

TITLE 23

Navigation and Waters

CHAPTER 11. OBSTRUCTING NAVIGATION

§ 1101 Casting ballast in tideway; penalty.

Whoever casts into the tideway of the Delaware Bay or River, above Bombay Hook Island or within 1/2 mile of the mouth of any navigable stream between the Island and the Delaware Breakwater or within 3 miles of the breakwater, any ballast, stone or other heavy articles shall be fined not more than \$100.

Code 1852, § 1232; 16 Del. Laws, c. 310, § 1; Code 1915, § 2949; Code 1935, § 3457; 23 Del. C. 1953, § 1101.;

§ 1102 Sweeping for anchors, cables or buoys near breakwater; penalty.

Whoever sweeps for or takes possession of anchors, cables or buoys within 1 mile of the Delaware Breakwater or ice breaker, unless it be the person who has lost such anchor, cable or buoy, or the person's agent, shall be fined not less than \$5.00 nor more than \$50.

Code 1852, § 1233; Code 1915, § 2950; Code 1935, § 3458; 23 Del. C. 1953, § 1102; 70 Del. Laws, c. 186, § 1.;

§ 1103 Regulation of anchorage.

Vessels anchoring in any river or creek shall do so out of the channel and as near the shore as they can with safety, and, when necessary, shall moor parallel with the channel, so as to leave a free passage, or they shall be held liable, as for gross negligence, in case of collision.

The Town of Lewes shall enforce this regulation as to vessels in the Lewes River above the mouth of the back channel, and the master or owner of any vessel refusing to comply shall be fined \$10 for the use of the town, and also the expense of mooring.

Code 1852, §§ 1234, 1235; Code 1915, § 2951; Code 1935, § 3459; 23 Del. C. 1953, § 1103.;

§ 1104 Obstructions interfering with use of shore or harbor.

Whoever causes any obstruction to be erected or placed or remain upon the shore of any navigable river in this State so as to interfere with the public use of the river shore or harbor of any city or town situated upon the bank of such river, and, after notice, allows the obstruction to remain unabated for the period of 30 days, shall be guilty of maintaining a public nuisance, and shall be fined not less than \$1,000 nor more than \$10,000. Upon conviction thereof, the defendant shall be required by order of court to remove such obstruction.

Prosecutions under this section shall be brought in the county where such obstruction exists.

The Attorney General, upon a proper representation by the authorities of any city or town of the existence of any obstruction in the harbor of such city or town, shall institute the proceedings as provided in this section.

15 Del. Laws, c. 117, §§ 1, 2; Code 1915, § 2952; Code 1935, § 3460; 23 Del. C. 1953, § 1104.;

§ 1105 Mistreatment of buoy, beacon and daymark; notice; penalty; disposition of fine.

Whoever moors any vessel or vessels of any kind or name whatsoever or any raft or any part of a raft to any buoy, beacon or daymark placed in the waters of Delaware by the authority of the Commandant of the United States Coast Guard, or, in any manner, hangs on with any vessel, raft or part of a raft to any such buoy, beacon or daymark, or wilfully removes, damages or destroys any such buoy, beacon or daymark, or cuts down, removes, damages or destroys any beacon or beacons erected on land in this State by the authority of the Commandant, or having, through unavoidable accident, run down, dragged from its position, or in any way injured any buoy, beacon or daymark, and fails to give notice as soon as practicable of having done so to the Coast Guard inspection official of the district in which the buoy, beacon or daymark may be located, shall for every such offense be fined not more than \$200 or imprisoned not more than 3 months. Two thirds of the fine shall be paid to the Commandant to be used in repairing the buoys and beacons.

16 Del. Laws, c. 156, § 1; Code 1915, § 2953; Code 1935, § 3461; 23 Del. C. 1953, § 1105.;

§ 1106 Anchoring on range line of range lights; penalty.

No vessel shall anchor on the range line of any range lights established by the Commandant of the United States Coast Guard in this State. The master of any vessel so anchoring shall be fined not more than \$50.

