

**THE NEED FOR ADDITIONAL BOATING FACILITIES
AND SAFETY REGULATIONS**

**REPORT OF
THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL
to
THE GOVERNOR
and
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1964

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SAFETY REGULATIONS

REPORT OF
THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, January 8, 1964.

To:

HONORABLE A. S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The General Assembly of 1962 deemed it advisable that a study be made of the need for additional boating facilities. Accordingly, the General Assembly adopted House Joint Resolution No. 74 directing the Virginia Advisory Legislative Council to make a study and report upon the need for boating facilities and how the same might be financed. The resolution follows:

HOUSE JOINT RESOLUTION NO. 74

Directing the Virginia Advisory Legislative Council to make a study of the need for additional boating facilities and how the same may be financed.

Whereas, the number of boating enthusiasts in this State has increased substantially and continues to increase; and

Whereas, in order to attract persons from other states to use the water of Virginia for the purpose of boating, which would tend to enhance the economy of this State, and to accommodate the boating public of this State, it is necessary to expand the number of public boat launching ramps and other facilities for the purpose of boating; and

Whereas, the revenues derived directly from Chapter 11.1 of Title 62 of the Code are insufficient for the proper program for the expansion of present facilities; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is directed to make a study of the existing facilities for boating and to determine what, if any, additional facilities are needed, and to study in addition the existing and potential revenues derived under Chapter 11.1 of Title 62 with a view to determining the most equitable means of financing a program for expanding boating facilities with funds to be derived from boat owners. The Commission of Game and Inland Fisheries is directed to assist the Council in its study. The Council is directed to complete its study and report to the Governor and the General Assembly not later than October one, nineteen hundred sixty-three.

Pursuant to this resolution the Council requested Arthur H. Richardson, member of the House of Delegates, Dinwiddie, to serve as Chairman of a Committee of the Council to make the initial study and report upon this subject. The Council selected the following to serve with Mr. Richard-

son upon the Committee: L. M. Ailor, Sports Editor, Richmond Times Dispatch; Fred W. Bateman, member of the Senate, Newport News; Junie L. Bradshaw, member, House of Delegates, Richmond; Edward L. Breeden, Jr., member of the Senate, Norfolk; Paul Crockett, former member of the House of Delegates, Yorktown; James W. Davis, member, House of Delegates, Agricola; Walther B. Fidler, member, House of Delegates, Sharps; Thomas R. Glass, member, House of Delegates, Lynchburg; Frank H. Harris, Jr., Petersburg; Chester F. Phelps, Executive Director, Commission of Game and Inland Fisheries, Richmond; and Miss Betty Thompson, Attorney at Law, Arlington.

The Committee organized and elected Walther B. Fidler to serve as Vice-Chairman. John B. Boatwright, Jr. and F. W. Harkrader, Jr., served as Secretary and Recording Secretary, respectively, to the Committee. Mr. Harkrader left State employment and was succeeded by Charles A. Christophersen.

The Committee found that many people were concerned over boating safety; it determined that the resolution directing the study was not broad enough to encompass a study of this matter. The Governor then requested the Council to expand the initial study to include boating safety. The letter from the Governor is as follows:

COMMONWEALTH OF VIRGINIA

GOVERNOR'S OFFICE

Richmond

February 5, 1963.

Hon. Charles K. Hutchens
Post Office Box 516
Newport News, Virginia

Dear Mr. Hutchens:

It is my understanding that a Committee of the Virginia Advisory Legislative Council, making a study under House Joint Resolution No. 74 of the need for additional boating facilities and the financing thereof, has had its attention directed to the necessity for certain safety requirements being made applicable to the operation of motor boats and related vessels. If study of the additional matter were requested by this office, it would appear the two studies could be combined in the interest of economy and efficiency.

In connection with the safety matter, my attention has been directed to Code Section 62-174.15, which permits the Commission of Game and Inland Fisheries, after application to it by a political subdivision of the State, to make special rules and regulations applicable to the safe operation of vessels on waters within any such political subdivision. It would thus appear that the Commission has limited power to make rules and regulations in the field of boating safety.

In consideration of the above, I request that the Virginia Advisory Legislative Council, in its study of boating facilities, include a study of the following matters:

The need for both local and State-wide regulations applicable to the safe and reasonable operation of motor boats; whether the present limitation under Code Section 62-174.15, which provides that the Commission cannot act until a locality applies to it, should be removed; how

safety regulations, if adopted, might be enforced most effectively; and matters in connection with the foregoing.

I shall appreciate having the report and recommendations not later than July 1, 1963.

