

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 3020

(By Delegates Miley, Iaquinta, Longstreth, Guthrie, White, Boggs,
Caputo, Skaff, P. Smith, Moye and Ferro)

[Passed April 13, 2013; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-9-1, §20-9-2, §20-9-3, §20-9-4, §20-9-5 and §20-9-6, all relating to boat dock and marina safety; defining terms; requiring certain signage at certain boat docks and marinas; requiring compliance with certain safety standards on electrical work and electrical wiring at certain boat docks and marinas; requiring certain work by certain certified electricians; establishing a date for compliance; requiring certain enforcement; providing rule-making authority and authorizing emergency rules; providing penalties for certain violations; and creating a misdemeanor offense for violation of certain sections.

PREAMBLE

THIS LEGISLATION SHALL BE KNOWN AS THE "MICHAEL

1 CUNNINGHAM ACT." WHEREAS, WEST VIRGINIA IS KNOWN FOR
2 ITS BEAUTIFUL AND ABUNDANT WATERWAYS, LAKES AND RIVERS,
3 WHICH PROVIDE A DRAW FOR TOURISM AND A BOOST FOR OUR
4 ECONOMY; AND
5 WHEREAS, OUR WATERWAYS, LAKES AND RIVERS SHOULD BE A
6 SAFE PLACE FOR CHILDREN AND FAMILIES TO ENJOY; AND
7 WHEREAS, THERE HAVE BEEN CASES RECENTLY WHERE CHILDREN
8 HAVE DIED BECAUSE THE WATER WHERE THEY WERE SWIMMING
9 WAS ELECTRIFIED BY THE UNGROUNDED AND IMPROPER
10 CONNECTION OF ELECTRICITY TO BOAT DOCKS AND MARINAS;
11 AND
12 WHEREAS, ELECTRICITY AND WATER CREATE A DEADLY
13 COMBINATION THAT CAN PARALYZE A SWIMMER WHICH CAN
14 RESULT IN THE SWIMMER DROWNING; AND WHEREAS, CHILDREN
15 WHO ARE SWIMMING ARE PARTICULARLY VULNERABLE TO
16 ELECTROCUTION AND SHOCK IN THE WATER; AND
17 WHEREAS, BRINGING BOAT DOCKS AND MARINAS UP TO THE
18 NATIONAL FIRE PROTECTION ASSOCIATION AND NATIONAL
19 ELECTRIC CODE STANDARDS FOR MARINAS AND BOATYARDS IS
20 NECESSARY FOR THE PROTECTION AND SAFETY OF ALL OF THOSE
21 WHO ENJOY OUR WATERWAYS, LAKES AND RIVERS FOR
22 RECREATION AND TO PROTECT OUR TOURISM INDUSTRY.

23 *Be it enacted by the Legislature of West Virginia:*

24 That the Code of West Virginia, 1931, as amended, be
25 amended by adding thereto a new article, designated §20-9-1,
26 §20-9-2, §20-9-3, §20-9-4, §20-9-5 and §20-9-6, all to read
27 as follows:

28 **ARTICLE 9. BOAT DOCK AND MARINA SAFETY REQUIREMENTS -- THE**

29 **MICHAEL CUNNINGHAM ACT.**

30 **§20-9-1. Definitions.**

31 As used in this article:

32 (1) "ABYC" means the American Boat and Yacht Council;

33 (2) "Boat dock" means a man-made structure that

34 protrudes into a body of water for the purpose of mooring a

1 boat or for other water-related recreation, including boat
2 liveries, and that is connected to an electrical power
3 source in any manner: *Provided*, That "boat dock" does not
4 include structures that are privately owned and used
5 exclusively by the owner or the owner's guests for non-
6 commercial purposes;

7 (3) "Boat dock or marina owner or operator" means any
8 person who:

9 (A) Has an ownership interest in a boat dock or marina,
10 other than a lienholder; or
11 (B) Operates a boat dock or marina;

12 (4) "Ground fault circuit interrupter" means a device
13 that functions to de-energize a circuit, or a portion
14 thereof, within an established period of time when current
15 to ground exceeds a predetermined value that is less than
16 required to operate the over current protective device of
17 the supply circuit;

18 (5) "Marina" means a dock including a boat dock or
19 basin providing moorings for motorboats and offering supply,
20 repair or other services, including electrical power supply,
21 for remuneration: *Provided*, That "marina" does not include
22 docks that are privately owned and used exclusively by the
23 owner or the owner's guests for non-commercial purposes;

24 (6) "Motorboat" means any vessel propelled by an

1 electrical, steam, gas, diesel or other propelled or driven
2 motor, whether or not the motor is the principal source of
3 propulsion, but does not include a vessel with a valid
4 marine document issued by the United States Bureau of
5 Customs or any federal agency that is the successor to the
6 Bureau of Customs;

7 (7) "Person" means an individual, partnership, firm,
8 corporation, association or other entity; and

9 (8) "Vessel" means every description of watercraft,
10 other than a seaplane on the water, used or capable of being
11 used as a means of transportation on the water.