16 Del. Laws, c. 156, § 2; 16 Del. Laws, c. 310, § 1; Code 1915, § 2954; Code 1935, § 3462; 23 Del. C. 1953, § 1106.;

§ 1107 Lien on vessel causing damage.

The cost of repairing or replacing any buoy, beacon or daymark which has been misplaced, damaged or destroyed by any vessel or raft whatsoever, having been made fast to any such buoy, beacon or daymark, shall, when the same has been legally ascertained, be a lien upon such vessel or raft, and may be recovered against such vessel or raft and the owner or owners thereof in a civil action in any court of competent jurisdiction in the State.

16 Del. Laws, c. 156, § 3; Code 1915, § 2955; Code 1935, § 3463; 23 Del. C. 1953, § 1107.;

§ 1108 Obstructions of navigation in St. Jones' River; penalties.

Whenever any obstruction to the navigation of the St. Jones' River occurs, by reason of dirt or other material falling or being washed into the River, in consequence of any wharf thereon being out of proper repair, the owner of the wharf shall remove the obstruction without delay. If the owner fails to do so, the owner shall be fined not less than \$20 nor more than \$500. The court shall, if the nuisance exists at the time of the conviction, make an order for its abatement.

This section shall not apply in the case of obstructions arising from the nonrepair of any wharfing upon the River done by authority of the Department of Highways and Transportation for protection of a public road, but the Department of Highways and Transportation shall remove such obstructions, and the Department of Highways and Transportation shall be chargeable with the expenses thereof.

11 Del. Laws, c. 425, §§ 1, 2; Code 1915, § 2956; 40 Del. Laws, c. 107, § 1; Code 1935, § 3464; 23 Del. C. 1953, § 1108; 70 Del. Laws, c. 186, § 1.;

§ 1109 Anchoring regulations in St. Jones' River.

No captain or commander of any vessel, boat, barge or scow shall moor, anchor or make fast in any manner to the west side of the St. Jones' River, commonly known as the Murderkill side, within 1/2 mile of the mouth of the River.

All vessels, boats, barges or scows lying within 1/2 mile of the mouth of the river shall be anchored, moored or made fast upon the east or what is commonly known as the St. Jones' side of the river, and in such case not more than 2 shall lie abreast and in no case shall extend beyond the middle of the stream, and when so anchored, moored or made fast, the vessel, boat, barge or scow, being next to the channel, shall show the lights as prescribed by law.

All vessels awaiting wind or tide above the limit shall moor or make fast (avoiding the channel) upon the convex or point side of the river, keeping the channel and the concave or bend side clear for vessels passing up or down. All vessels, boats, barges and scows going with the tide shall have the right-of-way, those going against the tide shall be considered as waiting tide or tide bound.

The captain or commander of any vessel, boat, barge or scow upon entering the river shall house the anchor or anchors, that is to say, so place them that they will not protrude over the railings of their respective crafts.

In case of damage resulting from collision or otherwise by reason of the violation of any of the provisions of this section, the owner or owners of the vessel, boat, barge or scow whose captain or commander has violated such provisions shall, as well as the captain or commander, be liable to the owner or owners whose vessel, boat, barge or scow is injured by reason of the violation as for gross negligence, and shall pay to the owner or owners of the vessel, boat, barge or scow suffering such injury all the actual damages sustained, together with damages caused from detention by reason of the injury, with cost of suit, to be recovered by a civil action.

18 Del. Laws, c. 618, §§ 1-5; Code 1915, § 2957; Code 1935, § 3465; 23 Del. C. 1953, § 1109; 70 Del. Laws, c. 186, § 1.;

§ 1110 Obstruction of navigation in Murderkill River and Spring Creek.

Whoever fills up or designedly or intentionally injures or obstructs any canal already cut between the waters of Murderkill River and Spring Creek, or either of the streams and the branches of the other, or injures or obstructs the navigation of the streams of the branches of Spring Creek, or either of them, by wears, hedges or in any other manner whatsoever, shall severally forfeit and pay \$100, 1 moiety thereof to the use of the county and the other moiety thereof to the use of the person or persons who will sue for the same before any justice of the peace in Kent County. The justice shall have full power and authority to hear and determine all questions arising under this section.

