

By Mr. Goyette of New Bedford, petition of Roger R. Goyette for legislation to require a certificate of title for the transfer of or security interests in 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 Eighty-Six.

AN ACT REQUIRING A CERTIFICATE OF TITLE FOR THE TRANSFER OF OR SECURITY INTERESTS IN 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:

1 SECTION 1. General Laws Chapter 90B is hereby amended by
2 adding after General Laws Chapter 90B, Section 35, the following
3 new Section: —

4 “Section 36. (a) Ownership of a motorboat shall be evidenced
5 by a certificate of title issued by the Division of Marine and
6 Recreational Vehicles or, if the vessel is new, by manufacturer’s or
7 importer’s certificate on a form prescribed by the Division. Owner-
8 ship of any vessel other than a motorboat may but need not be
9 evidenced by a certificate of title, or, if new, by a manufacturer’s or
10 importer’s certificate. A separate certificate of title or manufactur-
11 er’s or importer’s certificate shall be secured for a motorboat.

12 “(b) No person may sell, assign, transfer, or otherwise dispose of
13 an interest in a motorboat without either (1) delivering to the
14 transferee a certificate of title in the name of the transferor properly
15 endorsed to show the transfer, or (2) if the transferee is not a
16 manufacturer or dealer and the vessel is new, delivering to the
17 Division a manufacturer’s or importer’s certificate showing the en-
18 dorsement of the manufacturer and all intervening owners, or (3)
19 if the transferee is a manufacturer or dealer and the vessel is new,
20 delivering to the transferee a manufacturer’s or importer’s certifi-
21 cate showing the endorsement of the manufacturer and all inter-

22 **vening owners, or (4) if the motorboat is not covered by a certifi-**
23 **cate of title of manufacturer's or importer's certificate, delivering**
24 **to the Division (if the transferor is a manufacturer or dealer) or to**
25 **the transferee (if the transferor is not a manufacturer or dealer)**
26 **sufficient evidence of title and other information so that a certifi-**
27 **cate of title will be issued thereto to the transferee. No person shall**
28 **acquire an interest in a motorboat until a certificate of title to the**
29 **motorboat has been issued in the name of such person, or if such**
30 **person is a dealer or manufacturer and the motorboat is new, until**
31 **the manufacturer's or importer's certificate is properly endorsed**
32 **showing the signature of the manufacturer and all intervening**
33 **owners.**

34 “(c) Except as provided in Subsection (f) of this Section 1, all
35 liens, encumbrances, and security interests in a motorboat created
36 after the effective date of this Act shall (i) be noted on the certificate
37 of title pertaining to such motorboat, (ii) take priority according to
38 the order of time in which they are noted on the certificate of title,
39 and (iii) be valid as against other general creditors of the owner of
40 the motorboat or subsequent purchasers thereof, and holders of
41 unnoted or subsequent liens or security interests thereon.

42 “(d) Application for a certificate of title shall be made to the
43 Division on forms it prescribes showing, among other items, the
44 name and address of the owner, a description of the motorboat
45 (including, as appropriate, its manufacturer, make, model, year,
46 length, construction material, manufacturer's or builder's number;
47 hull identification number (HIN), motor number, outdrive
48 number, horsepower), name and address of purchaser and date of
49 purchase, name and address of any security interest owner, and
50 such other information as the Division may prescribe to reflect the
51 ownership of the motorboat or outboard motor, a security interest
52 thereon, or to further describe the above items. The application
53 shall be accompanied by the fee provided herein and by such
54 evidence as the Division shall reasonably require to establish that
55 the applicant or other person is entitled to a certificate of title or a
56 noted security interest. Such evidence may include a certificate of
57 title issued by another state or jurisdiction, manufacturer's or im-
58 porter's certificate, bill of sale, assignment, contract, promissory
59 note, security agreement, invoice, bill of lading, affidavit, probate

60 or heirship proceedings or information, judgment of a court of
61 competent jurisdiction, or other documents. Every manufacturer
62 or dealer selling or exchanging a motorboat to a person not a
63 manufacturer or dealer shall make application for a certificate of
64 title in the name of the purchaser or transferee. In all other cases the
65 purchaser shall make the application for a certificate of title. The
66 application shall be made within 20 days after the date of sale of the
67 motorboat. If a dealer acquires a used vessel covered by a certifi-
68 cate of title, the dealer need not secure a certificate of title in his
69 name but may apply for a certificate of title in the name of the
70 person, other than another dealer, to whom he subsequently sells
71 or otherwise transfers the motorboat, submitting the certificate of
72 title with an appropriate assignment endorsement.