With kind regards, I am

Sincerely,

A. S. Harrison, Jr.

Public hearings were held in Richmond, Roanoke, Fredericksburg and Fort Monroe. After hearing and considering in detail all of the evidence presented, the Committee reported to the Council. The Council has reviewed the report of the Committee, and submits its report as follows:

RECOMMENDATIONS

1. That no program for additional boating ramp facilities be enacted by law.

2. That the General Assembly adopt a resolution requesting the United States Corps of Army Engineers and the Commission of Fisheries to remove stakes that are a hazard to boating safety.

3. That a uniform marker system be adopted for use in all waters of the State.

4. That § 62-174.7 of the Code of Virginia be amended providing that the ten horsepower limitation be based upon the manufacturer's maximum rated horsepower rather than total propulsion force in use.

5. That no motorboat be operated in any of the tidal waters of the State in excess of six miles per hour within fifty yards of any vessel attached to any dock, wharf or pier; also that the Commission of Game and Inland Fisheries determine distances and speed limits by regulation in nontidal waters of the State.

6. That the Commission of Game and Inland Fisheries, upon petition by an individual owning land adjacent to public water, may authorize the type and placing of markers around a public swimming or bathing area. Upon the placing of markers, motorboats are prohibited from entering such area.

7. That § 62-174.15 be amended giving the Commission of Game and Inland Fisheries the authority on its own motion to make safety rules and regulations; and giving authority to the Commission of Game and Inland Fisheries to adopt a uniform system of markers.

8. That §§ 62-192 and 62-193 of the Code of Virginia be repealed since they are in conflict with the Boating Safety Act.

9. That the Commission of Game and Inland Fisheries abolish the present system of registering boats on a triennium basis and register boats for a three year period; the renewal date to be in the same month as the original registration.

10. That § 62-174.17 be amended requiring boats bearing a Coast Guard decal to be subject to the Boating Safety Act for the enforcement of the reckless operation section (62-174.10) and inspection of the registration certificate.

11. That the requirement for life preservers, applicable to all motorboats under § 62-174.6, be limited to motorboats required to be numbered under the Act, except on interstate impoundments, and no requirement for fire extinguishers be permitted for boats under eighteen feet in length; but that the Board of Conservation and Economic Development, as to waters on which the State maintains recreational facilities, and governing bodies of counties and cities as to waters within their boundaries, be given the power to regulate equipment of boats operating on such waters.

12. That the power of boards of supervisors to acquire property for boat landings be eliminated from the county road law (§§ 33-141 et seq.)

REASONS FOR RECOMMENDATIONS

The evidence presented at public hearings held by the Committee during its study, as well as other available material, does not indicate a great public demand for increased boating facilities beyond those planned by the Commission of Game and Inland Fisheries. We are of opinion that there are needs for additional boating facilities in many areas; however, there is not such an overwhelming need as would indicate change in the present program.

Based on figures furnished by the Commission of Game and Inland Fisheries we can reasonably expect that funds for construction of at least fourteen launching ramps of one type or another can be expected to be available each year for the next several years. Also a possibility exists that this number might be doubled should the biennial budget of the Commission be approved substantially as requested. The Commission has received bona fide requests during the past year for the development of sixty-three additional areas. If fourteen to twenty-five new boating facilities can be constructed each year over the next several years it will represent considerable progress in meeting these needs.

In view of the above, we do not feel justified in recommending any change in the sources of revenue or that additional revenue be provided for expenditure in this field at this time. The Commission of Game and Inland Fisheries should improve its engineering staff in light of the additional functions it must perform in drafting plans, approving sites, and supervising the engineering in constructing boating facilities.

2. There was evidence depicting certain areas as being hazardous because of abandoned and submerged fishing stakes. Certain waters in the State come under the jurisdiction of the Commission of Fisheries. Waters under federal control, are under the jurisdiction of the United States Corps of Army Engineers. These two agencies are responsible for the removal of fishing stakes. There is sufficient existing legislation to provide for the removal of stakes. By adopting a resolution requesting the removal of stakes, the General Assembly can direct the attention of the Commission of Fisheries and the United States Corps of Army Engineers to what should be done. Such a resolution is attached.

3. Though there is a trend toward uniformity of boating laws among states, there is still considerable variation. It is advisable to have a system of safety markers thus giving the boating public a reliable and uniform system showing speed limits, prohibited areas, channels and other information necessary to safe operation. Several states have adopted a uniform marking system, and the Commission of Game and Inland Fisheries should have the power to adopt such a system when it becomes necessary and practical to do so. Authority for the Commission to adopt a uniform system is proposed in Recommendation 7 of this Report.

