

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 53, 93, 95, 97, 101, 103, 111, 113 AND 117]

Fish and Boat Commission Property; and Boats and Boating

The Fish and Boat Commission (Commission) by this order amends Chapters 53, 93, 95, 97, 101, 103, 111, 113 and 117. The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments deal with Commission property and boats and boating.

A. Effective Date

These amendments will take effect upon publication of this order.

B. Contact Person

For further information on the amendments, contact Dennis Guise, Chief Counsel, (717) 657-4525, P. O. Box 67000, Harrisburg, PA 17106-7000, or John Simmons, Director, Bureau of Boating, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 657-4538.

C. Statutory Authority

The amendments are published under the statutory authority of sections 741 and 5122—5124 of the code.

D. Purpose and Background

The amendments update the Commission's regulations on boats and boating, including property regulations that relate to boats and boating. The amendments have been reviewed by the Commission's Boating Advisory Board (Board).

E. Summary of Changes

(a) *Personal flotation devices (PFD) on Commission lakes, § 53.8.* The Commission and the Bureau of State Parks have historically required the wearing of PFDs by persons operating sculls on State-owned lakes in the exercise of the agencies' powers to regulate use of Commonwealth properties under their jurisdiction. The Board reviewed this issue and recommended that the Commission consider modifying its property regulations to permit the use of non-Coast Guard approved PFDs by the operators of sculls and rowing shells on its lakes. This change is being sought by those who operate sculls and rowing shells who cite the general exemption of sculls and rowing shells from Coast Guard PFD requirements in support of their request.

(b) *Access areas and marinas, § 53.12.* Current Commission property regulations provide for boat mooring and slip rentals at the Walnut Creek Access, Erie County. The Commission now operates the North East Access and Marina in Erie County. No specific regulations have been published for the North East Access and Marina. As a result of the Commission obtaining control over an additional marina, the Commission has reexamined the regulation on the Walnut Creek Access area to determine what changes, if any, are in order. It appears that a more flexible regulatory structure, allowing all marinas to be operated in a more business-like manner will best address the needs of the boating public. The regulation was drafted to replace the regulation applicable to Walnut

Creek Access in its entirety. Although this is a property regulation, the Commission sought public comment by including it in a notice of proposed rulemaking. The Commission received no public comments concerning this change and, therefore, adopted it as proposed.

(c) *State of principal operation of recreational boats, § 93.11.* One of the more complicated issues relating to boat registration and numbering is "State of Principal Operation." The Coast Guard has considered the state in which a boat is used most often to be the state in which it is to be registered. An enforcement officer must determine in which state a boat is used most often even though he only sees the boat on an occasional basis. To further complicate the issue, some states have come to use a 60-day period as the period of reciprocity. Many laws allow a boat to operate in a state for a period of 60 days on an out-of-state registration. The regulation attempts to better explain how to determine state of principal operation and when a boat has to be registered in this Commonwealth.

(d) *Operation of a boat after the death of the registered owner, § 93.16.* When the boating regulations were rewritten in 1992, a new section was drafted to provide regulatory relief for the estates of deceased boat owners. The intention was to permit the continued use of a boat during the current registration period while the decedent's estate is being administered. The regulation goes further, however, and permits the estate to renew the registration of the boat in the name of the estate. This wording is unnecessary, and, with the 2-year registration system, it allows too long a period before registration of the boat is transferred. The change requires the estate to take action to transfer registration at the end of the current period of registration.

(e) *Lights for boats, § 95.3.* When the boating regulations were rewritten in 1992, a new section concerning rules of the road was added. An attempt was made to make these regulations reflect the Federal rules of the road while at the same time making them simpler in construction and easier to read. The rewrite failed to make a distinction in the lighting requirements between boats underway and not underway. The Commission therefore has adopted an amendment to § 95.3 to include the word "underway" and to make several minor editorial changes. On final rulemaking, the Commission has corrected errors in the conversion of the metric measurements.

