



# Ohio Legislative Service Commission

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## Final Analysis

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131st General Assembly  
(As Passed by the General Assembly)

- Sens.** Balderson, Coley, Eklund, Faber, Hackett, Hite, Obhof, Oelslager, Seitz, Uecker, Yuko
- Reps.** Landis, Hall, Hill, Anielski, Antonio, Ashford, Baker, Barnes, Buchy, Burkley, Dever, Dovilla, Hagan, Hambley, Hayes, Huffman, Koehler, Lepore-Hagan, McClain, M. O'Brien, S. O'Brien, Perales, Rezabek, Rogers, Sheehy, R. Smith, Sprague, Sweeney, Thompson

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## ACT SUMMARY

### Division of Parks and Watercraft

- Merges the Division of Parks and Recreation and the Division of Watercraft in the Department of Natural Resources, names the merged division the Division of Parks and Watercraft, and retains all of the duties and responsibilities of the former divisions.
- Eliminates the Division of Parks and Recreation Law Enforcement Fund and the Division of Watercraft Law Enforcement Fund and credits the money in those Funds to the newly created Division of Natural Resources Law Enforcement Fund.
- Requires the Division of Parks and Watercraft to use money in the Division of Natural Resources Law Enforcement Fund for law enforcement purposes.

### Natural resources officers

- Renames park, watercraft, preserve, and forestry officers as natural resources officers.
- Authorizes natural resources officers to enforce the laws relating to the Department of Natural Resources that were formerly enforced by park, watercraft, preserve, and forestry officers.

## **Watercraft**

- Makes changes to the law governing watercraft safety as follows:
  - Revises the requirements governing the use of a wearable personal flotation device when a person is engaged in a towed watersport (for example, water skiing);
  - Exempts a person engaged in barefoot skiing from the law requiring a personal flotation device if the person is wearing a wet suit designed for barefoot skiing;
  - Revises the prohibition against operating a vessel, including a commercial vessel, in Ohio waters without carrying personal flotation devices aboard the vessel to require the carrying of wearable personal flotation devices and, in certain cases, having a throwable device on the vessel;
  - Prohibits a person from using a personal flotation device in a manner that is inconsistent with any federally approved limitations or restrictions or special instructions provided by the manufacturer;
  - Requires each person on a vessel to use a personal flotation device in compliance with manufacturer labeling;
  - Adds the total loss of a vessel to the list of circumstances when a vessel operator must file with the Chief of the Division of Watercraft a full description of a collision or accident; and
  - Eliminates the prohibition against using a watercraft accident report in a civil, criminal, or administrative action at law.

### **Watercraft dealers and registration certificates**

- Requires a watercraft dealer's place of business to be used primarily for selling, displaying, offering for sale, or dealing vessels.
- Extends the time by which a purchaser of a watercraft must register the watercraft from 45 days to 60 days after the purchase transaction, but retains the requirement that the purchaser hold either a temporary watercraft registration certificate or a bill of sale during that time.
- Authorizes a watercraft dealer, prospective purchaser, or third party to use a watercraft dealer registration certificate to operate a watercraft under certain circumstances, including authorizing a dealer or third party to transport the watercraft to the purchaser.



- Prohibits a person, in accordance with federal law, from recklessly displaying or affixing a dealer or manufacturer registration number on a watercraft in a manner that causes permanent alteration to the watercraft's hull prior to a final sale.

## **Division of Forestry**

### **Forest-fire investigators**

- Authorizes the Chief of the Division of Forestry to appoint forest-fire investigators, specifies the powers and duties of an investigator, and requires the Chief to establish a policy for an investigator's training, including training as a peace officer.
- Specifies that a forest-fire investigator is not personally liable for any required or authorized act while acting within the scope of official duties.
- Requires the Chief or the Chief's designee to supervise and instruct forest-fire investigators.

### **Fire protection areas**

- Requires the Chief, with the approval of the Director of Natural Resources, to establish fire protection areas for Ohio and specifies that appointed forest-fire wardens and forest-fire investigators have jurisdiction over the areas.
- Specifies that mutual aid agreements and agreements to transfer certain excess equipment and supplies entered into by the Chief with firefighting agencies may only be made with regard to fire protection areas.
- Revises the requirement that the Chief must cause the prosecution of a person who violates laws pertaining to forest fires by instead requiring the Chief or the Chief's designee to direct investigations of alleged violations of the laws within fire protection areas.
- Authorizes, instead of requires as in prior law, the Chief to use money in the Wildfire Suppression Fund to reimburse certain firefighting agencies for their costs in suppressing wildfires, and generally limits the reimbursements to costs incurred in counties within fire protection areas.

