to avoid collision and to stop the personal watercraft within a safe distance, as may be appropriate under prevailing circumstances and conditions.

**12:7-65. Floatation device required**

A person operating a personal watercraft or any passenger on a personal watercraft shall at all times when the personal watercraft is underway, wear a United States Coast Guard Approved Type I, II, III, or Type V Hybrid Personal Flotation Device.

**12:7-66. Rules, regulations**

The Boat Regulation Commission, subject to the approval of the Attorney General and consistent with section 14 of P.L.1962, c.73 (C.12:7-34.49) shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purposes of this act.

**12:7-67. Adoption, enforcement of ordinances, resolutions**

- a. The governing body of a county or municipality shall not adopt or enforce any ordinance or resolution, as appropriate, relating to the operation of personal watercraft on the waters of this State which is inconsistent with the provisions of this act, except as provided in subsection (a) of section 18 of P.L.1962, c.73 (C.12:7-34.53).
- b. Any ordinance or resolution adopted by the governing body of a county or municipality in violation of subsection a. of this section shall be null and void.
- c. Nothing in this section shall be deemed to preclude the governing body of a county

or municipality from adopting or enforcing an ordinance or resolution to provide access to the waters of this State located within the territorial limits of the county or municipality to the operators of personal watercraft; provided that the ordinance or resolution provides for appropriate access to those waters for all types of power vessels operating within the territorial limits of the county or municipality, as the case may be.

**12:7-68. Operator permitted to tow water skier**

The operator of a personal watercraft designed to accommodate three or more persons shall be permitted to tow a water skier, provided that the personal watercraft has the capacity to allow one of the persons to face the stern of the personal watercraft for the purpose of tending to a ski rider; and that the person tending to the ski rider shall be present during the towing of the ski rider.

**12:7-69. Violations; fines, penalties**

A person who violates any provision of this act shall be subject to the fines and penalties enumerated pursuant to section 16 of P.L.1962, c.73 (C.12:7-34.51).

**12:7-70. Findings, declarations relative to boating**

The Legislature finds and declares that numerous laws have been enacted over the past half-century concerning the regulation of boats and vessels; that many of the provisions of these laws are duplicative or outdated; that violations of laws governing the licensing, registration and operation of boats and vessels are currently treated as disorderly persons offenses; and that such offenses are disproportionate with the seriousness of these types of violations, which are comparable to motor vehicle violations.

The Legislature further finds and declares that, while most boaters are knowledgeable and responsible with regard to safety issues, there remain many less experienced, and often younger, boaters who operate vessels on the waters of the State; that, under current law, boaters convicted of boating while intoxicated, or of careless or reckless boating can resume their boating activities upon payment of a fine or expiration of a period of boating privilege suspension; and that many personal watercraft operators can be found on the waters of the State each year with little or no knowledge or understanding of safe vessel operation.

The Legislature therefor determines that it is in the public interest to reorganize and consolidate the various boating laws to facilitate a clearer understanding and increased compliance with these laws; and, that boating laws should be revised so that the penalties imposed for violations of these laws are consistent with those imposed for motor vehicle violations.

The Legislature further determines that there is a need for mandatory boat safety instruction for young and inexperienced boaters, as well as for those who are found guilty of boating while intoxicated or of careless or reckless boating.

**12:7-71. Definitions**

As used in this chapter, unless the context clearly requires a different meaning:

"Commission" means the Boat Regulation Commission established pursuant to section 14 of P.L.1962, c.73 (C.12:7-34.49);

"Department" means the Department of Law and Public Safety;

"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation;

"Division" means the Division of Motor Vehicles in the Department of Transportation;

"Documented vessel" means a vessel which has a valid Marine Document issued by the United States Coast Guard or any Federal agency successor thereto;

"Length" means measurement from end to end over the deck parallel to the centerline excluding sheer, bowsprits, bumpkins, rudders, outboard motors, brackets or other equipment or appendages;

"Motor" means a temporarily or permanently installed fuel consuming mechanism by which the vessel is or may be propelled, including an electrical motor;

"Operate" means to navigate, use, control or command a vessel;

"Operator" means every person having charge, control, operation or direction of any vessel and the owner of the vessel if the owner is on the vessel at the time it is operated in violation of the law;

"Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of the vessel subject to an interest of 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;

"Personal watercraft" means a personal watercraft as defined by section 1 of P.L.1993, c.299 (C.12:7-62);



"Power vessel" means a vessel temporarily or permanently equipped with machinery for propulsion, including a personal watercraft, and shall not include a vessel propelled wholly by sails or by muscular power;

"Sailboat" means any boat whose sole source of propulsion is the wind;

"Vessel" means a boat or watercraft, other than a sea plane on the water, used or capable of being used as a means of transportation on water; and

"Waters of this State" means all waters within the jurisdiction of this State, both tidal and nontidal, and the marginal sea adjacent to this State to a distance of three nautical miles from the shoreline.

