



Senate

General Assembly

File No. 353

January Session, 2009

Senate Bill No. 824

Senate, March 31, 2009

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING MARINE DEALERS, MARINE SURVEYORS AND YACHT BROKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 15-141 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 As used in this part, unless the context otherwise requires:
4 "Commissioner" means the Commissioner of Environmental
5 Protection; "vessel" means every description of watercraft, other than a
6 seaplane on water, used or capable of being used as a means of
7 transportation on water, exclusive of any such watercraft used
8 primarily for purposes of transporting commercial cargo; "motorboat"
9 means any watercraft fitted with propulsion machinery, whether or
10 not such machinery is the principal source of propulsion; "horsepower"
11 means the rated brake horsepower of an engine at maximum operating
12 revolutions per minute; "operate" means to navigate or otherwise use a
13 vessel; "person" means any individual, partnership, firm, association,
14 limited liability company, corporation or other entity; "owner" means a

15 person, other than a lien holder, having property in or title to a vessel.
16 The term includes a person entitled to use or possession of a vessel
17 subject to an interest in another person reserved or created by
18 agreement and securing payment or performance of an obligation, but
19 the term excludes a lessee under a lease not intended as security;
20 "marine dealer" means a person engaged in the business of
21 manufacturing, selling or repairing new or used vessels; [having an
22 established place of business for the sale, trade, display or repair of
23 motorboats;] "marine engine manufacturer" means a person engaged
24 in the business of manufacturing, selling or repairing marine engines;
25 [having an established place of business for the sale, trade, display or
26 repair of marine engines;] "marine engine" means an engine
27 manufactured for use or used in vessels; "marine surveyor" means a
28 person who is certified by the National Association of Marine
29 Surveyors or accredited by the Society of Accredited Marine Surveyors
30 and who is engaged in the business of inspection, survey or
31 examination of vessels or associated equipment to assess, monitor and
32 report on the condition of the vessel or associated equipment; "yacht
33 broker" means a marine dealer, as defined in this section, who, for
34 compensation or an expectation of compensation, sells or negotiates to
35 sell or offers to sell, buys or offers to buy, solicits or obtains listings of
36 or negotiates the purchase, sale or exchange of vessels, but who is not
37 an owner of such vessels; "federal Boat Safety Act of 1971" means an
38 Act of Congress approved August 10, 1971, Public Law 92-75; and
39 "boat livery" means a business that is engaged in the commercial rental
40 of vessels, including, but not limited to, personal watercraft.

41 Sec. 2. Section 15-145 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective July 1, 2009*):

43 (a) A marine dealer, [or] marine engine manufacturer or marine
44 surveyor may obtain one or more marine dealer's registration numbers
45 upon application to the Commissioner of Environmental Protection, [,
46 and upon payment of a fee of fifty dollars for each number.]

47 (b) The commissioner may adopt regulations, in accordance with

48 the provisions of chapter 54, to establish fees for: (1) Each marine
49 dealer registration number issued, (2) application for such numbers, (3)
50 examination of a marine dealer, marine engine manufacturer or marine
51 surveyor with respect to criteria for issuance of such numbers, and (4)
52 issuance and display of marine dealer registration numbers. Such
53 [funds] fees shall be deposited in the boating account of the
54 Conservation Fund. Such application shall contain an affidavit stating
55 that [(1)] (A) such marine dealer is a person engaged in the business of
56 manufacturing, selling or repairing new or used vessels and that such
57 person has an established place of business for the sale, trade, display
58 or repair of such vessels, [or] unless specifically exempted in this
59 subsection from the requirement to have an established place of
60 business, [(2)] (B) such marine engine manufacturer is a person
61 engaged in the business of manufacturing, selling or repairing marine
62 engines and that such person has an established place of business for
63 the sale, trade, display or repair of such engines, or (C) such marine
64 surveyor is a person engaged in the inspection, surveying or
65 examination of vessels and meets the definition of a "marine surveyor",
66 as defined in section 15-141, as amended by this act. Yacht brokers
67 shall not be required to have an established place of business. A
68 marine dealer's, [or] marine engine manufacturer's or marine
69 surveyor's registration certificate shall be denominated as such and
70 shall state the dealer's, [or] engine manufacturer's or surveyor's name,
71 residence address, business address, registration number, the
72 expiration date of the certificate and such other information as the
73 Commissioner of Environmental Protection may prescribe. The
74 certificate, or a copy of the certificate, shall be carried aboard and shall
75 be available for inspection upon each vessel which displays the marine
76 dealer's, marine engine manufacturer's or marine surveyor's
77 registration number whenever such vessel is in operation. A number
78 or certificate may not be used on more than one vessel at a time. Each
79 certificate shall be renewed on the first day of May of the year
80 following the date of issue and shall expire on the last day of April of
81 the year following such renewal, unless sooner terminated or
82 surrendered. At least thirty days prior to the expiration date of each

