

CHAPTER 82

AN ACT concerning public access requirements for marinas and supplementing Title 13 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:19-38 Short title.

1. This act shall be known and may be cited as the “Public Access and Marina Safety Task Force Act.”

C.13:19-39 Findings, declarations relative to public access requirements for marinas.

2. The Legislature finds and declares that:

a. The Public Trust Doctrine is an important legal principle that establishes the right of the public to use tidal waterways and their shores, including the ocean, bays, and tidal rivers;

b. As interpreted today, the Public Trust Doctrine upholds that public rights to tidal waterways and their shores are held by the State in trust for the benefit of all of the people, and recognizes and protects natural resources as well as recreational uses such as swimming, sunbathing, fishing, boating and walking along tidal waterways and their shores;

c. Marinas are a unique and essential part of the State’s waterfront community, providing access to a variety of recreational activities, and providing important boating infrastructure and services, that should be encouraged;

d. In December 2007, the Department of Environmental Protection adopted rules and regulations, and issued a concurrent regulatory proposal, governing public access at marinas, which rules and regulations are both economically destructive and practically unworkable for the marina industry; and

e. It is therefore in the public interest to conduct a study of the efficacy, practicability and feasibility of these rules and regulations and to impose a moratorium on their implementation until such time as the affected parties have had the opportunity to address the many and variegated issues raised thereby.

The Legislature therefore determines that a moratorium on the implementation of the rules and regulations adopted by the Department of Environmental Protection in December 2007 governing public access at marinas is critical to ensure that all affected interests are taken into account, thus increasing the likelihood of a more reasonable and equitable policy emerging therefrom.

C.13:19-40 Moratorium on implementation of certain rules, regulations.

3. There shall be a moratorium on the implementation of the provisions of N.J.A.C.7:7E-3.50, N.J.A.C.7:7E-7.3 and N.J.A.C.7:7E-8.11, as applied to marinas, as such rules and regulations were adopted by the Department of Environmental Protection on December 17, 2007. During the moratorium the Public Access and Marina Safety Task Force established pursuant to section 4 of this act shall conduct the study required pursuant to section 5 of this act. The moratorium shall expire on December 31, 2010.

C.13:19-41 Public Access and Marina Safety Task Force.

4. a. There is established in but not of the Department of Environmental Protection the Public Access and Marina Safety Task Force. The task force shall evaluate and study the efficacy, practicability and feasibility of the rules and regulations governing public access at marinas, and submit its findings and recommendations, in writing, to the Governor and the Legislature as provided in section 6 of this act.

b. The task force shall consist of 10 members as follows:

(1) a representative of the Department of Environmental Protection;

(2) a representative of the Office of Maritime Resources in the Department of Transportation;

(3) four elected public officials, to be appointed by the Governor with the advice and consent of the Senate, representing the coastal communities of Atlantic, Cape May, Monmouth and Ocean counties, respectively; and

(4) four public members to be appointed by the Governor with the advice and consent of the Senate. Of the four public members, one shall be a representative of the Urban Coast Institute of Monmouth University, and one shall be a representative of the environmental community with a recognized expertise and specialization in coastal and shore protection issues. The remaining public members shall represent marina operators or a marine trade association.

c. The members of the task force shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the task force for its purposes.

d. Any vacancy in the membership shall be filled in the same manner as the original appointment.

e. The task force shall be entitled to the assistance and service of the employees of any State, county or municipal department, board, bureau, commission, authority, or agency as it may require and as may be available to it for its purposes, and to employ stenographic and clerical assistance and to incur traveling or other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes. The Department of Environmental Protection shall provide primary staff support to the task force.

f. The task force shall meet monthly or at the call of the chairperson of the task force or when requested by any four members of the task force.

g. The task force shall organize as soon as possible after the appointment of its members, and shall select annually a chairperson from among its members and a secretary who need not be a member of the task force.

C.13:19-42 Duties of Public Access and Marina Safety Task Force.

5. a. It shall be the duty of the Public Access and Marina Safety Task Force to:

(1) evaluate and study the efficacy, practicability and feasibility of the rules and regulations adopted by the Department of Environmental Protection, and the concurrent regulatory proposal issued thereon, governing public access at marinas, in order to ascertain the most reasonable and equitable manner in which to proceed with a public access and marina use policy; and

(2) hold at least one public hearing to solicit public comment and suggestions on the issues and matters to be studied and evaluated pursuant to this subsection.

b. The task force may solicit or receive any information or resources concerning public access at marinas made available by any governmental, public, private, not-for-profit or for-profit entity.

C.13:19-43 Report to Governor, Legislature.

6. The task force shall submit its report, including its findings and recommendations, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature

by December 31, 2010. Copies of the report shall be provided to the public upon request and free of charge, and the report shall be posted on the department's internet website.

C.13:19-44 Departmental powers affected during duration of moratorium.

7. For the duration of the moratorium imposed pursuant to section 3 of this act, the department shall not:

- a. require a marina facility to provide unlimited public access to the waterfront;
- b. require a conservation easement by means of a deed restriction;
- c. require perpendicular access across the entire waterfront; or
- d. require additional parking, as a condition of any permit for activities relating to the expansion or renovation of an existing marina facility issued pursuant to R.S.12:5-3, "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), or the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.).

8. This act shall take effect immediately.

Approved September 10, 2008.