**12:7-72. Issuance of license to operate power vessel; requirements**

a. Upon proper application therefor, the director shall license a person to operate a power vessel on the nontidal waters of this State. A person shall not make any misstatement of fact in an application for a power vessel operator's license.

b. Except as provided pursuant to subsections c. and g. of this section:

(1) A person shall not operate a power vessel on the nontidal waters of this State without being licensed by the director; and

(2) A person under 16 years of age shall not be licensed to operate a power vessel on the nontidal waters of this State.

c. A person is not required to be licensed pursuant to subsection b. of this section when operating a power vessel:

(1) powered solely by a motor of less than one horsepower or an electric motor of 12 volts or less;

(2) that is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(3) while actually competing in an authorized race held under the auspices of a duly incorporated yacht club or racing association in accordance with rules and regulations prescribed by the Division of State Police in the Department of Law and Public Safety and pursuant to a

permit duly issued by that division;

(4) if the person is an out-of-State resident and has written proof, while operating the power vessel, of successful completion of a boat safety course substantially similar to the boat safety course administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

d. Except as provided pursuant to subsection c. of this section, a person shall have in his possession a proper license at all times when operating a power vessel on nontidal waters and shall exhibit the license to any law enforcement officer upon request. Failure of a person to exhibit such license upon request shall be presumptive evidence that the person is not a licensed operator.

e. A person who violates the provisions of subsection b. of this section shall be subject to a fine of not more than \$500 or to a term of imprisonment not to exceed 60 days, or both, except that:

(1) A person who has never been licensed to operate a power vessel on the nontidal waters of this State or any other jurisdiction shall be subject to a fine of not less than \$200 and, in addition, the court shall issue an order to the Director of the Division of Motor Vehicles requiring the director to refuse to issue a license to operate a power vessel on the nontidal waters of this State to that person for a period of not less than 180 days; and

(2) A person who can exhibit to the court before which the person is summoned to answer to the charge a valid operator's license issued to that person which was valid on the day that person was charged shall be subject to a fine of not more than \$100, in addition to any reasonable court costs the court may impose. Notwithstanding the provisions of this subsection, the court may, in its discretion, dismiss a charge regarding the failure to exhibit an operator's license brought pursuant to the provisions of this section.

f. The penalties provided for pursuant to subsection e. of this section shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the Division of Motor Vehicles.

g. A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

**12:7-73 Fees for power vessel operator's license, digitized picture.**

a. The fee for a 48-month power vessel operator's license required pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) shall be \$18 and shall be paid to the director for deposit into the

State General Fund.

b. Each New Jersey power vessel operator's license issued pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) shall have a digitized color picture of the licensee. In addition to the fee required pursuant to subsection a. of this section, the fee for the digitized color picture shall be \$6 for each license or renewal.

**12:7-74. Unlawful use, loan of operator's license; fine**

a. A person who lends any operator's license required pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) to another person shall be subject to a fine of not less than \$25 nor more than \$100.

b. A person owning or having control or custody of a power vessel who allows the power vessel to be operated by a non-licensed operator shall be subject to a fine of not more than \$100.

c. A person operating a power vessel who exhibits the operator's license of another shall be subject to a fine of not less than \$200 or to a term of imprisonment not to exceed 60 days, or both.

d. A person who exhibits the operator's license of another for purposes of identification in any situation other than as described in subsection c. of this section shall be subject to a fine of not less than \$25 nor more than \$100.

