

(127th General Assembly)
(Amended Substitute Senate Bill Number 271)

AN ACT

To amend sections 1541.31, 1547.14, 1547.24, 1547.99, and 1548.032 and to enact sections 1547.072 and 1547.132 of the Revised Code to make changes to the laws governing watercraft, to revise the Pymatuning Lake Compact, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1541.31, 1547.14, 1547.24, 1547.99, and 1548.032 be amended and sections 1547.072 and 1547.132 of the Revised Code be enacted to read as follows:

Sec. 1541.31. That the compact or agreement mentioned below and every article, matter, and thing therein is hereby ratified and approved and shall be and hereafter remain in force agreeable to the true tenor and intent thereof.

AGREEMENT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA

AND THE STATE OF OHIO RE PYMATUNING LAKE

This agreement made and concluded between the commonwealth of Pennsylvania, acting by and through its lawfully authorized agency, namely, the water and power resources board, as party of the first part, and the state of Ohio, acting by and through its lawfully authorized agency, namely, its conservation commissioner, as party of the second part,

Witnesseth:

Whereas, By act of assembly of Pennsylvania approved May 2, 1929, P. L. 1503, as amended by acts of May 5, 1931, P. O. 84, April 24, 1933, P. L. 67, and July 9, 1935, P. L. 619, the department of forests and waters of Pennsylvania, acting through the water and power resources board, was authorized, inter alia, to complete the work begun and continued under an act approved July 25, 1913, P. L. 1270, entitled "An act providing for the erection of a dam at the outlet of Pymatuning swamp, and the establishment of a reservoir to conserve the waters thereof; providing for the taking of land and materials necessary thereto; vesting certain powers and duties in the water supply commission; and making an appropriation", and did duly

complete said work, whereby there was created a lake or reservoir, now known and hereinafter called Pymatuning Lake, extending in part across the boundary line between said states of Ohio and Pennsylvania into the state of Ohio, and

Whereas, The primary purposes of the project by which said lake was created was to conserve water draining said swamp, all of which has its source in Pennsylvania, as well as control floods and regulate the flow of water in the Shenango and Beaver rivers, and secondary thereto, permit the water and the land surrounding the same to be used for fishing, hunting, recreation and park purposes, under such terms and conditions as the water and power resources board might determine, in such way or ways as in the opinion of the said board will not materially interfere with the primary purpose in said acts of assembly and hereinbefore specifically referred to, and

Whereas, In view of the fact that a certain part of the lake extends into the state of Ohio, whereby it is necessary and desirable that the use of the lake for the secondary purposes, namely, hunting, fishing, and recreational use, be uniformly provided for, as well as to guard against inconvenience and mischiefs which might hereafter arise from the uncertainty of jurisdiction within and on said lake, to the end that the lake may be adequately policed and conflicts of jurisdiction for the arrest and punishment of offenders be avoided.

Now, then, therefore, in order that law and justice may in all such cases be executed and take effect upon said lake from shore to shore in all parts and places thereof where the lake is a boundary between said states, the said parties hereto do agree for and in behalf of their respective states in the manner following:

1. General use. It is hereby agreed that the entire Pymatuning lake or reservoir, subject to the primary use thereof by the commonwealth of Pennsylvania for regulating the flow of the water in the Shenango and Beaver rivers as in paragraph 9 hereinafter more specifically mentioned, shall be open for recreational use equally to the citizens of both contracting parties, save as restricted as to hunting, fishing, and boating in this agreement set forth, or hereafter mutually agreed upon by both parties but no person shall be permitted to hunt or fish therein or thereon unless the lawful holder of a fishing or hunting license, authorizing the holder so to do, issued by the proper authorities of Pennsylvania or of Ohio.

2. Arrest and prosecution of offenders. That each state shall enjoy and exercise a concurrent jurisdiction upon the water (but not upon the dry land), between the shores of said lake, including the islands therein, with respect to

the arrest and prosecution of offenders, but in such sort that any boat or vessel fastened to or aground on the shore of either state shall be considered exclusively within the jurisdiction of said state; but that all capital and other offenses, trespasses, or damages committed on or over said lake, the judicial investigation and determination thereof shall be exclusively vested in the state wherein the offender or person charged with such offense shall be first apprehended, arrested, prosecuted, or first brought to trial; it being the intent of this agreement that an offender may be pursued and arrested anywhere on or over said lake or shores thereof or islands therein, regardless of the boundary lines, by any peace officers or persons of either state authorized to make arrests, whether the offenses be committed on or over any part of the lake, on the shores or islands therein, regardless of the state in which the place where the offense was committed lies.