4. Under existing law, motorboats having ten or more horsepower must be registered. Some motors once rated to have ten or more horsepower are not now capable of generating such power; however, it is desired that these boats be registered. By providing that the determination of propulsion force be based on the manufacturer's maximum horsepower rating, the statute will be clarified as to what motorboats are required to be registered.

5. Prevalent in tidal waters is the problem of motorboats creating a wake capable of causing damage to boats tied to a pier or dock. Under existing law, a person causing damage by creating a hazardous wake may be prosecuted. However, we believe that specific distances and speed limits in tidal waters should be set forth to clarify the law, and better inform the boating public of the care required to be exercised. The Commission of Game and Inland Fisheries may by regulation determine other distances and speed limits around tied boats in nontidal waters. This regulatory power necessarily applies to nontidal waters due to the variation in the size and use of such water.

6. Evidence was given as to the problem of individuals operating motorboats and water skiing too close to swimming areas. In order to provide safer swimming areas, people owning land adjacent to public waters, and having a public swimming or bathing area, should be allowed to mark off such area if authorized by the Commission of Game and Inland Fisheries and only with the type of markers prescribed by that Commission.

To further insure the safety of swimmers, a section prohibiting the operation of a motorboat in a marked area has been added.

7. In order to meet the various sizes and uses of the many rivers, lakes and streams in the State, rules and regulations referring to safety should emanate from the agency primarily concerned with the problems of safety. Presently, it appears that a political subdivision must first request the Commission of Game and Inland Fisheries to issue a rule or regulation before that Commission can properly deal with a local problem. Accordingly, it is necessary to amend § 62-174.15 to give the Commission of Game and Inland Fisheries the power to make rules and regulations referring to safe operation upon its own motion. Also, the Commission should have power to adopt a uniform system of markers.

8. It is necessary to repeal §§ 62-192 and 62-193 of the Code of Virginia since they are in conflict with the Boating Safety Act and are no longer necessary.

9. During the course of the hearings, complaints were heard regarding the triennium system of boat registration. This past year, a registration certificate issued for a boat purchased in the spring was valid for only two or three months before a new three-year certificate had to be purchased. It is more equitable to have registration certificates valid for three years from the month in which the certificate is issued. This should also reduce costs to the Commission since the work load will be stretched out.

10. At the present, State game wardens are prohibited from stopping and boarding boats bearing Coast Guard decals. The United States Coast Guard does not favor the exemption of such boats completely from the Boating Safety Act. The recommended legislation will specify that a State officer may require a showing of the registration certificate, and enforce the provisions of the reckless operation section (62-174.10). The standards for equipment set by the United States Coast Guard are such that any boat bearing a Coast Guard decal need not be subject to State routine equipment inspection.

11. The numbering requirement of the Boating Safety Act applies to motorboats with a propulsive force of ten or more horsepower. Other provisions of the Act, relating to such matters as equipment, have been construed to apply to all motorboats of any size and with any kind or size motors. We do not believe that the public realizes this, and certain of the regulatory provisions are almost universally violated by operators of small boats. We have specific reference to the requirements for life preservers and fire extinguishers. Many of the newer boats of this size are unsinkable. Most of those who use them are good swimmers, and a large part of their use of the boats is close to shore. Such boats, moreover, are frequently used by waterfowl hunters in marshlands, and life preservers and fire extinguishers are bulky items which they will not carry with them.

Accordingly, we recommend limiting the general requirement for life preservers to motorboats which are required, under the Act, to be numbered. Although by regulation of the Commission of Game and Inland Fisheries fire extinguishers are not required for small boats, we feel that the law should explicitly so state, for boats under eighteen feet in length. However, with respect to certain impoundments, which are large and are used both by residents of Virginia and those of the adjoining states into which the impoundments extend, we feel that the requirements should be continued. Also, as to bodies of water with respect to which the State maintains recreational facilities, we believe the Board of Conservation and Economic Development, under whose jurisdiction such facilities are, should be empowered to regulate equipment of motorboats operated thereon. The same power should be given to governing bodies of the political subdivisions of the State, who are familiar with local conditions, as to bodies of water within their boundaries.

There has been in effect since 1958 a statute (carried as § 62-195 of the Code) requiring all persons renting boats to furnish life preservers for each passenger in such a boat. We do not feel that this imposes a hardship and suggest no change in the provisions of this section.

