

## No. 1980-175

## AN ACT

## HB 1574

Amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, adding revised, codified and compiled provisions relating to fish and fishing and boats and boating.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 30, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding parts to read:

## TITLE 30 FISH

### Part

- I. General Provisions
- II. Fish and Fishing
- III. Boats and Boating
- IV. Miscellaneous Provisions

## PART I GENERAL PROVISIONS

### Chapter

- 1. Preliminary Provisions
- 3. Pennsylvania Fish Commission
- 5. Fiscal Affairs
- 7. Property and Waters
- 9. Enforcement

CHAPTER 1  
PRELIMINARY PROVISIONS

Sec.

101. Short title of title.

102. Definitions.

§ 101. Short title of title.

This title shall be known and may be cited as the "Fish and Boat Code."

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Amphibian." Any of the cold-blooded, scaleless, vertebrates of the class amphibia, such as frogs, toads and salamanders, the young usually being aquatic and breathing by gills and the adults usually losing the gills and breathing by lungs.

"Aquatic organism." Any plant or animal that grows or lives in or upon the water.

"Artificial propagation." The rearing of any species of fish, during any stage of the species life cycle from inception by natural or artificial means to the adult stage of the species.

"Bait fish." Unless otherwise provided by commission regulation, the following fish:

(1) All forms of the minnow family (Cyprinidae) except carp and goldfish.

(2) Suckers, chubs, fallfish, lampreys and eels measuring less than eight inches in length.

(3) All forms of darters, killifishes and madtoms (otherwise known as stonecats).

"Board." The Boating Advisory Board established under this title.

"Boat." Every description of watercraft constructed or sold for the primary purpose of being used as a means of transportation on the water. The term does not include:

(1) Surfboards and other similar nonpowered contrivances used primarily as swimming aids.

(2) Commercial craft subject to Federal manning and inspection requirements.

(3) Seaplanes.

"Boundary lake." Such part or parts of any lake lying between this Commonwealth and any other state or foreign country over which the Commonwealth may have jurisdiction.

"Boundary waters." All natural or artificially constructed ponds or lakes, bays, peninsular waters or flowing streams or rivers which border on this Commonwealth.

“Commission.” The Pennsylvania Fish Commission of the Commonwealth.

“Endangered species.” All species and subspecies of fish which:

(1) have been declared by the Secretary of the United States Department of the Interior to be threatened with extinction and appear on the Endangered Species List or the Native Endangered Species List published in the Federal Register; or

(2) have been declared by the executive director to be threatened with extinction and appear on the Pennsylvania Endangered Species List published in the Pennsylvania Bulletin.

“Executive director.” The executive director of the Pennsylvania Fish Commission.

“Fish.”

(1) When used as a noun, includes all game fish, fish bait, bait fish, amphibians, reptiles and aquatic organisms.

(2) When used as a verb, the act of fishing.

“Fishing.” The act of angling, or to catch, take, kill or remove or the attempt to catch, take, kill or remove from any waters or other areas within or bordering on this Commonwealth any fish by any means or method for any purpose whatsoever.

“Fish bait.” Unless otherwise provided by commission regulation, crayfish or crabs, mussels, clams and the nymphs, larvae and pupae of all insects spending any part of their life cycle in the water.

“Game fish.” Unless otherwise provided by commission regulation, the following fish: Brook trout, *Salvelinus fontinalis*; brown trout, *Salmo trutta*; and rainbow trout, *Salmo gairdneri*, and the salmon family, *Salmoidae*; walleye, *Stizostedion vitreum*; chain pickerel, *Esox niger*; northern pike, *Esox lucius*; muskellunge, *Esox masquinongy*; fallfish, *Semotilus corporalis*; smallmouth bass, *Micropterus dolomieu*; largemouth bass, *Micropterus salmoides*; crappies, *Pomoxis* sp.; rock bass, *Ambloplites rupestris*; yellow perch, *Perca flavescens*; striped bass or rockfish, *Morone saxatilis*; suckers, *Catostomidae*; eels, *Anguilla rostrata*; chubs, *Semotilus* and *Nocomis*, measuring at least eight inches in length; sturgeon, *Acipenser oxyrhynchus*; white perch, *Morone americana*; and all other species or varieties of fish except bait fish.

“Iceboat.” Every description of icecraft or motor-driven contrivance used, or capable of being used, as a means of transportation on ice.

“Inland waters.” Any nontidal stream, river, lake, artificial or natural body of water within this Commonwealth.

“Motorboat.” Any boat equipped with propelling machinery.

“Operate.” As applied to watercraft, to navigate or otherwise use a boat or watercraft.

“Owner.” As applied to watercraft, a person, other than a lienholder, having the property in or title to a boat. The term includes a person entitled to the use or possession of a boat subject to the

interest of another person reserved or created by agreement and securing payment or performance of an obligation. The term does not include a lessee under a lease not intended as security.

**"Passenger."** Any person on a boat.

**"Passenger-carrying boat."** Any boat that carries more than six passengers either for hire or as part of a commercial enterprise. The following persons shall not be counted in determining the number of passengers:

(1) The owner or his representative.

(2) The operator and bona fide members of the crew who have contributed no consideration for their carriage and who may be paid for their services.

(3) Any guest on board a boat used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage when there are no other passengers on board who have paid any such consideration and when only the owner or owners of the boat are bearing the costs of operating the boat.

**"Person."** Includes individuals, partnerships, associations, corporations, political subdivisions, municipality authorities, the Commonwealth or any other legal entities.

**"Regulated fishing lake."** Any artificial or man-made pond or lake owned, leased or controlled in any manner by any person where fishing is permitted for payment of a fee and in which all fish stocked are artificially propagated by commercial hatcheries or purchased from persons licensed to sell fish.

**"Reptiles."** Any of the various species of cold-blooded vertebrates of the class Reptilia.

**"Special marine event."** Any unusual congregation of boats for a specific purpose including events such as races, regattas, rodeos, demonstrations, exhibitions and marine parades.

**"Threatened species."** All species and subspecies of fish which:

(1) have been declared by the Secretary of the United States Department of the Interior to be in such small numbers throughout their range that they may become endangered if their environment worsens and appear on a Threatened Species List published in the Federal Register; or

(2) have been declared by the executive director to be in such small numbers throughout their range that they may become endangered if their environment worsens and appear on the Pennsylvania Threatened Species List published in the Pennsylvania Bulletin.

**"Vessel."** A boat.

**"Watercraft."** Every description of device used on the water or ice or capable of being used as a means of transport on water or ice. The term includes boats, motorboats, iceboats, all terrain or amphibious vehicles when they are operated on water and all such other devices. The term does not include seaplanes.

“Waters of this Commonwealth.” Includes all inland, tidal and boundary waters, whether navigable or nonnavigable, under the jurisdiction of the Commonwealth. The term includes ice that forms on these waters.

### CHAPTER 3 PENNSYLVANIA FISH COMMISSION

#### Subchapter

- A. Organization, Officers and Employees
- B. Powers and Duties in General

#### SUBCHAPTER A ORGANIZATION, OFFICERS AND EMPLOYEES

#### Sec.

- 301. Organization of commission.
- 302. Executive director.
- 303. Assistant executive directors.
- 304. Waterways patrolmen and employees.
- 305. Deputy waterways patrolmen.
- 306. Boating Advisory Board.

#### § 301. Organization of commission.

(a) Composition.—The Pennsylvania Fish Commission is continued as an independent administrative commission and shall consist of nine competent citizens of this Commonwealth who shall be appointed by the Governor by and with the advice and consent of two-thirds of the members elected to the Senate for terms of eight years and until their successors are appointed and qualified.

(b) Qualifications.—One member of the commission shall serve at-large and be experienced in boating and water safety education. The remaining eight members shall be persons well informed on the subject of conservation restoration, fish and fishing and boats and boating and shall be appointed, insofar as practicable, on a bipartisan basis and from the various geographic districts of this Commonwealth so that at all times one and only one member shall be a resident of each of the following districts:

(1) First district, consisting of the counties of Erie, Crawford, Mercer, Lawrence, Venango, Butler, Warren, Forest and Clarion.

(2) Second district, consisting of the counties of Beaver, Allegheny, Washington, Greene, Armstrong, Indiana, Westmoreland and Fayette.

(3) Third district, consisting of the counties of McKean, Elk, Jefferson, Potter, Cameron, Clearfield, Clinton and Centre.

(4) Fourth district, consisting of the counties of Cambria, Somerset, Blair, Bedford, Huntingdon, Fulton, Mifflin and Juniata.

(5) Fifth district, consisting of the counties of Tioga, Lycoming, Union, Snyder, Bradford, Sullivan, Columbia, Montour and Northumberland.

(6) Sixth district, consisting of the counties of Franklin, Perry, Cumberland, Adams, Dauphin, York, Lebanon and Lancaster.

(7) Seventh district, consisting of the counties of Susquehanna, Wyoming, Luzerne, Lackawanna, Carbon, Wayne, Pike and Monroe.

(8) Eighth district, consisting of the counties of Schuylkill, Berks, Chester, Northampton, Lehigh, Bucks, Montgomery, Philadelphia and Delaware.

(c) Compensation.—The members shall receive no compensation for their services but may be reimbursed for travel expenses.

(d) Vacancies.—Upon the death, resignation or removal from office of any member, the Governor shall appoint a competent person to serve for the unexpired term.

(e) Meetings, officers and quorum.—The commission shall have an office in the Harrisburg area and shall hold meetings in the Harrisburg area in January and July and at such other times and places within this Commonwealth as the commission shall designate for the transaction of business. At the meeting held in July of each year, the commission shall elect one of its members as president and one of its members as vice president who shall hold office for one year. Five members shall constitute a quorum.

(f) Powers of waterways patrolmen.—Except for the power conferred by section 925 (relating to acknowledgment of guilt and receipts for payment), members of the commission may exercise any of the powers conferred by this title on waterways patrolmen.

§ 302. Executive director.

(a) Appointment and compensation.—The commission shall appoint to serve at its pleasure and, with the approval of the Governor, fix the compensation of an executive director who shall be the chief executive officer of the commission and attend to its administrative work and have charge of all activities under the jurisdiction of the commission. The executive director shall be the chief waterways patrolman of the commission and shall have charge of, direct, supervise, and control all waterways patrolmen, deputy waterways patrolmen and employees of the commission. No member of the commission nor any person who has served as a member thereof within one year shall be eligible for appointment as executive director.

(b) Power to catch, kill or possess fish.—The executive director or his agent may catch, take, kill or possess any fish at any time, in any season of the year and with any kind of net or device.

§ 303. Assistant executive directors.

(a) Appointment.—The executive director, with the approval of the commission, may appoint two assistant executive directors, one of whom shall be in charge of and responsible for watercraft safety and the other of whom shall be in charge of and responsible for fisheries and engineering.

(b) Assistant for watercraft safety.—The assistant executive director of the commission in charge of watercraft safety shall reside in this Commonwealth at the time of appointment and have five or more years of experience with ships or boats and have either a college degree or at least ten years experience in administration. The assistant executive director shall:

(1) Direct, administer and coordinate the activities of the commission relating to watercraft, boats and boating, including the enforcement of Part III (relating to boats and boating) and the rules and regulations promulgated thereunder, and the improvement and maintenance of waterway facilities including aids to navigation.

(2) Coordinate and supervise all expenditures from the Boat Fund.

(3) Administer the boating education programs of the commission.

§ 304. Waterways patrolmen and employees.

(a) Appointment and compensation.—The executive director, with the approval of the commission, shall, in accordance with law, appoint and fix the compensation of such number of waterways patrolmen and other employees as the commission deems necessary to enforce and carry out the provisions of this title and perform the functions and work of the commission.

(b) Status.—This title does not change the status of waterways patrolmen for the purposes of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," or cause waterways patrolmen to be considered policemen for the purposes of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

§ 305. Deputy waterways patrolmen.

(a) Appointment and training.—The executive director, with the approval of the commission, may appoint deputy waterways patrolmen to act anywhere within this Commonwealth. Newly appointed deputy waterways patrolmen, excluding reappointments, shall attend such training programs as may be required by the commission. Persons appointed under this section may exercise the powers of their appointments until December 31 next succeeding the date of their appointment.

(b) Compensation.—Deputy waterways patrolmen shall not be entitled to any salary, compensation or expenses for their services from the Commonwealth, unless detailed in writing for duty by the executive director of the commission, in which case they shall receive compensation and reasonable expenses in accordance with a Statewide pay scale.

(c) Powers and duties.—Deputy waterways patrolmen appointed under the authority of this section may exercise the powers of their appointments until December 31 and no longer. Except for the provisions set forth in section 901(12) (relating to powers and duties of

waterways patrolmen and deputies) and section 925 (relating to acknowledgment of guilt and receipts for payment), deputy waterways patrolmen shall have the same powers and may be required to make the same reports as waterways patrolmen.

§ 306. Boating Advisory Board.

(a) **Composition.**—There is hereby continued within the commission a Boating Advisory Board. The board shall consist of the Secretary of Environmental Resources, or his designee, the executive director of the commission and the assistant executive director of the commission in charge of watercraft safety, all of whom shall be ex officio members, and five volunteer members to be appointed by the Governor for terms of five years or, in the case of a vacancy, for the remainder of the unexpired term.

(b) **Qualifications.**—The members appointed by the Governor shall be experienced boaters as evidenced by the operation of a boat and active membership in representative boating associations, yacht clubs or similar organizations. As far as possible, the membership of the board shall be bipartisan and shall represent the various geographical sections and boating interests of this Commonwealth.

(c) **Officers.**—The board shall annually select one of the volunteer members as the chairman. The assistant executive director for watercraft safety shall serve as secretary.

(d) **Compensation.**—The volunteer members of the board shall receive no salary but may, subject to the approval of the commission, receive travel expenses.

(e) **Meetings and quorum.**—The board shall meet at such place and at such time as may be specified upon the call of the chairman, three members of the board or the commission. Five members of the board, including three volunteer members, shall constitute a quorum.

(f) **Powers and duties.**—The board shall advise the commission on all matters relating to boating and make recommendations to the commission with regard to any proposed rules or regulations affecting the equipment or operation of boats.

SUBCHAPTER B  
POWERS AND DUTIES IN GENERAL

Sec.

321. Administration and enforcement.

322. Rules and regulations.

323. Publications.

§ 321. Administration and enforcement.

The commission shall administer and enforce this title and other laws of this Commonwealth relating to:

- (1) The encouragement, promotion and development of the fishery interests.

- (2) The protection, propagation and distribution of fish.
- (3) The management of boating and the operation of boats.

§ 322. Rules and regulations.

The commission may promulgate rules and regulations concerning:

(1) Fishing to aid in the better protection, preservation and management of fish.

(2) Boating and the management and operation of boats.

§ 323. Publications.

The executive director may have printed the annual report of the commission and such bulletins, literature, posters and other printing as may be appropriate to the work of the commission including the magazine known as the Pennsylvania Angler. The commission shall from time to time establish the subscription rates for the Pennsylvania Angler and charges for its other publications. All publications published by the commission shall be nonpartisan.

## CHAPTER 5 FISCAL AFFAIRS

### Subchapter

- A. General Provisions
- B. The Fish Fund
- C. The Boat Fund

## SUBCHAPTER A GENERAL PROVISIONS

### Sec.

501. Refund of moneys paid erroneously or unjustly.  
502. Collection fee for uncollectible checks.

§ 501. Refund of moneys paid erroneously or unjustly.

Whenever the commission is satisfied that any fee, fine or any other money was erroneously or unjustly paid into the State Treasury under any of the provisions of this title, the commission may by resolution, within two years after the payment, direct the executive director to draw a requisition upon the Fish Fund or Boat Fund, as appropriate, for the amount involved. Upon receipt of the requisition and an extract of the minutes of the commission, a refund shall be paid in favor of the person from whom the fee, fine or other money was erroneously or unjustly collected.

§ 502. Collection fee for uncollectible checks.

Whenever any check or similar instrument issued in payment of any fee, fine or for any other purpose under this title is returned to the commission as uncollectible, the person who makes, issues or presents the check or other instrument shall be charged a fee of \$15, to be credited to the Fish Fund or the Boat Fund, as appropriate, to cover the cost of collection.

**SUBCHAPTER B  
THE FISH FUND**

**Sec.**

**521. Establishment and use of Fish Fund.**

**522. Expenditures from Fish Fund.**

**§ 521. Establishment and use of Fish Fund.**

(a) **General rule.**—Except as otherwise provided in this title, all fees, royalties, fines, penalties and other moneys paid, received, recovered and collected under the provisions of this title shall be placed in a separate fund by the State Treasurer to be known as the “Fish Fund” and shall be used solely for the following purposes:

(1) The payment of all expenses incurred in processing, issuing or supervising the issuance of fishing licenses, special licenses and permits.

