

TITLE 3: HUMAN RESOURCES
DIVISION 5: PUBLIC SAFETY

§ 5461. Boating Safety: Enforcement.

(a) *Authority to Stop and Board.* Any person empowered to enforce the provisions of this chapter and any rule or regulation adopted pursuant thereto shall at any time, during daylight hours, without any particularized suspicion, have the authority to stop and board any vessel subject to this chapter for the purpose of inspection or determining compliance with this chapter or any safety rule or regulation adopted under the authority thereof, and to this end may hail and stop any such vessel and use all necessary force to compel compliance, and such persons shall be empowered to issue a summons for appearance in court or before a magistrate for all violations of this chapter or of the rules and regulations prescribed thereunder. Vessels of law enforcement personnel shall be marked to identify them as designated enforcement vessels. During nondaylight hours, such safety inspections may only be made for cause, based on a reasonable and articulable suspicion of noncompliance with this chapter, or, if conducted under administrative standards so drafted that the decision to make such a safety search or inspection is not left to the sole discretion of the person authorized to conduct such a search or inspection.

(1) Except as provided otherwise in subsections (a)(2) and (a)(3) of this section, the authority granted under this section shall be strictly limited to only allow such persons to make safety and documentary inspections, which shall be scrupulously limited to the following matters:

- (i) Stopping and boarding of the vessel;
- (ii) Checking personal identification of the boat owner or operator;
- (iii) Examination of safety equipment on the vessel that is required or regulated by this chapter;
- (iv) Inspection of areas on the vessel where hazardous conditions might exist;
- (v) Requiring those in charge of the vessel to submit for inspection their vessel documentation papers;
- (vi) Examination of the identification number on the beam or frame of the ship to ensure that it coincides with the number in the documentation, or, to identify the ship when no documentation is supplied.

(2) If, during the course of any hailing, stopping, search or inspection authorized under this chapter, there arises probable cause of any criminal or other unlawful activity, such persons referred to in subsection (a) of this section may conduct whatever searches and seizures in relation thereto, or, engage in any other forms of activity in connection with the vessel or such activity, to the extent permissible under the United States or Commonwealth Constitutions.

(3) Nothing in this chapter shall be construed to limit in any way the power or authority of any government agents or law enforcement officials to conduct any searches or seizures of any vessels to the extent permissible under the

TITLE 3: HUMAN RESOURCES
DIVISION 5: PUBLIC SAFETY

United States Constitution or Commonwealth Constitution for matters relating to criminal activity, or investigations thereof.

(b) *Vessels Required to Cooperate*. Upon being hailed by a designated law enforcement officer, every vessel subject to this chapter shall stop immediately if under way and lay to, or shall maneuver in such a way as to permit the officer to come aboard. Compliance with this provision shall not be deemed consent for boarding or search or waivers of any constitutional rights to privacy or security in ownership of property.

Source: PL 3-25, § 29; amended by PL 10-23, § 2.

Commission Comment: PL 10-23, which took effect July 17, 1996, amended subsection (a) of this section. According to PL 10-23, § 1:

Section 1. Findings and Purpose. The Legislature finds that: the Commonwealth has a vital interest in ensuring that vessels subject to this Chapter are fit for safe operation; the nature of such vessels is sufficiently different from the nature of vehicular traffic on highways and roads as to make possible alternatives to the sort of safety inspections authorized under this Chapter less likely to accomplish the obviously essential governmental purposes of promoting boating safety; checkpoint stops in marine settings for such purposes are not practicable and random stops where constitutionally permissible and authorized by this Chapter are the only practicable means of ascertaining compliance with this Chapter, and, that without the authority to conduct the safety inspections in the manner set forth in this Act the governmental purpose of boating safety will be frustrated.

For these reasons, the governmental interest in securing compliance with boating safety regulations and laws outweighs the intrusion on privacy encountered in the ordinary boarding of vessels for such safety inspection purposes when such inspections are conducted in strict compliance with the provisions and limitations of this Chapter.