**12:7-74.1. Personal watercraft owner's liabilities**

In addition to all other remedies permitted and duties required by law, the owner of a personal watercraft shall be jointly liable for damage incurred by another person operating the owner's personal watercraft if the owner knowingly allows the person to operate the owner's personal watercraft, the operator has not successfully completed a boat safety course required pursuant to subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) or a written test administered pursuant to section 17 of P.L.1995, c.401 and the operator is not exempt from the boat safety certificate requirement pursuant to subsection a. or c. of section 18 of P.L.1995, c.401 (C.12:7-86).

**12:7-75. Alteration of motor number, filing of statement**

A person who possesses a motor, whether inboard or outboard, the motor number of which has been altered or mutilated, or who comes into possession of such a motor, shall at once file in writing with the Division of State Police a statement setting forth all circumstances in connection with that person's possession of the motor.

**12:7-76. Careless operation of vessel**

a. A person who operates a vessel on the waters of this State, without due caution and

circumspection, in a manner that endangers, or is likely to endanger, a person or property shall be guilty of careless operation. Careless operation shall include, but need not be limited to, the loading of a vessel beyond the maximum capacity stated on the United States Coast Guard capacity label or the capacity label of the manufacturer affixed to the vessel.

b. In addition to any other requirements provided by law, a person convicted under subsection a. of this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

**12:7-77. Floatation devices required**

A person shall not operate or allow another person to operate a vessel on the waters of this State unless the vessel has a serviceable United States Coast Guard approved personal flotation device for each person on board. Such devices shall be of a type and in sufficient number as required by the United States Coast Guard for a vessel of that class operating on navigable waters. Such devices shall be readily accessible when the vessel is under way or worn as required by regulation.

For the purpose of this section, the term "vessel" does not include surfboards, windsurfers, racing shells, rowing sculls and racing kayaks.

**12:7-78. Discard of debris; fine**

a. A person shall not discard debris from a vessel that is on the waters of this State. A person who violates this section shall be subject to a fine of not less than \$200 nor more than \$1,000 for each offense.

b. There shall be a rebuttable presumption that the owner of the vessel, if present on the vessel, or, in the owner's absence, the operator of the vessel, is responsible for any violation of this section, if:

- (1) Debris of any nature is discarded from the vessel by an occupant of the vessel;
- (2) There are two or more occupants in the vessel; and
- (3) It cannot be determined which occupant of the vessel is the violator.

**12:7-79. Stop, lay to by order of officer**

A person operating a vessel on the waters of this State shall stop or lay to when so ordered by any law enforcement officer.

**12:7-80. Summons; arrest**

- a. A law enforcement officer may serve a summons on any person violating any provision of chapter 7 of Title 12 of the Revised Statutes.
- b. A law enforcement officer may arrest any person violating in his presence any provision of chapter 7 of Title 12 of the Revised Statutes instead of issuing a summons pursuant to subsection a. of this section.
- c. A law enforcement officer may arrest without a warrant any person who the officer has probable cause to believe has operated a vessel in violation of section 3 of P.L.1952, c.157 (C.12:7-46), regardless of whether the suspected violation occurred in the officer's presence.

**12:7-81. Jurisdiction of courts**

- a. The Superior Court and every municipal court shall have jurisdiction to enforce the provisions of chapter 7 of Title 12 of the Revised Statutes. Each of these courts shall have jurisdiction to receive complaints, order arrests, issue summonses and warrants, admit to bail, and take any action required of a judge in the enforcement of the provisions of chapter 7 of Title 12 of the Revised Statutes within their respective territorial jurisdictions.
- b. A court that suspends or revokes a person's privilege to operate a power vessel shall transmit forthwith to the director an order indicating that fact and the ground upon which the privilege was suspended or revoked.

**12:7-82. Revocation, suspension of privilege to operate power vessel; conditions**

- a. A court may revoke or suspend the privilege of a person to operate a power vessel if that person has been convicted of homicide in connection with the operation of a motor vehicle or of operating a motor vehicle while under the influence of intoxicating liquor or a narcotic, hallucinogenic or habit producing drug.
- b. A court may revoke or suspend the privilege of a person to operate a power vessel if that person has been charged with a homicide in connection with the operation of a motor vehicle or of operating a vessel or motor vehicle while under the influence of intoxicating liquor or a narcotic, hallucinogenic or habit producing drug, pending disposition of that charge, or for any other violation of any of the provisions of chapter 7 of Title 12 of the Revised Statutes or of any rule or regulation prescribed thereunder by the director or the commission.