3. Islands. All islands within the lake shall be considered as part of the state of Pennsylvania.

4. Pollution of water. The lake shall be forever protected against pollution of its waters by industrial trade waste, individual, or municipal sewage from shore or boat, and the discharge of any noxious or deleterious substance, liquid or solid, into the waters of the lake which is or may become inimical, or injurious, to public health or to animal or aquatic life is hereby expressly forbidden.

No sewage may be discharged into the waters of the lake except after complete treatment and then only upon permit first approved by the health department of both states.

5. Boats and vessels Watercraft. No person shall operate any watercraft propelled by a single motor, or any combination of motors, that produces a horsepower rating in excess of ~~ten twenty~~ horsepower on Pymatuning Lake, except ~~a pontoon boat sixteen feet in length or longer propelled by a single motor, or any combination of motors, that produces a horsepower rating of twenty horsepower or less and~~ police or administration watercraft, the number of which shall be mutually agreed upon by the parties hereto.

No person shall operate a watercraft without first obtaining a license from the respective state of which the owner is a resident under such regulations as each party to this agreement may now have or hereafter adopt. Provided nevertheless that the use of any type of watercraft equipped with a motor is expressly limited and restricted to that portion of the lake extending from the main dam near Jamestown northwardly to the causeway at or near Linesville. Watercraft equipped with a motor in excess of ~~ten a twenty~~ horsepower rating may be operated on said lake so long as such motor is not used, ~~except for a pontoon boat that is sixteen feet in length or longer.~~

No person shall ride or attempt to ride upon one or more water skis, surfboards, towed inflatable devices, or similar devices or use or operate any ~~vessel~~ watercraft to tow a person thereon.

Nothing contained in this subdivision shall be interpreted to effect a change in the level or flow of water as determined or fixed by the department of conservation and natural resources.

Any one who violates any of the provisions of this ~~subsection or who operates any boat equipped with a motor on the lake without being authorized to do so under the provisions of this~~ subdivision; shall, upon conviction thereof, be sentenced in accordance with the applicable laws for the same or similar violations within the prosecuting jurisdiction, provided that the penalty for said violation shall not exceed a fine of five hundred dollars or imprisonment for thirty days.

6. Fishing. Any person possessing a duly issued fishing license by either state shall be permitted to fish anywhere on the entire lake (except such portion thereof as is closed to fishing by paragraph 8 hereof or such further portion as may hereafter by regulation be mutually agreed to by the parties hereto), but no fisher shall be entitled to fish from the shores of the state of which the fisher is a nonresident unless the fisher complies with the nonresident fishing license law of said state.

In order to permit the fish to fully propagate and develop, no part of the lake shall be open for fishing until July 1, 1937, and thereafter shall be closed in each year between December 10 and June 30.

Unless otherwise mutually agreed to by both parties hereto, the creel, size, and season limits for the respective kinds of fish caught shall be such as may hereafter be agreed upon between the two states.

7. Reciprocal hunting rights. Reciprocal hunting rights are hereby granted to the licensed hunters of each state on the water of that portion of the lake, both in Pennsylvania and Ohio, over the area bounded on the south by an east and west line crossing the state boundary 0.5 of a mile north of Simons, Ohio, and on the north by a line drawn between the point at which the Padanaram road crosses the state boundary and a point formerly known as the Polleck bridge, but such reciprocal hunting rights hereby granted shall extend only to such wild migratory birds as are covered by the federal migratory bird treaty and federal laws adopted thereunder.

Hunting in such portions of the lake as are not included in the area above described and designated shall be and remain under the jurisdiction of the commonwealth of Pennsylvania.

No permanent blinds shall be erected anywhere on the lake and shores thereof, but this provision shall not be interpreted as forbidding the use of a

boat as a blind temporarily moored to or grounded on the shore of the lake or islands thereof.

8. Wild game and fish sanctuaries. A. The game commission of the state of Pennsylvania, having established a wild migratory bird and game sanctuary or refuge in that part of the lake located southeast of the Pennsylvania railroad crossing, it is expressly agreed that nothing herein contained shall be interpreted as entitling the residents of either state, whether licensed to fish or hunt, or otherwise, to fish in, hunt, trespass, or enter upon said sanctuary for any purpose whatsoever. Anyone so doing shall become amenable to prosecution therefor under the game laws of the state of Pennsylvania applicable to game refuges.