(f) *PFDs, § 97.1.* The Commission sought public comment on a proposal to require PFDs to be worn during certain cold-weather months. The Commission received four public comments concerning this change. One commentator expressed concerns with the change; two expressed support. Although the Board recommended that the Commission adopt the change, the Commission's Boating Committee (Committee) recommended that the Commission not adopt the amendment. The Commission encourages the wearing of PFDs during cold weather months. However, it does not believe that it is necessary to mandate this practice. At its January 1996 meeting, the Commission voted 7 to 2 against requiring that PFDs be worn during cold weather months.

(g) *Fire extinguishers, § 97.2.* Federal regulations have required that all fire extinguishers used in boats are to be built to certain requirements established by the Coast Guard. This certification is identified by the presence of a

Coast Guard Approval Number that is found on the label of each marine fire extinguisher. Several years ago, the Coast Guard ceased to certify fire extinguishers turning that responsibility over to independent testing laboratories, most notably Underwriters Laboratory (U.L.). This change has been interpreted to mean that fire extinguishers no longer need the Coast Guard Approval Number. This is not the case. Even though U.L. does the actual certification, all extinguishers must still carry the Coast Guard Approval Number in order to be acceptable in marine use. The amendment merely clarifies this requirement.

(h) *Boating accident reports, § 101.4.* During the rewrite of the boating regulations in 1992, the requirements for submitting written boating accident reports were rewritten. The new regulation does not require the operator or owner of the vessel involved in the accident to file a "completed" report. Many of the reports that are received by the Commission are incomplete or illegible making it very difficult to review the accident. A clarification to § 101.4 requiring the reports to be completed will allow the Commission's Boating Accident Review Officer to return the report to the operator or owner of the vessel with regulatory authority to demand any additional information being withheld, or clarification of the information on the report.

(i) *Duties of operators involved in watercraft accidents, § 101.8.* The purpose of this amendment is to clarify the duties of operators involved in boating accidents. This change, which mirrors similar requirements for operators of vehicles, updates the requirements to remain at the scene of a boating accident, exchange information and render aid.

(j) *Operation of boats in a counter clock-wise direction, § 103.3.* The current regulation provides that "motorboats underway on water impoundments—dams, reservoirs, lakes and the like—in areas not marked by well-defined channels, canals, rivers or stream courses shall operate in a counterclockwise fashion insofar as reasonably possible." These rules are not intended to exempt operators of boats from operating in a counter clockwise fashion on rivers and streams. The intent of this rule was to lend some order to boat traffic on congested waterways. It was meant to apply on all waters and was to be a standard of conduct and not an enforceable regulation. The intent of the current language in the boating regulations is somewhat obscure. At least one county court has held that it does not apply to an impoundment on a river. The Commission sought public comment on the regulation and received one comment concerning the change. After considering the public comment, the Commission adopted the regulation as proposed to clarify the applicability of this navigation rule on all waters of this Commonwealth.

(k) *Special boating regulations, Chapter 111.*

(1) *Highland Lake, Bradford County, § 111.8.* Highland Lake is a small 1-acre private lake in Bradford County. The Highland Lake Association was first formed in 1947. By agreement of the members, no motorboats have ever been permitted on the lake. The exception to this rule is the Association's motorboat that is used to control algae growth. The Association realizes that its rules have no force of law and have requested that formal regulations be adopted that would prevent the use of motors on this lake. The Commission's staff surveyed the residents of the lake. All residents were generally in support of the amendment. One individual requested that electric motors be permitted on the lake in deference to the needs for senior citizens and handicapped individuals. Because this

is a private lake, already under agreed regulation, the Commission sought public comment on this change, but the Commission received none. The Commission's Committee subsequently considered this item and recommended to the Commission that it not adopt the special regulation banning motorboats from Highland Lake, a small lake with no public access. At its January 1996 meeting, the Commission declined to adopt the special regulation.