12 **§20-9-2. Boat Dock and Marina Safety Requirements -**

13 **Swimming and Signage.**

14 All boat dock or marina owners or operators shall
15 install permanent safety signage with print legible at
16 eighty feet of distance and placed to give adequate notice,
17 to persons using the boat dock or marina or swimming near
18 the boat dock or marina, of the electric shock hazard risks
19 of the waters around the boat dock or marina. The signage
20 shall state: "ELECTRIC SHOCK HAZARD RISK: NO SWIMMING WITHIN
21 100 YARDS OF THE BOAT DOCK".

22 **§20-9-3. Boat Dock and Marina Safety**

23 **Requirements-Electrical Shock and Electrocution.**

24 All boat dock or marina owners or operators shall

1 comply with the following requirements to prevent electrical
2 shock, electrocution or injury to users of their facilities
3 and the surrounding areas:

4 (1) All electrical wiring involving 110 AC or 220 AC
5 shall be installed by and maintained by a holder of a valid
6 West Virginia journeyman electrician license or master
7 electrician license in accordance with the most recently
8 adopted versions of the National Fire Protection
9 Association's Standards for Marinas and Boatyards (NFPA 303)
10 and the National Electric Code (NFPA 70);

11 (2) Install ground fault circuit interrupters on all
12 boat dock and marina electrical wiring circuits; and

13 (3) Cause an inspection before August 1, 2014 and at
14 least once every three years thereafter by a West Virginia
15 licensed electrical inspector of all sources of electrical
16 supply, including ship-to-shore power pedestals, submersible
17 pumps, and sewage pump-out facilities, that could result in
18 unsafe electrical current in the water.

19 **§20-9-4. Compliance date and Enforcement.**

20 Each boat dock and marina shall be in full compliance
21 with this article by August 1, 2014. The penalties
22 contained in section seven of this article apply only to
23 conduct on or after August 1, 2014. Enforcement of sections
24 three and four of this article regarding the work of

1 electricians shall be conducted by the State Fire Marshal.

2 **§20-9-5. Rule-making Authority.**

3 The State Fire Marshal may promulgate emergency rules
4 pursuant to the provisions of section fifteen, article
5 three, chapter twenty-nine-a of this code and shall propose
6 rules for legislative approval in accordance with the
7 provisions of article three, chapter twenty-nine-a of this
8 code to implement the provisions of this article and
9 incorporate boat dock and marina safety standards for
10 electricians, including but not limited to the National Fire
11 Protection Association's Standards for Marinas and Boatyards
12 (NFPA 303), Article 555 of the National Electric Code and
13 ABYC Standards Projects E-2, E-10 and E-11, as appropriate
14 to the West Virginia waterways.

15 **§20-9-6. Penalties.**

16 (a) A boat dock or marina owner or operator who
17 violates sections two or three of this article and the
18 violation does not result in the injury or death of a
19 person, shall, for the first offense, be issued a warning
20 citation with no court appearance or penalty, and for a
21 second or subsequent offense, be fined \$100. After a boat
22 dock or marina owner or operator is put on notice of a
23 violation of sections two or three of this article and is
24 directed to cure the violation within a certain amount of

1 time, each and every day that the violation continues after
2 the time given to cure shall constitute a separate offense.

3 (b) A boat dock or marina owner or operator who
4 violates sections two or three of this article, and the
5 violation results in the injury of a person, shall be guilty
6 of a misdemeanor and, upon conviction, shall be fined not
7 more than \$500, and for a second offense or subsequent
8 offense shall be fined not more than \$1,000 or confined in
9 jail for not more than six months, or both fined and
10 confined.

11 (c) A boat dock or marina owner who violates sections
12 two or three of this article, and the violation results in
13 the death of a person, shall be guilty of a misdemeanor and
14 upon conviction, shall fined not more than \$1,000 or
15 confined in jail for not more than one year, or both fined
16 and confined.