### **Additional revisions**

- Requires the Chief to transfer money in the Wildfire Suppression Fund exceeding \$200,000 to the State Forest Fund, instead of disbursing the excess to certain firefighting agencies as under prior law.
- Authorizes a forest-fire warden to cut trees or other vegetation to control a fire.



- Alters the requirement that a person or governmental entity bidding on a timber sale execute a bond equal to 25% of the highest value cutting section by instead requiring the bond amount to be determined by the Chief.
- Eliminates certain provisions of the law governing forestry, including provisions that specified the duties of the Ohio Agricultural Research and Development Center and the duties of railroad companies regarding fires.

### **Office of Real Estate and Land Management**

- Establishes the Office of Real Estate and Land Management in the Department of Natural Resources, which formerly existed as the Division of Real Estate and Land Management from 1994 to 2009.
- Requires the Office to coordinate and conduct all real estate functions for the Department and cooperate with federal agencies and political subdivisions in administering federal recreation money.
- Authorizes the Office to coordinate environmental matters concerning the Department and the state as necessary to comply with federal environmental laws.

### **Water Improvements Law**

- Eliminates the law governing water improvements, including all of the following provisions:
  - General authority for the Chief of the Division of Water Resources to construct, make additions to, enlarge, or make alterations to reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements;
  - A requirement that the Chief issue and sell bonds to provide funds for the construction, alteration, or enlargement; and
  - A requirement that the Chief sell or lease for agricultural, commercial, manufacturing, or other lawful purposes, for a term up to 50 years, the water conserved and stored by improvements constructed under the Water Improvements Law.

### **Elimination of Recreation and Resources Commission**

- Eliminates the Recreation and Resources Commission, which advised the Director of Natural Resources and the Governor concerning matters pertaining to natural resources.



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## CONTENT AND OPERATION

### Division of Parks and Watercraft

The act merges the Division of Parks and Recreation and the Division of Watercraft in the Department of Natural Resources. It names the merged division the Division of Parks and Watercraft. It retains most of the former divisions' duties and responsibilities and transfers them to the new division. However, it eliminates a law that required the Division of Parks and Recreation to provide Department-wide planning, capital improvements planning, and special purpose planning. According to a spokesperson for the Department, the Department's Division of Engineering currently does the planning. Finally, the act provides for the continuation of agreements and contracts by the Division of Parks and Watercraft that were entered into by the former divisions.<sup>1</sup>

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<sup>1</sup> R.C. 121.04, 154.01, 154.22, 1501.011, 1501.012, 1501.07, 1501.09, 1501.11, 1501.12, 1501.13, 1501.14, 1503.012, 1509.73, 1509.78, 1514.10, 1519.03, 1520.03, 1541.01 (repealed), 1541.02 (1546.06), 1541.03 (repealed), 1541.031 (1546.07), 1541.032 (1546.08), 1541.04 (1546.09), 1541.05 (1546.10), 1541.07 (1546.12),



## Natural Resources Law Enforcement Fund

The act eliminates the Division of Parks and Recreation Law Enforcement Fund and the Division of Watercraft Law Enforcement Fund and credits the money that was in those Funds to the Division of Natural Resources Law Enforcement Fund, which the act creates. The former Funds consisted of proceeds from forfeited property resulting from investigations by the Division of Forestry, the Division of Natural Areas and Preserves, the former Division of Parks and Recreation, and the former Division of Watercraft.

Money in the new Fund must be used for law enforcement purposes by the Division of Parks and Watercraft. Under former law, money in the two eliminated Funds had to be used for law enforcement by the Divisions of Parks and Recreation and Watercraft.<sup>2</sup>

## Natural resources officers

The act renames park, watercraft, preserve, and forestry officers as natural resources officers. Under former law, park, watercraft, preserve, and forestry officers enforced the laws under which they were appointed on lands and waters owned, controlled, maintained, or administered by the Department of Natural Resources. Thus, forest officers enforced the law related to forestry, preserve officers enforced the law governing natural areas and preserves, park officers enforced the law governing parks and recreation, and watercraft officers enforced the law related to watercraft and waterways. Under the act, a natural resources officer may enforce any of those laws.<sup>3</sup>