12. §§ 33-142, 33-144, 33-146, 33-148, 33-149, 33-150, 33-151, 33-153 and 33-154 of the Code, which are part of the old County Road Law, presently allow the board of supervisors of a county to condemn areas to be used for boat landings. These provisions formerly were necessary to insure counties the right to establish landings for ferries where a road was being established or relocated. Since only two counties still maintain their own roads, and neither is in a location where ferries could be practical, the power to condemn for landings is no longer necessary, and we recommend that these sections be amended accordingly.

Furthermore, the provisions of this statute are at variance with the general law of eminent domain in that the condemnor rather than a court determines whether the condemnation is to be permitted and the price to be paid. A condemnee can appeal from a decision by the board of supervisors only on the grounds of amount of compensation or damages to be allowed. No appeal may be taken on the grounds of there being no public necessity for the taking of the property for use as a landing. Thus, merely by action of a board of supervisors, irreparable damage could be inflicted on owners of waterfront property, and we feel that this should not be permitted.

OTHER CONSIDERATIONS

During the course of this study, many people discussed the adoption of an "implied consent" law for boat operators paralleling the motor vehicle act. Suggestions were also made to license boat operators, and that a special law enforcement section should be created under the Commission of Game and Inland Fisheries. Though boating is increasing each year in the State, and from all indications will continue to grow, at the present there is no pressing need for such legislation. The Boating Safety Act was originally enacted in 1960. More experience with the Act is necessary before any major legislative changes can be made. At present, courses in boating safety are being conducted by power squadrons, Coast Guard Auxiliaries and private boat clubs. It is hoped that these courses will be continued and expanded. A better educated boating public will be a safer boating public.

CONCLUSION

Appreciation is expressed to all individuals expressing their views and for the assistance given by the Commission of Game and Inland Fisheries in preparing factual information. The Council especially desires to recognize the contribution of time and interest made by members of the Committee and express its thanks for their assistance.

Bills and a resolution carrying out the recommendations are attached.

Respectfully submitted,

CHARLES K. HUTCHENS, Chairman
EDWARD E. WILLEY, Vice-Chairman
C. W. CLEATON
JOHN WARREN COOKE
JOHN H. DANIEL
CHARLES R. FENWICK
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J. D. HAGOOD
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LEWIS A. McMURRAN, JR.
MOSBY G. PERROW, JR.
ARTHUR H. RICHARDSON

Baldwin G. Locher was not present when final action was taken on this report.

RECOMMENDED BILLS

A BILL to amend and reenact §§ 62-174.5, 62-174.6 and 62-174.7 as amended, 62-174.15, 62-174.17, 62-174.18 as amended, and 62-195 of the Code of Virginia and to further amend the Code of Virginia by adding sections numbered 62-174.5:1, 62-174.13:1 and 62-174.13:2, relating to, registering and numbering of motorboats, rules and regulations of the Commission of Game and Inland Fisheries, enforcement of boating act, punishment for violation of the boating act, designating areas as swimming and bathing areas and limitations on the use of motorboats; and to repeal §§ 62-192 as amended, and 62-193, relating to certain of the same matters.

Be it enacted by the General Assembly of Virginia:

1. That §§ 62-174.5, 62-174.6 and 62-174.7, as amended, 62-174.15, 62-174.17, 62-174.18, as amended, and 62-195 of the Code of Virginia be amended and reenacted, and that the Code of Virginia be amended by adding sections numbered 62-174.5:1, 62-174.13:1 and 62-174.13:2, the amended and new sections being as follows:

§ 62-174.5. (a) The owner of each motorboat requiring numbering by this State shall file an application for number with the Commission on forms approved by it. The application shall be signed by the owner, or his agent, of the motorboat and shall be accompanied by a fee of five dollars. * Upon receipt of the application in approved form the Commission shall have the same entered upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. *Any certificate issued after June thirty, nineteen hundred sixty-three in accordance with this chapter shall be issued to expire three years from the first day of the month in which issued, and may thereafter upon proper application and payment of fee, in the discretion of the Commission, be renewed.* The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the Commission in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket-size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

(b) The owner of any motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the motorboat on the waters of this State in excess of the ninety-day reciprocity period provided for in § 62-174.7 (1). Such recordation shall be in the manner and pursuant to the procedure required for the award of a number under subsection (a) of this section, except that no additional or substitute number shall be issued.

