

COMMITTEE SUBSTITUTE

FOR

H. B. 3020

(BY DELEGATE(S) MILEY, IAQUINTA, LONGSTRETH, GUTHRIE,
WHITE, BOGGS, CAPUTO, SKAFF, P. SMITH, MOYE AND FERRO)

(Originating in the House Committee on Finance.)

[March 28, 2008]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto six new sections to article seven, chapter twenty, designated §20-7-24, §20-7-25, §20-7-26, §20-7-27, §20-7-28, and §20-7-29, all relating to boat, boat dock and marina safety; providing definitions; requiring compliance with certain standards; requiring work by certified electricians; establishing a date for compliance; and providing penalties.

PREAMBLE

THIS LEGISLATION SHALL BE KNOWN AS THE “MICHAEL CUNNINGHAM ACT.” WHEREAS, WEST VIRGINIA IS KNOWN FOR ITS BEAUTIFUL AND ABUNDANT WATERWAYS, LAKES AND RIVERS, WHICH PROVIDE A DRAW FOR TOURISM AND A BOOST FOR OUR ECONOMY; AND

WHEREAS OUR WATERWAYS, LAKES AND RIVERS SHOULD BE A SAFE PLACE FOR CHILDREN AND FAMILIES TO ENJOY; AND

WHEREAS, THERE HAVE BEEN CASES RECENTLY WHERE CHILDREN HAVE DIED BECAUSE THE WATER WHERE THEY WERE SWIMMING WAS ELECTRIFIED BY THE UNGROUNDED AND IMPROPER CONNECTION OF ELECTRICITY TO BOAT DOCKS AND MARINAS; AND

WHEREAS, ELECTRICITY AND WATER CREATE A DEADLY COMBINATION THAT CAN PARALYZE A SWIMMER WHICH CAN RESULT IN THE SWIMMER DROWNING; AND WHEREAS, CHILDREN WHO ARE SWIMMING ARE PARTICULARLY VULNERABLE TO

ELECTROCUTION AND SHOCK IN THE WATER; AND
WHEREAS, BRINGING BOAT DOCKS AND MARINAS UP
TO THE NATIONAL FIRE PROTECTION ASSOCIATION AND
NATIONAL ELECTRIC CODE STANDARDS FOR MARINAS
AND BOATYARDS IS NECESSARY FOR THE PROTECTION
AND SAFETY OF ALL OF THOSE WHO ENJOY OUR
WATERWAYS, LAKES AND RIVERS FOR RECREATION
AND TO PROTECT OUR TOURISM INDUSTRY.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by
adding thereto six new sections, designated §20-7-24, §20-7-25, §20-7-
26, §20-7-27, §20-7-28 and §20-7-29, all to read as follows:

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

1 PART III. THE MICHAEL CUNNINGHAM ACT -
2 BOAT, BOAT DOCK AND MARINA SAFETY
3 REQUIREMENTS.

§20-7-24. Definitions.

1 As used in Part III of this article:

2 (1) “ABYC” means the American Boat and Yacht Council;

3 (2) “Boat dock” means a man-made structure that protrudes

4 into a body of water for the purpose of mooring a boat or for
5 other water-related recreation, including boat liveries, and that
6 is connected to an electrical power source in any manner:

7 Provided, That “boat dock” does not include structures that are
8 privately owned and used exclusively by the owner or the
9 owner’s guests for non-commercial purposes;

10 (3) “Boat dock or marina owner or operator” means any
11 person who:

12 (A) Has an ownership interest in a boat dock or marina,
13 other than a lienholder; or

14 (B) Operates a boat dock or marina;

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

20 (5) “Marina” means a dock including a boat dock or basin
21 providing moorings for motorboats and offering supply, repair
22 or other services, including electrical power supply, for
23 remuneration: Provided, That “marina” does not include docks

24 that are privately owned and used exclusively by the owner or
25 the owner's guests for non-commercial purposes;