83 certificate, the Commissioner of Environmental Protection shall notify
84 each marine dealer, [and] marine engine manufacturer and marine
85 surveyor of such expiration. Within ninety days before its expiration,
86 each marine dealer's, [or] marine engine manufacturer's or marine
87 surveyor's certificate may be renewed upon application and upon
88 payment of the fee [provided in this section] prescribed by the
89 commissioner pursuant to this subsection. Each registration number
90 assigned to a marine dealer, [or] marine engine manufacturer or
91 marine surveyor shall remain the same as long as such dealer, [or]
92 manufacturer or surveyor continues, under the same name, in the
93 business described in such dealer's, [or] manufacturer's or surveyor's
94 application affidavit as required pursuant to this subsection.

95 [(b)] (c) A marine dealer's registration number shall be displayed in
96 such manner as the Commissioner of Environmental Protection
97 prescribes on vessels: [operated] (1) Operated for the purpose of sale,
98 trade, repair or transport and on any vessel sold by such dealer for not
99 more than five days after the date of such sale, [and] (2) on any vessel
100 used by a marine engine manufacturer for the sole purpose of testing
101 or demonstrating marine engines manufactured or repaired by such
102 person, and (3) on any vessel used by a marine surveyor for the
103 purpose of inspecting, surveying or examining such vessel or
104 associated equipment to assess, monitor and report on the condition of
105 such vessel or associated equipment. Any vessel displaying a marine
106 dealer's registration number shall be presumed to be properly
107 registered.

108 [(c)] (d) No marine dealer, [or] marine engine manufacturer [may]
109 or marine surveyor shall (1) rent, or allow or cause to be rented, (2)
110 operate, or allow or cause to be operated, for hire, or (3) use, or allow
111 or cause to be used, for the purpose of conveying passengers or
112 merchandise or freight for hire, any vessel registered with a marine
113 dealer's, [or] marine engine manufacturer's or marine surveyor's
114 number and certificate. No marine dealer or marine engine
115 manufacturer may loan a number certificate to any person except (A)
116 for the purpose of demonstrating a vessel; (B) when a vessel owned by

117 or lawfully in the custody of such person is undergoing repairs; or (C)
118 when such person has purchased a vessel, the registration of which has
119 not yet been completed and in any case for not more than five
120 consecutive days. Each marine dealer or marine engine manufacturer
121 shall keep a record of each loaned number certificate showing the date
122 loaned, the vessel hull identification number (HIN) of the vessel on
123 which such number is displayed, the date returned and the name and
124 address of the person operating any vessel with such loaned number
125 certificate. Such dealer or engine manufacturer shall give a copy of this
126 record to each person to whom such number certificate is loaned,
127 which copy shall be carried in the vessel at all times when operated.
128 This record shall be retained by the dealer or engine manufacturer for
129 a period of six months from the date on which the number certificate
130 was loaned and such record shall be available during business hours
131 for examination by any police officer, marine officer or conservation
132 officer. A marine surveyor shall not loan a number certificate to any
133 person.

134 [(d)] (e) Any marine dealer may operate, or cause to be operated by
135 a bona fide full-time employee, a vessel with a marine dealer's
136 registration number (1) while a potential purchaser or customer is
137 aboard, (2) when running a new vessel from an import terminal to the
138 dealer's place of business, (3) when test running a new vessel after
139 receiving it from the manufacturer, (4) when delivering a sold vessel to
140 the new owner, (5) when running a trade-in vessel from a buyer, (6)
141 when test running a trade-in vessel before it is made available for sale,
142 (7) when running a vessel to, and using a vessel in, a fishing
143 tournament, (8) when test running a vessel after repairs, maintenance
144 or winter storage, (9) when used in connection with the business of the
145 marine dealer, (10) when running the vessel to obtain or deliver parts
146 for the repair of the vessel or another vessel, and (11) for the personal
147 use of the marine dealer. Any marine surveyor may operate, or cause
148 to be operated by a bona fide full-time employee, a vessel with a
149 marine dealer's registration number when performing an inspection,
150 survey or examination of such vessel or associated equipment
151 provided the marine surveyor has been contracted by written

