NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

CHAPTER 4
RECREATION

SUBCHAPTER 1
RECREATION

ADMINISTRATION

PART 701
RECREATION AND CULTURAL ARTS

324.70101 Recreation and cultural arts section; establishment.

Sec. 70101. There is established a state recreation and cultural arts section in the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70102 Head of section; qualifications.

Sec. 70102. The head of the state recreation and cultural arts section shall be a person widely experienced in community recreation and shall be directly responsible to a deputy director.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70103 Technical advice and guidance; duty to collect and disseminate data and information; other duties.

Sec. 70103. The state recreation and cultural arts section shall provide technical advice and guidance to the political subdivisions of this state and other interested groups and agencies in the planning and development of recreation programs, areas, and facilities including but not limited to creative and cultural activities, and programs for senior citizens, persons with disabilities, and the culturally deprived. The section shall collect and disseminate necessary data and information relating to its duties and shall maintain a cooperative relationship with the tourist, resort, and educational extension services of the universities, the Michigan travel commission, Michigan's 4 regional tourist associations, and the various federal agencies.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

Popular name: Act 451

Popular name: NREPA

324.70104 Representation of citizen interest, need, and participation.

Sec. 70104. The department shall provide continual representation of citizen interest, need, and participation in a wide variety of leisure-time pursuits.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70105 Existing employees; reassignment.

Sec. 70105. The department may reassign existing employees of the department of natural resources or employ staff necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70106 Rules.

Sec. 70106. The department shall promulgate rules necessary for the establishment and implementation of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

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Popular name: Act 451

Popular name: NREPA

PART 703
OUTDOOR RECREATION

324.70301 Outdoor recreation; comprehensive plan.

Sec. 70301. The department is authorized to prepare, maintain, and keep up-to-date a comprehensive plan for the development of the outdoor recreation resources of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70302 Federal aid programs.

Sec. 70302. The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. The department may enter into contracts and agreements with the United States or any appropriate agency of the United States, keep financial and other records relating to those contracts and agreements, and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable the officials and agencies to perform their duties under the programs. In connection with obtaining the benefits of any such program, the department shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development, and maintenance of outdoor recreation resources and facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70303 Federal aid programs; federal land and water conservation fund; disposition and apportionment of funds.

Sec. 70303. Grants-in-aid received from the land and water conservation fund act of 1965, Public Law 88-578, 78 Stat. 897, shall be deposited in the state treasury and disbursed to agencies and subdivisions of the state upon authorization of the department. In the apportionment of funds to subdivisions of the state, the department shall give special consideration to those subdivisions where population density and land and facility needs are greatest.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70304 Federal land programs; appropriations; agreements on behalf of state subdivisions.

Sec. 70304. The department shall not make a commitment or enter into an agreement pursuant to an exercise of authority under this part until the legislature has appropriated sufficient funds to it for meeting the state's share, if any, of project costs. It is the legislative intent that, to the extent necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under this part, those areas and facilities shall be publicly maintained for outdoor recreation purposes. The department may enter into and administer agreements with the United States or any appropriate agency of the United States for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any subdivision of this state, if the subdivision gives necessary assurances to the department that it has available sufficient funds to meet its share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the subdivision's expense for public outdoor recreation use.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70305 State assistance to subdivisions; guidelines and limits on state payments.

Sec. 70305. The department is authorized to disburse state appropriated grants-in-aid to political subdivisions of the state to be used in conjunction with the land and water conservation fund act of 1965,

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Public Law 88-578, 78 Stat. 897, which provides financial assistance for outdoor recreation. The criteria for project approval established for federal cost-sharing under the various federal grants-in-aid programs shall be used as guidelines in allocating state grants-in-aid to political subdivisions of the state. The state's share of the cost of a particular project shall not exceed 25% of the total cost. Total state grants-in-aid under this part during any fiscal year shall not exceed the amount specifically appropriated for that purpose by the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 711
RECREATION IMPROVEMENT ACCOUNT

324.71101 Definitions.

Sec. 71101. As used in this part:

(a) "Associated facilities" means restrooms, shelters, campgrounds, and parking lots directly related to trails or waterways projects.