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1541.082 (1546.13), 1541.083 (1546.14), 1541.09 (1546.15), 1541.16 (1546.16), 1541.17 (1546.17), 1541.18 (1546.18), 1541.19 (1546.19), 1541.20 (1546.20), 1541.22 (1546.21), 1541.23 (1546.22), 1541.24 (1546.23), 1541.26 (1546.24), 1541.31 (1546.90), 1541.32 (1546.91), 1541.42 (1546.92), 1541.99 (1546.99), 1546.01, 1546.02, 1546.021, 1546.03, 1546.04, 1546.05, 1547.01 (repealed), 1547.051, 1547.052, 1547.06, 1547.08, 1547.111, 1547.14, 1547.20, 1547.25, 1547.26, 1547.30, 1547.301, 1547.303, 1547.31, 1547.36, 1547.38, 1547.53, 1547.531, 1547.54, 1547.541, 1547.542, 1547.544, 1547.51 (repealed), 1547.52 (repealed), 1547.55, 1547.56, 1547.57, 1547.59, 1547.61, 1547.63, 1547.65, 1547.66, 1547.67, 1547.68, 1547.71, 1547.72, 1547.74, 1547.75, 1547.77, 1547.78 (repealed), 1547.80, 1547.81, 1547.83, 1547.85, 1547.86, 1547.87 (repealed), 1547.99, 1548.01, 1548.02, 1548.031, 1548.032, 1548.05, 1548.06, 1548.061, 1548.07, 1548.08, 1548.09, 1548.10, 1548.11, 1548.12, 1548.13, 1548.14, 1548.141, 1548.15, 1548.17, 1548.18, 1548.20, 1548.22, 2905.05, 2909.09, 2930.01, 2981.01, 3701.18, 3714.03, 3734.02, 3734.05, 3734.11, 3937.42, 4303.182, 4501.24, 4503.575, 4505.09, 4517.03, 4585.31, 4585.32, 5311.01, 5735.05, 5735.051, 5735.25, 5735.29, and 5735.30; Section 3.

<sup>2</sup> R.C. 1501.45.

<sup>3</sup> R.C. 109.71, 109.751, 109.77, 145.01, 145.332, 742.63, 1501.02, 1501.24, 1501.25, 1503.29 (repealed), 1503.30 (repealed), 1503.31 (repealed), 1506.35, 1517.10 (repealed), 1519.04, 1533.89, 1541.10 (repealed), 1541.11 (repealed), 1541.18 (1546.18), 1547.05, 1547.51, 1547.521 (repealed), 1547.522 (repealed), 1547.523 (repealed), 1547.67, 1547.79, 1548.17, 2935.01, 2935.03, 3767.32, and 4167.01.



## Watercraft

### Approved flotation devices

#### Towed watersports

The act revises the law governing the use of a personal flotation device when a person is engaged in a towed watersport, such as water skiing. Prior law prohibited a person from engaging in towed watersports without wearing an adequate and effective U.S. Coast Guard-approved Type I, II, III, or V personal flotation device. The act instead requires the device to be a wearable personal flotation device and to be specifically designed for towed watersports rather than specifically designed for water skiing as under prior law. The act retains a requirement that the device must be in good and serviceable condition and of appropriate size. Under the act, a personal flotation device is a U.S. Coast Guard approved personal safety device designed to provide buoyancy to support a person in the water. A wearable personal flotation device is a device that is intended to be worn or otherwise attached to a person's body. A wearable personal flotation device includes a "Type I," "Type II," "Type III," or "Type V" device with Type II or III performance" (see "**Definitions**," below).

The act exempts a person engaged or attempting to engage in barefoot skiing from wearing a personal flotation device if the person is wearing a wet suit specifically designed for barefoot skiing that is in good and serviceable condition and of appropriate size. Prior law prohibited a person from barefoot skiing without wearing an adequate and effective U.S. Coast Guard approved personal flotation device.

Finally, under the act, the prohibition against engaging in a towed watersport without a personal flotation device does not apply when one of the following persons or entities that manages the waterway issues a special permit:

- (1) The political subdivision having primary jurisdiction;
- (2) The administrator of a federal agency;
- (3) The director of a state agency;
- (4) The board of directors of a conservancy district; or
- (5) Any other governing body having jurisdiction.



Under prior law, a special permit could only be issued by a state department, conservancy district, or political subdivision having jurisdiction and control of the waterway.<sup>4</sup>

### **General requirements applicable to vessels**

The act revises the prohibition against a person operating or permitting to be operated a vessel on Ohio waters without carrying certain flotation devices aboard the vessel. Former law prohibited a person from operating or permitting to be operated any vessel, other than a commercial vessel or other vessel exempted by rules, on Ohio waters without carrying either a Type I, II, III, or V personal flotation device for each person aboard the vessel. A vessel that was 16 feet or more in length also had to have on board at least one Type IV (throwable) device. A canoe or kayak was required to carry a Type I, II, III, or V personal flotation device for each person aboard and was not required to have a Type IV device aboard regardless of its length.