152 agreement to perform such work and a copy of the written agreement
 153 is carried on the vessel while the marine surveyor's registration
 154 number is displayed on the vessel. Each marine dealer and marine
 155 surveyor shall maintain a record of the following: (A) Each marine
 156 number certificate issued by the commissioner to such dealer, (B) the
 157 name, address and occupation of any bona fide full-time employee to
 158 whom such certificate has been assigned, (C) the date of assignment of
 159 such certificate, and (D) the exact location of each unassigned
 160 certificate. For the purposes of this subsection, "bona fide full-time
 161 employee" means a person who is employed by a marine dealer or
 162 marine surveyor for not less than thirty-five hours per week and who
 163 appears on the records of such marine dealer as an employee for
 164 whom tax is withheld for Social Security, federal income tax and any
 165 other withholding or deductions from salary required by law.

166 [(e)] (f) No person may use a vessel with a marine dealer's, [or]
 167 marine engine manufacturer's or marine surveyor's registration
 168 number for any purpose other than the purposes described in this
 169 section. The commissioner may revoke any marine dealer's, [or]
 170 marine engine manufacturer's or marine surveyor's registration
 171 number under this section if any vessel with a number issued to such
 172 dealer, [or] engine manufacturer or surveyor is used in violation of this
 173 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	15-141
Sec. 2	July 1, 2009	15-145

ENV *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Environmental Protection	Environmental Conservation Fund - Revenue Gain	14,200	8,600

Municipal Impact: None

Explanation

The bill would result in a revenue gain to the Department of Environmental Protection’s (DEP) Environmental Conservation Fund of \$14,200 in FY 10 and \$8,600 in FY 11 as a result of new marine surveyor and yacht broker registration and examination fees.

Since the bill allows DEP to set these new fees in regulation, the revenue figures seen above are anticipated based on the information seen in the table below:

Item	Anticipated Fee (Increase) (\$)	Anticipated # of New Registrants FY 10	Anticipated # of New Registrants FY 11	FY 10 (\$)	FY 11 (\$)
Marine Dealer Exam Fee	280	30	20	8,400	5,600
Yacht Broker/ Marine Surveyor Exam Fee	280	10	2	2,800	0
Marine Dealer Registration Number (annual renewal fee)	10	300	300	3,000	3,000
Total	--	--	--	14,200	8,600

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of marine surveyors and yacht brokers who register with the state.

OLR Bill Analysis**SB 824*****AN ACT CONCERNING MARINE DEALERS, MARINE SURVEYORS AND YACHT BROKERS.*****SUMMARY:**

This bill defines “marine surveyor” and “yacht broker” and allows the Department of Environmental Protection (DEP) commissioner to develop regulations for fees to provide registration numbers for these entities and marine dealers and engine manufacturers. It extends current law’s registration and operation requirements for marine dealers and engine manufacturers to marine surveyors and yacht brokers, with one exception.

Under current law, “marine dealers” and “marine engine manufacturers” must, by definition, have an established place of business for their trades. The bill, instead, requires these entities and marine surveyors to swear to an established place of business in an affidavit when applying for marine dealer registration numbers. The bill specifically exempts yacht brokers from this requirement.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2009

MARINE DEALERS, ENGINE MANUFACTURERS, AND SURVEYORS AND YACHT BROKERS***Definitions***

The bill defines a “marine surveyor” as a person certified by the National Association of Marine Surveyors or accredited by the Society of Accredited Marine Surveyors and engaged in the business of inspection, survey or examination of vessels or associated equipment to assess, monitor and report on their condition.

It defines as “yacht broker” as a marine dealer, who, for compensation or an expectation of compensation, sells or negotiates to sell or offers to sell; buys or offers to buy solicits or obtains listings of; or negotiates the purchase, sale or exchange of vessels, but who does not own them.

By law, a “marine dealer” is a person engaged in the business of manufacturing, selling, or repairing new or used vessels. A “yacht broker” is, thus, a subset of the “marine dealer” category under the bill.

Registration Numbers and Certificates

By law, marine dealers and engine manufacturers must have a marine dealer registration number and certificate to operate vessels they use. Current law allows a marine dealer or marine engine manufacturer to obtain one or more marine dealer registration numbers by paying a fee to DEP. They may use the registration numbers on vessels only for reasons the law allows. The bill extends the acquisition of these numbers to marine surveyors and yacht brokers. By law, a registration certificate, or a copy of it, must be carried aboard and made available for inspection upon each vessel that displays the dealer’s number whenever the vessel is operating.