(b) "Off-road vehicle" means ORV as it is defined in part 811, which is required to be registered under part 811.

(c) "Off-road vehicle account" means the off-road vehicle account of the Michigan conservation and recreation legacy fund provided for in section 2015.

(d) "Recreation improvement account" means the recreation improvement account of the Michigan conservation and recreation legacy fund provided for in section 2020.

(e) "Recreational projects" means, in addition to the activities provided for in this part, the construction, maintenance, and operation of trails and associated facilities that may be used by off-road vehicles, cross-country skiers, horseback riders, and hikers, and inland lake cleanup grants as provided by part 309.

(f) "Snowmobile account" means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(g) "Vessel" means all watercraft except the following:

(*i*) Watercraft used for commercial fishing.

(*ii*) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(*iii*) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(*iv*) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(*v*) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(h) "Watercraft" means any contrivance that is used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include watercraft used or owned by the United States.

(i) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.71102 Privilege tax; imposition; payment; inapplicable to liquefied petroleum gas.

Sec. 71102. (1) There is a privilege tax imposed on all gasoline and diesel fuel sold in this state that is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The privilege tax imposed on gasoline and undyed diesel fuel shall be paid to the department of treasury in the same manner, at the same time, and at the same rate per gallon as the tax levied under the motor fuel tax act. The privilege tax imposed on dyed diesel fuel shall be paid to the department of treasury by the retail distributor or other person who sells the dyed diesel fuel to a person who uses the fuel to generate

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power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles. The privilege tax imposed by this section shall not apply to liquefied petroleum gas.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2000, Act 405, Imd. Eff. Jan. 8, 2001.

Popular name: Act 451

Popular name: NREPA

324.71103 Legislative finding; joint report.

Sec. 71103. (1) The legislature finds that 2.0% of all of the gasoline sold in this state for consumption in internal combustion engines is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The department and the state transportation department shall prepare a joint report to the legislature by January 1, 1992, providing their estimate of actual gasoline and diesel fuel usage based on any data collected from March 30, 1988 to January 1, 1991 and their observation of the historical trends of gasoline and diesel fuel usage in this state for the following categories:

(a) Off-road vehicles.

(b) Watercraft.

(c) Snowmobiles.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71104 Tax refund; claim; invoice; payment; false statement; forfeiture; misdemeanor.

Sec. 71104. (1) The purchaser of gasoline or diesel fuel for the operation of vessels excepted by section 71101 is entitled to a refund of tax paid on that gasoline or diesel fuel, upon filing a sworn claim with the department of treasury, upon forms prescribed and furnished by it, within 6 months from the date of purchase, as shown by the invoice. The retail distributor shall furnish a purchaser with an invoice showing the amount of gasoline or diesel fuel purchased, the date of the purchase, and the total amount of tax paid on the purchase. Each dealer or distributor shall keep a copy of the invoices issued for a period of 2 years subject to examination by the department of treasury. Each claim for refund shall have attached to the claim the original invoice received by the purchaser and, when approved by the department of treasury, the claims shall be paid out of the state waterways fund upon warrant of the department of treasury.

(2) A person who makes a false statement in a claim or invoice presented to the department of treasury, or who presents to the department of treasury a claim or invoice containing a false statement, or who collects or causes to be paid to the person or any other person a refund without being entitled to the refund, shall forfeit the full amount of the claim and is guilty of a misdemeanor.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

Popular name: Act 451

Popular name: NREPA

324.71105 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: The repealed section pertained to creation of recreation improvement fund.

Popular name: Act 451

Popular name: NREPA

324.71106 Total of taxes collected; determining revenue derived.

Sec. 71106. The department of treasury shall annually present to the department an accurate total of all the gasoline taxes collected and shall determine the amount of revenue derived from them. The department of treasury shall determine the portion of these revenues derived from the sale of gasoline as described in section 71102 by multiplying the total by 2.0% and shall credit this amount to the recreation improvement account, less a deduction for collection costs and refunds.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.71107 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.

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Compiler's note: The repealed section pertained to carrying over money remaining in recreation improvement fund.