(2) *Delaware River, Bucks County, § 111.9.* The New Hope Borough Council and the Solebury Township Supervisors joined forces to request that several slow minimum height swell speed zones be created on the Delaware River in their respective municipalities. The request may be considered in two parts. The first was a request that Pennsylvania adopt regulations consistent with New Jersey that restricts boats to slow no wake while passing through bridge spans. This restriction would apply to four bridges in the vicinity of New Hope. The spans in question are at most 150 feet between piers. If the piers were considered shoreline, two boats could not pass under the span without violating the current Pennsylvania slow no wake regulations. The regulations are unclear, however, in defining what constitutes shoreline. A regulation specifically addressing these four bridge spans would allow consistency of regulations and not necessitate a Statewide regulation to address a problem that does not appear to be Statewide in nature. The second part was to create a slow minimum height swell speed zone of approximately 3,000 feet on the Delaware River near Lumberville. The change would help address general complaints concerning noise and operation of personal watercraft in this area. The Commission received 46 public comments in favor of the slow speed zone in the vicinity of Lumberville. The Board reviewed the change at its meeting on January 19, 1996, and recommended that the slow, minimum height swell speed restriction on the 3,000 feet near Lumberville be effective during the period from 12:01 a.m. on the Friday before Memorial Day until midnight on the following Labor Day. The Board further indicated that this section should also provide that this speed zone will take effect when the State of New Jersey approves similar restrictions. At its meeting on January 21, 1996, the Commission adopted this regulation with the changes proposed by the Board.

(3) *Lake Erie and Presque Isle Bay (Erie County), § 111.25.* The Bureau of State Parks maintains a comprehensive set of regulations concerning the operation of boats on waters within its jurisdiction. After the 1992 rewrite of the boating regulations, it was discovered that the Commission failed to include an electric motors only restriction in the lagoons of Presque Isle State Park. This restriction has been in effect for a number of years and its exclusion from the regulations was an oversight. The regulation restores this wording to § 111.25.

(4) *Fairview Lake, Pike County, § 111.52.* The Commission received a petition from residents of Fairview Lake, Pike County, to establish a slow minimum height swell speed zone in a cove along the north shore of the lake. This cove is relatively long, narrow and shallow. The operation of conventional motorboats and personal watercraft in this area has resulted in the churning of the bottom silt which turns the normally clear water of the cove murky and uninviting. There appears to be a strong consensus for establishment of this speed zone on Fairview Lake.

(5) *Long Pond, Wayne County, § 111.64.* This change was designed to codify restrictions on waterskiing that

the Commission previously approved, but which were not included in the 1992 comprehensive rewrite of boating regulations. It adjusts the hours during which waterskiing is permitted on Long Pond.

(l) *Reliance on locations of aids and markers, § 113.12.* During the rewrite of the boating regulations in 1992, the prior provision on reliance on the location of aids to navigation was not included in the new Chapter 113 (relating to aids to navigation and obstructions to navigation). Although aids to navigation are maintained with a reasonable degree of reliability, the rigors of the environment and other unforeseen circumstances often result in aids being moved off station or becoming inoperative. Consequently, prudent boaters do not rely on aids as an absolute warning of hazardous conditions. The amendment advises boaters concerning placement of aids to navigation.

(m) *PFDs on rental boats, § 117.2.* On May 1, 1996, new Federal regulations concerning the use of the Type IV PFD by livery operators will go into effect. After that date, livery operators will have to supply wearable PFDs for everyone using one of their boats. The general regulation on PFDs, § 97.1, already has been changed to reflect these new requirements. A staff review of Chapter 117 (relating to boat rental businesses) disclosed a need to amend § 117.2 (relating to standards) to assure that there is no confusion concerning the wearable PFD requirement.

(n) *Information requirements for boat rental businesses, § 117.3.* There are currently 225 businesses in this Commonwealth that rent motorboats of various types. An unknown number of businesses rent unpowered boats. Every year, thousands of people are introduced to boating through rented boats. Each year thousands of people come away with a good experience and many may become hooked on boating. Unfortunately some come away with a bad experience. Nationally, 10% of all reported boat accidents involve rented boats. Figures for this Commonwealth reflect a similar rate. While this may not be a large percentage, the numbers are significant enough to warrant some concern. The Commission sought public comment on a regulation that would require the owners or operators of boat rental businesses to provide a summary of boating regulations and a rudimentary instruction in the safe operation of the boat being rented. It might be said that good business practices will assure that this is done without regulation; however, the change adopted by the Commission will ensure that persons who rent boats are given some basic information in all cases. The Commission did not receive any public comments regarding this amendment.

