HOUSE . . . . . No. 2182

By Mr. Morrissey of Quincy, petition of Michael W. Morrissey, Lida E. Harkins, John J. Binienda, Vincent P. Ciampa and Anthony M. Mandile relative to requiring a certificate of title for the transfer of titled motorboats to be issued by the Division of Marine and Recreational Vehicles. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT REQUIRING A CERTIFICATE OF TITLE FOR THE TRANSFER OF TITLED MOTORBOATS TO BE ISSUED BY THE DIVISION OF MARINE AND RECREATIONAL VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 90B of the General Laws, as appearing in the 1985 Official Edition, is hereby amended by adding after Section 35, the following new section: —

Section 36. (a) Ownership of a titled motorboat shall be evidenced by a certificate of title issued by the division or, if new, by a manufacturer's or importer's certificate on a form prescribed by the division. Ownership of any other vessel may but need not be evidenced by a certificate of title, or, if new, by a manufacturer's or importer's certificate.

(b) No person may sell, assign, transfer, or otherwise dispose of an interest in a titled motorboat without (1) delivering to the transferee a certificate of title in the name of the transfer or property endorsed to show the transfer, or (2) if the transferee is not a manufacturer or dealer and the titled motorboat is new, delivering to the division a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners, or (3) if the transferee is a manufacturer or dealer and the title motorboat is new, delivering to the transferee a manufacturer's or importer's certificate showing the endorsement

of the manufacturer and all intervening owners, or (4) if the titled motorboat is not covered by a certificate of title or manufacturer's or importer's certificate, delivering to the division or to the transferee sufficient evidence of title and other information so that a certificate of title will be issued thereto to the transferee. No person shall acquire an interest in a titled motorboat until a certificate of title to the titled motorboat has been issued in the name of such person, or if such person is a dealer or manufacturer and the titled motorboat is new, until the manufacturer's or importer's certificate is properly endorsed showing the signature of the manufacturer and all intervening owners.

(c) Except as provided in subsection (f) of this section, all liens, encumbrances, and security interests in a titled motorboat created after the effective date of this section shall (i) be noted on the certificate of title pertaining to such titled motorboat, (ii) take priority over later noted security interests and (iii) take priority over other general creditors of the owner of the titled motorboat or subsequent purchasers thereof, and holders of unnoted liens or security interests thereon.

(d) Application for a certificate of title shall be made to the division on forms it prescribes showing, among other items, the name and address of the owner, a description of the title motorboat (including, as appropriate, its manufacturer's or builder's number, hull identification number (HIN), motor number, outdrive number, horsepower), name and address of purchaser and date of purchase, name and address of any holder of a security interest and such other information as the division may prescribe. The application shall be accompanied by the prescribed fee and by such evidence as the division shall reasonably require to establish that the applicant or other person is entitled to a certificate of title or a noted security interest. Such evidence may include a certificate of title issued by another state or jurisdiction, manufacturer's or importer's certificate, bill of sale, assignment, contract, promissory note, security agreement, invoice, bill of lading, affidavit, probate or heirship proceedings or information, judgment of a court of competent jurisdiction, or other documents. Every manufacturer or dealer selling or exchanging a titled motorboat to a person not a manfacturer or