The act removes the commercial vessel exception and requires that each vessel carry aboard one wearable personal flotation device for each person aboard and, with respect to a vessel that is 16 or more feet in length, one throwable personal flotation device. It clarifies that a throwable personal flotation device is a device that is intended to be thrown to a person in the water and includes a personal flotation device marked as "Type IV" or "Type V with Type IV performance," but does not include a wearable personal flotation device unless it is specifically marked otherwise.

The act retains the requirement that a canoe or kayak of any length must carry aboard one wearable personal flotation device, but also applies this requirement to other specified forms of paddlecraft of any length. Specifically, under the act, a paddlecraft is any type of canoe, kayak, paddleboard, or other vessel powered only by its occupants using a single or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, tholepins, crutches, or similar mechanisms. A kayak is a paddlecraft that is typically pointed at both ends and is propelled by human muscular effort by one or more seated individuals who use a double-bladed paddle, including an open kayak with an open deck for operator seating, an enclosed kayak designed to enclose an occupant within a cockpit, a tandem kayak designed for multiple occupants, and a racing kayak.<sup>5</sup>

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<sup>4</sup> R.C. 1547.18 and 1546.01.

<sup>5</sup> R.C. 1547.25(A) and (B), and 1546.01.





## **Commercial vessels**

The act alters the requirements governing the use of personal flotation devices on commercial vessels. Under prior law, a person was prohibited from operating or permitting to be operated a commercial vessel that is less than 40 feet in length and is not carrying persons for hire without carrying aboard at least one Type I, II, or III personal flotation device for each person aboard. The act instead requires all devices to be wearable personal flotation devices.

Further, with respect to a commercial vessel that is 40 or more feet in length or is carrying persons for hire, prior law required that there be at least one Type I device for each person aboard. The act instead requires there to be at least one wearable personal flotation device for each person aboard. Further, each device must comply with all of the following:

(1) It must be designed to support the person wearing the device in the water in an upright or slightly backward position and provide support to the head so that the face of an unconscious or exhausted person is held above the water;

(2) It must be capable of turning the person wearing the device, upon entering the water, to a safe flotation position;

(3) It must be capable of being worn inside out;

(4) It must be capable of supporting a minimum of 22 pounds in fresh water for 48 hours; and

(5) It must be a highly visible color.

Additionally, former law required a person who is operating or permitted to be operating any commercial vessel that is 26 or more feet in length to carry aboard at least one Type IV ring life buoy. The act instead requires the person to carry aboard at least one throwable personal flotation device.<sup>6</sup>

## **General requirements**

The act requires each personal flotation device to be used in accordance with any requirements on its approval label or in accordance with requirements in its owner's manual if the label refers to such a manual. It also specifies that a personal flotation device cannot be used in a manner that is inconsistent with any limitation or restrictions related to federal approval or special instructions for use provided by the manufacturer.

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<sup>6</sup> R.C. 1547.25(B).



Appropriate use must be indicated on the label of an approved personal flotation device with one or more of the following designations:

- (1) Conditional approval;
- (2) Performance type;
- (3) Type I personal flotation device;
- (4) Type II personal flotation device;
- (5) Type III personal flotation device;
- (6) Type IV personal flotation device;
- (7) Type V personal flotation device;
- (8) Throwable personal flotation device; or
- (9) Wearable personal flotation device.

Under the act, "conditional approval" means a personal flotation device approval that has one or more conditions with which the user must comply in order for the device to be considered appropriate for meeting the requirements for personal flotation devices for the vessel on which it is being used. "Performance type" means the in-water performance classification of a personal flotation device as determined by the U.S. Coast Guard.<sup>7</sup>

#### **Wearable flotation device requirements for personal watercraft**

The act alters the requirements governing the use of a wearable personal flotation device for a person aboard a personal watercraft (e.g., a jet ski). Former law required each person on a personal watercraft to wear a Type I, II, III, or V personal flotation device. The act instead requires the person to wear a wearable personal flotation device used in compliance with manufacturer labeling.<sup>8</sup>

#### **Personal flotation device requirements for children under ten**

Former law prohibited a person from operating or permitting to be operated any vessel under 18 feet in length with a child under age ten present in the vessel who is not wearing a Coast Guard-approved Type I, II, III, or V personal flotation device in good

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<sup>7</sup> R.C. 1547.25(C) and (D) and 1546.01.