F. Paperwork

The amendments hereby adopted will not increase paperwork and will create no new paperwork requirements, except that under the change to § 117.3, operators of boat rental businesses will be required to provide a summary of laws and regulations on boating and instruction regarding the safe operation of boats to persons renting boats.

G. Fiscal Impact

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments impose no new costs on the private sector or the general public.

H. Public Involvement

A notice of proposed rulemaking containing the proposed amendments was published at 25 Pa.B. 4129

(September 30, 1995). Except for the public comments discussed under the summary of changes in Section E of this Preamble, none of the changes attracted public comment.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder 1 Pa. Code §§ 7.1 and 7.2.

(2) The public comment period was provided and that the comments received were considered.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 53, 93, 95, 97, 101, 103, 111, 113 and 117, are amended by amending §§ 53.8, 93.11, 93.16, 97.2, 101.4, 101.8, 103.3, 111.8, 111.25, 111.52, 111.64, 117.2 and 117.3, by deleting § 53.12 and by adding §§ 53.12a and 113.12 to read as set forth at 25 Pa.B. 4129 (September 30, 1995); and by amending §§ 95.3 and 111.9 to read as set forth at Annex A.

(*Editor's Note:* The proposal to amend §§ 97.1 and 111.8, included at 25 Pa.B. 4129, has been withdrawn by the Commission.)

(b) The Executive Director will submit this order and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PETER A. COLANGELO,
Executive Director

(*Editor's Note:* A document amending § 53.8 appeared at 26 Pa.B. 1706 (April 13, 1996) and will be codified in MTS 259 (June, 1996).)

Fiscal Note: 48A-51. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 95. MANUFACTURER INSTALLED EQUIPMENT

§ 95.3. Lights for boats.

(a) *General rule.* A boat from sunset to sunrise and during periods of restricted visibility shall carry and exhibit the lights prescribed by the Inland Navigation Rules Act of 1980 (33 U.S.C.A. §§ 2001—2073). A boat owner may elect to carry and exhibit the lights prescribed by the International Rules in lieu of the Inland Rules but,

in that event, the boat owner shall comply in all respects with those standards. See Appendix A.

(b) *Boats less than 12 meters (39 feet 4.4 inches) in length while underway.*

(1) Motorboats and sailboats using power may use the lighting arrangement in Appendix A, Figure 1, 2 or 3.

(2) Sailboats using sail alone may use the lighting arrangement in Appendix A, Figure 4, 5 or 6.

(3) A motorboat or sailboat using power underway on the Great Lakes may use the lighting arrangement in Appendix A, Figure 7D instead of the arrangements in Appendix A, Figure 1 and 2.

(4) A sailboat using sail alone, less than 7 meters (22 feet 11.6 inches) in length if impractical to display lights in Appendix A, Figure 4, 5 or 6, may display a single white light in time to prevent a collision. See Appendix A, Figure 7C.

(c) *Boats 12 meters (39 feet 4.4 inches) but less than 20 meters (65 feet 7.4 inches) in length while underway.*

(1) Motorboats and sailboats using power may use the lighting arrangements in Appendix A, Figure 1 or 2.

(2) Sailboats using sail alone may use the lighting arrangement in Appendix A, Figure 4, 5 or 6.

(d) *Rowing or paddle boats while underway.* One hand held or permanent all-around white light shall be ready to display in time to prevent a collision. Appendix A, Figure 7, A or B.

(e) *Boat at anchor.* One all-around white light is needed—Appendix A, Figure 7E. Anchor lights are not required when anchored in special anchorage areas. Boats less than 7 meters (23 feet) in length are required to display anchor lights when anchored in or near a channel, when in an anchorage not designated as a special anchorage area, or where other vessels normally navigate.

(f) *Locations of lights.* Lights shall be located and have the characteristics as shown in Appendix A.

