

No. 2006-79

AN ACT

HB 1641

Amending Titles 30 (Fish) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for boat and marine forfeiture, for the powers and duties of the Pennsylvania Fish and Boat Commission, for boat, marine equipment and watercraft trailer forfeiture and for the powers and duties of the Department of Transportation.

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

Section 1. Section 908 of Title 30 of the Pennsylvania Consolidated Statutes is amended to read:

§ 908. False identification or false or fraudulent statements on reports, etc.

A person who gives false identification to an officer authorized to enforce this title or who makes any false or fraudulent statement on any report, *affidavit* or application required by this title, or to any representative of the commission, commits a summary offense of the [second] *first* degree.

Section 2. Chapter 53 of Title 30 is amended by adding a subchapter to read:

SUBCHAPTER C
BOAT AND MARINE FORFEITURE

Sec.

5331. Scope of subchapter.

5332. Definitions.

5333. Liens.

5334. Notice for boats and related equipment.

5335. Notice for watercraft trailers.

5336. Responsibility of commission.

5337. Publication for boats and related equipment.

5338. Publication for watercraft trailers.

5339. Redemption.

5340. Forfeiture.

5341. Rights acquired by good faith purchaser.

5342. Other remedies.

5343. Construction.

5344. Rules and regulations.

§ 5331. Scope of subchapter.

(a) General rule.—This subchapter covers boat and marine forfeitures.

(b) Legislative intent.—It is the intent of the General Assembly that this subchapter act in concert with 75 Pa.C.S. Ch. 73 Subch. B (relating to watercraft trailer forfeiture).

(c) Applicability.—

(1) The provisions of this subchapter shall only apply to a boat and related equipment with a resale value based upon established industry standards equal to or less than the maximum amount set forth in this subsection.

(2) The maximum amount for the year 2006 shall be \$5,000. Thereafter, the maximum amount shall be fixed annually by the commission based upon the maximum amount in the prior year as adjusted to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the United States for all items as published by the United States Department of Labor, Bureau of Labor Statistics, for the previous 12-month period. The maximum amount as adjusted shall be rounded to the nearest multiple of \$5.

(3) The commission shall give notice of the new maximum amount by publication in the Pennsylvania Bulletin in the third publication in March of each year.

§ 5332. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Customer.” A person who contracts for the services of a marine business concerning a boat, any related equipment or a watercraft trailer.

“Marine business.” A person who repairs, remanufactures, restores, alters, stores, cleans or holds for brokerage or consignment sale boats, any related equipment or watercraft trailers. This term includes, but is not limited to, a marina, watercraft dealer, watercraft trailer dealer, boat club, yacht club, repair facility or storage facility.

“Related equipment.” Personal property:

(1) related to a boat in the possession of a marine business, including a motor; or

(2) found in or on a boat in the possession of a marine business.

The term does not include a watercraft trailer as defined in 75 Pa.C.S. § 7322 (relating to definitions).

“Terminal date.” Either of the following:

(1) In the case of any repair, remanufacture, restoration, alteration, cleaning or storage, absent a written agreement to the contrary, the term means the date upon which a bill is mailed or otherwise provided to the customer for a completed repair, remanufacture, restoration, alteration, cleaning or storage for a boat, related equipment or watercraft trailer.

(2) In the case of consignment or brokerage, the term means the last date under the brokerage or consignment contract or agreement.

“Watercraft trailer.” A trailer designed or used to transport watercraft.

§ 5333. Liens.

A marine business shall have a lien, dependent upon possession, on a boat and any related equipment belonging to an owner for the balance due the

marine business from such owner for any repair, remanufacture, restoration, alteration, storage, cleaning, consignment or brokerage of a boat and any related equipment. The marine business may retain possession of a boat and any related equipment until the charges are paid.

§ 5334. Notice for boats and related equipment.

Any time 30 days after the terminal date, if a marine business chooses to have all rights, title and interest in a boat or any related equipment transferred to the marine business by operation of law, the marine business shall on the same day send the following two written notices by certified mail, return receipt requested:

(1) To an address designated in writing by the customer or, if not so designated, to the customer's last known address, indicating that the marine business intends to terminate all rights, title and interest in the boat or any related equipment by operation of law under this subchapter. If the marine business is sending a notice to the customer pursuant to 75 Pa.C.S. § 7324 (relating to notification by watercraft trailer dealer), it may send the notice required by this paragraph in the same mailing. The notice shall contain:

(i) The name, address and telephone number of the marine business.