<sup>8</sup> R.C. 1547.41(A)(1).



and serviceable condition of appropriate size that is securely attached to the child. The act requires the child to utilize a wearable personal flotation device.<sup>9</sup>

### **Vessel collision or accident report**

The act adds the total loss of a vessel to the list of circumstances when a vessel operator must file a full description of a collision or accident with the Chief of the Division of Parks and Watercraft. In addition, the act removes the requirement that the filed report had to be used for statistical purposes only and was not admissible for any purpose in any civil, criminal, or administrative action at law.<sup>10</sup>

### **Additional revisions**

The term "watercraft" is expanded to add a kayak, a pedalboat, a vessel that has been issued a certificate of documentation with a recreational endorsement under federal law, and any of the following multimodal craft being operated on Ohio waters:

- (1) An amphibious vehicle;
- (2) A submersible; and
- (3) An airboat or hovercraft.

The act also revises the definitions of belly boat and float tube, kiteboard, paddleboard, and sailboard, all of which are exempt from registration under the law governing watercraft. Finally, the act revises the definitions of rowboat, sailboat, canoe, inflatable watercraft, and owner.<sup>11</sup>

### **Definitions**

For the revisions to the law governing watercraft, the act utilizes the following defined terms, some of which are added or revised by the act:<sup>12</sup>

<b>Definitions</b>		
<b>Defined Term</b>	<b>Definitions under prior law</b>	<b>Definitions under the act</b>
<b>Towed watersport</b>	No provision.	Any activity that involves being towed by or riding in

<sup>9</sup> R.C. 1547.24.

<sup>10</sup> R.C. 1547.59.

<sup>11</sup> R.C. 1546.01.

<sup>12</sup> R.C. 1546.01.



<b>Definitions</b>		
<b>Defined Term</b>	<b>Definitions under prior law</b>	<b>Definitions under the act</b>
		<p>the wake of a recreational vessel, including both of the following:</p> <p>--Riding or attempting to ride on one or more water skis, a wakeboard, a surfboard, an inflatable device, or any other device manufactured or used to be towed by a recreational vessel;</p> <p>--Engaging or attempting to engage in barefoot skiing or parasailing.</p>
<b>Wearable personal flotation device</b>	No provision.	A device that is intended to be worn or otherwise attached to a person's body, including a personal flotation device marked as "Type I," "Type II," "Type III," "Type V," "Type V with Type II performance," or "Type V with Type III performance."
<b>Personal flotation device</b>	No provision.	A Coast Guard-approved personal safety device designed to provide buoyancy to support a person in the water.
<b>Type I personal flotation device</b>	A device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least 9 kilograms, approximately 20 pounds, of buoyancy.	Same.
<b>Type II personal flotation device</b>	A device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least 7 kilograms, approximately 15.4 pounds, of buoyancy.	Same.
<b>Type III personal flotation device</b>	A device that is designed to keep a conscious person in a vertical or slightly face upward position	Same.



<b>Definitions</b>		
<b>Defined Term</b>	<b>Definitions under prior law</b>	<b>Definitions under the act</b>
	and that has at least 7 kilograms, approximately 15.4 pounds, of buoyancy.	
<b>Type IV personal flotation device</b>	A device that is designed to be thrown to a person in the water and not worn and that has at least 7.5 kilograms, approximately 16.5 pounds, of buoyancy.	Same.
<b>Type V personal flotation device</b>	<p>A device that, unlike other personal flotation devices, has limitations on its approval by the Coast Guard, including all of the following:</p> <ul style="list-style-type: none"> <li>--The approval label on the device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a device of the type required on the vessel in use;</li> <li>--The device is used in accordance with any requirements on the approval label; and</li> <li>--The device is used in accordance with requirements in its owner's manual if the approval label refers to such a manual.</li> </ul>	<p>A device that, unlike other personal flotation devices, has limitations on its approval by the Coast Guard, including any of the following:</p> <ul style="list-style-type: none"> <li>--A designation that states the device is approved only for use while participating in specific activities;</li> <li>--A designation that states the device is approved only for use by an operator (see below) or passenger of specific types of vessels; or</li> <li>--A designation that states the device is specifically approved as a substitute for the type of device required for use while engaged in certain activities or as an operator or passenger of a vessel.</li> </ul>
<b>Operator</b>	Any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on Ohio waters.	Same, but also includes any person who uses or employs a vessel.
<b>Vessel</b>	Every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water.	Every description of craft, including nondisplacement craft, multimodal craft, and submersibles, being used or capable of being used as a means of transportation on water.