58 dealer shall make application for a certificate of title in the name
59 of the purchaser or transferee. In all other cases the purchaser shall
60 make the application for a certificate of title. The application shall
61 be made within twenty days after the date of sale of the titled
62 motorboat. If a dealer acquires a titled motorboat for which a
63 then currently valid certificate of title is issued, the dealer need
64 not secure a certificate of title in his name but may apply for a
65 certificate of title in the name of the person, other than another
66 dealer, to whom he subsequently sells or otherwise transfers the
67 titled motorboat, submitting the certificate of title with an
68 appropriate assignment endorsement.
69 (e) The certificate of title issued by the division shall contain
70 the name and address of the owner of the titled motorboat, the
71 name of each holder of any security interest therein, a description
72 of the titled motorboat, and shall be in a form prescribed by the
73 division. If there is no security interest held in the titled motorboat,
74 the original certificate of title, marked, "Original", shall be
75 delivered to the owner and a copy retained by the division. If there
76 is a security interest held in the titled motorboat, the original
77 certificate marked "Original", shall be sent to the first lien holder
78 and the duplicate original, marked "Duplicate Original", shall be
79 delivered to the owner and a copy retained by the division. Title
80 may be transferred only by surrender of the "Original" certificate
81 of title property endorsed to show the transfer.
82 (f) The manufacturer's or importer's certificate shall include the
83 information required by subsection (d) hereof for certificates of
84 title, shall certify to the manufacturer or other origin of the titled
85 motorboat, shall be signed by the manufacturer or the equivalent
86 thereof, and shall show theron the endorsement of the original
87 and each subsequent transferee thereof including the applicant for
88 the certificate of title. No lien, encumbrance, or security interest
89 or security agreement shall be shown thereon. Any security
90 interest, encumbrance or other lien may be perfected as provided
91 by chapter one hundred and six of the General Laws prior to the
92 issuance of a certificate of title.
93 (g) The provisions of subsections (d), (e) and (f) hereof shall
94 apply to the issuance of certificates of title or manufacturer's or
95 importer's certificates for those vessels for which a certificate of

96 title or a manufacturer's or importer's certificate may but need
97 not be issued under subsection (a) hereof.
98 (h) A certificate of title shall be required as proof of ownership
99 of a titled motorboat on an application for registration as required
100 by this chapter unless a certificate of title has not otherwise been
101 required by the terms of this section. A certificate of title may be
102 cancelled by the division after a hearing and for cause.
103 (i) The provisions of this section shall not apply to vessels with
104 a valid marine document issued by the Bureau of Customs of the
105 United States or any federal agency successor thereto.
106 (j) (1) If ownership of a titled motorboat is transferred by
107 operation of law, such as inheritance, order in bankruptcy,
108 insolvency, replevin, or execution sale, the transferee, within thirty
109 days after acquiring the right to possession of the titled motorboat
110 by operation of law, shall provide to the division such proof of
111 the right to possession as the division requires, together with an
112 application for a new certificate of title and the required fee.
113 (2) If a lien holder repossesses a titled motorboat by operation
114 of law and holds it for resale, such person shall secure a new
115 certificate of title and shall pay the required fee.
116 (k) The fees for the issuance of certificates of title and the
117 notation of a security interest or other lien or encumbrance shall
118 be established by the secretary of administration and finance.
119 (l) For purposes of this section the following terms shall have
120 the following meanings
121 "Titled Motorboat" means any vessel of fourteen feet or greater
122 in length propelled or designed to be propelled by machinery,
123 whether or not such machinery is permanently or temporarily
124 affixed or is the principal source of propulsion.
125 "Dealer" means a person, firm, corporation or entity engaged
126 in the business of buying, selling, or exchanging titled motorboats
127 at an established or permanent place of business in this
128 commonwealth and that each such place maintains: (1) a sign
129 conspicuously displayed showing the name of the dealership so
130 that it may be located by the public and (2) sufficient space for
131 an office and display of products.
132 "Manufacturer" means any person, firm, corporation or entity
133 engaged in the business of manufacturing new titled motorboats
134 for the purpose of sale or trade.

135 "New" when used to describe a title motorboat means every
136 titled motorboat after its manufacture and prior to its sale or
137 transfer to a person not a manufacturer or dealer as evidenced
138 by the issuance of a certificate of title for such titled motorboat.

1 SECTION 2. The director of the division of law enforcement
2 shall have authority to promulgate rules and regulations to
3 implement this act, including without limitation, to delay, in
4 whole or in part,the date of implementation hereof established by
5 section 3. Any such delay in implementation shall be reported in
6 writing to the house and senate committees on ways and means
7 within ten days stating in such report the reason or reasons
8 therefor.

1 SECTION 3. Section 1 hereof shall take effect as of January
2 1, 1991.