Under current law, marine dealers’ or engine manufacturers’ registration certificates must be designated as such (i.e., marine dealer or engine manufacturer) and contain the person’s name, resident and business addresses, registration number, the certificate’s expiration date, and other information the commissioner may require. The bill adds marine surveyors and yacht brokers (as they are considered marine dealers) to these certificate requirements.

Under current law, marine dealers and engine manufacturers must renew their certificates on May 1 annually. Certificates expire April 30, unless terminated sooner or surrendered. DEP must notify each dealer or manufacturer of expiration at least 30 days before it. Within 90 days before expiration, each marine dealer or engine manufacturer may

apply to and pay DEP for certificate renewal. Each registration number assigned to a marine dealer or engine manufacturer remains the same for as long they continue under the same name in the business described in their application. The bill extends these requirements to include marine surveyors and yacht brokers.

Display of Registration Number

The bill requires any vessel that a marine surveyor uses to inspect, survey, or examine a vessel or associated equipment for assessing, monitoring, or reporting on the condition of a vessel or its associated equipment to display a marine dealer's registration number. Current law requires (1) marine dealers to display registration numbers (a) when using a vessel for sale, trade, repair or transport and (b) on any vessel sold by such dealers for no more than five days after the date of such sale and (2) engine manufacturers to display registration numbers on any vessel they use for the sole purpose of testing or demonstrating marine engines they manufactured or repaired. The bill extends the requirement to yacht brokers as well, by definition.

Use by Bona Fide Employees

The law allows a marine dealer's bona fide employees to use vessels for specific reasons (see BACKGROUND). The bill allows any marine surveyor or his or her bona fide full-time employee to operate a vessel with a marine dealer's registration number when inspecting, surveying or examining the vessel or associated equipment, provided the surveyor has a written contract to perform the work and a copy of the contract is on the vessel while the surveyor's registration number is displayed on the vessel.

Under current law, a "bona fide full-time employee" is a person who a marine dealer employs for at least 35 hours per week and appears in the marine dealer's records as an employee for whom tax is withheld for Social Security, federal income tax, and any other withholding or deductions from salary the law requires. The bill adds "marine surveyors" to this and, by definition, yacht brokers.

Prohibitions and Number Revocation

Under current law and the bill, nobody may use a vessel with a marine dealer's or marine engine manufacturer's registration number for any purpose other than those the law allows. The bill extends this prohibition on unauthorized activities to marine surveyors' and yacht brokers' registration numbers.

The bill prohibits a marine surveyor from renting, hiring out, or conveying passengers or merchandise or freight for hire on, any vessel registered with a marine surveyor's number and certificate. The law prohibits these actions for marine dealers, and thus yacht brokers under the bill, and engine manufacturers.

The bill also prohibits marine surveyors from loaning a number certificate to anyone. By law, marine dealers and engine manufacturers may do so for specific reasons, such as for vessel demonstration, which the bill extends to yacht brokers.

Under current law, the DEP commissioner may revoke any marine dealer's or engine manufacturer's registration number if any vessel with a number issued to the dealer or engine manufacturer is used in violation of the law. The bill extends this authority to vessels with a number issued to marine surveyors and yacht brokers.

DEP Regulations

The bill allows the DEP commissioner to adopt regulations concerning marine dealer (including yacht brokers), engine manufacturers, and surveyors to establish fees for: (1) each marine dealer registration number issued; (2) the application for such numbers; (3) examination of a marine dealer, marine engine manufacturer or marine surveyor with respect to criteria for numbers issuance; and (4) issuance and display of marine dealer registration numbers. (It is not clear how a fee could be charged for display of numbers.)

Under current law, the fee for marine dealers and engine manufacturers is \$50 for each number.

BACKGROUND***Marine Dealer Registration Numbers***

The law allows marine dealers to operate, or direct their bona fide full-time employees to operate, a vessel with a marine dealer's registration number when:

1. a potential purchaser or customer is aboard;
2. running a new vessel from an import terminal to the dealer's place of business;
3. test running a new vessel after receiving it from the manufacturer;
4. delivering a sold vessel to the new owner;
5. running a trade-in vessel from a buyer;
6. test running a trade-in vessel before it is made available for sale;
7. running a vessel to, and using a vessel in, a fishing tournament;
8. test running a vessel after repairs, maintenance or winter storage;
9. used in connection with the business of the marine dealer;
10. running the vessel to obtain or deliver parts for the repair of the vessel or another vessel; and
11. for the marine dealer's personal use.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 29 Nay 0 (03/13/2009)