(c) Should the ownership of a numbered motorboat change, a new application form with appropriate fee as provided in subsection (a) of this section shall be filed with the Commission and a new certificate bearing the same number shall be awarded in the manner as provided for in an original award of number. In case a certificate should become lost a new certificate bearing the same number shall be issued upon payment of a fee of fifty cents. Possession of the certificate shall in cases involving prosecution for violation of any provision of this chapter be prima facie evidence that the person whose name appears thereon is the owner of the boat referred to therein.

(d) In the event that an agency of the United States Government shall have in force an over-all system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this chapter by the Commission shall be in conformity therewith.

(e) The Commission may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this chapter and with any rules and regulations of the Commission, shall be valid as if awarded directly by the Commission.

(f) All records of the Commission made or kept pursuant to this section shall be public records but shall be open for inspection subject to such conditions as the Commission may prescribe. The Commission shall furnish, without cost until January first, nineteen hundred and sixty-four, the annual lists of boat registrations, as of January one of each year to the Commissioners of Revenue, of each county or city, except that the Commission shall not send such lists to any Commissioner who requests that he not receive such lists.

(g) Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for the period * *that it is valid* unless sooner terminated or discontinued in accordance with the provisions of this chapter.

*

(i) The owner 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 motorboat numbered in this State pursuant to subsections (a) and (b) of this section or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat except that, in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

(j) Any holder of a certificate of number shall notify the Commission within fifteen days if his address no longer conforms to the address appearing on the certificate, and shall, as a part of such notification, furnish the

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 or for the alteration of an outstanding certificate to show the new address of the holder.

(k) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

(1) Dealers and manufacturers.

(1) The registering numbering requirements of this chapter shall apply to dealers and manufacturers of motorboats.

(2) Applications for certificates of number shall be made on the approved application form prescribed in this chapter. Dealers and manufacturers shall certify that they are dealers or manufactures, as the case may be.

(3) Applications shall be accompanied by a fee of fifteen dollars for dealers and twenty-five dollars for manufactures, by check or money order, and shall be forwarded to the Commission.

(4) Upon receipt by the Commission of a properly completed application and fee, it shall issue to the applicant a dealer's or manufacturer's certificate of number as appropriate, which may be used in connection with the operation of any motorboat in the possession of such dealer or manufacturer, when the boat is being used for demonstration purposes.

(5) Additional dealer's or manufacturer's certificates of number may be obtained by making application in the same manner as prescribed for the initial certificate with payment of an additional fee of eight dollars for each additional certificate.

(6) Manufacturers or dealers may have the number or numbers awarded to them printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the boat being demonstrated, so long as the display meets the requirements of this chapter.

§ 62-174.5:1. (a) Any individual owning real estate which touches any of the waters of this State or the agent of such individual may petition the Commission to authorize the placing of markers approved by the Commission around a swimming or bathing area.

(b) The Commission, upon receiving such petition and sufficient proof and such other information as the Commission requires that the water adjacent to such real estate is used in whole or in part as a swimming or bathing area, may authorize the placement of such markers as are necessary to designate the area as a swimming or bathing area.

(c) The cost of the purchase and placement of such markers shall be borne by the individual requesting the placement of such markers.

§ 62-174.6. (a) Motorboats subject to the provisions of this chapter shall be divided into four classes as follows:

- (1) Class A. Less than sixteen feet in length.
- (2) Class 1. Sixteen feet or over and less than twenty-six feet in length.
- (3) Class 2. Twenty-six feet or over and less than forty feet in length.
- (4) Class 3. Forty feet or over.

(b) Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way, and during such times no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Motorboats of Class A and Class 1 shall carry a white light aft to show all around the horizon and shall carry a combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw light from the right ahead to two points abaft the beam on their respective sides.

(2) Every motorboat of Classes 2 and 3 shall carry the following lights:

a. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc

of the horizon of twenty points of the compass so fixed as to throw the light ten points on each side of the vessel; namely, from right ahead to two points abaft the beam on either side.

b. A bright white light aft to show all around the horizon and higher than the white light forward.

c. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

(3) Motorboats of Classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft prescribed by this section. Motorboats of Classes 2 and 3 when so propelled, shall carry the colored side lights, suitably screened, but not the white lights prescribed by this section. Motorboats of all classes, when so propelled, shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert a collision.

(4) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean "visible" on a dark night with clear atmosphere.

(5) When propelled by sail and machinery any motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.

(c) Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, 1948, Federal Act of October 11, 1951 (33 USC 143-147d) as amended, in lieu of the lights required by subsection (b) of this section.

(d) Every motorboat of Classes 1, 2 or 3 shall be provided with an efficient whistle or other sound-producing mechanical appliance.

(e) Every motorboat of Classes 2 or 3 shall be provided with an efficient bell.