(ii) A description of the boat, including make, model and year, and the hull identification number, a registration number or temporary decal number.

(iii) A description of any related equipment.

(iv) Notice that the marine business intends to terminate the owner's and lienholder's rights, title and interest in the boat and any related equipment by operation of law under this subchapter.

(v) The amount which must be paid to the marine business to redeem the boat and any related equipment as of the date of the notice.

(2) To the commission indicating that the marine business intends to terminate all rights, title and interest in the boat or any related equipment by operation of law under this subchapter. This notice shall be accompanied by a fee of \$50 and shall be on a form prescribed by the commission.

§ 5335. Notice for watercraft trailers.

If a watercraft trailer dealer chooses to have all rights, title and interest in a watercraft trailer transferred to a watercraft trailer dealer by operation of law, it shall follow the notice provisions of 75 Pa.C.S. § 7324 (relating to notification by watercraft trailer dealer).

§ 5336. Responsibility of commission.

(a) Notice to lienholders and other persons.—Upon receipt of the notice specified in section 5334 (relating to notice for boats and related equipment), the commission shall:

(1) If the boat is registered or titled in this Commonwealth, notify, if on record with the commission, any lienholders and the owner or, if the

boat is not titled, the last registrant by certified mail, return receipt requested, that a marine business intends to acquire all rights, title and interest in the boat or any related equipment. The notice shall contain the name, address and telephone number of the marine business.

(2) If the boat has a registration number, temporary decal number or other identifying indicia evidencing that the boat is registered or titled in another state or is federally documented, the commission shall contact the other state or the United States Coast Guard and attempt to ascertain the name and address of any lienholder and the last registrant or owner. The commission shall provide notice to those persons by certified mail, return receipt requested, that a marine business intends to acquire all rights, title and interest in the boat or any related equipment. The notice shall contain the name, address and telephone number of the marine business.

(b) Notice to marine business.—The commission shall notify the marine business:

(1) that the commission notified any lienholders and the owner of the boat or, in the case of an untitled boat, the last registrant in accordance with this section; or

(2) that the commission was unable to provide notice in accordance with this section.

§ 5337. Publication for boats and related equipment.

(a) General rule.—At any time after the date the marine business receives notice from the commission pursuant to section 5336 (relating to responsibility of commission), the marine business shall publish a notice, once a week for two consecutive weeks, in a newspaper of general circulation published in the county where the marine business is located, describing the boat or any related equipment and any identifying data as prescribed by the commission.

(b) Contents of notice.—The notice shall include information that all rights, title and interest in the boat or any related equipment shall be transferred to the marine business by operation of law unless the boat or any related equipment is redeemed within 30 days of the date of the second publication. This notice may be combined with a publication of notice pursuant to 75 Pa.C.S. § 7326 (relating to publication).

§ 5338. Publication for watercraft trailers.

If a watercraft dealer chooses to have all rights, title and interest in a watercraft trailer transferred to a watercraft trailer dealer by operation of law, it shall follow the publication provisions of 75 Pa.C.S. § 7326 (relating to publication).

§ 5339. Redemption.

(a) Notice.—Upon request of the customer, any lienholder or the owner of a boat or any related equipment, the marine business shall provide the amount necessary under subsection (b), at the time of the request, to redeem the boat and any related equipment.

(b) Charges and expenses.—Prior to the forfeiture of a boat and any related equipment under this subchapter, the customer, any lienholder or the owner of a boat or any related equipment may pay the amount necessary to satisfy:

(1) All charges due the marine business for the repair, remanufacture, restoration, alteration, storage, cleaning, consignment or brokerage of the boat and any related equipment.

(2) Reasonable expenses associated with the mailing of notices under section 5334 (relating to notice for boats and related equipment) and the publication of notice under section 5337 (relating to publication for boats and related equipment).

(c) Return of property.—Upon payment of all charges and expenses under subsection (b), the marine business shall return the boat and any related equipment to the customer, lienholder or owner and shall thereafter have no liability to any person with respect to the boat and any related equipment.

§ 5340. Forfeiture.

A boat and any related equipment that is not redeemed within 30 days of the second publication under section 5337 (relating to publication for boats and related equipment) is deemed forfeited to the marine business, and any prior right, title or interest in the boat and any related equipment is terminated. The marine business shall make application for a certificate of title for the boat with the commission within 30 days of the date of forfeiture.

§ 5341. Rights acquired by good faith purchaser.