73 “(e) The certificate of title issued by the division shall contain
74 the name and address of the owner of the motorboat, the owner of
75 any security interest therein, a description of the motorboat, and be
76 in the form prescribed by the Division. If there is no lien on the
77 motorboat, the original certificate of title, marked ‘Original,’ shall
78 be delivered to the owner and a copy retained by the Division. If
79 there is a lien, the original certificate shall be sent to the first lien
80 holder and the duplicate original, marked ‘Duplicate Original,’
81 shall be delivered to the owner and a copy retained by the Division.
82 Title may be transferred only by surrender of the original certifi-
83 cate of title properly endorsed to show the transfer.

84 “(f) The manufacturer’s or importer’s certificate shall describe
85 the motorboat per Subsection (d) above, certify to the manufacture
86 or other origin of the motorboat, be signed by the manufacturer or
87 the equivalent thereof, and show thereon the endorsement of the
88 original and each subsequent transferee up to and including the
89 applicant for the certificate of title. No lien, encumbrance, or
90 security agreement shall be shown thereon. Any security interest or
91 other lien may be perfected as provided by the Commercial Code
92 as long as the boat is new.

93 “(g) The provisions of Subsections (d), (e), and (f) shall likewise
94 apply to those vessels on which a certificate may but is not required
95 to be issued.

96 “(h) The Division shall by regulation provide for the replace-
97 ment of lost, stolen, or mutilated certificates.

98 “(i) A certificate of title shall be required as proof of ownership
99 of a motorboat on an application for a number as required by this
100 Act unless a certificate of title has not otherwise been required by
101 the terms of this section; in which event a certified statement of
102 ownership will be sufficient to secure a number. A certificate of
103 number may be cancelled and the identification number voided by
104 the Division, even though such action occurs before the expiration
105 date on the certificate, and such certificate is not surrendered to this
106 Division. Certain causes for cancellation of certificates and void-
107 ing of numbers include but are not limited to the following:

108 “(1) Surrender of certificate for cancellation;

109 “(2) Issuance of a new number for the same boat;

110 “(3) Issuance of a marine document by the Bureau of Customs
111 for the same vessel;

112 “(4) False or fraudulent certification in an application for
113 number;

114 “(5) Failure to pay the prescribed; and

115 “(6) The dismantling, destruction or change in the form or
116 character of a motorboat so that it does not fit the definition
117 thereof or is not correctly described in the certificate.

118 “(j) the provisions of this Section 36 shall not apply to vessels
119 with a valid marine document issued by the Bureau of Customs of
120 the United States or any federal agency successor thereto, nor to
121 any motorboat 14 feet in length or less.

122 “(k) The fee for the issuance of a certificate of title or the notation
123 of a security interest or other lien or encumbrance shall be treated
124 as fees collected shall be \$2.00.

125 “(l) ‘Motorboat’ means any vessel propelled or designed to be
126 propelled by machinery, whether or not such machinery is per-
127 manently or temporarily affixed or is the principal source of
128 propulsion.”

129 “(m) ‘Dealer’ means a person, firm, or corporation customarily
130 engaged in the business of buying, selling, or exchanging motor-
131 boats at an established or permanent place of business in this
132 Commonwealth and that at each such place there is a sign con-
133 spicuously displayed showing the name of the dealership so that
134 it may be located by the public and sufficient space to maintain
135 an office, service area, and display of products.”

136 “(n) ‘Manufacturer’ means any person engaged in the business of
137 manufacturing new and unused motorboats for the purpose of sale
138 or trade.

139 “(o) ‘New’ means every motorboat after its manufacture and
140 before its sale or transfer to a person not a manufacturer or dealer.”