B. The conservation division of the department of agriculture of the state of Ohio, having established a fish sanctuary and game refuge in the following portion of the lake:

Being the southerly parts of lots Nos. 79 and 80, Richmond township; all of lot No. 41, and all of lot No. 42, except the westerly 1000 feet thereof, in Andover township, Ashtabula county, Ohio:

Beginning at a point in the west line of lot No. 79, that is 1523 feet south of the north line of lot No. 79; also being the center line of Padanaram road; thence southerly along the county highway along the westerly side of lot No. 79, 1869.5 feet to the north line of Andover township; thence westerly along the northerly line of Andover township, 939.7 feet to the northwest corner of lot No. 41; thence southerly along the highway that marks the westerly line of lot No. 41, 2809.8 feet to the north line of lot No. 42; thence easterly along the north line of lot No. 42, 1000 feet to a point; thence in a southerly direction parallel to and 1000 feet easterly from the westerly line of lot No. 42, 2734 feet, more or less, to the southerly line of lot No. 42; thence easterly along the said southerly line of lot No. 42, 5180.4 feet to the Ohio and Pennsylvania state line; thence northerly along the said Ohio and Pennsylvania state line, 7297.6 feet, more or less, to a point that is 1523 feet southerly from the north line of lot No. 80; thence in a westerly direction, 1523 feet southerly from and parallel to the north lines of lots Nos. 79 and 80, 5260 feet, more or less, to the place of beginning.

It is expressly agreed that nothing herein contained shall be interpreted as entitling the residents of either state, whether licensed to fish or otherwise, to fish in, hunt, trespass, or enter upon said sanctuary for any purpose whatsoever. Anyone so doing shall become amenable to prosecution therefor under the laws of the state of Ohio applicable thereto.

9. Reservation of Pennsylvania's right to the body of the water. It is expressly agreed that nothing herein contained shall operate to deny, limit,

or restrict the right of the water and power resources board of Pennsylvania, or any authority established hereafter by said state to exercise such power, to at any time now or hereafter, raise or draw off so much of the waters of the lake as in its sole judgment may be necessary to maintain or regulate the flow of the Shenango and Beaver rivers in furtherance of the primary purpose for which said lake was established, and said water and power resources board shall, without let or hindrance, have the full right irrespective of other considerations, to release so much of the water as they may deem proper to maintain the flow of the Shenango and Beaver rivers, irrespective of its effect on the level of the lake or use thereof for other purposes.

Sec. 1547.072. No person shall operate or permit the operation of a vessel on the waters in this state without maintaining sufficient control to avoid an incident that results in property damage, physical injury, loss of life, or any combination of them.

Sec. 1547.132. (A) As used in this section, "public service" means activities that include, but are not limited to, escorting or patrolling special water events, traffic control, salvage, firefighting, medical assistance, assisting disabled vessels, and search and rescue.

(B) No person shall operate a vessel at a speed that creates a wake within one hundred feet of a stationary law enforcement vessel displaying at least one flashing, oscillating, or rotating light conforming with 33 C.F.R. 88.11.

(C) No person shall operate a vessel at a speed that creates a wake within one hundred feet of a vessel that is being used to provide public service and that displays at least one flashing, oscillating, or rotating light conforming with 33 C.F.R. 88.12.

(D) No person shall permit any vessel to be operated on the waters in this state in violation of this section.

Sec. 1547.14. (A) Except on the waters of Lake Erie, the Ohio River; or Lake Erie and immediately connected harbors and anchorage facilities bays, any person who rides or attempts to ride upon one or more water skis, surfboard, or similar device, or who engages or attempts to engage in barefoot skiing, and any person who operates a vessel towing a person riding or attempting to ride on one or more water skis, surfboard, or similar device, or engaging or attempting to engage in barefoot skiing, shall confine that activity to the water area within a designated ski zone on all bodies of water on which a ski zone has been established.

(B) On all bodies of water designated as "open zone," that is, having a combined speed and ski zone where no specific activity zones have been

established, the activities described in division (A) of this section shall be confined to the open zone areas where the activities are not specifically restricted by this chapter and rules adopted under it.

(C) Divisions (A) and (B) of this section do not apply to an activity described in division (A) of this section if the vessel involved in the activity is traveling at idle speed in a designated no wake zone and the activity is not being conducted in any of the following areas:

(1) Within three hundred feet of a gas dock, marina, launch ramp, or harbor entrance;

(2) Within a designated anchorage area, swim zone, boat swim zone, or boat camping area;

(3) Under a bridge or within three hundred feet of a bridge underpass;

(4) Any area designated as a no ski zone.

(D) No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.24. No person shall operate or permit to be operated any vessel under eighteen feet in length while there is present in the vessel any person under ten years of age, not wearing a coast guard approved type one, two, or three, or five personal flotation device in good and serviceable condition of appropriate size securely attached to the person under ten years of age.