A purchaser in good faith of a boat or any related equipment sold by a marine business after forfeiture under this subchapter takes the boat or any related equipment free of all liens and encumbrances despite noncompliance by the marine business with the requirements of this subchapter.

§ 5342. Other remedies.

The provisions of this subchapter are in addition to any and all other remedies available to a marine business. This subchapter shall not foreclose any other remedies available to a marine business at law or in equity.

§ 5343. Construction.

Nothing in this subchapter shall be construed to authorize a marine business to transfer any right, title or interest in a boat or any related equipment in violation of section 307 of the Servicemembers Civil Relief Act (Public Law 108-89, 50 App. U.S.C. § 537) or 51 Pa.C.S. § 4105 (relating to exemption from civil process).

§ 5344. Rules and regulations.

(a) General rule.—The commission may promulgate rules and regulations as it deems necessary to carry out the provisions of this subchapter.

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

Section 3. Chapter 73 of Title 75 is amended by adding a subchapter heading and the chapter is amended by adding a subchapter to read:

SUBCHAPTER A
ABANDONED VEHICLES AND SALVORS

* * *

SUBCHAPTER B
WATERCRAFT TRAILER FORFEITURE

Sec.

- 7321. Scope of subchapter and legislative intent.
- 7322. Definitions.
- 7323. Liens.
- 7324. Notification by watercraft trailer dealer.
- 7325. Responsibility of department.
- 7326. Publication.
- 7327. Redemption.
- 7328. Forfeiture.
- 7329. Rights acquired by good faith purchaser.
- 7330. Other remedies.
- 7331. Construction.

§ 7321. Scope of subchapter and legislative intent.

(a) General rule.—This subchapter covers forfeitures of watercraft trailers left in the possession of watercraft trailer dealers.

(b) Legislative intent.—It is the intent of the General Assembly that this subchapter act in concert with 30 Pa.C.S. Ch. 53 Subch. C (relating to boat and marine forfeiture).

(c) Applicability.—

(1) The provisions of this subchapter shall only apply to a watercraft trailer with a resale value based upon established industry standards equal to or less than the maximum amount set forth in this subsection.

(2) The maximum amount for the year 2006 shall be \$1,000. Thereafter, the maximum amount shall be fixed annually by the department based upon the maximum amount in the prior year as adjusted to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the United States for all items as published by the United States Department of Labor, Bureau of Labor Statistics, for the previous 12-month period. The maximum amount as adjusted shall be rounded to the nearest multiple of \$5.

(3) The department shall give notice of the new maximum amount by publication in the Pennsylvania Bulletin in the third publication in March of each year.

§ 7322. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Customer.” A person who contracts for the services of a watercraft trailer dealer concerning a boat, related equipment or a watercraft trailer.

“Terminal date.” Either of the following:

(1) In the case of any repair, remanufacture, restoration, alteration, cleaning or storage, absent a written agreement to the contrary, the term means the date upon which a bill is mailed or otherwise provided to the customer for a completed repair, remanufacture, restoration, alteration, cleaning or storage for a boat, related equipment or watercraft trailer.

(2) In the case of consignment or brokerage, the term means the last date under the brokerage or consignment contract or agreement.

“Watercraft trailer.” A trailer designed or used to transport watercraft.

“Watercraft trailer dealer.” A person registered with the department as a watercraft trailer dealer in accordance with section 1337 (relating to use of “Miscellaneous Motor Vehicle Business” registration plates).

§ 7323. Liens.

A watercraft trailer dealer shall have a lien, dependent upon possession, on a watercraft trailer for the balance due the watercraft trailer dealer for any repair, remanufacture, restoration, alteration, storage, cleaning, consignment or brokerage of a boat, any related equipment or a watercraft trailer. The watercraft trailer dealer may retain possession of a watercraft trailer until the charges are paid.

§ 7324. Notification by watercraft trailer dealer.

(a) General rule.—If a customer does not claim possession of a watercraft trailer within 30 days of the terminal date, a watercraft trailer dealer may initiate the forfeiture procedure by sending written notice on the same day by certified mail, return receipt requested, to the department and the customer.

(b) Notice to the customer.—Notice to the customer shall be mailed to the address designated in writing by the customer or, if not so designated, to the last known address of the customer. If a watercraft trailer dealer sends notice to the customer pursuant to 30 Pa.C.S. 5334 (relating to notice for boats and related equipment), the watercraft trailer dealer may send the notice required by this section in the same mailing.