(2) The payment of the salaries, wages or other compensation of the executive director, other employees and other persons as may be required for the work of the commission.

(3) The payment of the travel and other expenses of the members, officers, employees and other persons as may be required for the work of the commission.

(4) The purchase of such furniture, furnishings, stationery, supplies, materials, equipment, fuel, motor vehicles and printing and binding as may be necessary to the conduct of the work of the commission, and the payment of premiums on surety bonds for such officers or employees of the commission as may be required to obtain policies of workmen’s compensation insurance and policies of liability insurance covering motor vehicles and persons operating them.

(5) The payment of postage, telegrams, telephone rentals, telephone toll charges and rentals for patented leased office devices or machines.

(6) Rentals for any offices outside of the Capitol buildings or any other grounds, buildings or quarters necessary for the work of the commission.

(7) The propagation, protection, management and distribution of fish and the stocking of waters within this Commonwealth as provided by law.

(8) Necessary repairs and improvements to fish cultural stations or other buildings, offices or quarters used in the work of the commission.

(9) Field work, gathering spawn and transferring fish.

(10) The maintenance and operation of such boats as may be required for the business of the commission.

(11) Any contingent, incidental or other expenses of any kind or description reasonably necessary in carrying on the work of the commission including the costs of activities for the promotion of public interest in recreational fishing in this Commonwealth.

(12) The direct purchase in any amount, without prior confirmation of the Department of General Services, of all fish and fish food for its fish cultural facilities and elsewhere as needed.

(13) The purchase of lands and waters and the impounding of waters and to make them available for use by the citizens of this Commonwealth for fishing, boating and other recreational purposes. The lands and waters so purchased shall be under the supervision, direction and control of the commission.

(14) The purchase and acquisition of additional land and water for Commonwealth fish cultural stations; the purchase, acquisition and erection of buildings, ponds and other extensions incidental to fish cultural stations; the propagation and protection of fish and fish cultural stations hereafter established; the distribution of fish from fish cultural stations; and the stocking of waters within this Commonwealth.

(15) The refund of fees, royalties, fines or other moneys heretofore or hereafter erroneously or unjustly paid into the Fish Fund.

(16) The lease of land, interests in land or licenses for the use thereof by the commission.

(b) Cooperative agreements.—The commission may enter into cooperative agreements with Federal, Commonwealth and other state and local government agencies and with interstate compact agencies, singly or in concert, for impounding, managing, using, maintaining and operating waters for public fishing and may expend moneys from the Fish Fund for agreed upon pro rata share of the cost of their acquisition, construction, operation and maintenance. The commission may enter into similar agreements and undertake similar expenditures in conjunction with private or commercial interests for the same purposes.

(c) Appropriation of moneys.—All moneys in the Fish Fund, from time to time, are hereby appropriated to the commission and may be expended for the purposes authorized under this title.

§ 522. Expenditures from Fish Fund.

(a) Approval of estimated expenditures.—Estimates of amounts to be expended under this subchapter, from time to time, by the commission shall be submitted to the Governor for his approval as in the case of other appropriations made to Commonwealth agencies.

(b) Expenditures not to exceed approved estimates.—The State Treasurer shall not honor any requisition for the expenditure of any moneys by the commission in excess of the estimates approved by the Governor or in excess of the amount available for the purposes for which the requisition was made.

#### SUBCHAPTER C THE BOAT FUND

Sec.

531. Establishment and use of Boat Fund.

532. Expenditures from Boat Fund.

**§ 531. Establishment and use of Boat Fund.**

(a) **General rule.**—All fees, royalties, fines, penalties and other moneys paid, received, recovered and collected under the provisions of section 747 (relating to proceeds from sales and grants) and Part III (relating to boats and boating), as well as all funds received pursuant to section 17 of the act of May 21, 1931 (P.L.149, No.105), known as “The Liquid Fuels Tax Act,” shall be placed in a separate fund by the State Treasurer to be known as the “Boat Fund.” The use of the Boat Fund shall generally be limited to carrying out the functions of the commission that relate to boats and boating and, subject to this general limitation, the fund may be used solely for the following purposes:

(1) The payment of all expenses incurred in processing, issuing or supervising the issuance of boat registrations, special licenses and permits.

(2) The payment of the salaries, wages or other compensation of the executive director, other employees and other persons as may be required for the work of the commission.

(3) The payment of the travel and other expenses of the Boating Advisory Board, officers, employees and other persons as may be required for the work of the commission.

(4) The purchase of such furniture, furnishings, stationery, supplies, materials, equipment, fuel, motor vehicles, boats and printing and binding as may be necessary to the conduct of the work of the commission, and the payment of premiums on surety bonds for such officers or employees of the commission as may be required to obtain policies of workmen’s compensation insurance and policies of liability insurance covering the motor vehicles and persons operating them.

(5) The payment of postage, telegrams, telephone rentals, telephone toll charges and rentals for patented leased office devices or machines.

(6) Rentals for any offices outside of the Capitol buildings or any other grounds, buildings or quarters necessary for the work of the commission.

(7) Necessary repairs and improvements to boating access areas and buildings, offices or quarters used in the work of the commission.

(8) The maintenance and operation of such boats as may be required for the business of the commission.

(9) Any contingent, incidental or other expenses of any kind or description reasonably necessary in carrying on the work of the commission as provided in Part III including the costs of activities for the promotion of recreational boating in this Commonwealth.

(10) The purchase of lands and waters and the impounding of waters and to make them available for use by the citizens of this Commonwealth for boating and other related recreational purposes.

The lands and waters so purchased shall be under the supervision, direction and control of the commission.

(11) The refund of fees, royalties, fines or other moneys heretofore or hereafter erroneously or unjustly paid into the Boat Fund.

(12) The development and implementation of a boating safety education program.

(13) The lease of land, interests in land or licenses for the use thereof by the commission.

(b) Cooperative agreements.—The commission may enter into cooperative agreements with Federal, Commonwealth and other state and local government agencies and with interstate compact agencies, singly or in concert, for impounding, managing, using, maintaining and operating waters for public boating and may expend moneys from the Boat Fund for agreed upon pro rata share of the cost of their acquisition, construction, operation and maintenance. The commission may enter into similar agreements and undertake similar expenditures in conjunction with private or commercial interests for the same purposes.

(c) Appropriation of moneys.—All moneys in the Boat Fund, from time to time, are hereby appropriated to the commission and may be expended for the purposes that relate to boats and boating authorized under this title.

§ 532. Expenditures from Boat Fund.

(a) Approval of estimated expenditures.—Estimates of amounts to be expended under this subchapter, from time to time, by the commission shall be submitted to the Governor for his approval as in the case of other appropriations made to Commonwealth agencies.

(b) Expenditures not to exceed approved estimates.—The State Treasurer shall not honor any requisition for the expenditure of any moneys by the commission in excess of the estimates approved by the Governor or in excess of the amount available for the purposes for which the requisition was made.

## CHAPTER 7 PROPERTY AND WATERS

### Subchapter

- A. General Provisions
- B. Acquisition and Improvement
- C. Control, Management and Disposition

### SUBCHAPTER A GENERAL PROVISIONS

Sec.

701. Acceptance of donations of money or property.

702. Execution of contracts and leases.

**§ 701. Acceptance of donations of money or property.**

The commission may accept from any person donations which, if in the form of money or securities, shall be placed in the Fish Fund or Boat Fund and used for the purposes set forth in section 521 (relating to establishment and use of Fish Fund) or section 531 (relating to establishment and use of Boat Fund), as applicable, or, if in the form of real or personal property, shall be utilized or disposed of as provided by law.

**§ 702. Execution of contracts and leases.**

The executive director shall represent the commission in the execution of land purchase contracts and in the execution of leases and other similar agreements approved by the commission.

**SUBCHAPTER B  
ACQUISITION AND IMPROVEMENT**

**Sec.**

- 721. Acquisition of property.
- 722. Improvements to property.
- 723. Rights-of-way and other rights.
- 724. Certification of title or title insurance.
- 725. Price paid for acquisitions and improvements.
- 726. Title to property.
- 727. Designation of property.
- 728. Exemption from taxation.

**§ 721. Acquisition of property.**

(a) General rule.—The commission may by purchase, gift, lease, eminent domain or otherwise acquire within this Commonwealth:

- (1) Title to, or control of, lands, waters and buildings.
- (2) Fishing rights, easements, rights-of-way or other interests in land and waters which are suitable for:
  - (i) The protection, propagation and management of fish life.
  - (ii) Public fishing and boating and access thereto.
  - (iii) Administrative purposes.
  - (iv) Such other uses as are provided for in this title.

(b) Consent required.—All acquisitions of lands shall be made only with the consent of a majority of the members of the commission.

(c) Tax delinquent lands and waters.—The commission may purchase tax delinquent lands and waters from the commissioners or treasurers of the various counties as provided by law.

**§ 722. Improvements to property.**

The commission may purchase, construct, repair and maintain buildings and other improvements on lands acquired for its use and under its control as may be deemed necessary for their proper utilization, maintenance, protection, development, administration, propagation of fish experimental activities or any other purpose incident to

the functions of the commission. The contract for and the construction of the buildings shall be in accordance with the provisions of existing law governing the erection of buildings for Commonwealth agencies.

§ 723. Rights-of-way and other rights.

The commission may lease or otherwise secure rights-of-way on and across public or private lands and waters or other rights which may be required to conduct its proper functions.

§ 724. Certification of title or title insurance.

The title records for lands acquired shall first be carefully searched and examined by the commission and when the commission is satisfied that a valid title can be secured the commission shall obtain a certification of title from an attorney at law or title insurance from a title company authorized to do business within this Commonwealth insuring the title of the commission to the lands being acquired or brought under its control.

§ 725. Price paid for acquisitions and improvements.

The commission shall pay what it considers to be a fair and reasonable price for acquisitions and improvements consistent with the purposes for which they are intended and expending, during any year, only such amount as, in its opinion, can be allotted for those purposes.

§ 726. Title to property.

The title to any lands or waters acquired by purchase, gift, exchange or otherwise shall be taken in the name of the Commonwealth for the use of the commission.

§ 727. Designation of property.

The commission may designate lands which it secures title to, or total or partial control of, as it sees fit.

§ 728. Exemption from taxation.

Lands, waters or buildings to which title has been acquired in the name of or for the use of the commission shall be exempt from the payment of all taxes except such fixed charges as apply to and are imposed upon Commonwealth forests.

### SUBCHAPTER C CONTROL, MANAGEMENT AND DISPOSITION

Sec.

- 741. Control of property.
- 742. Use of property.
- 743. Exchange or sale.
- 744. Disposition of timber and minerals.
- 745. Rights-of-way, easements and licenses.
- 746. Leases.
- 747. Proceeds from sales and grants.

**§ 741. Control of property.**

(a) **General rule.**—The entire control of all lands or waters owned, leased or otherwise controlled shall be under the direction of the commission and the commission may promulgate such rules and regulations for its use and protection as it deems necessary or in the best interests of the Commonwealth.

(b) **Penalty.**—Any person violating rules and regulations promulgated under subsection (a) commits a summary offense of the second degree.

**§ 742. Use of property.**

(a) **General rule.**—All or part of lands and waters to which title has been acquired for the use of the commission or which have been leased may be used to create and maintain Commonwealth fish cultural stations, Commonwealth fish propagation areas or public fishing grounds for fish propagation experiments or special preserves as provided for in this title. The commission may permit its employees to reside on those lands.

(b) **Camping and boat mooring and storage.**—No campsite lease may be issued to any person but camping and boat mooring and storage may be permitted on commission owned or controlled land under such rules or regulations as the commission may establish.

(c) **Permits, licenses and leases.**—The commission may issue permits and licenses and enter into leases for camping, boat mooring and storage and any other use of its lands other than fishing and boating and may charge such fees or rentals as it deems reasonable.

(d) **Gas storage.**—The commission may grant rights for underground storage of natural gas at such charge as it deems reasonable.

**§ 743. Exchange or sale.**

The commission may, by resolution adopted by unanimous vote at a meeting at which at least a majority of the members are present and voting, authorize the exchange or sale of all or part, including improvements and appurtenances, of any lands, waters or buildings to which title has been acquired in return for fair market value or privately-owned lands, waters or buildings having an equal or greater value, when the commission deems such exchange or sale to be in the best interests of the Commonwealth. In addition, the commission may exchange timber cut from lands to which the commission holds title for suitable lands having an equal or greater value.

**§ 744. Disposition of timber and minerals.**

The commission may dispose of, by lease, sale or otherwise, timber, minerals, oil and gas, or rights therein, on or under lands to which it has acquired title.

**§ 745. Rights-of-way, easements and licenses.**

(a) **General rule.**—On and across lands to which title has been acquired for its use the commission may, at such charge or fee as the commission may establish, grant:

(1) Rights-of-way or licenses therefor for roads, for pipe, electric and other utility lines and for telephone and telegraph lines.

(2) Water rights or rights to maintain airway signals or forest fire observation towers when these grants will not adversely affect fish protection and propagation.

(b) Charges.—The commission may charge for these grants such remuneration and damages as it deems the conditions and circumstances warrant.

(c) Approval.—The commission shall approve by majority vote the granting, sale, lease or exchange of any easement, permanent right-of-way or irrevocable license for use of commission property. The executive director may approve the granting, sale, lease or exchange of a revocable license for use of commission property.

#### § 746. Leases.

Notwithstanding any other provision of law, the executive director, with the approval of the commission, may lease any land or interests in land over which the commission exercises title or control for a term not to exceed 25 years when the commission determines that the lease will promote public fishing or boating or access to the waters of this Commonwealth or will otherwise further the interests of the commission.

#### § 747. Proceeds from sales and grants.

All net proceeds from the sale of lands, waters, timber, oil, gas or other minerals, leases of commission lands, waters or interests or rights from the production or sale of minerals and from licenses or other rights, granted by the commission, shall be deposited in the Fish Fund or, if moneys from the Boat Fund were expended to acquire the lands, in the Boat Fund. If moneys from both the Fish Fund and the Boat Fund were expended to acquire the lands, then the proceeds shall be deposited in the respective funds in proportion to the amount expended from each fund for the acquisition of the lands.

## CHAPTER 9 ENFORCEMENT

### Subchapter

- A. General Provisions
- B. Prosecutions and Penalties

### SUBCHAPTER A GENERAL PROVISIONS

#### Sec.

- 901. Powers and duties of waterways patrolmen and deputies.
- 902. Enforcement of other laws.
- 903. Delegation of enforcement powers.
- 904. Interference with officers.
- 905. Reciprocal enforcement on Delaware River.

**§ 901. Powers and duties of waterways patrolmen and deputies.**

**(a) Waterways patrolmen.**—Every waterways patrolman shall have the power and duty to:

(1) Enforce all laws of this Commonwealth relating to fish and watercraft and arrest with or without warrant any person violating this title.

(2) Execute all warrants and search warrants for violations of this title.

(3) Serve subpoenas issued for the examination, investigation and trial of all offenses under this title.

(4) Carry firearms or other weapons in the performance of their duties.

(5) Stop vehicles or boats and search or inspect, where probable cause exists that a violation of this title has occurred, any boat, basket, conveyance, vehicle, fish-box, bag, coat, boot or other receptacle, when enforcing this title. The waterways patrolman shall display his badge or other insignia of identification and shall state to the person in charge of the vehicle, conveyance or otherwise the purpose of the search.

(6) Seize and take possession of any and all fish which may have been caught, taken or killed at any time, in any manner or for any purpose, or had in possession or under control, or have been shipped or about to be shipped contrary to the laws of this Commonwealth and the fish so seized shall be disposed of in any manner as the executive director may direct.

(7) Enter upon any land or water in the performance of their duties.

(8) Demand and secure proper assistance in case of emergency.

(9) Purchase fish for the purpose of securing evidence.

(10) Stop and board any boat subject to this title for the purpose of inspection for compliance with Part III (relating to boats and boating) and the rules and regulations promulgated thereunder. Any boat lying at its regular mooring or berth shall not be boarded without the consent of the owner or a search warrant.

(11) When making an arrest or apprehension or when found in the execution of a search warrant, seize all rods, reels, nets or other fishing devices of any description, fishing or boating paraphernalia, bait, boats or any unlawful device, implement or appliance used in violation of this title.

(12) When acting within the scope of their employment, to pursue, apprehend or arrest any individual suspected of violating any provision of Title 18 (relating to crimes and offenses) or any other offense classified as a misdemeanor or felony. They shall also have the power to serve and execute warrants issued by the proper authorities for offenses referred to in this paragraph and to serve subpoenas issued for examination. All powers as provided for in this paragraph will be limited by such administrative procedure as

the executive director, with the approval of the commission, shall prescribe.