26 (6) "Motorboat" means any vessel propelled by an electrical,
27 steam, gas, diesel or other propelled or driven motor, whether or
28 not the motor is the principal source of propulsion, but does not
29 include a vessel with a valid marine document issued by the
30 United States Bureau of Customs or any federal agency that is
31 the successor to the Bureau of Customs;

32 (7) "Operate" means to navigate or otherwise use a vessel;

33 (8) "Owner" means a person, other than a lienholder, having
34 the property in or title to a motorboat. The term includes a
35 person entitled to the use or possession of a motorboat subject to
36 an interest in another person, reserved or created by agreement
37 and securing payment or performance of an obligation, but the
38 term excludes a lessee under a lease not intended as security;

39 (9) "Person" means an individual, partnership, firm,
40 corporation, association or other entity; and

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

§20-7-25. Boat Dock and Marina Safety Requirements - Swimming and Signage.

1 All boat dock or marina owners or operators shall install
2 permanent safety signage with print legible at eighty feet of
3 distance and placed to give adequate notice, to persons using the
4 boat dock or marina or swimming near the boat dock or marina,
5 of the electric shock hazard risks of the waters around the boat
6 dock or marina. The signage shall state: "ELECTRIC SHOCK
7 HAZARD RISK: NO SWIMMING WITHIN 100 YARDS OF
8 THE BOAT DOCK".

§20-7-26. Boat Dock and Marina Safety Requirements-Electrical Shock and Electrocution.

1 (a) All boat dock or marina owners or operators shall comply
2 with the following requirements to prevent electrical shock,
3 electrocution or injury to users of their facilities and the
4 surrounding areas:

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

10 and Boatyards (NFPA) 303 and the National Electric Code
11 (NFPA 70);

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

14 (3) Cause annual inspection by a West Virginia certified
15 electrical inspector or master electrician of all sources of
16 electrical supply, including ship-to-shore power pedestals,
17 submersible pumps, and sewage pump-out facilities, that could
18 result in unsafe electrical current in the water: *Provided*, That the
19 inspection required by this subdivision be done between January
20 1 and May 1 each year.

21 (c) All work performed on rental motor boats or vessels shall
22 be performed by electricians licensed in West Virginia who are
23 familiar with ABYC standards or by an ABYC certified
24 electrical technician.

**§20-7-27. Boat and vessel safety requirements-electrical shock
and electrocution.**

1 (a) Every vessel shall have aboard all equipment meeting the
2 ABYC standards necessary to ensure the safety of the passengers
3 and the public from electric shock, electrocution, and electric
4 shock drowning.

5 (b) Electrical wiring on a motorboat involving 110 AC or
6 220 AC shall be performed by electricians licensed in West
7 Virginia who are familiar with ABYC standards or by an ABYC
8 certified electrical technician.

§20-7-28. Compliance date.

1 Each vessel, motorboat, boat dock and marina shall be in full
2 compliance with this section by August 1, 2014.

§20-7-29. Penalties.

1 (a) On or after August 1, 2014, a boat dock or marina owner
2 or operator, or a boat operator who violates this article and the
3 violation does not result in the injury or death of a person, shall,
4 for the first offense, be issued a warning citation with no court
5 appearance or penalty, and for a second or subsequent offense,
6 be fined one hundred dollars (\$100);

7 (b) A boat dock or marina owner or operator who violates
8 section twenty-five or twenty-six of this article, and the violation
9 results in the injury of a person, shall be guilty of a misdemeanor
10 and, upon conviction, shall be fined not more than five hundred
11 dollars, and for a second offense or subsequent offense shall be
12 finned not more than \$1,000 or confined in jail for not more than
13 six months or both fined and imprisoned.

14 (c) A boat dock or marina owner who violates section
15 twenty-five or twenty-six of this article, and the violation results
16 in the death of a person, shall be guilty of a misdemeanor and
17 upon conviction, shall be confined in jail for not more than one
18 year, or fined not more than one thousand dollars, or both fined
19 and imprisoned.