## **Watercraft dealers and registration certificates**

### **Watercraft dealers**

The act requires a watercraft dealer's place of business to be used primarily for selling, displaying, offering for sale, or dealing vessels. Under continuing law, a watercraft dealer generally is any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business.<sup>13</sup>

### **Initial watercraft registration**

The act extends the time by which a purchaser of a watercraft must register the watercraft from 45 days to 60 days after the purchase transaction, but retains the requirement that the purchaser hold either a temporary watercraft registration certificate or a bill of sale during that time period. The bill of sale must be issued by a watercraft dealer.<sup>14</sup>

### **Watercraft dealer or manufacturer registration certificates**

The act revises the circumstances under which a watercraft dealer registration certificate may be used to lawfully operate a watercraft. It authorizes a watercraft dealer, prospective purchaser, or third party to use a watercraft dealer registration certificate for operating a watercraft when any of the following occurs:

- (1) The dealer or third party is transporting the watercraft to the person who purchased it from the dealer;
  - (2) The dealer is demonstrating the capabilities of the watercraft to sell or lease it;
- or
- (3) The dealer or, with the dealer's permission, the prospective purchaser or third party is otherwise using the watercraft.

The act retains provisions of law that prohibit a watercraft dealer from using a watercraft dealer registration certificate for any commercial purpose, such as the rental or chartering of watercraft, or from loaning a certificate to any person to circumvent any Ohio law.<sup>15</sup>

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<sup>13</sup> R.C. 1546.01.

<sup>14</sup> R.C. 1547.531(A)(2).

<sup>15</sup> R.C. 1547.543(A).



Under the act, in accordance with federal law, no person may recklessly display or affix a dealer or manufacturer registration number on a watercraft in a manner that causes permanent alteration to the watercraft's hull prior to a final sale. Under continuing law, each dealer in or manufacturer of watercraft must display on both sides of any watercraft being operated on Ohio waters the dealer or manufacturer registration number and the validation decals assigned to the dealer or manufacturer so that they are clearly visible under normal operating conditions.<sup>16</sup>

## Division of Forestry

### Forest-fire investigators

The act authorizes the Chief of the Division of Forestry to appoint forest-fire investigators, whose jurisdiction extends over fire protection areas established under the act (see "**Fire protection areas**," below). The Chief may designate a forest-fire warden as a forest-fire investigator. A forest-fire investigator must conduct investigations of forest fires in fire-protection areas and gather evidence for enforcing Ohio's forestry laws, as well as laws governing arson, criminal damaging or endangering, and littering. The act specifies that a forest-fire investigator is not personally liable for any required or authorized act while acting within the scope of official duties as an investigator.<sup>17</sup>

The act authorizes a forest-fire investigator to:

- (1) Cut trees or other vegetation, destroy fences, plow land, or set backfires to check any fire;<sup>18</sup>
- (2) Enter public and private lands, with permission from the Chief;<sup>19</sup> and
- (3) Render assistance to a state or local law enforcement officer at the request of that officer or in an emergency.<sup>20</sup>

The Chief must establish a policy for an investigator's training, which must include successful completion of basic wildland fire suppression training and training

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<sup>16</sup> R.C. 1547.543(D).

<sup>17</sup> R.C. 1503.15.

<sup>18</sup> R.C. 1503.11.

<sup>19</sup> R.C. 1503.09.

<sup>20</sup> R.C. 1503.09 and 1501.24.



as a peace officer.<sup>21</sup> The Chief or, as added by the act, the Chief's designee must supervise and instruct forest-fire investigators as well as forest-fire wardens in their duties.

The act also requires the Chief to direct investigations of alleged violations of laws for the prevention and suppression of forest fires, as well as enforce those laws as under continuing law. The Chief may appoint a designee to direct the investigations and enforcement. Finally, the act eliminates a law that required the Chief to cause those who violate those laws to be prosecuted.<sup>22</sup>

### **Fire protection areas**

The act requires the Chief, with approval of the Director of Natural Resources, to establish fire protection areas for Ohio and specifies that appointed forest-fire wardens and forest-fire investigators have jurisdiction over the areas. When establishing fire protection areas, the Chief must consider all of the following:

- (1) The amount of forest cover;
- (2) The actual and potential fire occurrence;
- (3) The threat to forest resources;
- (4) The population of the areas; and
- (5) Any other pertinent forest resource information.<sup>23</sup>

The act limits an authorization in law that allows the Chief to enter into agreements with firefighting agencies to provide mutual aid and assistance regarding forest fires. Instead of authorizing the Chief to enter into such agreements without limitation as under prior law, the act specifies that the agreements may only be made with regard to fire protection areas. It also limits the Chief's authority to transfer title or ownership of certain excess equipment and supplies to firefighting agencies. Instead of authorizing the Chief to transfer the title or ownership without limitation, the act specifies that the transfer may occur only with regard to fire suppression in fire protection areas.<sup>24</sup>

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<sup>21</sup> R.C. 109.71, 109.751, 109.77, and 1503.09.

<sup>22</sup> R.C. 1503.10.

<sup>23</sup> R.C. 1503.08 and 1503.09.

<sup>24</sup> R.C. 1503.14.





The act authorizes, instead of requires as in former law, the Chief to use money in the Wildfire Suppression Fund to reimburse firefighting agencies for their costs incurred in the suppression of wildfires. It then limits reimbursement to costs incurred in counties within a fire protection area where there is a state forest or national forest. However, the Chief may provide reimbursement in additional counties with the Director's approval.<sup>25</sup>

### **Additional revisions**

The act redirects where the Chief must disburse excess funds when money in the Wildfire Suppression Fund exceeds \$200,000. The act requires the Chief to transfer the excess money to the State Forest Fund, which is generally used for managing state forests. Former law required the Chief to disburse the excess money to certain firefighting agencies.<sup>26</sup>

The act expands the authorization that allows a forest-fire warden to destroy fences, plow land, or set backfires to control a fire by adding that a forest-fire warden also may cut trees or other vegetation to control a fire.<sup>27</sup>

In addition, the act alters bond requirements governing timber sales. Former law required a person or governmental entity bidding on a timber sale to execute a bond equal to 25% of the highest value cutting section. The act instead requires the bond amount to be determined by the Chief.<sup>28</sup>

The act changes the method by which the Chief may exercise the Chief's authority to expand the times and places for open-air fires to burn wood, brush, weeds, grass, or rubbish. Under the act, the Chief may do so by adopting rules in accordance with the Administrative Procedure Act. This rulemaking replaces the prior law that authorized the Chief to execute the expansion by giving notice in a newspaper or written authorization to the affected person. Generally, under continuing law, a person may not set, or authorize another to set, an open-air fire outside the limits of a municipal corporation between 6:00 a.m. and 6:00 p.m., from March to May and in October and November, to burn wood, brush, weeds, grass, or rubbish.<sup>29</sup> The act

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<sup>25</sup> R.C. 1503.141.

<sup>26</sup> R.C. 1503.141.

<sup>27</sup> R.C. 1503.11.

<sup>28</sup> R.C. 1503.05(B).

<sup>29</sup> R.C. 1503.18.



transfers from the Division of Parks and Recreation to the Division of Forestry the responsibility to administer the State Recreational Vehicle Fund.<sup>30</sup>

It also eliminates laws that:

--Specified the duties of the Ohio Agricultural Research and Development Center with regard to forest management;<sup>31</sup>

--Required the Chief to cooperate with the Center when acquiring land for forestry purposes;<sup>32</sup>

--Specified that a railroad company that sets fire to trees, brush, or grass on lands outside the right-of-way is liable for any expenses incurred in extinguishing the fire;<sup>33</sup>

--Required every section foreman employed by a railroad company, upon discovery of a fire, to summon necessary assistance, proceed to the fire, extinguish the fire, and give other fire-related assistance;<sup>34</sup> and

--Required all steam and electric railroad companies to put into effect reasonable rules for the prevention of forest fires.<sup>35</sup>

## **Office of Real Estate and Land Management**

The act establishes the Office of Real Estate and Land Management in the Department of Natural Resources, which formerly existed as the Division of Real Estate and Land Management from 1994 to 2009. In establishing the Office, the act:

(1) Requires the Office to:

--Coordinate and conduct all real estate functions for the Department;

--Cooperate with federal agencies and political subdivisions in administering federal recreation money and prepare and distribute the statewide comprehensive outdoor recreation plan; and

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<sup>30</sup> R.C. 1503.011(H) and 1541.03(F) (repealed).

<sup>31</sup> R.C. 1503.02 (repealed).

<sup>32</sup> R.C. 1503.03.

<sup>33</sup> R.C. 1503.24 (repealed).

<sup>34</sup> R.C. 1503.25 (repealed).

<sup>35</sup> R.C. 1503.26 (repealed).

--Prepare special studies and execute any other duties, functions, and responsibilities requested by the Director of Natural Resources.

