

BOAT COMMISSION:
CRIMINAL LAW:

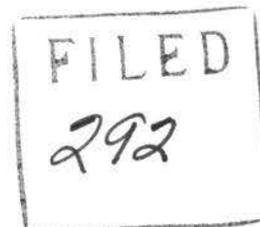
ways of Missouri and to enforce compliance with such regulations.

The Missouri Boat Commission
is authorized to establish
speed limit zones on the water-

OPINION NO. 292

June 25, 1971

Honorable William H. Bolinger
Prosecuting Attorney
Morgan County
Versailles, Missouri 65084



Dear Mr. Bolinger:

This official opinion is issued pursuant to the request contained in your letter concerning the authority of the Missouri Boat Commission to establish speed limits for watercraft.

Chapter 306, RSMo 1969, sets forth the law relating to regulation of watercraft. Section 306.124,3 states:

"The Missouri boat commission after a public hearing pursuant to notice thereof published not less than ten days prior thereto in each county to be affected may provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. . . ."

Section 306.124,2 states:

"'Regulatory Markers' means any anchored or fixed markers in or on the water or signs on the shore or on bridges over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep out areas, and mooring buoys."

Section 306.124,5 provides:

"It shall be unlawful for any person to operate a vessel on the waters of this state in a manner other than that prescribed or permitted by regulatory markers."

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Section 306.210,1 states:

"Any person who violates any of the provisions of sections 306.020 to 306.070 and 306.090 to 306.150 shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not more than one hundred dollars for each violation."

The Missouri Boat Commission was created by Section 301.161, RSMo 1969, and it is expressly provided that the Commission may appoint Deputy Boat Commissioners who shall be under the control and supervision of the Commission and who are invested with the powers and duties prescribed by Chapter 306, RSMo 1969. Furthermore, Section 306.165, RSMo 1969, as amended by Senate Bill No. 2, 76th General Assembly, which becomes effective 90 days following adjournment of the legislature, grants to such Deputy Commissioners the powers of a peace officer to enforce all laws of this state upon any of its waterways, except search and seizure.

It is our view that the authority to establish speed limits on the waterways of this state is expressly given to the Missouri Boat Commission by the statutes mentioned above. Furthermore, the power to enforce adherence to regulatory markers is a necessary implication of the express grant of power contained in such statutes. The nomenclature used in describing the regulatory markers as for example, "Idle Speed Only," "No Wake," "Five Miles An Hour" is immaterial.

Of course, it is necessary that the Boat Commission comply with the statute in establishing such markers by holding public hearings and by making the system uniform throughout the state. When this is done it follows that the Commission has considerable latitude in exercising its discretion for the purpose of carrying out the details of administration of the law. This discretionary authority would in our opinion include authority to determine the types of areas where markers are needed and within these categories the desirability of establishing individual markers.

The fact that the system for marking is required to be uniform would tend to avoid arbitrary or capricious action by the Commission.

CONCLUSION

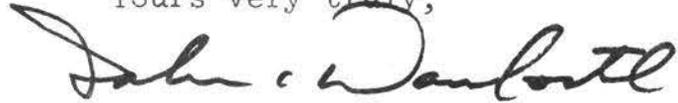
It is therefore the opinion of this office that the Missouri Boat Commission is authorized to establish speed limit zones on

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the waterways of Missouri and to enforce compliance with such regulations.

The foregoing opinion which I hereby approve was prepared by my assistant, John E. Park.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General