(b) Deputy waterways patrolmen.—Except for the power conferred by subsection (a)(12), deputy waterways patrolmen may exercise all the powers and perform all the duties conferred by this section on waterways patrolmen.

§ 902. Enforcement of other laws.

All waterways patrolmen and deputy waterways patrolmen are authorized to enforce all the laws of this Commonwealth, and rules and regulations promulgated thereunder, relating to game, parks and forestry, under the direction of the Pennsylvania Game Commission and of the Department of Environmental Resources, respectively.

§ 903. Delegation of enforcement powers.

Any person employed or elected by the Commonwealth or by any municipality, whose duty it is to preserve the peace or to make arrests or to enforce the laws of this Commonwealth, may be designated and empowered by the executive director, with the approval of the commission, to enforce the provisions of this title.

§ 904. Interference with officers.

Any person who by force, menace, threat or in any manner resists inspection or arrest for violation of any of the provisions of this title or refuses to go with a waterways patrolman or deputy waterways patrolman after an arrest has been made, or interferes with any officer of this Commonwealth in the performance of his duty under the provisions of this title, commits a summary offense of the first degree.

§ 905. Reciprocal enforcement on Delaware River.

So long as the State of New York or the State of New Jersey, as the case may be, has in effect a statutory provision analogous to this section, any person who is authorized to enforce this title or a reciprocating state may enforce this title on any part of the Delaware River between those states or on the shores of that river.

## SUBCHAPTER B PROSECUTIONS AND PENALTIES

Sec.

- 921. Time for commencing prosecutions.
- 922. Possession prima facie evidence of violation.
- 923. Classification of offenses and penalties.
- 924. Costs for summary offenses.
- 925. Acknowledgment of guilt and receipts for payment.
- 926. Disposition of fines and penalties.
- 927. Forfeiture of fish and devices.
- 928. Revocation or denial of license, permit or registration.
- 929. Suspension of privileges pending payment of penalties.
- 930. Arrest of nonresident.

**§ 921. Time for commencing prosecutions.**

Prosecutions for violating any provision of this title shall be commenced within the period provided by Chapter 55 of Title 42 (relating to limitation of time).

**§ 922. Possession prima facie evidence of violation.**

In all cases of violation of any provision of this title, the possession of fish or the possession or operation of nets, equipment or other devices prohibited under this title shall be prima facie evidence of the violation.

**§ 923. Classification of offenses and penalties.**

(a) General rule.—The following penalties shall be imposed for violations of this title:

(1) For a summary offense of the first degree, a fine of \$100 or imprisonment not exceeding 90 days.

(2) For a summary offense of the second degree, a fine of \$25 or imprisonment not exceeding 20 days.

(3) For a summary offense of the third degree, a fine of \$10.

(4) For a misdemeanor of the third degree, a fine of not less than \$250 nor more than \$2,500, or imprisonment not exceeding 90 days, or both.

(b) Additional fine.—In addition to the penalties in subsection (a), a fine of \$10 may be imposed for each fish taken, caught, killed, possessed or sold in violation of this title. In computing the number of fish taken, caught, killed, possessed or sold, the number immediately returned unharmed to the water where they were taken shall be omitted.

(c) Title 18 inapplicable.—Title 18 (relating to crimes and offenses) is inapplicable to this title insofar as it relates to fines and imprisonment for convictions of summary offenses and misdemeanors.

**§ 924. Costs for summary offenses.**

(a) General rule.—Except as provided in subsection (b), any person convicted of a summary offense under this title shall, in addition to the fine imposed, be sentenced to pay \$10 as costs of the issuing authority which costs shall include all charges including, when called for, the costs of postage and registered or certified mail and the costs of giving a transcript to the prosecutor or defendant, or both, if requested.

(b) Conviction after hearing.—Where the person charged with a summary offense under this title demands a hearing, the costs of the issuing authority shall be \$15, which costs shall include all charges including the charges specified in subsection (a).

**§ 925. Acknowledgment of guilt and receipts for payment.**

(a) General rule.—A person charged with violating any provision of this title which is a summary offense may sign, within five days of the commission of the offense, an acknowledgment of the offense committed and pay to any waterways patrolman of the commission the penalty in full as fixed by this title. The printed receipt for this

payment shall only prove full satisfaction of the monetary fine for the offense committed and in no way shall limit the commission from further revoking fishing privileges.

(b) Notice of right to hearing.—Before any person signs an acknowledgment pursuant to this section, he will be advised of his right to a hearing in a judicial proceeding. The printed receipt shall have prominently printed thereon a statement that the person charged has a right to a hearing and that if he elects to sign the acknowledgment he is forfeiting that right.

(c) Stopping payment of check.—Any person who makes payment to the commission by personal check for an acknowledgment pursuant to this section and who stops payment on the check commits a summary offense of the second degree. The official receipt for payment of the penalty, issued by a waterways patrolman, shall become void and the prosecution of the person or persons named on the receipt shall be allowed to continue.

§ 926. Disposition of fines and penalties.

(a) General rule.—Fines recovered in cases where the prosecutor is a salaried officer of the commission shall be immediately surrendered by the court receiving the fines to the prosecutor who, within 30 days of receipt, shall forward the fines and penalties to the executive director. Where any officer of this Commonwealth other than a salaried officer is the prosecutor, the fines and penalties shall, as soon as the case is fully determined, be forwarded by the court to the executive director through the district waterways patrolman, together with a statement of the cause for which the fines were collected. All fines received by the executive director shall be paid monthly into the State Treasury for the use of the Fish Fund or Boat Fund, as appropriate.

(b) Penalty.—Any person failing to forward fines in accordance with this section commits a summary offense of the first degree.

§ 927. Forfeiture of fish and devices.

(a) General rule.—A person convicted of an offense under this title shall forfeit any fish seized under section 901(6) (relating to powers and duties of waterways patrolmen and deputies) and any device confiscated under this title.

(b) Disposition of confiscated property.—Any property confiscated by the commission under this title shall be sold or otherwise disposed of by the executive director. These dispositions shall be recorded on the books of the commission.

§ 928. Revocation or denial of license, permit or registration.

(a) General rule.—Any fishing license, special license or permit or boat registration granted under the authority of this title may be revoked by the commission, in its discretion, when the holder of the license, permit or registration is convicted of an offense under this title. Further, the commission, in its discretion, may refuse to grant to that person any new fishing license, special license or permit or boat registration for a period not exceeding two years.

(b) Rules and regulations.—The commission may promulgate regulations specifying the procedures to be followed in revoking fishing licenses, special licenses and permits and boat registrations under this section.

§ 929. Suspension of privileges pending payment of penalties.

All fishing privileges shall automatically be suspended until such time as all assessed penalties are paid in full.

§ 930. Arrest of nonresident.

(a) General rule.—Upon the arrest, apprehension or citation of a nonresident of this Commonwealth for any violation of this title that is a summary offense, the waterways patrolman or deputy waterways patrolman shall, unless the defendant elects to acknowledge guilt in accordance with section 925 (relating to acknowledgment of guilt and receipts for payment), escort the defendant to the appropriate issuing authority for a hearing, posting of bond or payment of the applicable fine and costs, unless the defendant chooses to place the amount of the applicable fine and costs in a stamped envelope addressed to the appropriate issuing authority and mails the envelope in the presence of the waterways patrolman or deputy waterways patrolman.

(b) Procedure upon payment by mail.—If the defendant mails the amount of fine and costs prescribed in subsection (a), he shall indicate on an accompanying form whether the payment constitutes a bond for a hearing based on a plea of not guilty or a fine based upon a plea of guilty in lieu of acknowledging guilt under section 925. If the plea is not guilty, the waterways patrolman or deputy waterways patrolman shall notify the issuing authority by telephone and the issuing authority shall schedule a hearing for the following day (excluding Saturdays, Sundays or legal holidays), unless the defendant requests a continuance, in which case a hearing shall be scheduled to accommodate the defendant, the waterways patrolman or deputy waterways patrolman and the issuing authority.

(c) Form of payment.—The amount of fine and costs may be paid in cash, personal or other check, credit card or guaranteed arrest bond, except that the Court Administrator of Pennsylvania may enlarge or restrict the type of payment which may be made by mail.

(d) Receipt for payment.—The waterways patrolman or deputy waterways patrolman shall give the defendant a receipt for payment, a copy of which shall be mailed with the payment and a copy retained by the officer.

## PART II FISH AND FISHING

### Chapter

21. General Provisions
23. Fish Restoration and Management
25. Protection of Property and Waters
27. Fishing Licenses
29. Special Licenses and Permits

- 31. Regulated Fishing Lakes
- 33. Propagation and Sale of Fish
- 35. Dams, Bar Racks and Migration Devices

## CHAPTER 21 GENERAL PROVISIONS

Sec.

- 2101. Administration of part.
- 2102. Rules and regulations.
- 2103. Stocked waters open for fishing.
- 2104. Sunday fishing from private land.
- 2105. Farm fish ponds.
- 2106. Fishing in hatchery or nursery waters.

§ 2101. Administration of part.

The commission shall administer and enforce this part and other laws of this Commonwealth relating to:

- (1) The encouragement, promotion and development of the fishery interests.
- (2) The protection, propagation and distribution of fish.

§ 2102. Rules and regulations.

(a) General rule.—The commission may promulgate such general and special rules and regulations as it deems necessary and appropriate concerning fish and fishing in the waters of, and elsewhere in, this Commonwealth, including regulations concerning the protection, preservation and management of fish and fish habitat, permitting and prohibiting fishing, the ways, manner, methods and means of fishing, and the health and safety of persons who fish or may be in the vicinity of such persons on, in or along the waters of, or elsewhere in, this Commonwealth. Unless specifically provided otherwise by this title, any person violating a rule or regulation relating to fish or fishing commits a summary offense of the second degree.

(b) Seasons, sizes, creel limits and devices.—The rules and regulations may establish seasons, sizes, and possession limits for fish and fishing, regulate the possession of certain species, the number and types of devices and tackle allowed, the identification of such devices and the use and possession of such devices. Any person who violates a rule or regulation promulgated under this subsection commits a summary offense of the second degree.

(c) Transportation and sale of fish.—Rules and regulations may also be promulgated concerning the transportation or introduction of, or importation into or within this Commonwealth or exporting of fish, the selling, offering for sale or purchase of fish or the disturbing of fish in their natural habitat. Unless specifically provided otherwise by this title, any person violating any rule or regulation promulgated under this subsection commits a summary offense of the second degree.

(d) Traps, seines, nets and other devices.—Rules and regulations may also be promulgated stipulating the size of traps, seines, nets and other devices, along with the minimum and maximum size of the mesh of the devices, the manner and location wherein the devices may be used, the species they may be used for, and the season when the devices may be used. Any person violating any rule or regulation promulgated under this subsection commits a summary offense of the first degree.

§ 2103. Stocked waters open for fishing.

(a) General rule.—Any water area in this Commonwealth stocked with fish furnished by the commission shall be open to the public for the purpose of free lawful fishing.

(b) Liability for property damage.—This section does not exempt any person trespassing on the lands of any person in this Commonwealth from liability for any damage he may do to those lands or to any improvements, crops, livestock or poultry thereon.

§ 2104. Sunday fishing from private land.

(a) General rule.—No person shall fish on any Sunday from privately owned land without the express or implied consent of the owner or lessee of the land abutting on a stream or body of water and of the bed thereunder. The consent shall be implied unless the landowner takes any reasonable action to negate his consent to Sunday fishing.

(b) Penalty.—Any person who violates this section commits a summary offense of the second degree.

§ 2105. Farm fish ponds.

(a) Exemption from regulation.—The restrictions on fishing imposed by this part do not apply to a resident owner or lessee of a farm, his family and other persons who are regularly employed upon the farm, all of the class which must permanently reside upon the farm, while fishing in an artificial pond constructed thereon holding water the source of which is wholly within the limits of the farm.

(b) Transporting fish from premises.—Any person may lawfully possess and transport any fish lawfully taken from a farm pond from the premises during the closed season for such fish when accompanied by a signed written statement from the owner or lessee of the farm showing:

- (1) The date, place and by whom the fish were taken.
- (2) The number and species of fish.
- (3) The name and address of the person transporting the fish.
- (4) The date they are being transported.

(c) Other prohibitions unaffected.—Nothing in this section shall authorize any person to transport, introduce or import any fish, bait fish or fish bait, the transportation, introduction or importation of which is prohibited by law, rule or regulation.

(d) Penalty.—Any person violating any of the provisions of this section commits a summary offense of the second degree.

§ 2106. Fishing in hatchery or nursery waters.

(a) General rule.—No person shall fish, or trespass with intent to fish, in any hatchery waters or waters designated by the commission as nursery waters, upon the bed or bank of any such waters or upon any hatchery lands controlled, owned or occupied by the commission, Federal Government or cooperative nursery approved by the commission.

(b) Penalty.—Any person violating the provisions of this section commits a summary offense of the first degree.

## CHAPTER 23 FISH RESTORATION AND MANAGEMENT

Sec.

2301. Propagation and distribution of fish.

2302. Cooperative fish restoration projects.

2303. Federal cultural stations.

2304. Fish migration studies.

2305. Threatened and endangered species.

2306. Refuge areas.

2307. Waters limited to specific purposes.

§ 2301. Propagation and distribution of fish.

(a) Determination of policy.—The commission shall determine policy pertaining to the propagation and distribution or planting of the fish produced at the Commonwealth fish hatcheries or otherwise acquired.

(b) False representation to procure fish.—Any person who by false representation receives fish from the commission or plants or induces the commission to stock fish in waters where the public is not allowed to fish without charge commits a summary offense of the first degree, shall be civilly liable to the commission for the value of the fish falsely procured and shall not be eligible in the future to receive fish from the commission.

§ 2302. Cooperative fish restoration projects.

The Commonwealth assents to the provisions of the Act of Congress, entitled “An Act To Provide That The United States Shall Aid the States in Fish Restoration And Management Projects And For Other Purposes,” approved August 9, 1950 (16 U.S.C. § 777 et seq.), and the commission shall perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects as defined in this Act of Congress, in compliance with that act and rules and regulations promulgated thereunder.

§ 2303. Federal cultural stations.

The Commonwealth consents and accords to the Federal Government and its agents the right to establish fish cultural stations in this Commonwealth and to conduct fish hatching and fish culture at the hatcheries in any manner and at any time the Federal Government deems necessary and proper.

**§ 2304. Fish migration studies.**

(a) General rule.—The commission may make comprehensive studies of the migratory habits of fish which include the stocking and tagging of shad below and above the Safe Harbor Dam, the Holtwood Dam and the Conowingo Dam.

(b) Assistance from government agencies.—The commission may cooperate with the Joint State Government Commission and invite and accept from the Federal Government cooperation and financial aid in connection with studies authorized in subsection (a).

**§ 2305. Threatened and endangered species.**

(a) Establishment and publication of lists.—The executive director shall establish a Pennsylvania Threatened Species List and a Pennsylvania Endangered Species List. The lists, and any revisions thereto, shall be published in the Pennsylvania Bulletin.

(b) Rules, regulations and permits.—The commission may promulgate rules and regulations governing the catching, taking, killing, importation, introduction, transportation, removal, possession, selling, offering for sale or purchasing of threatened and endangered species and, if deemed advisable, may issue permits for catching, taking or possessing any of those species.

(c) Penalty.—Any person violating any rule or regulation promulgated under this section commits a misdemeanor of the third degree. Each fish caught, taken, killed, imported, transported, removed, introduced, possessed, sold, offered for sale or purchased in violation of any rule or regulation promulgated under this section shall constitute a separate offense. Catching a threatened or endangered species shall not constitute a violation if it is immediately released where it was captured in the condition in which it was captured.

**§ 2306. Refuge areas.**

(a) General rule.—The commission may set aside, in its discretion, such areas as it may judge best as refuge areas in which fishing or entry shall be prohibited for such periods of time as the commission prescribes. Notices of these closings shall be posted at the refuge areas.

(b) Penalty.—Any person fishing in a refuge area posted under subsection (a) commits a summary offense of the first degree. Any person entering a refuge area commits a summary offense of the second degree.

**§ 2307. Waters limited to specific purposes.**

(a) General rule.—The commission may designate certain water areas for specific purposes and promulgate such rules and regulations as are deemed necessary to protect and manage the fishery therein.

(b) Penalty.—Any person violating any rule and regulation promulgated under subsection (a) commits a summary offense of the second degree.

**CHAPTER 25**  
**PROTECTION OF PROPERTY AND WATERS**

Sec.

- 2501. Misuse of property and waters.
- 2502. Disturbance of waterways and watersheds.
- 2503. Littering.
- 2504. Pollution of waters.
- 2505. Interference or damage to hatchery or nursery property.
- 2506. Commonwealth actions for damage to fish.

§ 2501. Misuse of property and waters.

