

Boats, Subject to Inspection. Boats, What Must Carry Signal Lights. Navigation, Act Relating to Construed.

Under provisions of Sec. 2, Chap. 105, Session Laws of 1911 the inspector is required and has authority only to inspect every steamboat propelled by machinery or sailing boat or ferry boat carrying passengers or freight for hire, but boats not carrying freight or passengers for hire do not come within the provisions of this section.

Under the provisions of Section 9 of the Act, the master owner, pilot or other person in charge of a steam-boat, or other boat propelled by machinery, or sailing craft when navigating any of the waters of this state, shall between sunset and sunrise cause said boats to carry the lights prescribed by the section. There is no limitation contained in this section, and it applies to all boats, whether propelled by machinery or sail, and whether carrying passengers or freight for hire or not.

June 28, 1911.

Subject:—Navigation.

Railroad Commission of Montana,

Helena, Montana.

Gentlemen

I am in receipt of your letter of the 27th inst., requesting my opinion (1) as to whether or not a tug boat handling lumber across Flathead Lake,—the boat and lumber being owned by the same individual or company, and not in any way engaged in commercial navigation,—would be subject to an inspection fee under the provisions of Chap. 105, Session Laws of 1911; and (2) whether or not, under this chapter, all boats, regardless of their calling, must be equipped with signal lights in accordance with Section 9 of said chapter.

In answer to your first question, I will say that under the provisions of Section 2 of Chap. 105, Session Laws of 1911, an inspector appointed under the provisions of said act is required and has authority only to "inspect every steam boat propelled by machinery or sailing boat or ferry boat carrying passengers or freight for hire or towing for hire," and, consequently, a boat carrying freight belonging to the individual or company owning the boat, and not for hire, would not come within the provisions of this act with respect to the inspection therein provided, and therefore would not be subject to the inspection fee. So far

as the inspection is concerned, it applies only to boats carrying passengers or freight for hire.

Replying to your second question, I will say that under the provisions of Section 9 of the Act above referred to "the master, owner, pilot, or other person in charge of a steam-boat, or other boat propelled by machinery or sailing craft when navigating any of the waters of this state, shall between sunset and sunrise cause said boats to carry" the lights prescribed by the section. It will be noticed that there is no limitation contained in this section, and that it applies to all boats, whether propelled by machinery or sail, and consequently all boats, regardless of whether they are carrying passengers or freight for hire or not, must be equipped with and carry the lights provided by this section. The reason for this is plain: An individual may embark upon any kind of a craft he sees fit with his own goods; he has a right to take the chance if he so desires, so long as his own person or property is alone affected, but in order that he may not endanger the lives or property of persons being transported for hire, he is required to carry proper lights, as prescribed by Section 9 of the act; and also would be required to conform to the rules prescribed by Section 7 of the Act. These are merely police regulations for the safety of others, and apply to all boats plying the navigable waters of this state.

Yours very truly,

ALBERT J. GALEN,

Attorney General.