Sec. 1547.99. (A) Whoever violates section 1547.91 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates division (F) of section 1547.08, section 1547.10, division (I) of section 1547.111, section 1547.13, or section 1547.66 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates a provision of this chapter or a rule adopted thereunder, for which no penalty is otherwise provided, is guilty of a minor misdemeanor.

(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (M) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, or a combination of them, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood,

blood serum or plasma, breath, or urine, of division (A)(1) of section 2903.06 of the Revised Code, or of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or section 2903.06 or 2903.07 of the Revised Code as they existed prior to March 23, 2000, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them, the court shall sentence the offender to a jail term of ten consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation identified in division (G)(2) of this section, the court shall sentence the offender to a jail term of thirty consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (G)(1), (2), or (3) of this section to continue the offender's employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. No court shall authorize work release during the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of ten or thirty consecutive days required to be imposed by division (G)(2) or (3) of this section or place an offender who is sentenced pursuant to division (G)(2) or

(3) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of ten or thirty consecutive days required to be imposed pursuant to division (G)(2) or (3) of this section. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (G)(1) of this section, shall suspend the mandatory jail term of three consecutive days required to be imposed by division (G)(1) of this section or place an offender who is sentenced pursuant to division (G)(1) of this section in any treatment program in lieu of imprisonment until after the offender has served the mandatory jail term of three consecutive days required to be imposed pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section, "jail term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is guilty of a misdemeanor of the fourth degree and also shall be assessed any costs incurred by the state or a county, township, municipal corporation, or other political subdivision in disposing of an abandoned junk vessel or outboard motor, less any money accruing to the state, county, township, municipal corporation, or other political subdivision from that disposal.

(I) Whoever violates division (B) or (C) of section 1547.49 of the Revised Code is guilty of a minor misdemeanor.

(J) Whoever violates section 1547.31 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent offense, the person is guilty of a misdemeanor of the third degree.

(K) Whoever violates section 1547.05 or 1547.051 of the Revised Code is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person, or damage to property.

(L) The sentencing court, in addition to the penalty provided under this section for a violation of this chapter or a rule adopted under it that involves a powercraft powered by more than ten horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division

is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1548.032. (A)(1) If a person who is not an electronic watercraft dealer owns a watercraft or outboard motor for which a physical certificate of title has not been issued by a clerk of a court of common pleas and the person sells the watercraft or outboard motor to a watercraft dealer registered under section 1547.543 of the Revised Code, the person is not required to obtain a physical certificate of title to the watercraft or outboard motor in order to transfer ownership to the dealer. The person shall present the dealer, in a manner approved by the chief of the division of watercraft, with sufficient proof of the person's identity and complete and sign a form prescribed by the chief attesting to the person's identity and assigning the watercraft or outboard motor to the dealer. Except as otherwise provided in this section, the watercraft dealer shall present the assignment form to any clerk of a court of common pleas together with an application for a certificate of title and payment of the fees prescribed by section 1548.10 of the Revised Code.

In a case in which an electronic certificate of title has been issued and either the buyer or seller of the watercraft or outboard motor is an electronic watercraft dealer, the electronic watercraft dealer instead may inform a clerk of a court of common pleas via electronic means of the sale of the watercraft or outboard motor and assignment of ownership of the watercraft or outboard motor. The clerk shall enter the information relating to the assignment into the automated title processing system, and ownership of the watercraft or outboard motor passes to the applicant when the clerk enters this information into the system. The dealer is not required to obtain a physical certificate of title to the watercraft or outboard motor in the dealer's name.

(2) A clerk shall charge and collect from a dealer a fee of five dollars for each watercraft or outboard motor assignment sent by the dealer to the clerk under division (A)(1) of this section. The fee shall be distributed in accordance with section 1548.10 of the Revised Code.

(B) If a person who is not an electronic watercraft dealer owns a watercraft or outboard motor for which a physical certificate of title has not been issued by a clerk of a court of common pleas and the person sells the watercraft or outboard motor to a person who is not a watercraft dealer registered under section 1547.543 of the Revised Code, the person shall obtain a physical certificate of title to the watercraft or outboard motor in order to transfer ownership of the watercraft or outboard motor to that person.

SECTION 2. That existing sections 1541.31, 1547.14, 1547.24, 1547.99, and 1548.032 of the Revised Code are hereby repealed.

SECTION 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity lies in the fact that the 2008 boating season will be starting soon, and it is imperative that uniform requirements be in place for the entirety of the boating season. Therefore, this act shall go into immediate effect.

Am. Sub. S. B. No. 271

127th G.A.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 271

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the _____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____