(c) Notice to the department.—Notice to the department shall be made on a form approved by the department.

(d) Content of notice.—The notice shall contain the following:

- (1) The name and address of the watercraft trailer dealer.
- (2) A description of the watercraft trailer, including any registration plate number and vehicle identification number.
- (3) Notice that the watercraft trailer dealer intends to terminate the rights, title and interest of the owner and lienholder in the watercraft trailer by operation of law in accordance with this subchapter.
- (4) The amount which must be paid to the watercraft trailer dealer to redeem the watercraft trailer as of the date of the notice.
- (5) The telephone number of the watercraft trailer dealer.

§ 7325. Responsibility of department.

(a) General rule.—Upon receipt of the notice specified in section 7324 (relating to notification by watercraft trailer dealer), the department shall send by certified mail, return receipt requested, a notice containing the information set forth in section 7324(d)(1), (2) and (3) to the last known owner and all lienholders of record.

(b) Watercraft trailers from other states.—If the watercraft trailer displays a registration plate or other identifying indicia evidencing that the watercraft trailer is titled or registered in another state, the department shall use databases to which it has access to ascertain the name and address of the owner and lienholders of record.

(c) Notice to watercraft trailer dealers.—The department shall notify the watercraft trailer dealer:

(1) upon mailing notice to the owner and lienholders; or

(2) after conclusion of a reasonable investigation, that the department has been unable to determine the name and address of any lienholder or owner.

§ 7326. Publication.

(a) General rule.—At any time after the date the watercraft trailer dealer receives notice from the department pursuant to section 7325 (relating to responsibility of department), the watercraft trailer dealer shall publish a notice, once a week for two consecutive weeks, in a newspaper of general circulation published in the county where the watercraft trailer dealer is located, describing the watercraft trailer and any identifying number.

(b) Contents of notice.—The notice shall include information that all rights, title and interest in the watercraft trailer shall be transferred to a watercraft trailer dealer by operation of law unless the watercraft trailer is redeemed within 30 days of the date of the second publication. This notice may be combined with a publication of notice pursuant to 30 Pa.C.S. § 5337 (relating to publication for boats and related equipment).

§ 7327. Redemption.

(a) Notice.—Upon request of the customer, any lienholder or the owner of a watercraft trailer, the watercraft trailer dealer shall provide the amount necessary under subsection (b), at the time of the request, to redeem the watercraft trailer.

(b) Charges and expenses.—Prior to the forfeiture of a watercraft trailer under this subchapter, the customer, any lienholder or the owner of the watercraft trailer may pay the amount necessary to satisfy:

(1) All charges due the watercraft trailer dealer for the repair, remanufacture, restoration, alteration, storage, cleaning, consignment or brokerage of the watercraft trailer.

(2) Reasonable expenses associated with the mailing of notices under section 7324 (relating to notification by watercraft trailer dealer) and the publication of notice under section 7326 (relating to publication).

(c) Return of property.—Upon payment of all charges and expenses under subsection (b), the watercraft trailer dealer shall return the watercraft

trailer to the customer, lienholder or owner and shall thereafter have no liability to any person with respect to the watercraft trailer dealer.

§ 7328. Forfeiture.

A watercraft trailer that is not redeemed within 30 days of the second publication under 75 Pa.C.S. § 7326 (relating to publication) is deemed forfeited to the watercraft trailer dealer, and any prior right, title or interest in the watercraft trailer is terminated. The watercraft trailer dealer shall make application for a certificate of title to the department.

§ 7329. Rights acquired by good faith purchaser.

A purchaser in good faith of a watercraft trailer sold by a watercraft trailer dealer after forfeiture under this subchapter takes the watercraft trailer free of all liens and encumbrances despite noncompliance by the watercraft trailer dealer with the requirements of this subchapter.

§ 7330. Other remedies.

The provisions of this subchapter are in addition to any and all other remedies available to a watercraft trailer dealer. This subchapter shall not foreclose any other remedies available to a watercraft trailer dealer at law or in equity.

§ 7331. Construction.

Nothing in this subchapter shall be construed to authorize a watercraft trailer dealer to transfer any right, title or interest in a watercraft trailer in violation of section 307 of the Servicemembers Civil Relief Act (Public Law 108-89, 50 App. U.S.C. § 537) or 51 Pa.C.S. § 4105 (relating to exemption from civil process).

Section 4. This act shall take effect in 120 days.

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL