

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1003 Session of 2019

INTRODUCED BY GILLESPIE, PICKETT, JAMES, KORTZ, NEILSON, MEHAFFIE, WARNER, MILLARD, LAWRENCE, WHEELAND AND GILLEN, APRIL 2, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 14, 2020

AN ACT

1 Amending Title 30 (Fish) of the Pennsylvania Consolidated
2 Statutes, in dams, bar racks and migration devices, further
3 providing for marking of dams.

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

6 Section 1. Section 3510(h)(1) and (2) and (i) of Title 30 of
7 the Pennsylvania Consolidated Statutes are amended AND <--
8 SUBSECTION (H) IS AMENDED BY ADDING A PARAGRAPH to read:

9 § 3510. Marking of dams.

10 * * *

11 (h) Penalties.--

12 (1) Any person who fails to comply with subsection (a)
13 or (b) [shall forfeit and pay a civil penalty of not less
14 than \$500 nor more than \$5,000. The penalty shall be
15 recovered by civil suit or process in the name of the
16 Commonwealth] commits a summary offense of the first degree
17 for the first offense and a misdemeanor of the third degree

1 for a subsequent offense. Each [calendar year] month of
2 noncompliance shall constitute a separate violation.

3 (2) Any person who fails to comply with subsection (c)
4 [shall forfeit and pay a civil penalty of not less than \$250
5 nor more than \$5,000. The penalty shall be recovered by civil
6 suit or process in the name of the Commonwealth] commits a
7 summary offense of the second degree for the first offense
8 and a summary offense of the first degree for a subsequent
9 offense. Each [calendar year] month of noncompliance shall
10 constitute a separate violation.

11 * * *

12 (5) THE PROVISIONS OF 18 PA.C.S. (RELATING TO CRIMES AND <--
13 OFFENSES) AND SECTION 923 (RELATING TO CLASSIFICATION OF
14 OFFENSES AND PENALTIES), INsofar AS THEY RELATE TO
15 IMPRISONMENT FOR CONVICTIONS OF SUMMARY AND MISDEMEANOR
16 OFFENSES, ARE NOT APPLICABLE TO THIS SECTION.

17 (i) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Department." The Department of Environmental Protection of
21 the Commonwealth.

22 "Owner." The person who owns a run-of-the-river dam
23 regulated by the Department of Environmental Protection pursuant
24 to the act of November 26, 1978 (P.L.1375, No.325), known as the
25 Dam Safety and Encroachments Act.

26 "Permit." A permit issued by the Department of Environmental
27 Protection pursuant to the act of November 26, 1978 (P.L.1375,
28 No.325), known as the Dam Safety and Encroachments Act.

29 "Permittee." The person who has been issued a permit by the
30 Department of Environmental Protection to maintain a run-of-the-

1 river dam.

2 "Run-of-the-river dam." A manmade structure which:

3 (1) is a dam regulated [~~or permitted~~] by the Department
4 of Environmental Protection pursuant to the act of November
5 26, 1978 (P.L.1375, No.325), known as the Dam Safety and
6 Encroachments Act;

7 (2) is built across a [~~river or stream for the purposes~~
8 ~~of impounding water where the impoundment at normal flow~~
9 ~~levels is completely within the banks and all flow passes~~
10 ~~directly~~] watercourse and certain flows pass over the entire
11 dam structure [~~within the banks~~], excluding abutments, to a
12 natural channel downstream; and

13 (3) the department determines to have hydraulic
14 characteristics such that at certain flows persons [~~entering~~
15 ~~the area immediately below the dam may be caught in the~~
16 ~~backwash~~] may be caught in the hydraulic roller or boil
17 immediately below the dam.

18 Section 2. This act shall take effect in 60 days.