c. A court shall revoke or suspend the privilege of a person to operate a power vessel if that person has been charged with or convicted of homicide in connection with the operation of a vessel.

d. When a person's privilege to operate a power vessel is revoked or suspended, that person shall have an opportunity to be heard. Attendance of witnesses to such hearing may be compelled by subpoena.

e. Failure of the licensee or any other person possessing the license card to deliver the same to the suspending or revoking court, or the director if so ordered, shall constitute a violation. A court that suspends or revokes a license shall promptly place the license card in the custody of the division, except when the division shall otherwise direct.

f. The division shall have the exclusive power to restore a person's privilege to operate a power vessel and may restore that privilege after the person pays to the director a \$50 restoration fee. Unless otherwise specified, whenever a license is revoked pursuant to this section a new license shall not be issued to the person whose license is revoked for at least six months after the date of such revocation, as determined by the director.

**12:7-83. Violations, penalties**

a. A person whose privilege, including any license or numbering, to operate a power vessel or a vessel that is 12 feet or greater in length has been suspended, revoked or prohibited shall not operate such a vessel on the waters of this State.

b. A person violating subsection a. of this section shall be subject to the following penalties:

(1) upon conviction for a first offense, a fine of \$500;

(2) upon conviction for a second offense, a fine of \$750 and a term of imprisonment not to exceed five days;

(3) upon conviction for a third offense and each subsequent offense, a fine of \$1,000 and a term of imprisonment not to exceed 10 days.

c. In addition to the penalties prescribed in subsection b. of this section, a court shall suspend or extend the suspension of the operating privileges, for a period not to exceed six months, of a person who violates subsection a. of this section.

d. In addition to the penalties prescribed in subsections b. and c. of this section, a

court may impose a term of imprisonment not to exceed 45 days, if while operating a vessel in violation of subsection a. of this section a person causes an accident resulting in personal injury to another person.

e. In addition to the penalties prescribed in subsections b., c. and d. of this section, any person violating subsection a. of this section while under a suspension issued pursuant to section 3 of P.L.1952, c.157 (C.12:7-46) upon conviction shall be fined \$500, shall have his privilege to operate a vessel suspended for an additional period of not less than one year nor more than two years, and may be imprisoned for a term not to exceed 90 days.

f. Any period of suspension imposed by a court under this section that would continue beyond September 30 of any calendar year shall be interrupted on that date and shall be completed after April 30 of the following year.

**12:7-84. Payment of fines**

All fines imposed under chapter 7 of Title 12 of the Revised Statutes shall be paid to the court imposing the fines. Within 30 days after receipt, the court shall then transmit such fines to the Treasurer of the State of New Jersey for deposit into the State General Fund.

**12:7-85. Rules, regulations**

a. The director, the commission and the Superintendent of State Police, whichever is appropriate and subject to the approval of the Attorney General, may promulgate such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary to effectuate the provisions of P.L.1995, c.401 (C.12:7-70 et al.).

b. All rules and regulations promulgated pursuant to the provisions of chapters 7 and 7C of Title 12 of the Revised Statutes before the effective date of this act which are not inconsistent with the provisions of P.L.1995, c.401 (C.12:7-70 et al.) shall remain in effect until such time as such rules and regulations are changed or otherwise readopted.

**12:7-86. Conditions for operation of personal watercraft without completion of boat safety course; violations, penalties; rules, regulations**

A person who is 16 years of age or older may operate a personal watercraft without having completed a boat safety course required pursuant to subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) under the following conditions:

a.(1) the person operates the personal watercraft within the boundaries of an area designated solely for the operation of personal watercraft by a business engaged in renting personal watercraft for use on the waters of the State;

(2) the area designated for such operation is supervised by a person who is

experienced in the operation of personal watercraft and who has successfully completed a boat safety course approved pursuant to section 1 of P.L.1987, c.453 (C.12:7-60); and

(3) the person has successfully completed an instruction course provided by the owner or lessee of the personal watercraft prior to operating the personal watercraft within the designated area.

b. (Deleted by amendment, P.L.2005, c.292)

c. The person has written proof, while operating the personal watercraft, of successful completion of a boat safety course substantially similar to the boat safety course required pursuant to the boat safety course administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

d. (Deleted by amendment, P.L.2005, c.292)

e. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Superintendent of State Police shall adopt any rules or regulations necessary to implement the provisions of this section.