(f) Every motorboat shall carry at least one life preserver or life belt, or ring buoy, or other device of the sort prescribed by the regulations of the Commission for each person on board, so placed as to be readily accessible; provided, that every motorboat carrying passengers for hire shall carry so placed as to be readily accessible at least one life preserver of the sort prescribed by the regulations of the Commission for each person on board.

(g) Every motorboat shall be provided with such number, size and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the Commission, which fire extinguisher shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

(h) The provisions of subsections (d), (e), and (g) of this section shall not apply to motorboats while competing in any race conducted pur-

suant to § 62-174.14 or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(i) Every motorboat shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the Commission.

(j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the Commission for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(k) The Commission is hereby authorized to make rules and regulations modifying the requirements contained in this chapter to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws, or, with the rules promulgated by the United States Coast Guard.

(l) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

(m) In the event that any of the regulations of subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) of § 62-174.6 are in conflict with the equipment requirements prescribed by the Federal Motorboat Act of nineteen hundred forty (46 U.S.C. 526 et seq.), the Commission is hereby granted the authority to adopt such regulations as are necessary to conform with the aforesaid federal law and regulations.

(n) Row boats, whether under oars or sail, when occupied and in use in all weathers from sunset to sunrise, when used on any body of salt water or any river below the fall line of such river, and on any river above the fall line of such river, pond, lake or body of impounded water, where the use of power propelled boats is regular and customary, shall have ready at hand a lantern or flashlight showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

(o) The provisions of subsections (f) and (g) of this section shall not apply to motorboats not required to be numbered under the provisions of subsection (7) of § 62-174.7 nor shall the fire extinguisher requirement of paragraph (g) of this section apply to motorboats of eighteen feet or less, except when being operated on impounded waters constituting a portion of an impoundment lying and being situated partly in the State of Virginia and partly in an adjoining state; provided, that the Board of Conservation and Economic Development is hereby empowered to adopt rules and regulations governing the equipment of such motorboats operating on lakes or bodies of water constituting a part of a State park or on which the State maintains recreational facilities; and provided further, that the governing bodies of counties and cities are empowered to adopt ordinances governing the equipment of such motorboats operating within their respective boundaries but when an impoundment lies within two or more counties or cities or counties and cities and is not one with respect to which the Department of Conservation and Economic Development is empowered to act, the governing bodies of all such political subdivisions shall have power jointly to adopt such ordinances, which shall be uniform in application.

§ 62-174.7. A motorboat shall not be required to be numbered under this chapter if it is:

(1) A motorboat which has been awarded a number pursuant to federal law or a federally approved numbering system of another state: provided, that any such boat shall not have been within this State for a period in excess of ninety consecutive days.

(2) A motorboat from a country other than the United States temporarily using the waters of this State.

(3) A motorboat which is used in a governmental function by the United States, a state or a subdivision thereof.

(4) A ship's lifeboat.

(5) A vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.

(6) A racing boat used during an authorized race and during a twenty-four hour period before and after such race.

(7) A motorboat having a total propulsion force *as determined by the manufacturer's maximum horsepower rating* of less than ten horsepower *whether or not such total propulsion force is in use*.

§ 62-174.13:1. *No person shall operate a motorboat or any tidal waters of this State at a speed in excess of six miles per hour within fifty yards of any other vessel that is attached in any manner to a dock, wharf or pier.*

All other waters of this State shall be subject to rules and regulations as provided in § 62-174.15 (b) of the Code of Virginia.

§ 62-174.13:2. *No person shall operate a motorboat or manipulate skis within the area of the waters of this State marked by the Commission as provided in § 62-174.5:1 of the Code of Virginia.*

§ 62-174.15. (a) Any *political* subdivision of this State, may at any time, but only after public notice, make formal application to the Commission for special rules and regulations with reference to the safe and reasonable operation of vessels on any water within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

(b) The Commission is hereby authorized *upon application by a political subdivision or its own motion* to make special or general rules and regulations with reference to the safe and reasonable operation of vessels on any waters within the territorial limits of any *political* subdivision of this State; *without limiting the generality of the grant of such power, a system of regulatory or navigation markers may be adopted by the Commission. Provided that nothing in this section shall be construed to affect the application of any general law concerning the tidal waters of this State.*

§ 62-174.17. Every game warden and every other law enforcement officer of this State and its subdivisions shall have the authority to enforce the provisions of this chapter and in the exercise thereof shall have authority to stop any vessel subject to this chapter; and, after having identified himself in his official capacity, shall have authority to board and inspect any vessel subject to this chapter; provided that,

except for enforcement of § 62-174.10, and the requirement of having the registration certificate on board, the provisions of this section shall not apply to any vessel on which is displayed a current valid United States Coast Guard or United States Coast Guard Auxiliary inspection decal.