(a) General rule.—It is unlawful for any person to commit any of the following acts in or along any waters or lands adjacent to or contiguous to waters within or bordering on this Commonwealth:

(1) Park or leave standing any motor vehicle or other means of conveyance in such a manner as to obstruct the owner or his lessee ingress, egress or regress to his property or cattlegrounds without the permission of the owner or lessee of the land.

(2) Drive a motor vehicle or other type of conveyance on or over any cleared or cultivated lands without the permission of the owner or lessee of the land.

(3) Start, build, tend or abandon any open fire without the permission of the owner or lessee of the land.

(4) Dig, cut or disturb in any manner lands, shrubs, trees or other vegetation without the permission of the owner or lessee of the land.

(5) Sever fences or cause any other change to private property.

(6) Run any vehicle, except fording in the most direct manner, in any stream.

(b) Penalty.—Any person violating any of the provisions of this section commits a summary offense of the second degree and, in addition, may have his fishing license revoked for a period of one year.

§ 2502. Disturbance of waterways and watersheds.

(a) General rule.—No person shall alter or disturb any stream, stream bed, fish habitat, water or watershed in any manner that might cause damage to, or loss of, fish without the necessary permits.

(b) Penalty.—Any person violating the provisions of this section commits a misdemeanor of the third degree.

§ 2503. Littering.

(a) General rule.—It is unlawful for any person to throw, discard, leave, emit, deposit or allow the depositing of any garbage, bottles, cans, rubbish, wire, glass, paper, cardboard or wooden boxes or cartons or any other type of debris, trash or other thing or substance in or along any waters or on any lands adjacent or contiguous to waters or in such manner that the thing or substance deposited flows into or is carried by wind into such waters or lands.

(b) Evidence.—In prosecutions for violations of this section the operator of a motor vehicle or watercraft shall be deemed to have allowed the depositing of any thing or substance thrown, discarded, emitted or deposited from such motor vehicle or watercraft.

(c) Penalty.—Any person who deposits or otherwise disposes of a thing or substance in violation of this section which causes or may cause damage to, or destruction of, fish commits a summary offense of the first degree. Any person who otherwise violates this section commits a summary offense of the second degree.

§ 2504. Pollution of waters.

(a) General rule.—No person, regardless of intent, shall:

(1) Put or place in any waters within or on the boundaries of this Commonwealth any electricity, explosives or any poisonous substances except that, for the purposes of research and fish management, agents of or persons authorized by the executive director may use any method or means to collect, eradicate or control fish.

(2) Allow any substance, deleterious, destructive or poisonous to fish, to be turned into or allowed to run, flow, wash or be emptied into any waters within or bordering on this Commonwealth.

(b) Evidence.—In criminal prosecutions under this section for water pollution known to be injurious to fish, it is not necessary to prove that the violation has actually caused the death of, or damage to, any particular fish.

(c) Construction of section.—This section does not repeal or supersede any of the provisions of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law."

(d) Penalty.—Any person violating the provisions of this section commits a misdemeanor of the third degree.

§ 2505. Interference or damage to hatchery or nursery property.

(a) General rule.—No person shall destroy or tamper with any ponds, property or appliances whatsoever of the commission, Federal Government or cooperative nursery approved by the commission, nor interfere with, obstruct, pollute or affect the natural flow of water into or through any of these facilities.

(b) Penalty.—Any person violating the provisions of this section commits a misdemeanor of the third degree.

§ 2506. Commonwealth actions for damage to fish.

(a) Declaration of policy.—The Commonwealth has sufficient interest in fish living in a free state to give it standing, through its authorized agencies, to recover damages in a civil action against any person who kills any fish or who injures any streams or streambeds by pollution or littering. The proprietary ownership, jurisdiction and control of fish, living free in nature, are vested in this Commonwealth by virtue of the continued expenditure of its funds and its efforts to protect, perpetuate, propagate and maintain the fish population as a renewable natural resource of this Commonwealth.

(b) General rule.—The commission, as an agency of the Commonwealth authorized to regulate, control, manage and perpetuate fish may, in addition to criminal penalties provided in this title, bring civil suits in trespass on behalf of the Commonwealth for the value of any fish killed or any stream or streambed destroyed or injured in violation of this chapter. In determining the value of fish killed, the commission may consider all factors that give value to such fish. These factors may include, but need not be limited to, the commercial resale value, the replacement costs or the recreational value of angling for the fish killed. In addition, the commission is entitled to recover the costs of gathering the evidence, including expert testimony, in any civil suit brought under this section where the defendant is found otherwise liable for damages.

## CHAPTER 27 FISHING LICENSES

Sec.

- 2701. Resident fishing licenses.
- 2702. Nonresident and tourist licenses.
- 2703. Possession and display of licenses.
- 2704. Lost fishing licenses.
- 2705. Improper license use and false application.
- 2706. Complimentary licenses.
- 2707. Disabled veterans.
- 2708. Institutional licenses.
- 2709. Exemptions from license requirements.
- 2710. Form and expiration of licenses.
- 2711. Issuing agents.
- 2712. License requirements on boundary waters.
- 2713. Appropriations for licenses issued without a fee.

§ 2701. Resident fishing licenses.

(a) General rule.—For the purposes of this chapter any person 16 years of age or older is entitled to a “Resident Fishing License” if:

(1) He has applied to an issuing agent within this Commonwealth or to the commission.

(2) He has established his identity, age and the fact that he is a bona fide resident of this Commonwealth to the satisfaction of the issuing agent or the commission by producing a motor vehicle driver’s license or some other positive means of identification.

(3) He has paid the issuing agent or the commission a license fee of \$9 plus a service fee of 25¢ to the issuing agent.

(b) Senior citizens.—A person 65 years of age or older at the time of application who complies with subsection (a)(1) and (2) is entitled to a “Senior Resident Fishing License” if he pays a license fee of \$2 to the issuing agent or the commission plus a service fee of 25¢ to the issuing agent. The application shall give the date of birth of the

applicant. Any person who qualifies to purchase a Senior Resident Fishing License may, in lieu thereof, purchase a Senior Resident Fishing License which shall be valid for his lifetime upon the payment of a fee of \$10 for the use of the Commonwealth and, in the event the license is issued by an issuing agent, a fee of 25¢ for the use of the issuing agent.

§ 2702. Nonresident and tourist licenses.

(a) Nonresident licenses.—For the purposes of this chapter any person 16 years of age or older is entitled to a “Nonresident Fishing License” if:

- (1) He is not a bona fide resident of this Commonwealth.
- (2) He has applied to an issuing agent or to the commission.
- (3) He has paid the issuing agent or the commission a license fee of \$14 plus a service fee of 25¢ to the issuing agent.

(b) Tourist licenses.—For the purposes of this chapter any person 16 years of age or older is entitled to a “Seven Day Tourist Fishing License,” valid for a period of seven consecutive days, if:

- (1) He is not a bona fide resident of this Commonwealth.
- (2) He has applied to an issuing agent or to the commission.
- (3) He has paid the issuing agent or the commission a license fee of \$9 plus a service charge of 25¢ to the issuing agent.

§ 2703. Possession and display of licenses.

(a) General rule.—No person shall fish in any of the waters of this Commonwealth or in any boundary waters without first procuring the proper license required by this chapter. The license shall be kept about the person while fishing and shown upon the request of any waterways patrolman or other officer designated by the commission. In addition to showing the license to the officer, the holder thereof shall, upon demand, establish his further identity to the satisfaction of the officer by producing some other positive means of identification. The commission may promulgate rules and regulations for the displaying of the license certificate, license button or other device, as it deems necessary.

(b) Penalties.—

- (1) Except as provided in paragraph (2), any person who violates this section commits a summary offense of the second degree.
- (2) Any person who violates any regulation concerning the displaying of the license certificate, button or other device promulgated under this section commits a summary offense of the third degree.

§ 2704. Lost fishing licenses.

In case a license certificate is lost or destroyed, a new license may be secured from the commission or any issuing agent upon making affidavit to that effect and paying a fee of \$1 plus a service fee of 25¢ to the issuing agent.

§ 2705. Improper license use and false application.

(a) General rule.—No person shall alter, borrow, lend or transfer any license authorized by this title, or give any false or misleading information to an issuing agent or to the commission, its officers or agents in an application for a license.

(b) Penalty.—Any person who violates this section commits a summary offense of the second degree.

§ 2706. Complimentary licenses.

The commission may issue annually not more than 100 fishing licenses without fee and in such form as the commission may determine. Licenses may be granted to any of the following persons:

- (1) The President and Vice President of the United States.
- (2) The governor of any state.
- (3) Authorized representatives of the conservation department of other states.
- (4) Federal officials engaged in conservation work.
- (5) Authorized officials of national conservation organizations.
- (6) Conservation officials of any foreign country or major subdivision thereof.

§ 2707. Disabled veterans.

Any disabled veteran who has a disability incurred in any war or armed conflict which consists of the loss of one or more limbs, or the loss of use of one or more limbs, or total blindness, or who is 100% disabled as certified by the United States Veterans' Administration, and who meets the qualifications of section 2701 (relating to resident fishing licenses), shall be issued a free resident fishing license upon application to the commission or a county treasurer or, in counties where there is no county treasurer by virtue of a home rule charter or optional plan of government, the county official who performs the functions of a county treasurer and who has been designated as an issuing agent by the commission. An application under this section shall, in addition to any information required under section 2701, contain a statement that the applicant is a war or armed conflict veteran and that his disability was service incurred. The issuing agent or the commission may require the production of the discharge papers of the applicant.

§ 2708. Institutional licenses.

Any resident of this Commonwealth who is a resident patient in a Commonwealth owned and supported institution for mental disability, geriatric center, tubercular hospital or county home or hospital, or who is a juvenile of a State youth development center or forestry camp, and who may benefit from recreational fishing during the course of treatment, rehabilitation or hospitalization may be issued a resident fishing license without paying a license fee. Licenses authorized by this section may be issued by the superintendent or chief medical officer of the institution who shall sign an affidavit certifying that recreational fishing may be of benefit to the rehabilitation of the

patient and that the patient is an inpatient of the institution. The affidavits, and records of the number and to whom the licenses were issued, shall be forwarded to the commission on such forms as the commission shall provide. The commission may revoke license issuing privileges of any institution for failure to comply with any provisions of this chapter or regulations promulgated thereunder.

§ 2709. Exemptions from license requirements.

(a) Licensed propagators.—No person now required by law to procure a license to propagate fish for sale shall be required, in addition, to secure a fishing license under this chapter in order to enable that person to exercise the rights conferred by the license.

(b) Blind and handicapped persons.—The provisions of this chapter do not apply to those persons who are totally blind or so severely handicapped that they are unable to cast or retrieve a line or bait hooks and remove fish if only one legal device is used and the blind or handicapped person is within ten feet of the device being used. The provisions of this chapter also do not apply to the attendant of the blind or handicapped person while assisting the blind or handicapped in using the device.

(c) Landowners.—The provisions of this chapter do not apply to or prevent the owner of any land in this Commonwealth, who actually resides thereon throughout the year or the members of his family so residing thereon, from fishing on his lands in waters wholly within said land without a license. The exemption provided by this subsection does not apply to any person temporarily residing upon the land or any tenant thereon who is not a member of the family of the owner, nor does the exemption apply to any servant or employee of the owner.

§ 2710. Form and expiration of licenses.

All licenses shall be issued on forms prepared and supplied by the commission and paid for from the Fish Fund. The license shall show the name, age and residence of the licensee and the date of issue. It shall also contain the signature of the licensee, written in ink, and shall authorize the licensee to fish in any waters of this Commonwealth or in any boundary waters subject to the restrictions and requirements of this title and the rules and regulations promulgated thereunder. The license may contain such other information as the commission may require. A license shall expire on December 31 of the year in which it is issued. There may be issued with each license a license button or other device bearing the license number.

§ 2711. Issuing agents.

(a) Appointment and bond.—The commission may appoint such persons as it deems necessary to issue fishing licenses and the persons so appointed shall be required to post a bond with the commission in an amount it determines.

(b) Compensation and fees.—For services rendered in collecting and paying over license fees, issuing agents, as long as they continue

to act in that capacity, may collect and retain the sum of 25¢ for each fishing license sold which amount shall be full compensation for services rendered by them under the provisions of this title. The compensation shall be retained by the respective issuing agents and shall cover, among other things, the cost of issuing licenses, postage, mailing, returns and bonding of said agents. All license fees paid to an issuing agent under this title shall be paid by those agents into the State Treasury through the commission at least once a month and they shall be applied to the purposes provided for in this title. An issuing agent shall make a return to the commission upon a form to be supplied by the commission. Any issuing agent failing to comply with any of the provisions of this section shall not be entitled to retain the fee fixed in this subsection for his services but shall pay those fees to the State Treasurer. If those sums are not so paid, the Commonwealth may recover them by suit in the same manner as like amounts are now recoverable by law.

(c) Rules and regulations.—The commission may promulgate such rules and regulations to control and supervise the issuance of fishing licenses by issuing agents and institutional superintendents as it may deem necessary.

(d) Proof of identification and age.—Each issuing agent shall secure positive proof of identification and age for each license issued.

(e) Records.—Every issuing agent shall keep on a printed form supplied by the commission a correct and complete record of all fishing licenses issued. The records shall be available at reasonable hours for inspection by any waterways patrolman or other officer designated by the commission or any representative of the Department of the Auditor General. Every issuing agent shall each month forward to the commission a complete record of all licenses granted on forms to be furnished by the commission.

(f) Penalty.—Any issuing agent or institutional superintendent violating any provision of this section or the rules or regulations promulgated thereunder commits a summary offense of the second degree and, in addition, may have his agency recalled in the discretion of the commission.

§ 2712. License requirements on boundary waters.

(a) New York.—The provisions of this chapter do not apply to a person holding a fishing license issued under the laws of the State of New York when fishing in that portion of the waters of the Delaware River lying between New York and Pennsylvania within the jurisdiction of this Commonwealth if a person holding a license issued under the provisions of this title when fishing in the waters of the Delaware River lying between New York and Pennsylvania within the jurisdiction of the State of New York is not required to have a New York license.

(b) New Jersey.—The provisions of this chapter do not apply to a person holding a fishing license issued under the laws of the State of

New Jersey when fishing in that portion of the waters of the Delaware River lying between New Jersey and Pennsylvania within the jurisdiction of this Commonwealth if a person holding a license issued under the provisions of this title when fishing in the waters of the Delaware River lying between New Jersey and Pennsylvania within the jurisdiction of the State of New Jersey is not required to have a New Jersey license.

(c) Ohio.—The provisions of this chapter do not apply to a person holding a fishing license issued under the laws of the State of Ohio when fishing in the waters of the Pymatuning Lake lying between Ohio and Pennsylvania within the jurisdiction of this Commonwealth if a person holding a license issued under the provisions of this title when fishing in the waters of Pymatuning Lake lying between Ohio and Pennsylvania within the jurisdiction of the State of Ohio is not required to have an Ohio license.

(d) Maryland.—The provisions of this chapter do not apply to a person holding a fishing license issued under the laws of the State of Maryland when fishing in the waters of the Youghiogeny and Conowingo Reservoirs lying between Maryland and Pennsylvania within the jurisdiction of this Commonwealth if a person holding a license issued under the provisions of this title when fishing in the waters of the Youghiogeny and Conowingo Reservoirs lying between Maryland and Pennsylvania within the jurisdiction of the State of Maryland is not required to have a Maryland license.

§ 2713. Appropriations for licenses issued without a fee.

All fishing licenses issued without payment of a license fee as provided in this chapter shall be recorded by the commission. The commission annually shall certify to the General Assembly the amount of revenue due from those license fees and the General Assembly shall cause that amount annually to be appropriated and credited to the Fish Fund.

## CHAPTER 29 SPECIAL LICENSES AND PERMITS

Sec.

- 2901. Eel chute licenses.
- 2902. Net permits.
- 2903. Boat and net licenses for boundary lakes.
- 2904. Permits for protection and management of particular fish.
- 2905. Permits for fish collecting activities.
- 2906. Permits for use of explosives.
- 2907. Expiration of licenses and permits.
- 2908. Penalties.

§ 2901. Eel chute licenses.

Upon application by any person to the commission for a special license to catch eel by the use and operation of eel chutes and the

payment of a fee of \$25, the applicant shall be entitled to a special eel chute license which shall give him the right to use and operate an eel chute:

(1) In the Susquehanna River below the boundary line of the City of Pittston and Duryea Borough line on the north branch and below the bridge at the Northumberland-Lycoming County line on the west branch.

(2) Below Mount Union in the Juniata River.

(3) In the Delaware River.

§ 2902. Net permits.

The commission may issue permits to make, sell or possess nets larger than four feet square or four feet in diameter, or any other seine, trawl or gill net. The permits when issued shall specify when and where the nets shall be used by the owner or the persons in possession thereof at a fee of \$10.