(1) The masthead light (forward white light in Appendix A, Figures 1, 2 and 7D) shall be at least 1 meter (3 feet 3.4 inches) higher than the colored lights on a boat less than 12 meters (39 feet 4.4 inches) and at least 2.5 meters (8 feet 2.4 inches) above the gunwale on a boat 12 meters (39 feet 4.4 inches) in length but less than 20 meters (65 feet 7.4 inches) in length. The after masthead light (Appendix A, Figure 1 only), if used, shall be higher than the forward masthead light so as to be seen as a separate, distinct light at a distance of 1,000 meters (1,093 yards 1.8 feet) ahead of the boat.

(2) The all-around white lights shown in Appendix A, Figures 3 and 7D shall be 1 meter (3 feet 3.4 inches) higher than the colored lights.

(3) An anchor light shall be displayed where it can best be seen.

**CHAPTER 111. SPECIAL REGULATIONS
COUNTIES**

§ 111.9. Bucks County.

(a) *Levittown Lake.* The operation of boats powered by internal combustion motors is prohibited.

(b) *Neshaminy Creek.* Boats are limited to slow, minimum height swell speed from the mouth of Neshaminy

Creek to a point approximately 200 yards upstream from the Route 13 Bridge, a distance of approximately 1.5 miles.

(c) *Nockamixon Lake—Nockamixon State Park.* The use of motors in excess of 10 horsepower is prohibited.

(d) *Tyler State Park.* The operation of boats powered by internal combustion motors is prohibited.

(e) *Delaware River.*

(1) Boats are limited to slow minimum height swell speed in the following areas:

(i) Franklin Cove

(ii) From the mouth of Paunacussing Creek, approximately 3,000 feet to a point in the vicinity of Green Hill Road, effective from 12:01 a.m. on the Friday before Memorial Day until midnight on Labor Day.

(2) Boats are limited to slow minimum height swell speed while passing through the following bridge spans:

(i) Route 263 (Stockton-Center) Bridge.

(ii) Route 202 Toll Bridge.

(iii) Route 179 (New Hope-Lambertville) Bridge.

(3) The requirements in this subsection that affect waters of joint jurisdiction with New Jersey are effective May 1, 1997.

(4) The mooring of boats within 100 feet of the marina boat dock in Franklin Cove is prohibited.

[Pa.B. Doc. No. 96-627. Filed for public inspection April 19, 1996, 9:00 a.m.]

**[58 PA. CODE CHS. 61 AND 77]
Reptiles and Amphibians**

The Fish and Boat Commission (Commission) by this order amends Chapters 61 and 77 (relating to seasons, sizes and creel limits; and reptiles and amphibians). The Commission is amending these chapters under the authority of 30 Pa.C.S. (relating to Fish and Boat Code of 1980) (code). The amendments deal with reptiles and amphibians.

A. Effective Date

These amendments will take effect upon publication of this order.

B. Contact Person

For further information on the amendments, contact Dennis Guise, Chief Counsel, (717) 657-4525, P. O. Box 67000, Harrisburg, PA 17106-7000 or Andy Shiels, Herpetology and Endangered Species Coordinator, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, PA 16823, (814) 359-5113.

C. Statutory Authority

These amendments are published under the statutory authority of sections 2102 and 2904 of the code (relating to rules and regulations; and permits for protection and management of particular fish).

D. Purpose and Background

The amendments update the Commission's regulations on reptiles and amphibians to provide for the better protection and management of this form of wildlife.

E. Summary of Changes

The existing reptile and amphibian regulations were in need of revision to provide adequate protection of these resources. The Commission observed increasing interest in collecting certain reptiles and amphibians in this Commonwealth. There were areas regarding regulations pertaining to organized reptile and amphibian hunts that required clarification. Commission staff from the Bureaus of Fisheries and Law Enforcement and members of the Herpetology Advisory Committee discussed and contributed to the drafting of the changes.

The Commission has adopted changes to current reptiles and amphibian regulations to:

(a) Clarify requirements for individual permits to take, catch or kill timber rattlesnakes, § 77.2 (relating to reptile and amphibian hunt permits).