§ 62-174.18. Any person who violates any provision of §§ 62-174.4, 62-174.5, 62-174.6, 62-174.8, 62-174.9, 62-174.11, 62-174.13, *62-174.13:1, 62-174.13:2*, 62-174.14 and 62-174.17 *or regulation adopted under this act* shall be guilty of a misdemeanor and shall be punished by a fine of not more than fifty dollars for each such violation.

§ 62-195. It shall be unlawful for any person to regularly offer a boat or boats, *other than a motorboat*, for rent for use on the waters of any natural or artificial lake in this State having an area in excess of one hundred acres unless such person shall provide, for the use of each passenger in each such boat, a vest-type life preserver adequate to support such passenger in water for a period of at least twenty-four hours. Any person violating this section shall be guilty of a misdemeanor and punished accordingly.

2. That §§ 62-192 as amended, and 62-193, of the Code of Virginia are repealed.

A BILL To amend and reenact §§ 33-142, 33-144, 33-146, 33-148, 33-149, 33-150, 33-151, 33-153 and 33-154 of the Code of Virginia, relating to roads and bridges established in counties, duty of viewers, procedure on viewers' report, commissioners to assess damages, enhancement in value of residue, action of commissioners, payment of costs, compensation and damages where road not to be located.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33-142, 33-144, 33-146, 33-148, 33-149, 33-150, 33-151, 33-153 and 33-154 of the Code of Virginia be amended and reenacted as follows:

§ 33-142. Whenever the board of supervisors or other governing body of any county shall be of opinion that it is necessary to establish or alter the location of a public road * or bridge or any other person applies to the board or other governing body therefor it may appoint five viewers, who shall be resident freeholders of the county, any three of whom may act, to examine such roads or routes and report upon the expediency of establishing or altering the location of such public road * or bridge or, in lieu of such viewers, it may direct the county road engineer or county road manager, if any, to examine such road or route and make such report and such board may establish or alter such road * or bridge upon such location and of such width and grade as it may prescribe; provided, that the right of way for any public road shall not be less than thirty feet wide, except that in any case in which the cost of constructing and maintaining any such road is to be borne by any individual or individuals the right of way for such road may be less than thirty, not less than fifteen, feet in width. If no one of the viewers be an engineer, appointed for the purpose of making survey and map, the board of supervisors or other governing body may employ one, if necessary, to assist the viewers.

§ 33-144. The viewers, or the county road engineer or county road manager, as the case may be, shall, as early as practicable after receiving the order of the board of other governing body to that effect, proceed

to make the view, and may examine other routes and locations than that proposed and if of opinion that there is a necessity to establish or alter the location of the public road * or bridge shall locate the same, return a map or diagram thereof with their report, and make a report to the board or other governing body, stating:

- (1) Their reasons for preferring the location made,
- (2) The probable cost of establishing or altering the location of such road * or bridge,
- (3) The convenience and inconvenience that will result as well to individuals as to the public,
- (4) Whether the road * or bridge will be one of such mere private convenience as to make it proper that it should be opened, established or altered and kept in order by the person or persons for whose convenience it is desired,
- (5) Whether any yard, garden or orchard will have to be taken,
- (6) The names of the landowners on such route,
- (7) Which of such landowners require compensation,
- (8) What will be a just compensation to the landowners requiring compensation for the land so taken and for the damages to the residue of the tract, if any, beyond the peculiar benefits to be derived in respect to such residue, from the road * or bridge to be established, and
- (9) All other facts and circumstances in their opinion useful in enabling the board of supervisors or other governing body to determine the expediency of establishing or altering the road * or bridge.

They shall file such report with the clerk of the Board or other governing body.

§ 33-146. At the next meeting of the board of supervisors or other governing body after receipt of such report, unless the opinion of the board or other governing body be against establishing or altering the road *or* bridge, * they shall require their clerk to issue process to summon the proprietors and tenants of the land on which it is proposed to establish or alter such road *or* bridge * to show cause against the same. The summons shall be directed, executed and returned as a summons may be in other cases, except that it may be personally served in the county on an agent or tenant of any proprietor not within the same and such service shall be equivalent to service on such proprietor. And if any proprietor resides out of this State and be not within the county, or have no agent or tenant known to the board of supervisors or other governing body or its clerk residing therein, or if the true owners or proprietors of the lands, or any part thereof, be not known to the clerk or board or other governing body, the clerk or board or other governing body may order notice to all whom it may concern to be published for four successive weeks in some newspaper having general circulation in the county or posted at the front door of the courthouse of the county on some court day, to appear and show cause against establishing or altering the road *or* bridge *, as the case may be. The cost of such publication shall be paid by the county.