§ 2903. Boat and net licenses for boundary lakes.

(a) Application of section.—The provisions of this section shall apply only to those boundary lakes of this Commonwealth and their bays and peninsular waters as the commission may determine.

(b) Issuance and fees.—The commission may issue a commercial fishing license to a person who has signed and submitted his application and paid a fee as follows:

(1) Boats less than 26 feet in length used in fishing with gill nets: residents \$150; nonresidents, \$300.

(2) Boats 26 feet or more but less than 40 feet in length used in fishing with gill nets: residents, \$250; nonresidents, \$500.

(3) Boats 40 feet or more but less than 60 feet in length used in fishing with gill nets: residents, \$400; nonresidents, \$800.

(4) Boats 60 feet or more in length used in fishing with gill nets: residents, \$600; nonresidents, \$1,200.

(5) Boats less than 60 feet in length used in fishing with a trawl net: residents, \$200; nonresidents, \$400.

(6) Trap nets: residents, \$80; nonresidents, \$160.

(7) Seines: residents, \$50; nonresidents, \$100.

(8) Outlines: residents, \$10; plus valid fishing license; nonresidents, \$20 plus valid fishing license.

(c) Carrying and display.—The licenses shall be carried by the operator of any boat, net or device so licensed and by each person employed on the boat and shall be shown on demand to any waterways patrolman or other authorized representative of the commission.

(d) Condition of license.—No license shall be issued under this section except upon the condition that the operator of any boat so licensed shall permit a person, designated by the executive director, to accompany the boat at any time when it is engaged in fishing, for the purpose of securing for the use of the commission from the fish caught as much of their spawn as the commission may determine. A person who refuses to permit a person so designated by the executive

director to accompany the boat to secure such spawn as he may deem necessary commits a summary offense of the first degree.

(e) Rules and regulations.—The commission may promulgate rules and regulations applicable to boundary lakes as may be appropriate for the protection and management of the fisheries in the lakes, the ways, methods and means of fishing and the health and safety of persons and property. The regulations may prohibit fishing for all or some species of fish in boundary lakes and may limit the number or types of licenses and permits issued for fishing in the lakes.

(f) Limitation on nonresident licenses.—No nonresident boat or net license may be issued under this section to any resident of a state or country the laws or regulations of which prohibit, or have the effect of prohibiting, the issuance of a like license to a resident of this Commonwealth.

(g) Pound nets prohibited.—The use of pound nets for fishing on boundary lakes is prohibited.

**§ 2904. Permits for protection and management of particular fish.**

The executive director, with the approval of the commission, may require permits for the taking, catching, killing, possession, introduction, removal, importing, transporting, exporting or disturbing of fish when it is determined that the permits may be needed to insure proper protection and management of any species of fish. The commission may establish fees for the issuance of permits and may promulgate rules and regulations concerning the issuance and provisions of the permits. Permits issued under this section may be revoked at any time at the discretion of the commission.

**§ 2905. Permits for fish collecting activities.**

The executive director, with the approval of the commission, may grant permits to catch fish in any of the waters within or bordering on this Commonwealth at any season of the year and with any kind of nets or other devices without regard to size or possession limits to a person who possesses a valid Pennsylvania fishing license and is engaged in scientific or educational research or other collecting activities approved by the commission. The commission may establish a fee for the issuance of the permits. Permits issued under this section may be revoked at any time at the discretion of the commission. Persons permitted to take such species under this section shall make a report in writing to the executive director within 30 days after the expiration of the permit or conclusion of the survey or collecting activity.

**§ 2906. Permits for use of explosives.**

The executive director, with the approval of the commission, may grant permits for the use of explosives in waters for engineering purposes upon the payment of a fee of \$10. The executive director may waive the payment of the fee for Commonwealth agencies and political subdivisions. Any person using explosives under a permit shall make restitution to the commission for all fish destroyed.

**§ 2907. Expiration of licenses and permits.**

All licenses and permits authorized by this chapter shall expire on December 31 of the year for which they are issued.

**§ 2908. Penalties.**

(a) **General rule.**—Except as provided in subsection (b), a person engaging in any activity for which a permit or special license is required under this chapter without acquiring the license or permit or who violates any provision of this chapter or regulations promulgated thereunder commits a summary offense of the first degree.

(b) **Boundary lakes.**—A person engaged in any activity for which a permit or special license under section 2903 (relating to boat and net licenses for boundary lakes) is required without obtaining such license or permit or who violates any provision of section 2903 or regulations promulgated thereunder commits a misdemeanor of the third degree.

**CHAPTER 31  
REGULATED FISHING LAKES**

**Sec.**

**3101. Licenses.**

**3102. Fees.**

**3103. Exemption from fishing regulations.**

**3104. Receipts for fish caught.**

**3105. Bills of sale for fish purchased for stocking.**

**3106. Classification of lakes.**

**3107. Transportation of fish.**

**3108. Violations by owner or operator.**

**3109. Violations by other persons.**

**§ 3101. Licenses.**

Upon application accompanied by a license fee prescribed in this chapter, the commission shall issue an annual regulated fishing lake license. The license shall be effective until December 31 of the year in which it is issued. Each application for a license or a renewal thereof shall be signed by the owner or operator of the regulated fishing lake and shall state the approximate total area of fishing water on the premises to be licensed and whether the area consists of one body of water or more than one, together with any other information relative thereto as the commission may prescribe.

**§ 3102. Fees.**

The annual license fee for a regulated fishing lake shall be based on the total area of fishing water on the premises to be licensed, whether the area consists of one body of water or more than one.

(1) Where the total area of water is less than five acres, the fee shall be \$50.

(2) Where the area is five acres or more but less than ten acres, the fee shall be \$60.

(3) Where the area is ten acres or more but less than 20 acres, the fee shall be \$80.

(4) Where the area is 20 acres or more but less than 40 acres, the fee shall be \$100.

(5) Where the area is 40 acres or more but less than 80 acres, the fee shall be \$120.

(6) Where the area is 80 or more acres, the fee shall be \$150.

§ 3103. Exemption from fishing regulations.

Fish may be taken from a regulated fishing lake without limitation on size, season or possession limit.

§ 3104. Receipts for fish caught.

The owner or person in charge of any regulated fishing lake shall issue consecutively numbered receipts to all anglers who catch or transport fish from a regulated fishing lake during the closed season for the species of fish, or in excess of the possession limit, or under the minimum size limit. The receipts shall be made in duplicate and one copy shall be kept on file by the issuer for inspection by the commission or any persons designated by it. Each angler, while in possession of the fish, shall have in his possession the receipt relative thereto and shall produce it upon demand by proper authority. All receipts shall contain the following information:

(1) Name, location and license number of the regulated fishing lake.

(2) Number and species of the fish caught.

(3) Date of issue.

§ 3105. Bills of sale for fish purchased for stocking.

Any person owning or operating a regulated fishing lake shall keep on file for inspection by the commission, or any person designated by it, all bills of sale that he receives for purchases of fish made for the purpose of stocking the lake.

§ 3106. Classification of lakes.

(a) Class A.—A lake that is wholly opened to the general public for fishing and is operated solely as a commercial venture may be issued a Class A regulated fishing lake license. Persons patronizing a Class A regulated fishing lake may catch, kill and possess fish without regard to any size, season or possession limit and need not possess a Pennsylvania fishing license. All other provisions of this title are applicable.

(b) Class B.—Lakes that meet all other requirements of this section but are not open to the general public or operated as a commercial venture may be issued a Class B regulated fishing lake license. Persons patronizing a Class B lake may catch, kill and possess fish taken therefrom without regard to size, season or possession limitation. A fishing license is required to fish in a Class B lake.

§ 3107. Transportation of fish.

Nothing in this chapter shall be deemed to authorize any person to transport, import or introduce any species of fish, bait fish or fish

bait into this Commonwealth if the transportation, importation or introduction is prohibited by other laws or regulations.

§ 3108. Violations by owner or operator.

Any owner or operator of a regulated fishing lake who operates the lake without a regulated fishing lake license, who knowingly makes a false statement in his application for a license or who violates any of the provisions of this chapter, commits a summary offense of the first degree.

§ 3109. Violations by other persons.

No person shall fish, or trespass with intent to fish, in the waters or upon the bed or banks of any licensed regulated fishing lake without having paid the fee fixed by the owner or operator, or without having obtained permission from the owner or operator. No person shall willfully or maliciously destroy or damage any lake, property or appliances used in connection with the operation of a licensed regulated fishing lake. Any person violating any of the provisions of this section commits a summary offense of the first degree.

### CHAPTER 33 PROPAGATION AND SALE OF FISH

Sec.

- 3301. Artificial propagation licenses.
- 3302. Limitation on water obstruction or use.
- 3303. Activities authorized under license.
- 3304. Activities not authorized under license.
- 3305. Receipts for sales of fish.
- 3306. Inspection of books and property.
- 3307. Stocking regulations.
- 3308. Killing destructive birds, animals, amphibians and reptiles.
- 3309. Live bait fish, live fish bait and live fish dealers licenses.
- 3310. Unauthorized sale of bait fish and fish bait.
- 3311. Sale of certain fish prohibited.
- 3312. Prohibited acts.
- 3313. Penalty.

§ 3301. Artificial propagation licenses.

(a) General rule.—The commission may issue an artificial propagation license for the propagation of any species of fish upon receiving a written application therefor signed by the applicant and upon payment to the commission of the following fee:

- (1) Trout or bass, \$50.
- (2) Any other fish, \$25.

A separate propagation license shall be required for each separate propagation facility even though owned and operated by the same person. Persons operating a cooperative nursery project approved by the commission are exempt from payment of any fee for the propagation of any species of fish authorized by the commission.

(b) Applications.—Applications for artificial propagation licenses shall be made on forms prepared by the commission and shall show the size, character and purpose of the propagation facility and such other matters as the commission may require.

(c) Expiration.—All licenses shall expire on December 31 of the year for which they are issued.

§ 3302. Limitation on water obstruction or use.

No dams, ponds or other devices which will prevent the free migration of fish shall be erected or placed by a person licensed under this chapter in any stream flowing over his property. No person shall use the ponds so licensed for any purpose other than for commercial propagation and rearing of fish.

§ 3303. Activities authorized under license.

The license issued under this chapter authorizes the licensee:

(1) To carry on the business of propagation and sale of the species of fish specified in the license, or the eggs thereof, during the year for which the license is issued.

(2) To catch and kill the fish specified in the license from the licensed ponds by any means whatsoever except by explosives or poisonous substances.

(3) To sell or dispose of in any manner whatsoever the game fish specified in the license, or the eggs thereof, at any time of the year, and it authorizes public transportation companies to receive and transport the fish or eggs.

§ 3304. Activities not authorized under license.

The license issued under this chapter does not authorize the catching of fish out of any stream flowing over the property of the licensee or other waters within this Commonwealth.

§ 3305. Receipts for sales of fish.

A person selling fish under a license issued under this chapter shall furnish the producer with a receipt of the sale which shall specify the date of sale, the number of the license, the number of fish and the number of pounds sold. The receipt must be shown by the holder on demand to any person authorized by law to enforce the laws of this Commonwealth relating to fish. The receipt authorizes the sale or possession of the fish so purchased for a period of 15 days after its date of issue, except in the case of bait fish or fish bait which may be held by dealers until disposed of.

§ 3306. Inspection of books and property.

The books and property of the persons licensed under this chapter shall be open to the commission or its agents for inspection at all reasonable times.

§ 3307. Stocking regulations.

No person licensed under this chapter shall in any manner stock or maintain his establishment with any species of fish, or eggs thereof, taken from any waters within this Commonwealth not occupied, owned or controlled by him and covered by his license. This section

does not prohibit the exchange of fish eggs or the fry of any species of fish with the commission.

§ 3308. Killing destructive birds, animals, amphibians and reptiles.

(a) Birds and animals.—A license issued under this chapter authorizes the licensee or his employee:

(1) To kill after five days' notice to their owner, if known, any domestic bird or fowl trespassing on the waters or land controlled, used or occupied entirely for the artificial propagation of fish.

(2) To kill, in compliance with law, any wild birds or wild animals destructive to fish life whenever found on such waters or lands.

(b) Amphibians and reptiles.—A license issued under this chapter authorizes the licensee or his employee to kill and dispose of, on the premises, any amphibians and reptiles found on such waters or lands whenever necessary to protect the fish propagation plant against depredation by the amphibians and reptiles, except that these amphibians and reptiles may not be sold without first having secured a propagation license for them.

(c) Exceptions.—This section does not authorize the destroying and disposing of threatened or endangered fish or other animals.

§ 3309. Live bait fish, live fish bait and live fish dealers licenses.

(a) General rule.—A license is required to sell live fish bait, live bait fish and other live fish. The commission may issue live bait fish and live fish bait dealers' licenses upon a written application therefor signed by the applicant accompanied by payment to the commission of the sum of \$10. The commission may issue a live fish dealer's license to buy and sell certain species of fish approved by the commission upon the payment of \$25. The commission may issue such a license to persons who do not propagate those fish but who buy and sell live bait fish, live fish bait and live fish. The licensee shall keep records of all transactions of both buying and selling, listing the date, number and species sold, and from whom the dealers purchased the live bait fish, live fish bait or live fish, date, species and number purchased, dealer's license number and place of sale. The records shall be open for inspection by agents of the commission.

(b) Resident dealer's transportation license.—Resident live bait fish, live fish bait and live fish dealers who purchase their fish from legal sources outside this Commonwealth shall first obtain a transportation license from the commission at a cost of \$10 per license.

(c) Nonresident dealer's license.—Nonresidents who bring live bait fish, live fish bait and live fish into this Commonwealth for sale shall first secure a nonresident dealer's license at a cost of \$100 per year.

(d) Approval of species prior to distribution.—No resident or nonresident live bait fish, live fish bait or live fish dealer shall distribute any species not on a list approved by the commission of live bait fish, live fish bait or live fish in this Commonwealth without having it inspected and approved for desirability of species by the commission.

(e) Application for license.—Applications for licenses shall be made on forms prepared by the commission and show such matters as the commission may require.

§ 3310. Unauthorized sale of bait fish and fish bait.

No person shall sell or offer for sale any bait fish or fish bait taken from any waters of this Commonwealth which were not artificially propagated and sold under an artificial propagation license granted by the commission, except that, under proper license, specified species of bait fish may be netted from Lake Erie waters for purposes of sale.

§ 3311. Sale of certain fish prohibited.

(a) General rule.—No person shall purchase, sell or offer for sale any species of fish taken from waters wholly within this Commonwealth or illegally taken from waters outside this Commonwealth and received in interstate commerce except those species of fish which the commission by regulation determines may be sold or offered for sale.

(b) Reports of sales of fish.—A person engaged in catching fish for market or whose business may involve the sale of fish shall, on demand of the executive director, furnish at the close of each calendar year a duplicate report of his sales of fish and the gross amount of money realized. The contents of the report shall be used by the commission entirely for statistical purposes and are not public records. Individual reports shall not be made public without the written consent of the owner.

§ 3312. Prohibited acts.

No person shall:

(1) Artificially propagate any species of fish without first procuring the license provided for in section 3301 (relating to artificial propagation licenses).

(2) Artificially propagate any species of fish of which the introduction, importation or transportation in this Commonwealth is prohibited by law or regulation.

(3) Fish or trespass, with intent to fish, in or upon any waters, or the bed or banks of any waters, or from any banks owned, controlled or occupied by persons licensed under section 3301.

(4) Willfully or maliciously destroy or damage any ponds, property or appliances on a propagating facility licensed under section 3301.

§ 3313. Penalty.

Any person who violates any provision of this chapter commits a summary offense of the first degree.

CHAPTER 35  
DAMS, BAR RACKS AND MIGRATION DEVICES

Sec.

- 3501. Devices in dams to permit fish migration.
- 3502. Operation and maintenance of devices.
- 3503. Closing of devices for repair or nonuse.
- 3504. Civil penalty for noncompliance.
- 3505. Erection of devices by commission.
- 3506. Drawing off or interference with dams or devices.
- 3507. Protection of fish near dams.
- 3508. Erection of bar racks to prevent entry of fish.
- 3509. Obstructing migration of fish.

§ 3501. Devices in dams to permit fish migration.

(a) Erection on order of commission.—Any person now or hereafter erecting or maintaining a dam in the waters of this Commonwealth shall, immediately on a written order from the commission, erect therein such chutes, slopes, fishways, gates or other devices as the commission may deem necessary to enable the fish to ascend and descend the waters at all seasons of the year.