Popular name: Act 451

Popular name: NREPA

324.71108 Annual review and recommendations; distribution and use of account.

Sec. 71108. (1) The state treasurer shall annually review and make recommendations to the legislature on the distributions of the recreation improvement account, including recreational projects and geographic locations.

(2) Money in the recreation improvement account shall be distributed as follows:

(a) Eighty percent of the money shall be annually transferred to the waterways account.

(b) Fourteen percent of the money shall be annually transferred to the snowmobile account.

(c) The remainder of the money that is not transferred under subdivisions (a) and (b) shall be used, upon appropriation, for recreation projects and for the administration of the recreation improvement account. Of the money credited to recreational projects in a fiscal year, not less than 25% shall be expended on projects to repair damages as a result of pollution, impairment, or destruction of air, water, or other natural resources, or the public trust in air, water, or other natural resources, as a result of the use of off-road vehicles.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

PART 713
RECREATION BOND AUTHORIZATION

324.71301 Bonds; authorization; limitation; purpose.

Sec. 71301. The state shall borrow a sum not to exceed $140,000,000.00 and issue the general obligation bonds of this state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71302 Bonds; conditions, methods, and procedures.

Sec.71302. Bonds shall be issued in accordance with conditions, methods, and procedures established by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71303 Bonds; disposition of proceeds and interest.

Sec. 71303. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be deposited in the state treasury and credited to the recreation bond fund created in part 715 and shall be disbursed from that fund only for the purposes for which the bonds have been authorized, including the expense of issuing the bonds. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be expended for the purposes set forth in this part in a manner as provided by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71304 Submission of question to electors.

Sec. 71304. The question of borrowing a sum not to exceed $140,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this part shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963, at the next general election following September 9, 1988. The question submitted to the

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electors shall be substantially as follows:

"Shall the state of Michigan borrow a sum not to exceed $140,000,000.00 and issue general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects, the method of repayment of the bonds to be from the general fund of this state?

Yes.....

No..... .".

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71305 Duties of secretary of state.

Sec. 71305. The secretary of state shall perform all acts necessary to properly submit the question prescribed by section 71304 to the electors of this state qualified to vote on the question at the next general November election following September 9, 1988.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71306 Appropriation; purpose; executive budget recommendations.

Sec. 71306. (1) After the issuance of the bonds authorized by this part, there shall be appropriated from the general fund of the state each fiscal year a sufficient amount to pay promptly, when due, the principal of and interest on all outstanding bonds authorized by this part and the costs incidental to the payment of the bonds.

(2) The governor shall include the appropriation provided in subsection (1) in his or her annual executive budget recommendations to the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71307 Majority vote of electors required.

Sec. 71307. Bonds shall not be issued unless the question set forth in section 71304 is approved by a majority vote of the qualified electors voting on the question.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 715
RECREATION BOND IMPLEMENTATION

324.71501 Definitions.

Sec. 71501. As used in this part:

(a) "Bonds" means the bonds issued under part 713 or former Act No. 327 of the Public Acts of 1988.

(b) "Fund" means the recreation bond fund created in section 71506.

(c) "Local public recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities, and the restoration of the natural environment. Local public recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(d) "Local unit of government" means a county, city, township, village, school district, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or school districts, or any combination of those entities, which authority is legally constituted to provide public recreation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71502 Legislative finding and declaration.

Sec. 71502. The legislature finds and declares that the construction, expansion, development, and rehabilitation of state and local recreational facilities and the restoration of the natural environment under this

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part are a public purpose in the interest of the health, safety, and general welfare of the citizens of this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71503 Bonds; requirements generally.

Sec. 71503. (1) The bonds issued under part 713 shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates, to be subject or not subject to prior redemption and, if subject to prior redemption, with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board, and to be subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax-exempt status. The state administrative board shall rotate legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds to partly refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount imposed by the vote of the people on November 8, 1988. Further, refunding bonds issued under this section shall not be subject to the restrictions of section 71507.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this act.