(2) Authorizes the Office to:

--Coordinate environmental matters concerning the Department and the state as necessary to comply with specified federal environmental laws;

--Survey land;

--As the Director considers necessary, administer any state or federally funded grant program that is related to natural resources or recreation;

--Coordinate Department projects, programs, policies, procedures, and activities with the U.S. Army Corps of Engineers and other federal agencies; and

--Coordinate activities associated with completing drainage ditch improvements.

(3) Requires the Director to appoint a Chief to administer the Office;

(4) Transfers authority from the Chief of the Division of Parks and Recreation (now Division of Parks and Watercraft) to the Chief of the Office to sell, lease, or transfer minerals or mineral rights with regard to canal lands;

(5) Authorizes the Chief and the Chief's employees to enter upon lands to make surveys and inspections when necessary. The Chief must provide reasonable notice of any proposed entry to the owner or person in possession of the land at least 48 hours and not more than 30 days prior to the entry. An entry conducted under the act does not constitute trespass.<sup>36</sup>

(6) Authorizes the Office to prepare and distribute the statewide comprehensive outdoor recreation plan. Under former law, the Division of Parks and Recreation had to prepare and distribute the plan (note that item (1) requires the Office to perform this function whereas item (6) inconsistently provides discretionary authority for the Office to do so).<sup>37</sup>

## **Water Improvements Law**

The act eliminates provisions of law governing water improvements, including all of the following:

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<sup>36</sup> R.C. 1504.01, 1504.02, 1504.03, and 1520.02.

<sup>37</sup> R.C. 1504.02(B)(6) and 1541.03(F) (repealed).



(1) General authority that allowed the Chief of the Division of Water Resources to construct, make additions to, enlarge, or make alterations to reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements;

(2) Authority that authorized the Chief to issue and sell bonds to provide the funds for such construction, alteration, or enlargement;

(3) A requirement that the Chief make a written contract for the construction of or alterations to improvements with the lowest responsive and responsible bidder immediately after the sale of the bonds;

(4) A requirement that the Chief use money from the Water Conservation Improvement Fund to pay contractors for materials and labor;

(5) A requirement that the Chief had to sell or lease for agricultural, commercial, manufacturing, or other lawful purposes, for a term up to 50 years, the water conserved and stored by improvements;

(6) Authority that allowed the Chief to lease the land surrounding the water conserved or stored by an improvement for a term of up to 50 years;

(7) Authority that allowed the Chief to enter into tentative agreements, prior to the sale of bonds, for the sale or lease of water or power;

(8) Provisions that specified the power and duties of the Treasurer of State and Auditor of State regarding collecting and holding money for maintenance of and repairs to dams, reservoirs, storage basins, and other improvements;

(9) Requirements regarding appropriations of property that were made by the Chief in carrying out the Chief's duties;

(10) Authority that allowed the Chief to grant to political subdivisions the right, during certain emergencies, to draw or take water as necessary to protect both the property of the political subdivision and its inhabitants;

(11) Authority that allowed certain entities, upon request of the Chief and with the approval of the Director of Transportation, to construct and maintain slack water dams in connection with a highway, highway bridge, or culvert so as to create reservoirs, or other incidental works to conserve the water supply;

(12) Authority that allowed the Chief to request the construction of slack water dams;



(13) Authority that allowed certain entities to petition the Chief for the construction of dams and reservoir projects in connection with the construction of any highway, highway bridge, or culvert;

(14) Provisions of law that required the Chief to supervise, care, maintain, repair, and control all constructed dams, reservoirs, ponds, water parks, basins, lakes, or other incidental works; and

(15) Authority that allowed the Chief to acquire certain lands, waters, or riparian rights by appropriation proceedings.<sup>38</sup>

## Recreation and Resources Commission

The act eliminates the Recreation and Resources Commission. Under prior law, the Commission generally did both of the following:

(1) Advised and made recommendations to the Director of Natural Resources as to plans and programs for management, development, utilization, and conservation of Ohio's natural resources; and

(2) Biennially submitted to the Governor recommendations for amendments to Ohio's conservation laws.<sup>39</sup>

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## HISTORY

ACTION	DATE
Introduced	03-10-16
Reported, S. Gov't Oversight & Reform	05-05-16
Passed Senate (32-0)	05-11-16
Reported, H. Energy & Natural Resources	05-24-16
Passed House (97-0)	05-25-16

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<sup>38</sup> R.C. 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, and 1521.031.

<sup>39</sup> R.C. 1501.04 (repealed).