(b) Payments where devices not practicable.—In lieu of requiring the erection of chutes, slopes, fishways, gates or other devices at any dam where they are not deemed by the commission to be practicable or advisable for the ascending or descending of fish, the commission may enter into an agreement with the owner, lessee or operator of the dam, to pay to the commission, annually or at other stated periods, a sum of money which shall be not less than 2 1/2% per year upon the estimated cost of the erection of chutes, slopes, fishways, gates or other devices, plus the estimated cost of reasonable depreciation and maintenance of the same, except in cases where the sum of the interest, depreciation and maintenance so calculated would be equal to or exceed the sum of \$25,000 per year, in which case the annual payment shall be \$25,000 per year.

(c) Use of moneys.—These moneys shall be expended by the commission for:

(1) The stocking with fish of the waters of the stream dammed.

(2) The propagating, rearing and distributing of fish placed in the waters and the acquisition of the necessary facilities therefor.

(3) Carrying out such other fish managing practices in the waters as are deemed proper by the commission for the improvement of public fishing opportunities therein.

(d) Receipt and appropriation of moneys.—Any money received by the commission under such an agreement shall be paid into the Fish Fund and is hereby specifically appropriated to be expended by the commission for the purposes specified in subsection (c).

(e) Surveys and experimentations by commission.—When funds are available for those purposes, the commission shall conduct and

encourage such surveys and experimentations as may be necessary and feasible in order to discover and develop such chutes, slopes, fishways, gates or other devices as may successfully pass migratory fish over the dams.

**§ 3502. Operation and maintenance of devices.**

Every chute, slope, fishway, gate or other device referred to in section 3501 (relating to devices in dams to permit fish migration) shall be operated in a manner prescribed by the commission and shall remain open and be maintained in good order and repair by the person owning or maintaining the dam in which the device is located.

**§ 3503. Closing of devices for repair or nonuse.**

Any chute, fishway or other device may be closed for repairs or when not needed with written approval of the commission.

**§ 3504. Civil penalty for noncompliance.**

Any person failing to comply with section 3501 (relating to devices in dams to permit fish migration) or 3502 (relating to operation and maintenance of devices) within three calendar months of the date of notice provided in section 3501 shall forfeit and pay to the Commonwealth a civil penalty of \$100 for every day he fails to comply. The penalty shall be recovered by civil suit or process in the name of the Commonwealth.

**§ 3505. Erection of devices by commission.**

If the person owning, leasing or maintaining a dam fails to erect a chute, slope, fishway, gate or other device after the lapse of three calendar months from the date of notice provided by section 3501 (relating to devices in dams to permit fish migration), or fails to maintain the chute, slope, fishway, gate or other device in accordance with section 3502 (relating to operation and maintenance of devices), the commission may enter upon the dam and erect such chute, slope, fishway, gate or other device or make any necessary repairs and the cost thereof shall be charged by the commission to the person owning or maintaining the dam and may be recovered by civil suit or process in the name of the Commonwealth.

**§ 3506. Drawing off or interference with dams or devices.**

(a) Drawing off or obstructing dams.—No person shall draw off dam waters inhabited by fish without first applying for written permission from the commission, nor shall any person obstruct the flow of water through any such dam without allowing a minimum flow of water determined by the commission to be sufficient at all times to flow in the natural stream on which the dam is located to enable the fish to live. Any person violating the provisions of this subsection commits a summary offense of the first degree.

(b) Interference with dams or devices.—Dams, deflectors, retards or similar devices placed across or in any waters inhabited by fish, with permission of the owner or owners of the land adjacent thereto or through which those waters flow, shall not be destroyed, removed, breached or disturbed, except by written permission first obtained

from the commission. Any person violating the provisions of this subsection commits a summary offense of the first degree.

§ 3507. Protection of fish near dams.

(a) General rule.—The commission shall promulgate such rules and regulations as it deems necessary to protect and manage fish within one mile or such lesser distance as it deems appropriate of any chute, slope, fishway, gate, dam, reflector, retards or similar devices.

(b) Penalty.—Any person violating any of the rules or regulations promulgated under this section commits a summary offense of the first degree.

§ 3508. Erection of bar racks to prevent entry of fish.

(a) General rule.—Any person owning, leasing or maintaining a raceway, flume or inlet pipe leading to a water wheel, turbine pump or canal shall immediately upon receipt of a written order from the commission place and maintain a bar rack of not less than one-half inch nor more than one and one-half inch space between the bars in or near that raceway, flume or inlet pipe sufficient to prevent fish from entering it.

(b) Erection of bar racks by commission.—If one month after notice of violation of this section the person owning, leasing or operating such raceway, flume or inlet pipe has not placed a bar rack as directed, the commission may enter upon the raceway, flume or inlet pipe and place a bar rack of not less than one-half inch nor more than one and one-half inch space between the bars. The cost shall be charged against the owner, lessor or operator and may be recovered by civil suit or process in the name of the Commonwealth.

(c) Civil penalty.—Any person failing to comply with subsection (a) within one calendar month shall forfeit and pay a civil penalty of \$100 for every day of violation.

§ 3509. Obstructing migration of fish.

(a) General rule.—No person shall place any device or object in waters within this Commonwealth in a manner that obstructs the migration or passage of fish therein or obstructs any fishway but the commission may, as it deems necessary in the interest of fish management, authorize the erection of such devices and prescribe such conditions for the operation and maintenance of such devices as may be necessary for a fee of \$10.

(b) Fish rodeos.—After giving written notice to the commission, an organized fishing or sportsmen's club that has been in existence for a period of one year or more may obstruct the passage of fish for a period not exceeding 48 hours for the purpose of conducting fish rodeos the primary objective of which is to encourage fishing by children. Such obstructions shall not be erected more than twice in one year within a distance of one mile from any similar obstruction on the same stream or body of water. The obstructions shall be at least one-half mile from other such obstructions and shall be erected and designed in such a manner that fish will not normally be injured.

(c) **Penalty.**—Any person violating any provision of this section commits a summary offense of the first degree.

**PART III  
BOATS AND BOATING**

**Chapter**

- 51. Preliminary Provisions
- 53. Registration of Boats
- 55. Operation of Boats

**CHAPTER 51  
PRELIMINARY PROVISIONS**

**Subchapter**

- A. General Provisions
- B. Rules and Regulations

**SUBCHAPTER A  
GENERAL PROVISIONS**

**Sec.**

- 5101. Administration of part.
- 5102. Cooperation with other agencies.
- 5103. Boating education programs.
- 5104. Fees.

**§ 5101. Administration of part.**

The commission shall supervise, through the executive director, the administration and the enforcement of the provisions of this part, the rules and regulations promulgated thereunder and any existing laws regulating the operation and equipment of boats operated on any waters of this Commonwealth, the establishment of educational programs and the improvement of waterway facilities including aids to navigation.

**§ 5102. Cooperation with other agencies.**

**(a) Commonwealth agencies.—**

(1) **Concurrent jurisdiction.**—Any power, duty or jurisdiction conferred or imposed by this part shall be deemed to be supplemental to any existing power, duty or jurisdiction conferred or imposed by law or by any other Commonwealth agency over, upon or in any waters of this Commonwealth and it is the duty of these Commonwealth agencies to cooperate with the commission and the assistant executive director in carrying out the purposes of this part.

(2) **Use of services.**—The services of other Commonwealth agencies may be used by the commission to accomplish any of the provisions of this part. If there is adequate efficiency by so doing, these Commonwealth agencies shall cooperate to the maximum extent that is feasible.

(b) Federal Government and other states.—The commission shall cooperate to the fullest extent feasible with the Federal Government and the boating agencies of the Federal Government and other states to promote uniformity of rules, regulations and navigation aids and to facilitate safe unhindered movement of vessels between states.

§ 5103. Boating education programs.

The commission may inaugurate a comprehensive boating safety and boating educational program and seek the cooperation of organized boaters, the Federal Government and other states. The commission may issue safety certificates to adults and minors who complete courses in boating safety education.

§ 5104. Fees.

The following fees apply to registrations, licenses, permits and capacity plates issued under this part and the fees collected shall be deposited in the State Treasury in the Boat Fund:

- (1) Owner registration (boats less than 16 feet in length), \$4 per year.
- (2) Owner registration (boats 16 feet or longer), \$6 per year.
- (3) Duplicate owner registration, \$1 each.
- (4) Dealer registration, \$15 per year.
- (5) Additional dealer registration, \$5 each.
- (6) License for operator of passenger-carrying boat, \$5 each.
- (7) Capacity plate, \$2 each.
- (8) Permit for special marine event, \$2 each.

SUBCHAPTER B  
RULES AND REGULATIONS

Sec.

5121. Promulgation.

5122. Registrations, licenses, permits, plates and statistics.

5123. General boating regulations.

5124. Particular areas of water.

§ 5121. Promulgation.

(a) General rule.—The commission may promulgate rules and regulations specifically authorized under this part and such other rules and regulations as it deems necessary to administer and enforce the provisions of this part.

(b) Conformity to Federal law.—All rules and regulations promulgated under this part shall conform to Federal laws and regulations on the same subject matter.

(c) Advice from Boating Advisory Board.—The commission shall solicit the advice and opinions of the Boating Advisory Board on any proposed rules and regulations promulgated under this part prior to their final adoption.

§ 5122. Registrations, licenses, permits, plates and statistics.

(a) General rule.—The commission may promulgate rules and regulations relating to:

- (1) Permanent and temporary registration of motorboats.
- (2) Special provisions applicable to livery operators, dealers, manufacturers and the owners or operators of passenger-carrying boats.
- (3) Display of numbers.
- (4) Renewal of certificates of registration.
- (5) Transfer of ownership of or interest in boats or the abandonment or destruction of registered boats.
- (6) Licensing of operators of passenger-carrying boats.
- (7) Display of capacity plates by boats, the information to be displayed thereon and the issuance of capacity plates.
- (8) Issuance of permits for special marine events.
- (9) Compilation and release of statistics on accidents and registered boats.

(b) Penalty.—Any person who violates a rule or regulation promulgated under this section commits a summary offense of the third degree except that a person who operates a passenger-carrying boat without a license commits a summary offense of the second degree.

§ 5123. General boating regulations.

(a) General rule.—The commission may promulgate such rules and regulations as it deems appropriate to provide for the operation and navigation of boats, including the rules of the road for boating, the ways, manner, methods and means of boating, the management of boats and the use thereof and the protection of waters for boating purposes. The rules and regulations may relate to:

- (1) Protection of the health and safety of persons on boats, towed by boats, or on, in or along the waters of this Commonwealth.
- (2) Protection of property on, in or along the waters of this Commonwealth and of fish and other aquatic life in such waters.
- (3) Boat noise and sound levels.
- (4) Capacity and loading of boats.
- (5) Equipment requirements for boats, operators of boats, passengers on boats and persons towed or pulled by boats.
- (6) Lights, signals, courses, channels, rights-of-way and hazards to navigation.
- (7) The placing and lighting of aids, markers, floats, ramps or other devices or structures of any description in the waters of this Commonwealth.
- (8) Disposal of oil, gas, gasoline, trash, rubbish, debris, wastes and other things and substances of any description from boats.
- (9) Procedures to be followed and information to be supplied by owners and operators of boats in reporting boating accidents.

(b) Penalties.—Any person who violates a rule or regulation promulgated under this section which the commission designates as being for the protection of the health and safety of persons as provided by subsection (a)(1) commits a summary offense of the first degree. Any person who violates any other regulation promulgated under this section commits a summary offense of the second degree. In addition to any other penalty, any person who is convicted or acknowledges guilt for an offense of possessing insufficient, nonapproved or unserviceable safety equipment on a boat, passengers, or persons being towed by a boat on the waters of this Commonwealth may be fined an additional \$10 for every piece of safety equipment required that is missing, not worn, when required, not of an approved type or unserviceable.

§ 5124. Particular areas of water.

(a) General rule.—The commission may promulgate special rules and regulations for particular artificial or natural areas of water for further limiting, restricting or prohibiting the operation or navigation of boats thereon to promote the interests of the public or to preserve aquatic life.

(b) Penalty.—Any person who violates a rule or regulation promulgated under this section commits a summary offense of the second degree.

### CHAPTER 53 REGISTRATION OF BOATS

Sec.

- 5301. Registration of motorboats required.
- 5302. Exemptions from registration.
- 5303. Voluntary and special registrations.
- 5304. Issuing agents.
- 5305. Application for registration.
- 5306. Certificate of registration.
- 5307. Dealer registration.
- 5308. Period of registration.
- 5309. Change of address of registrant.
- 5310. Display of registration number.
- 5311. Tampering with identification numbers.
- 5312. Transfer, destruction or abandonment of boat.
- 5313. Records open to public.

§ 5301. Registration of motorboats required.

(a) General rule.—It is unlawful for any person to operate or navigate, or cause to be operated or navigated, any motorboat upon, over or through the waters of this Commonwealth unless the motorboat is registered in accordance with this chapter.

(b) Penalty.—Any person who violates this section commits a summary offense of the second degree.

**§ 5302. Exemptions from registration.**

The registration requirements of this chapter do not apply to:

(1) Boats registered or awarded a number by another state under a numbering system approved by Federal authority in which case the registration or number will be valid in this Commonwealth for a period of 60 days.

(2) Foreign boats temporarily using the waters of this Commonwealth.

(3) Boats, other than boats used for recreational purposes, which are:

(i) owned by the United States, a state or a subdivision thereof;

(ii) used solely for public service functions such as search and rescue; and

(iii) clearly identifiable as such.

This paragraph includes boats owned by quasi-public organizations such as volunteer fire departments and river rescue units and used exclusively in the performance of their work in furthering safety and search and rescue on the water.

(4) Lifeboats on ships.

(5) Boats possessing a valid marine document issued by the United States Coast Guard, or any Federal successor thereto, or by any foreign government.

(6) Boats not equipped with propelling machinery.

**§ 5303. Voluntary and special registrations.**

(a) Registration of other watercraft.—Watercraft other than motorboats may be registered under this chapter at the option of the owner.

(b) Registration of Commonwealth motorboats.—Special registrations shall be issued free of charge by the commission for motorboats owned or operated by the Commonwealth.

**§ 5304. Issuing agents.**

(a) Designation.—The commission may designate as issuing agents the county treasurer (or in counties where, by virtue of an optional plan of government or home rule charter, there is no county treasurer, the official who performs the ordinary functions of a county treasurer) or such other persons in each county, as it deems advantageous, to provide for the issuance of motorboat registrations in accordance with the provisions of this chapter.

(b) Fee.—For all services rendered in collecting and paying over registration fees, each issuing agent shall charge and retain an additional fee not exceeding \$2 from the person securing the registration. If the issuing agent is a county treasurer or other official who performs that function, the fee shall be retained for the use of the county.

(c) Bond.—Every issuing agent shall give bond to the Commonwealth, in a sum determined by the executive director, before any supply of registration forms is delivered to him.

(d) Disposition of moneys.—Every issuing agent shall forward all moneys collected, along with all appropriate forms, to the commission within five days after receipt of each and every registration.

§ 5305. Application for registration.

(a) General rule.—Any person owning a motorboat and desiring to operate or navigate the motorboat, or cause it to be operated or navigated, on any inland or tidal waters of this Commonwealth shall make a written application to the commission or to a designated issuing agent for a registration for the motorboat.

(b) Form and content.—The application shall be made on a form prescribed, prepared and furnished by the commission and, together with such other information as the commission may require, shall state the name and address of the applicant and, if the applicant is a partnership, the names and addresses of all the partners, and, if the applicant is a corporation, the names and addresses of the officers.

§ 5306. Certificate of registration.

(a) Issuance.—Upon receipt of a signed application and upon the payment of the annual registration fee, the commission shall issue to the applicant owner a certificate of registration for his motorboat. The certificate of registration shall be pocket size.

(b) Carrying on motorboat.—The certificate of registration shall be available at all times for inspection on the motorboat for which issued whenever the motorboat is in operation.

(c) Retention on shore.—The certificate of registration for motorboats less than 26 feet long, leased or rented for noncommercial use of less than seven days, may be retained on shore by the owner of the motorboat or his representative at the place from which the motorboat departs or returns to the possession of the owner or his representative. A motorboat that does not have the certificate of registration on board shall be identifiable while in use and shall comply with all other requirements.

(d) Duplicates.—Upon application of the owner on a form prescribed by the commission, the commission may issue the owner a duplicate registration certificate upon payment of the applicable fee.

(e) Penalty.—Any person operating a properly registered motorboat who does not have available for inspection on the motorboat the certificate of registration commits a summary offense of the third degree.

§ 5307. Dealer registration.

(a) Application and issuance.—The commission will issue to dealers, manufacturers and jobbers special registrations that bear the additional mark "X" upon proper application and payment of the applicable fee. Application for dealer registrations shall be made upon a form provided by the commission, shall set forth the full name and business address of the applicant and such other information as the commission may require and shall be signed by the dealer, manufacturer or jobber. The dealer registration number shall be displayed

conspicuously on each side of the bow of the boat being used by the dealer. The commission may issue additional registrations to dealers, manufacturers or jobbers upon proper application and the payment of the applicable fee.