§ 33-148. Upon the return of the process duly executed, defense may be made to the proceedings by any party, and the board of supervisors

or other governing body may hear testimony touching the expediency or propriety of establishing or altering the road *or* bridge *. Upon such hearing, unless the board of supervisors or other governing body be of opinion that the road *or* bridge * ought not to be established or altered, in which case it shall so order, it shall proceed to fix upon a just compensation to the proprietors and tenants for the land proposed to be taken and the damage accruing therefrom.

§ 33-149. If any tenant or proprietor desire, or if the board of supervisors or other governing body see cause for doing it, it shall appoint five disinterested resident freeholders of the county as commissioners, any three of whom may act, for the purpose of ascertaining a just compensation for the land to be taken for such road *or* bridge * and damages, if any, to the residue, beyond the benefits to be derived by such residue, from such road *or* bridge *.

§ 33-150. The enhancement, if any, in value of the residue by reason of the establishment or alteration of such road *or* bridge * shall be offset against the damage to the residue, but there shall be no recovery over against such landowner for any excess nor shall enhancement be offset against the value of land taken.

§ 33-151. The commissioners shall meet on the lands of such proprietors and tenants as may be named in the order of the board of supervisors or other governing body at a certain place and day therein also specified, of which notice shall be given by the sheriff to such proprietors and tenants or their agents, except only that it need not be given to one present at the time of making the order. Any one or more of the commissioners attending on the land as aforesaid may adjourn, from time to time, till the business shall be finished. The commissioners, in the discharge of their duties, shall comply in all respects with the provisions of chapter 1 of Title 25 so far as applicable. They shall forthwith make return of their report and the certificate required by § 25-16 to the board of supervisors or other governing body and, unless good cause be shown against the report, it shall be confirmed. If, however, good cause be shown against the record or the commissioners report their disagreement, or fail to report within a reasonable time, the board of supervisors or other governing body, as often as it seems proper, may appoint other commissioners for the purpose of ascertaining the compensation and damages as aforesaid. When any report is confirmed, the board of supervisors or other governing body shall establish or alter the road *or* bridge * with or without gates, as to it may seem proper, and provide for the payment of the compensation and damages allowed.

§ 33-153. When the road *or* bridge * is established or altered the county shall be chargeable with the compensation and damages to the proprietor or tenant and all costs incurred in the proceedings; provided, however, that when the record shows that the sum allowed by the circuit court on appeal, as compensation and damages to any proprietor or tenant, is not more than the amount allowed him by the board of supervisors or other governing body from whose decision the appeal was taken, such proprietor or tenant shall be adjudged to pay the costs occasioned by such appeal. When the board of supervisors or other governing body decides against the application to establish or alter a road *or* bridge *, the applicant shall pay the costs incurred in the case, except the compensation of the viewers.

But when it shall appear to the board of supervisors or other governing body that the opening and establishing or altering of such road will be for mere private convenience then the board of supervisors or other governing body may order the same upon condition that such applicant pay, in whole or in part, the compensation and damages to the proprietor or tenant and the costs of the proceedings and keep the road in order. In any such case the road shall not be opened and established or altered until such compensation and damages and costs shall have been first paid or the written consent of the proprietor or tenant given.

§ 33-154. * No road * shall be established upon or through the lands of any cemetery or through the lands of any seminary of learning without the consent of the owners thereof.

HOUSE JOINT RESOLUTION NO.

Requesting the United States Corps of Army Engineers and the Virginia Commission of Fisheries to remove certain abandoned stakes in certain waters.

Whereas, the tidal waters of Virginia contain rich fisheries resources and nets are placed therein on stakes to capture such fish; and

Whereas, after the abandonment of these places, the stakes remain and constitute a hazard to boats and to water skiers and such stakes should be removed in order to avoid this menace; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, that the United States Corps of Army Engineers and the Virginia Commission of Fisheries are hereby requested to remove from the waters under their jurisdiction, all abandoned fishing stakes which are a hazard to boats and water skiers. Resolved, further, that the Clerk of the House of Delegates is requested to send copies of this resolution to the United States Corps of Army Engineers and the Virginia Commission of Fisheries.

