

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 3020

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

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

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

Enr. Com. Sub. For H. B. No. 3020] 2

violations; and creating a misdemeanor offense for violation of certain sections.

PREAMBLE

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

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

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

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

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

Be it enacted by the Legislature of West Virginia:

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

**ARTICLE 9. BOAT DOCK AND MARINA SAFETY REQUIREMENTS —
THE MICHAEL CUNNINGHAM ACT.**

§20-9-1. Definitions.

1 As used in this article:

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

3 (2) "Boat dock" means a man-made structure that protrudes
4 into a body of water for the purpose of mooring a boat or for
5 other water-related recreation, including boat liveries, and that
6 is connected to an electrical power source in any manner:
7 *Provided, That* "boat dock" does not include structures that are
8 privately owned and used exclusively by the owner or the
9 owner's guests for non-commercial purposes;

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

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

14 (B) Operates a boat dock or marina;

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

20 (5) "Marina" means a dock including a boat dock or basin
21 providing moorings for motorboats and offering supply, repair

Enr. Com. Sub. For H. B. No. 3020] 4

22 or other services, including electrical power supply, for
23 remuneration: *Provided*, That "marina" does not include docks
24 that are privately owned and used exclusively by the owner or
25 the owner's guests for non-commercial purposes;

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

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

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

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

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

**§20-9-3. Boat Dock and Marina Safety Requirements-Electrical
Shock and Electrocutation.**

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

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

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

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

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

1 Each boat dock and marina shall be in full compliance with
2 this article by August 1, 2014. The penalties contained in section
3 seven of this article apply only to conduct on or after August 1,
4 2014. Enforcement of sections three and four of this article
5 regarding the work of electricians shall be conducted by the
6 State Fire Marshal.

§20-9-5. Rule-making Authority.

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

Enr. Com. Sub. For H. B. No. 3020] 6

10 Code and ABYC Standards Projects E-2, E-10 and E-11, as
11 appropriate to the West Virginia waterways.

§20-9-6. Penalties.

1 (a) A boat dock or marina owner or operator who violates
2 sections two or three of this article and the violation does not
3 result in the injury or death of a person, shall, for the first
4 offense, be issued a warning citation with no court appearance or
5 penalty, and for a second or subsequent offense, be fined \$100.
6 After a boat dock or marina owner or operator is put on notice of
7 a violation of sections two or three of this article and is directed
8 to cure the violation within a certain amount of time, each and
9 every day that the violation continues after the time given to cure
10 shall constitute a separate offense.

11 (b) A boat dock or marina owner or operator who violates
12 sections two or three of this article, and the violation results in
13 the injury of a person, shall be guilty of a misdemeanor and,
14 upon conviction, shall be fined not more than \$500, and for a
15 second offense or subsequent offense shall be fined not more
16 than \$1,000 or confined in jail for not more than six months, or
17 both fined and confined.

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