Upon an affidavit being made before any justice of the peace in Kent County stating that any obstruction is made as contemplated by this section, the justice shall authorize some suitable person to cause the obstructions to be removed and to call to assistance a sufficient number of persons to make such removal, and certify to the justice the costs of doing the same, which costs, in any proceeding against the person who it is ascertained caused such obstruction, shall be recovered in addition to the fine imposed by this section.

12 Del. Laws, c. 220, §§ 1, 2; 16 Del. Laws, c. 310, § 1; Code 1915, § 2958; Code 1935, § 3466; 23 Del. C. 1953, § 1110; 70 Del. Laws, c. 186, § 1.;

§ 1111 Removal or destruction of channel stakes in Murderkill River; penalty.

Whoever wilfully destroys or removes any of the stakes settled and planted to designate the channel of Murderkill River, by and under the authority of 13 Del. Laws, c. 153, shall be fined \$20 for each stake removed.

13 Del. Laws, c. 153, § 2; 16 Del. Laws, c. 310, § 1; Code 1915, § 2959; Code 1935, § 3467; 23 Del. C. 1953, § 1111.;

§ 1112 Liability for collision caused by anchoring in Deep Hole below Broadkiln Creek.

Whenever any captain or commander of a vessel anchors any vessel under the captain's or commander's charge within the limits of the place known as the Deep Hole, just below the mouth of Broadkiln Creek, in Sussex County, and whenever, if by reason of the anchoring of the vessel in such place, the vessel so anchoring is injured by collision with another vessel, the captain or commander of the vessel so anchoring shall be held liable as for gross negligence, and shall pay to the owner or owners of the vessel suffering such injury all the actual damages sustained, with costs of suit, to be recovered by a civil action.

Whenever by reason of the anchoring of any vessel in such place any other vessel is injured by collision with the vessel so anchoring, the owner or owners of the vessel so anchoring shall be held liable to the owner or owners of the vessel so injured, as for gross negligence, and shall pay to the owner or owners of the vessel suffering such injury all the actual damages sustained, with costs of suit, to be recovered by a civil action.

13 Del. Laws, c. 152, §§ 1, 2; Code 1915, § 2960; Code 1935, § 3468; 23 Del. C. 1953, § 1112; 70 Del. Laws, c. 186, § 1.;

§ 1113 Regulations for anchoring at mouth of Mahon's River; penalties; jurisdiction.

No boat or vessel of any kind or description shall anchor, moor, make fast or cause to be anchored, moored or made fast so it may swing in the western half of the mouth of Mahon's River, commencing at Mahon's Light House and ending at or abreast of the road between the store of Walter Hendrickson and the steamboat wharf. The mouth of Mahon's River on the western side must at all times be kept clear of all obstructions, either of vessels at anchor or moored therein, or anchors, chains, hawsers or lines, from the shore on the west side to the middle of the river or harbor from where Mahon's Light House now stands to the road. Nothing in this section shall interfere with vessels or boats made fast to wharves or to the shore loading or unloading. When they are hauled close to the wharf or shore, both ends of such boat or vessel must be made fast and not more than 1 abreast.

Whoever, either permanently or temporarily in charge of any vessel or boat, anchors, moors or makes fast, or causes to be anchored, moored or made fast the same, or obstructs with lines or in any manner whatsoever any part of the River or harbor mentioned in this section shall be fined \$10 for each offense, together with the costs of the prosecution, and, upon failure to pay such fine and costs, shall be imprisoned for a term of not more than 3 months, if the fine and costs be not sooner paid.

Justices of the peace shall have jurisdiction of offenses under this section.

Whoever violates this section shall be liable for damages for any loss of life or property or for any injury to person or property caused by such violation.

21 Del. Laws, c. 272, §§ 1-3; Code 1915, § 2961; Code 1935, § 3469; 23 Del. C. 1953, § 1113.;