(4) The state administrative board may authorize the state treasurer, but only within limitations that are contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment of the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy bonds so issued at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price and at a publicly advertised sale or a competitively negotiated sale as determined by the state administrative board. If bonds are issued at a competitively negotiated sale, the state administrative board shall use its best efforts to include firms based in this state in the sale of the bonds.

(7) Except as provided in subsection (8), the bonds shall be sold in accordance with the following schedule, beginning during the first year after December 1, 1988:

(a) Not more than 34% shall be sold during the first year.

(b) Not more than 33% shall be sold during the second year.

(c) Not more than 33% shall be sold during the third year.

(d) After the third year any remaining bonds may be sold at the discretion of the state administrative board.

(8) The state administrative board may alter the schedule for issuance of the bonds provided in subsection (7) if amendments to the internal revenue code of 1986 would impair the tax-exempt status of the bonds.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

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History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1995, Act 72, Imd. Eff. June 6, 1995;—Am. 2002, Act 388, Imd. Eff. May 30, 2002.

Popular name: Act 451

Popular name: NREPA

324.71504 Bonds negotiable; tax exemption.

Sec. 71504. Bonds issued under part 713 shall be fully negotiable under the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.11102 of the Michigan Compiled Laws. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71505 Bonds as securities.

Sec. 71505. Bonds issued under part 713 are made securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71506 Recreation bond fund; creation; composition; restricted subaccounts.

Sec. 71506. (1) The recreation bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of general obligation bonds issued pursuant to part 713 and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any repayments of principal and interest made under a loan program authorized for in this part.

(d) Any federal funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71507 Disposition of bond proceeds; investment of fund; allocation of interest and earnings; crediting and use of repayments of principal and interest; disposition of unencumbered balance; submission and contents of list of projects; appropriations; report.

Sec. 71507. (1) The proceeds of the bonds issued under part 713 shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program provided in this part shall be credited to the appropriate restricted subaccounts of the fund and used for the purposes authorized for the use of bond proceeds deposited in that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(5) The department shall annually submit to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the

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appropriations committees of the house of representatives and the senate a list of all projects that are recommended to be funded under this part. This list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the department. The estimated cost of eligible local public recreation projects on the list for each year in which there is a limitation on borrowing under section 71503(5) shall not exceed 1/3 of the amount authorized for local public recreation projects under section 71508(1)(b) and (c).

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

(7) Not later than December 31 of each year, the department shall report to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the committees of the house of representatives and the senate on appropriations for the department a list of the projects financed under this part. The list shall include the name, address, and telephone number of the recipient or participant; the nature of the project; the amount of money received; the county in which the project is located; and other information considered pertinent by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71508 Use of fund generally.

Sec. 71508. (1) Except as otherwise provided in this section, money in the fund shall be used as follows:

(a) $70,000,000.00 of the bond revenues shall be used to construct, expand, and develop recreational facilities at state parks pursuant to the "5 year capital outlay program" published by the department and approved by the commission, and for other state recreation facilities for which matching funds are available. The department may deviate from the uses of the bond revenues provided in this subdivision only upon recommendation of the commission and approval of the legislature.

(b) $65,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for local public recreation projects pursuant to this part.

(c) $5,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for the purpose of discouraging development of open space and undeveloped lands that on December 1, 1988 are not zoned for industrial use. Grants and loans made under this subdivision shall be used to redevelop and reuse vacant manufacturing facilities or abandoned industrial sites for recreational facilities.

(2) Money in the fund that is allocated for local public recreation projects under subsection (1)(b) shall be used for any of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, historical structures, playgrounds, and restoration of the natural environment.

(b) The development of public recreation facilities on waterfront sites for the purpose of increasing recreation opportunities that encourage further private investments in the area. Public recreation facilities on waterfront sites shall include, but shall not be limited to, shoreline stabilization and beautification, breakwaters, bulkheads, fishing piers, amphitheaters, shoreline walkways, and pedestrian bridges.

(c) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, and fishing sites.

(d) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, historical sites, fishing access sites, and recreational development of abandoned railroad rights-of-way.

(e) Intermediate school districts for environmental education capital outlay projects that are consistent with the long-term recreation and parks plan for the local unit or units of government which the intermediate school district serves.