(b) Further define possession issues regarding timber rattlesnakes including the addition of an annual limit, § 77.6 (relating to season and daily possession limits).

(c) Prohibit the sale, trade or barter of native reptile and amphibian parts, § 77.3 (relating to taking and selling reptiles and amphibians under section 2102(b) and (c) of the code).

(d) Prohibit harvest and possession of reptile eggs and provide additional protection for nests, § 77.3.

(e) Place possession limits on frogs, § 77.6.

(f) Place season, daily and possession limits on snapping turtles, § 77.6.

(g) Clarify the prohibition on the importation of timber rattlesnakes, § 77.8 (relating to importation of timber rattlesnakes).

Additionally, the Commission has adopted changes to Pymatuning Reservoir regulations in § 61.3 (relating to Pymatuning Reservoir) to bring them in line with current and proposed Statewide regulations. The Commission's staff solicited comments from the Ohio Department of Natural Resources (DNR), which has shared jurisdiction for this boundary water. The Ohio DNR has no objections to these changes. On final rulemaking, the Commission has corrected a wording error in § 77.3.

F. Paperwork

These amendments will not increase paperwork and will create no new paperwork requirements, except the clarification on the requirement for individual annual timber rattlesnake hunt permits, in § 77.2, will more clearly define who is required to have permits.

G. Fiscal Impact

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments impose no new costs on the private sector or the general public.

H. Public Involvement

A notice of proposed rulemaking was published at 25 Pa.B. 4134 (September 30, 1995). The Commission received no written public comments in response to the

notice of proposed rulemaking. Andy Shiels, Herpetology, Endangered Species and Triploid Grass Carp coordinator, reports that he received two telephone calls about the proposed amendments. Both concerned the seasons for snapping turtles.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and that all comments received were considered.

(3) The amendment of the regulations of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 61 and 77, are amended by amending §§ 61.3, 77.2, 77.6 and 77.8 to read as set forth at 25 Pa.B. 4134; and by amending § 77.3 to read as set forth in Annex A.

(b) The Executive Director shall submit this order, 25 Pa.B. 4134 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 25 Pa.B. 4134 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PETER A. COLANGELO,
Executive Director

Fiscal Note: Fiscal Note 48A-50 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 77. REPTILES AND AMPHIBIANS

§ 77.3. Taking and selling reptiles or amphibians under section 2102(b) and (c) of the code.

(a) A reptile or amphibian may not be taken through the use of chemicals, smoke, explosives, winches, jacks or other devices or materials, or manually that may disrupt, damage or destroy the den or the immediate surroundings thereof. Habitat may not be destroyed in pursuit of a reptile or amphibian.

(b) It is unlawful to take, catch, kill or possess an amphibian or reptile, whether dead or alive, in whole or in parts, including eggs or any lifestage, except common snapping turtles (*Chelydra serpentina*), in this Commonwealth for the purpose of selling the amphibian or reptile or offering it for sale.

(c) It is unlawful for a person to sell, offer for sale, import or export for consideration, trade or barter, or purchase an amphibian or reptile, except common snap-

ping turtles, whether dead or alive, in whole or in parts, including eggs or any lifestage, that was taken, caught or killed in this Commonwealth. It is not a violation of this subsection to sell, offer for sale, import or export for consideration, or purchase an amphibian or reptile taken, caught or killed prior to September 1, 1979.

(d) In prosecutions for violation of this section, it shall be a rebuttable presumption that a species of amphibian or reptile that is native to or occurs within this Commonwealth, was taken, caught or killed in this Common-

wealth, and that a reptile or amphibian offered for sale, sold, or purchased in apparent violation of this section was taken, caught or killed after September 1, 1979.

(e) It is unlawful to damage or disrupt the nest or eggs of a reptile or to gather, take or possess the eggs of any reptile in the natural environment of this Commonwealth.

[Pa.B. Doc. No. 96-628. Filed for public inspection April 19, 1996, 9:00 a.m.]