(b) Use.—Dealer registrations may be used on any boat owned or in possession of a dealer, manufacturer or jobber and operated by the dealer, manufacturer or jobber or their employees only when the boat is used for any of the following purposes:

(1) In the business of the registrant as a dealer, manufacturer or jobber.

(2) For the personal pleasure or use of the dealer, manufacturer, jobber, members of his immediate family and regular employees thereof and members of their immediate families.

(3) For testing or demonstrating boats in the possession of the dealer, manufacturer or jobber.

(4) For lending boats to customers whose boats are being repaired.

(5) For lending to prospective buyers for a period not exceeding two days for purposes of demonstrating the boats.

§ 5308. Period of registration.

Registrations issued under this chapter to owners and dealers shall be valid from April 1 of one year to March 31 of the succeeding year and shall be renewable. A registration for any year shall be valid and may properly be displayed prior to April 1 within that year.

§ 5309. Change of address of registrant.

Any holder of a certificate of registration shall notify the commission within 15 days if his address no longer conforms to the address appearing on the certificate and shall, as a part of the notification, furnish the commission with his new address. The commission may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address of the holder.

§ 5310. Display of registration number.

(a) General rule.—The registration number shown on the certificate of registration shall be painted on or attached to each side of the bow of the motorboat in order that it may be clearly visible. No other number may be displayed on the bow. The number shall be maintained in a legible condition.

(b) Penalty.—A person who operates a properly registered motorboat that does not display a proper registration number commits a summary offense of the third degree.

§ 5311. Tampering with identification numbers.

(a) General rule.—No unauthorized person shall erase, deface, change, paint on or in any way tamper with any registration number or card or any other identification number on a motorboat or motor.

(b) Penalty.—Any person who violates this section commits a summary offense of the second degree.

**§ 5312. Transfer, destruction or abandonment of boat.**

The owner of a boat registered in this Commonwealth pursuant to this chapter or by the Federal Government shall furnish the commission notice of the transfer of all or any part of his interest, other than the creation of a security interest, in a boat or of the destruction or abandonment of the boat within 15 days from the transfer, destruction or abandonment. The transfer, destruction or abandonment shall terminate the certificate of registration for the boat except in the case of a transfer of a part interest which does not affect the right of the owner to operate the boat.

**§ 5313. Records open to public.**

All records relating to registration or numbering made or kept pursuant to this chapter shall be public records.

### CHAPTER 55 OPERATION OF BOATS

**Sec.****5501. Reckless and negligent operation of watercraft.****5502. Operating watercraft under influence of alcohol or controlled substance.****5503. Accident reports.****5504. Liability for damage caused by operator.****§ 5501. Reckless and negligent operation of watercraft.**

(a) **Reckless operation.**—No person shall operate a watercraft in, upon or through the waters of this Commonwealth in a reckless manner. For the purposes of this subsection, reckless operation means operating a watercraft in a manner that consciously, willfully and wantonly disregards a substantial and unjustifiable risk to the safety of persons or property in, upon or along the waters of this Commonwealth. Reckless operation of a watercraft involves a gross deviation from the standard of care that a reasonable operator of a watercraft should observe under the circumstances. A person who violates this subsection commits a misdemeanor of the third degree.

(b) **Negligent operation.**—No person shall operate a watercraft in, upon or through the waters of this Commonwealth in a negligent manner. A person commits negligent operation of a watercraft if he operates the watercraft without due regard for the safety of persons or property in, upon or along the waters of this Commonwealth. Negligent operation of a watercraft involves a deviation from the ordinary standard of care that a reasonable operator of a watercraft should observe under the circumstances. A person who violates this subsection commits a summary offense of the first degree. Negligent operation is a lesser included offense of reckless operation of a watercraft.

(c) **Aquaplanes and similar devices.**—No person shall operate or manipulate any boat, tow rope, aquaplane or similar device in such a

way as to cause the device or person thereon to collide with or strike against any object or person or in any way cause damage or injury to any object or person. A person who violates this subsection commits a summary offense of the first degree.

(d) Exceeding capacity prima facie evidence of negligence.—Exceeding the loading and horsepower limits for a boat as provided on the capacity plate issued for the boat is prima facie evidence of negligent operation of the boat.

§ 5502. Operating watercraft under influence of alcohol or controlled substance.

(a) General rule.—No person shall operate a watercraft upon, in or through the waters of this Commonwealth while:

(1) under the influence of alcohol to a degree which renders the person incapable of safe operation of the watercraft;

(2) under the influence of any controlled substance, as defined by the laws of this Commonwealth and rules and regulations promulgated thereunder, to a degree which renders the person incapable of safe operation of a watercraft; or

(3) under the combined influence of alcohol and a controlled substance.

(b) Legal use no defense.—The fact that any person charged with violating this section is or has been legally entitled to use alcohol or controlled substances is not a defense to a charge of violating this section.

(c) Penalty.—A person violating any of the provisions of this section commits a summary offense of the first degree.

§ 5503. Accident reports.

(a) Duty to file.—In case of a watercraft accident on the waters of this Commonwealth, the operator of each watercraft involved in the accident shall submit a written accident report to the commission within the time prescribed and containing such information as may be required by regulation. If an operator of a watercraft is physically incapable, as a result of the accident, of making a report, the report shall be made by the owner of the watercraft or the investigating official, in that order. The investigating official will only sign this report when the others are not available.

(b) Confidentiality.—All reports of watercraft accidents shall be considered privileged and shall be filed without prejudice to the person filing the report. The reports shall be for the information of the commission and shall not be open for public inspection except as provided in this section.

(c) Admissibility in evidence.—The fact that the reports have been made shall be admissible in evidence only to prove compliance with the requirements of this section. No report or any part thereof or any statement contained therein shall be admissible in evidence for any other purposes in any civil or criminal trial arising out of the accident.

(d) **Furnishing abstracts.**—The commission shall, upon request, furnish any person a certified abstract of the accident report. The abstract shall be limited to the date, time, location, weather conditions, names and addresses of the operators, passengers and witnesses and description of the watercraft involved in the accident.

(e) **Penalties.**—Any person who fails to file an accident report required by this section commits a summary offense of the first degree. Any person who files a report beyond the time limits prescribed by regulation or without providing all the material information required by regulation commits a summary offense of the third degree.

§ 5504. **Liability for damage caused by operator.**

Every owner of a watercraft causing or knowingly permitting any person to operate the watercraft in, upon or through the waters of this Commonwealth, and any person who leases or furnishes a watercraft to any other person, shall be jointly and severally liable with the other person for damages arising out of any act or occurrence in the operation of the watercraft.

#### PART IV MISCELLANEOUS PROVISIONS

##### Chapter

- 71. Atlantic States Marine Fisheries Compact
- 73. Shad Fishing in Delaware River and Bay

#### CHAPTER 71 ATLANTIC STATES MARINE FISHERIES COMPACT

##### Sec.

- 7101. Execution and form of compact.
- 7102. Members of commission from Pennsylvania.
- 7103. Powers and duties of commission and Commonwealth agencies.
- 7104. Powers granted commission supplemental to other powers.
- 7105. Accounts and reports of commission.
- 7106. Amendment to compact.

§ 7101. **Execution and form of compact.**

The Governor of this Commonwealth is authorized and directed to execute a compact on behalf of the Commonwealth of Pennsylvania with any one or more of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, and with such other states as may enter into the compact legally joining therein in the form substantially as follows:

**ATLANTIC STATES MARINE FISHERIES COMPACT**

The contracting states solemnly agree:

**Article I**

The purpose of this compact is to promote the better utilization of the fisheries, marine, shell and anadromous of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries and by the prevention of the physical waste of the fisheries from any cause. It is not the purpose of this compact to authorize the states joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof, or creating and perpetuating monopoly.

**Article II**

This agreement shall become operative immediately as to those states executing it, whenever any two or more of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, have executed it in the form that is in accordance with the laws of the executing state, and the Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon waters frequented by anadromous fish flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

**Article III**

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of such state, charged with the conservation of the fisheries resources to which this compact pertains, or if there be more than one officer or agency, the official of that state named by the governor thereof. The second shall be a member of the legislature of such state, designated by the commission or committee on interstate cooperation of such state, or if there be none, or if said commission on interstate cooperation cannot constitutionally designate the said member, such legislator shall be designated by the governor thereof: Provided, That if it is constitutionally impossible to appoint a legislator as a commissioner from such state, the second member shall be appointed by the governor of said state in his discretion. The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries problem, to be appointed by the governor. This commission shall be a body corporate with the powers and duties set forth herein.

#### Article IV

The duties of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous of the Atlantic seaboard. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions, to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever, and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end, the commission shall draft, and after consultation with the advisory committee hereinafter authorized, recommend, to the governors and legislatures of the various signatory states, legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the states, party hereto, with regard to problems connected with the fisheries, and recommend the adoption of such regulations as it deems advisable.

The commission shall have power to recommend to the states, party hereto, the stocking of the waters of such states with fish and fish eggs, or joint stocking by some or all of the states, party hereto, and when two or more of the states shall jointly stock waters, the commission shall act as the coordinating agency for such stocking.

#### Article V

The commission shall elect from its number a chairman and a vice chairman and shall appoint and, at its pleasure, remove or discharge such officers and employes as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business, and may meet at any time or place, but must meet at least once a year.

#### Article VI

No action shall be taken by the commission in regard to its general affairs, except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the commission in regard to any species of fish,

except by the affirmative vote of a majority of the compacting states which have an interest in such species. The commission shall define what shall be an interest.

#### Article VII

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission, cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the commission.

An advisory committee to be representative of the commercial fishermen and the salt water anglers and such other interests of each state as the commission deems advisable shall be established by the commission, as soon as practicable, for the purpose of advising the commission upon such recommendations as it may desire to make.

#### Article VIII

When any state, other than those named specifically in Article II of this compact, shall become a party thereto for the purpose of conserving its anadromous fish, in accordance with the provisions of Article II, the participation of such state in the action of the commission shall be limited to such species of anadromous fish.

#### Article IX

Nothing in this compact shall be construed to limit the powers of any signatory state, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state, imposing additional conditions and restrictions to conserve its fisheries.

#### Article X

Continued absence of representation or of any representative on the commission from any state, party hereto, shall be brought to the attention of the governor thereof.

#### Article XI

The states, party hereto, agree to make annual appropriations to the support of the commission, in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recent published reports of the Fish and Wildlife Service of the United States, Department of the Interior, provided no state shall contribute less than \$200 per annum, and the annual contribution of each state above the minimum shall be figured to the nearest hundred dollars.

The compacting states agree to appropriate initially the annual amounts scheduled below, which amounts are calculated in the

manner set forth herein on the basis of the catch record of 1938. Subsequent budgets shall be recommended by a majority of the commission, and the cost thereof allocated equitably among the states, in accordance with their respective interests, and submitted to the compacting states.

#### Schedule of Initial Annual State Contributions

Maine	\$ 700
New Hampshire	200
Massachusetts	2,300
Rhode Island	300
Connecticut	400
New York	1,300
New Jersey	800
Delaware	200
Maryland	700
Virginia	1,300
North Carolina	600
South Carolina	200
Georgia	200
Florida	1,500

#### Article XII

This compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice, in writing, of intention to withdraw from the compact to the other states, party hereto.

§ 7102. Members of commission from Pennsylvania.

(a) Designation and term.—In pursuance of Article III of the compact, there shall be three members (hereinafter called commissioners) of the Atlantic States Marine Fisheries Commission (hereinafter called commission) from this Commonwealth. The first commissioner shall be the executive director of the Pennsylvania Fish Commission, ex officio, and the term of this commissioner shall terminate at the time he ceases to hold the office of executive director and his successor as commissioner shall be his successor as executive director. The second commissioner shall be a legislator and member of the Pennsylvania Commission on Interstate Cooperation, ex officio, designated by the Pennsylvania Commission on Interstate Cooperation, and the term of this commissioner shall terminate at the time he ceases to hold legislative office or office as a member of the Pennsylvania Commission on Interstate Cooperation and his successor as commissioner shall be named in like manner. The Governor (by and with the advice and consent of the Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of and interest in the marine fisheries problem. The term of this commissioner shall be three

years and he shall hold office until his successor is appointed and qualified. Vacancies occurring in the office of this commissioner from any reason or cause shall be filled by appointment by the Governor (by and with the advice and consent of the Senate) for the unexpired term.

(b) Delegate of executive director.—The executive director of the Pennsylvania Fish Commission, as ex officio commissioner, may delegate from time to time to any assistant or other subordinate in his agency or office, the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the commission.

(c) Terms of initial members.—The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the compact shall then have gone into effect in accordance with Article II of the compact; otherwise, they shall begin upon the date upon which the compact becomes effective in accordance with Article II.

(d) Removal from office.—Any commissioner may be removed from office by the Governor upon charges and after a hearing.

§ 7103. Powers and duties of commission and Commonwealth agencies.

The commission and the commissioners thereof shall have all the powers provided for in the compact and all the powers necessary or incidental to the carrying out of the compact in every particular. All officers of the Commonwealth are directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the compact in every particular, it being hereby declared to be the policy of this Commonwealth to perform and carry out the compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the State Government or Administration of the Commonwealth are hereby authorized and directed, at convenient times and upon request of the commission, to furnish the commission with information and data possessed by them or any of them and to aid the commission by loan of personnel or other means lying within their legal rights, respectively.

§ 7104. Powers granted commission supplemental to other powers.

Any powers granted to the commission shall be regarded as in aid of and supplemental to, and in no case a limitation upon, any of the powers vested in the commission by other laws of this Commonwealth, or by the laws of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, or by the Congress of the United States or the terms of said compact.

§ 7105. Accounts and reports of commission.

(a) General rule.—The commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the General Assembly on or before December 10 in each year, setting forth, in detail, the transactions conducted by it during the 12 months preceding December 1 of that year, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of this Commonwealth, which may be necessary to carry out the intent and purposes of the compact between the signatory states.

(b) Examination by Auditor General.—The Auditor General of the Commonwealth may, from time to time, examine the accounts and books of the commission, including its receipts, disbursements and other items referring to its financial standing as the Auditor General deems proper, and report the results of the examination to the Governor.

§ 7106. Amendment to compact.

(a) Execution and form of amendment.—The Governor is authorized and directed to enter into an amendment of the Atlantic States Marine Fisheries Compact with any one or more of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, and such other states as may become party to that compact, for the purpose of permitting the states that ratify this amendment to establish joint regulation of specific fisheries common to those states through the Atlantic States Marine Fisheries Commission and their representatives on that body, such amendment to be in substantially the following form:

Amendment No. 1 of the  
Atlantic States Marine Fisheries Compact

The states consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating states with respect to specific fisheries in which such states have a common interest. The representatives of such states on the Atlantic States Marine Fisheries Commission shall constitute a separate section of the commission for the exercise of the additional powers so granted: Provided, That the states so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the states participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact.

(b) Effectiveness of amendment.—This amendment shall take effect as to this Commonwealth with respect to such other of the aforesaid states as take similar action.

(c) Withdrawal from amendment.—Notice of intention to withdraw from this amendment shall be executed and transmitted by the Governor and shall be in accordance with Article XII of the Atlantic States Marine Fisheries Compact and shall be effective as to this Commonwealth with those states which similarly ratify this amendment.

## CHAPTER 73 SHAD FISHING IN DELAWARE RIVER AND BAY

Sec.

- 7301. Legislative findings and declarations.
- 7302. Delaware River and Bay defined.
- 7303. Interstate cooperation.
- 7304. Permitted nets and devices.
- 7305. Season and lift period.
- 7306. License required for catching shad with nets.
- 7307. Limitations on issuance of license.
- 7308. Issuance of additional licenses.
- 7309. License fees.
- 7310. Records and reports by licensees.
- 7311. Transfer of license.
- 7312. Withdrawal of licenses issued in prior year.
- 7313. Suspension or revocation of license.
- 7314. Penalty.

§ 7301. Legislative findings and declarations.

The General Assembly finds and declares as follows:

(1) Since fish at large in the waters of this Commonwealth are a natural resource, protection and conservation of this resource in the public interest is the obligation of the Commonwealth.

(2) The shad which inhabit the waters of the Delaware River system constitute a potentially valuable source of food and raw materials and, under proper management, are capable of producing a constant and abundant harvest without depletion of the species and consequent shortages of supply. The important shad fishery of the Delaware River has been depleted so that the actual harvest is far below the potential yield of this resource which at one time yielded as much as 16,000,000 fish yearly but in recent years has yielded only a few hundred thousand pounds. This depletion has caused a denial to the consuming public of a constant and adequate supply of these vitamin rich foods within a reasonable price range that consistent and abundant supply would make possible, and has caused decline and instability in the fishing industry in this river system. The restoration of this species in the Delaware River has

become an enterprise of vast economic importance to this Commonwealth.

(3) It is a matter of public interest and for the public welfare and health for the Commonwealth to take such measures as are necessary to control the intensity of fishing pressure in order that the restoration of this valuable species may be accomplished and that the species may attain the maximum sustained yield consistent with the preservation of an adequate brood stock. Legislative limitation of the size of the mesh of nets, size limits and other like measures are not effective in conserving this species.

(4) In accordance with the purposes of the Atlantic States Marine Fisheries Compact to which this Commonwealth is a party and in order to carry out the policy of the Commonwealth as it relates to the shad inhabiting the waters of the Delaware River and in order to restore this depleted fishery, it is necessary, proper and expedient to establish a system of licensing designed to control increases in the intensity of fishing pressure so that increases in fishing pressure will be brought into balance with the population of shad in the Delaware, to the end that the shad fisheries of the waters of the Delaware River and its tributaries will be restored and will produce the maximum sustained yield consistent with the conservation of that species. Since the stabilization of fishing operations is an activity promoting the public interest, the payment of license fees and the imposing and controlling of the restrictive provisions of this chapter upon the general public is an equitable contribution on its part arising from the privileges of harvesting this natural resource.

§ 7302. Delaware River and Bay defined.

For the purpose of regulating the shad fishery of the Delaware River and Bay and their tributaries:

(1) The Delaware River includes all that part of the river and its tributaries above a line drawn from the monument on the Delaware shore at or near Listons Point and the corresponding monument at or near the mouth of New Hope Creek on the New Jersey shore, as established by the Commissioners of the States of New Jersey and Delaware under the Compact of 1905 and subsequent enabling legislation of the two states.

(2) The Delaware Bay includes all the waters of the Delaware Bay south of such line and the tributaries emptying therein down to a line connecting the Harbor of Refuge Light at Cape Henlopen, Delaware, with the lighthouse at Cape May, New Jersey.

§ 7303. Interstate cooperation.

The commission shall meet and confer with the pertinent officials of the states of New York, New Jersey, Pennsylvania and Delaware, constituting the Middle Atlantic Section of the Atlantic States Marine Fisheries Commission, and may enter into such agreements with respect to the coordination of research, enforcement or any other

operations or facilities as may be necessary to secure joint management of the shad fishery of the Delaware River and Bay and their tributaries.

§ 7304. Permitted nets and devices.

(a) Unauthorized nets or devices prohibited.—The use of any net or device other than those set forth in subsection (b) for the catching of shad in the Delaware River and Bay and their tributaries is prohibited.

(b) Nets and devices which may be used.—The following nets and devices may be used in the Delaware River and Bay and their tributaries:

(1) Haul seines not less than five and one-fourth inches stretched mesh while being fished and not to exceed 420 feet in length, whether singly or attached.

(2) Fyke or hoop nets with leaders not exceeding 180 feet in length with no part of the net or leaders to be less than two and one-half inches stretched mesh while being fished.

(3) Stake gill nets, either staked or anchored, the smallest stretched mesh of which shall be three inches while being fished and shall not exceed 180 feet in length. A shad net with minimum stretched mesh of five and one-fourth inches while being fished may exceed 180 feet but may not be greater than 300 feet in length.

(4) Drift gill nets (run around or stab nets) the smallest mesh of which shall be two and three-fourths inches stretched while being fished and the length of which shall not exceed 1200 feet.

(5) Hand line, including rod and reel.

§ 7305. Season and lift period.

(a) Season.—The taking of shad in the Delaware River and Bay and their tributaries is prohibited except between March 1 and June 10.

(b) Lift period.—During the season when shad may be caught under subsection (a) it is unlawful for any nets to be in operation between 2 p.m. on Saturday and 12 midnight Sunday.

§ 7306. License required for catching shad with nets.

(a) General rule.—The commission shall, by a special shad license, permit the use in the waters of the Delaware River and Bay and their tributaries within this Commonwealth of the nets specified in section 7304 (relating to permitted nets and devices) for the taking of shad. No person shall use any net to take shad in these waters without first procuring a shad license from the commission.

(b) Duration and renewal.—All shad licenses shall be issued annually for the duration of a fishing season beginning on March 1 and expiring on June 10 and shall be renewable annually for the same period except as otherwise provided in this chapter.

(c) License to list gear and location.—All shad licenses shall list specifically the number and type of units of gear or the length of gear authorized and the area in which they are licensed to operate if the operations authorized are limited as to area.

§ 7307. Limitations on issuance of license.

(a) General rule.—Except as otherwise provided in this chapter, no license shall be issued:

(1) To a person not engaged in such operations during the season immediately preceding that for which application for the shad license is made.

(2) To extend operations of the applicant beyond those of the last year in which those operations were carried on either by increasing the fishing capacity or the size or number of units of gear employed at that time.

(3) To operate a fixed net on a location already occupied by another licensee or within 1500 feet thereof, measured at right angles to the line of stakes, unless the other licensee has failed to apply for renewal of his license on or before January 1 of the year for which the license is to be issued.

(b) Renewal of license.—A licensee who does not engage in any or some of the fishing operations licensed may renew his license for those operations in the following season, but if he fails to engage in some or all of the operations licensed for two successive seasons he shall lose his right to renew and must apply for any further license as a new applicant with respect to those operations licensed but not engaged in. § 7308. Issuance of additional licenses.

(a) When authorized.—When the United States Fish and Wildlife Service or its successor certifies that the catch of shad in the Delaware River and Bay and their tributaries for the preceding year totals 500,000 fish, the executive director shall consult with the pertinent administrative and other officials of the states of New York, New Jersey and Delaware, constituting the Middle Atlantic Section of the Atlantic States Marine Fisheries Commission, and with the technical advisers of the United States Fish and Wildlife Service or its successor and, after such consultation and on the basis of all the scientific evidence available to the commission through these and other sources, if the commission finds that a limited number of additional operators or increased units of gear may be licensed for the following season without impairing the annual yield of the fishery it may authorize additional licenses.

(b) Determining number of licenses.—In determining the number of additional licenses, the commission shall give due consideration to the findings of the United States Fish and Wildlife Service or its successor. The commission may enter into such administrative agreements with the pertinent administrative officials of any of the other states enumerated in subsection (a) as may be necessary to establish a joint limitation of licenses and such cooperative programs as may be deemed necessary for the re-establishment of the shad fishery of the Delaware River and Bay and their tributaries in such manner as to promote the maximum sustained annual yield therefrom.

(c) Notice of proposed additional licenses.—When additional units of gear are to be licensed, the executive director shall give public notice, by advertisement once a week for two successive weeks in at least two daily newspapers of the counties of the state bordering on the Delaware River, of the additional units of gear to be licensed and the areas where they may be operated, and shall state that applications may be received up to January 1 next succeeding the publication of the notice.

(d) Grounds for refusing license.—The executive director may decline to receive any application for an additional license when, after due notice and opportunity for hearing, he finds that the applicant is not qualified by character, experience, financial responsibility and equipment to conduct properly the fishing operation applied for, or when, after due notice and opportunity for hearing, he finds that it is necessary, in order to maintain the stability of the industry or prevent conditions leading to monopoly, to prefer the applications of new operators over the extension of the operations of previous licenses, or, in the licensing of extended operations, to prefer small over large operators.

(e) Time and method of issuance.—On January 1 of each year, the commission shall issue such additional licenses as may be authorized for that year under the provisions of this section, the recipients of such licenses and the locations of fixed nets to be chosen by lot from among the applications received whenever there are more applicants than available licenses or more than one applicant for any location.

§ 7309. License fees.

The commission may issue the following shad fishing licenses which shall be valid only during the shad fishing season for which issued, as provided in this chapter, upon written application therefor, signed by the applicant, and upon payment to said commission of the following fees:

(1) Commercial shad fishing license, \$10.

(2) Noncommercial shad fishing license under which applicant is not permitted to catch more than ten shad in any one day, \$1.

§ 7310. Records and reports by licensees.

Each shad licensee shall keep a daily record of his catch on forms provided by the commission and shall provide a copy of his record for the commission at weekly intervals during the fishing season.

§ 7311. Transfer of license.

(a) When authorized.—A shad license to operate any nets permitted under this chapter may be transferred whenever the owner of the nets, boats, gear and other equipment sells or conveys them by bill of sale for a bona fide consideration to any person who is eligible under the provisions of this chapter.

(b) Application, fee and issuance.—The transfer shall be made only upon surrender of the outstanding shad license and the execution of an application by the new owner or owners as in the case of an

original application and the payment of the sum of \$2.50 as a transfer fee, whereupon the commission shall issue a new shad license for the remainder of the license season.

§ 7312. Withdrawal of licenses issued in prior year.

(a) General rule.—When the United States Fish and Wildlife Service or its successor certifies, on the basis of scientific evidence, that the catch of shad in the Delaware River and Bay and their tributaries has declined 100,000 fish or more under the previous year's catch in such waters and that there is evidence of prospective depletion, or when the commission, after investigation and on the basis of scientific evidence, finds that the fishery is threatened by depletion or that the fishing rate is too high to permit the continuance of a constant annual yield or that present exploitation threatens the future maximum yield of that fishery, it shall provide for the withdrawal in the following season of some or all of the licenses previously issued. In this connection, it may enter into administrative agreements with the pertinent administrative officials of the other states mentioned in section 7308 (relating to issuance of additional licenses) for the purpose of arranging a joint reduction of units of gear.

(b) Notice of intention.—When units of gear are to be reduced, the commission shall give public notice, in the manner set forth in section 7308, of intention to do so and of the number and character of units of gear to be withdrawn and from which areas.

(c) Method of withdrawal.—In effecting a reduction of fishing effort under the provisions of this section the commission shall withdraw shad licenses to be affected in the inverse order in which the shad licenses were issued except that if reduction of fishing intensity is sought with respect to a particular area or a particular operation license, withdrawals shall be in the inverse order in which the licenses were issued for that area or operation. In all instances where this procedure cannot be followed, resort shall be had to lots.

§ 7313. Suspension or revocation of license.

(a) Suspension.—The commission, after due notice and hearing, may suspend for a suitable period the shad license of any person who is found by them to have done any of the following:

- (1) Made a false statement in the application for a license.
- (2) Violated any shad regulation contained in this chapter.
- (3) Failed to make required shad reports.

(b) Revocation.—For a second infraction, the commission may, after due notice and hearing, revoke the shad license of the offender.

(c) Judicial review.—Any applicant or licensee aggrieved by an adjudication of the commission may appeal in accordance with Title 2 (relating to administrative law and procedure). Whether or not a supersedeas is granted, the licensee may continue to fish for shad up to the date of the final decision of the court without being held to have violated the provisions of this chapter.

§ 7314. Penalty.

Any person violating the provisions of this chapter commits a summary offense of the first degree.

Section 2. Repeals.—(a) Absolute repeals.—The following acts and parts of acts are repealed:

Act of May 4, 1871 (P.L.250, No.237), entitled “An act to regulate the sale of clams and oysters.”

Act of May 1, 1873 (P.L.89, No.61), entitled “An act to amend and consolidate the several acts relating to game and game fish.”

Act of May 8, 1876 (P.L.146, No.120), entitled “A supplement to an act, entitled ‘An Act to amend and consolidate the several acts relating to game and game fish,’ approved May first, Anno Domini one thousand eight hundred and seventy-three, to require all persons engaged in any of the manufacturing interests of this state accustomed to the washing of iron and other ores, and of coal preparatory to its use for coking, and engaged in the business of tanning, to prepare a tank or other suitable receptacle into which the sediment, culm or coal dust, the offal, refuse and the tan bark and liquor therefrom used in tanning, so far as is practicable, may be prevented from passing into or upon any of the rivers, lakes, ponds or streams of this commonwealth.”

Act of June 3, 1878 (P.L.157, No.205), entitled “An act for the protection of game and game fish, in the county of Pike, and conferring certain powers and privileges upon incorporated clubs or societies, in said county, having for their object the preservation of game and game fish.”

Act of April 6, 1903 (P.L.155, No.111), entitled “An act to regulate the catching or taking, within this Commonwealth, of bullfrogs and terrapin, and providing a penalty therefor.”

Act of April 27, 1903 (P.L.319, No.244), entitled “An act authorizing the taking of eels, in this Commonwealth, upon procuring a license so to do, and defining the manner in which they may be taken, and the license-fees which shall be paid.”

Act of April 22, 1905 (P.L.287, No.200), entitled “A joint resolution authorizing the Commissioner of Fisheries to allow the use of the tanks used by the Department of Fisheries at the Louisiana Purchase Exposition, at Saint Louis, and also the mounted specimens of fish, birds and mammals, by the city of Philadelphia, for the purposes of an aquarium; and to authorize the Commissioner of Fisheries to supply said aquarium, from time to time, with living Pennsylvania fishes.”

Act of April 22, 1909 (P.L.118, No.72), entitled “An act providing for the Department of Fisheries of the Commonwealth of Pennsylvania entering upon and occupying, with the approval of the United States, certain lands on the peninsula known as Presque Isle, in Erie County, Pennsylvania, and improving the same and the ponds thereon, and establishing a hatchery thereon for the propagation of

game and food fishes; to erect buildings and structures thereon suitable for that purpose, and to make walks and roads on said lands, for ingress to and over said premises, and for the proper care and maintenance of the same."

Section 302 and Article XXVII, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Act of May 5, 1931 (P.L.90, No.66), entitled "An act according to the United States Commissioner of Fisheries, and his agents, the right to conduct fish hatching and fish culture at a fish-cultural station established by the United States within the Commonwealth."

Act of May 28, 1931 (P.L.202, No.121), known as the "Boat Law."

Act of July 1, 1937 (P.L.2647, No.512), entitled "An act providing for the reciprocal enforcement of violations of the fishing laws in boundary waters between Pennsylvania and the States of New York and New Jersey."

Act of June 1, 1943 (P.L.798, No.335), entitled "An act providing that the State of Pennsylvania may enter into a compact with any one or more of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, and with such other states as may join, to promote the better utilization of the fisheries, marine, shell and anadromous of the Atlantic Seaboard, and to create the Atlantic States Marine Fisheries Commission; providing for the members of such commission from the State of Pennsylvania; providing for the carrying out of said compact; and making an appropriation."

Act of May 9, 1949 (P.L.926, No.260), entitled "A supplement to the act, approved the first day of June, one thousand nine hundred forty-three (Pamphlet Laws 798), entitled 'An act providing that the State of Pennsylvania may enter into a compact with any one or more of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, and with such other states as may join, to promote the better utilization of the fisheries, marine, shell and anadromous of the Atlantic Seaboard, and to create the Atlantic States Marine Fisheries Commission; providing for the members of such commission from the State of Pennsylvania; providing for the carrying out of said compact; and making an appropriation,' by authorizing the Governor to enter into an amendment of the Atlantic States Marine Fisheries Compact providing that two or more states may constitute their representatives on such commission as a joint agency for the regulation of specific fisheries in which they have a common interest and may delegate to such agency such responsibility and duties as they may mutually agree upon."

Act of May 11, 1949 (P.L.1203, No.366), entitled "An act for the protection and conservation of shad in the Delaware River and Bay and their tributaries by regulating the take or catch thereof."

Act of April 20, 1951 (P.L.225, No.33), entitled "An act assenting to the provisions of the act of Congress, entitled 'An act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,' approved August ninth, one thousand nine hundred and fifty, and conferring certain powers and duties on the Pennsylvania Fish Commission."

Act of June 19, 1953 (P.L.279, No.54), entitled "An act to prohibit operation of boats having a developed horsepower rating in excess of ten on Canadohta Lake, in Crawford County."

Act of October 22, 1955 (P.L.721, No.205), entitled "An act prohibiting operation of boats having a manufacturer's horsepower rating in excess of seven and one-half on Quaker Lake in Susquehanna County."

Act of December 15, 1959 (P.L.1779, No.673), known as "The Fish Law of 1959."

Act of July 3, 1963 (P.L.185, No.111), entitled "An act to prohibit operation of boats having a developed horsepower rating in excess of six on Sugar Lake in Crawford County."

Act of October 25, 1967 (P.L.478, No.227), entitled "An act relating to maximum capacity of certain vessels and boats; providing for capacity plates; prescribing powers and duties of the Pennsylvania Fish Commission and prescribing penalties."

Act of January 10, 1972 (1971 P.L.669, No.178), entitled "An act authorizing residents of Maryland to fish in certain reservoirs in Pennsylvania under certain circumstances without obtaining a Pennsylvania fishing license."

(b) General repeal.—All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 3. Effective date.—This act shall take effect in 90 days.

APPROVED—The 16th day of October, A. D. 1980.

DICK THORNBURGH