(3) Money in the fund for other state recreation purposes shall be used for infrastructure projects for fisheries, wildlife, recreational boating, or state forest campgrounds, for which not less than 50% of the cost of the project is available from any combination of federal, private, or restricted funds.

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(4) Money in the fund shall not be used for land acquisition.

(5) Money in the fund shall not be expended for sports facilities, arenas, or stadiums intended as the primary home of a professional sports team, for commercial theme parks, or for any purpose that may result in the siting of casino gambling in this state.

(6) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds under part 713 and by the department to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in this section shall be available for appropriation to the department to pay department costs directly associated with the completion of a project described in subsection (1)(a), (b), or (c) for which bonds are issued as provided under this part. Bond proceeds shall not be available to pay indirect, administrative overhead costs incurred by any organizational unit of the department not directly responsible for the completion of a project. Department costs shall be deducted proportionately from the amounts stated in subsection (1). It is the intent of the legislature that general fund appropriations to the department shall not be reduced as a result of department costs funded pursuant to this subsection.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71509 Making and allocating grants and loans to local units of government; division of state into regions; match by local unit; rules; sale, disposal, or use of facility.

Sec. 71509. (1) Grants and loans made to local units of government under section 71508(1)(b) shall be made by the department and allocated as follows:

(a) Each region provided for in subsection (2) shall receive $6.50 per capita based upon the 1985 census figures in the document entitled “estimated state spending by county fiscal year 1985-86” published by the senate fiscal agency, dated October, 1987.

(b) The balance of the money remaining after the distribution under subdivision (a) shall be used for local public recreation projects that are regional parks as defined by rules promulgated by the department. An application under this subdivision shall not preclude an application under subdivision (a).

(2) For purposes of the distribution of grants and loans for local public recreation projects under section 71508(1)(b), the state is divided into the following 3 regions:

(a) Region 1—all of the counties of the Upper Peninsula.

(b) Region 2—Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Region 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any of the above items with which it seeks to meet its local unit portion.

(4) The department shall promulgate rules that establish criteria for grants and loans made under this part, an application process, the definition of regional parks, and a process for disbursement of grants and loans to local units of government.

(5) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant or loan without express approval of the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71510 Grant or loan program; rules; maximum participation; considerations in determining appropriateness of grant or loan program; considerations in making grant or loan.

Sec. 71510. (1) The department shall assure maximum participation by local units of government by

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promulgating rules that provide for a grant or loan program, where appropriate. In determining whether a grant or a loan program is appropriate, the department shall consider whether the project is likely to be undertaken without state assistance; the availability of state funds from other sources; the degree of private sector participation in the type of project under consideration; the extent of the need for the project as a demonstration project; and other factors considered important by the department.

(2) Prior to making a grant or loan authorized by this part, the department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71511 Application for grant or loan; form; information.

Sec. 71511. An application for a grant or a loan authorized under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make determinations required by this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71512 Conditions to making grant or loan.

Sec. 71512. The department shall not make a grant or a loan under this part unless all of the following conditions are met:

(a) The applicant demonstrates that the proposed project is in compliance with all applicable state laws and rules.

(b) The applicant demonstrates to the department the capability to implement the proposed project.

(c) The applicant provides the department with evidence that a licensed professional engineer has approved the plans and specifications for the project, if appropriate.

(d) The applicant demonstrates to the department that there is an identifiable source of funds for the maintenance and operation of the proposed project.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71513 Recipient of grant or loan; duties; noncompliance; recovery of grant; withholding grant or loan.

Sec. 71513. (1) A recipient of a grant or a loan made under this part shall be subject to all of the following:

(a) A recipient shall keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting shall be subject to a postaudit.

(b) A recipient shall obtain authorization from the department before implementing a change that significantly alters the proposed project or facility.

(2) The department may revoke a grant or a loan made by it under this part or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan or with the requirements of this part or the rules promulgated under this part.

(3) The department may recover a grant if the project for which the grant was made never operates.

(4) The department may withhold a grant or a loan until the department determines that the recipient is able to proceed with the proposed project or facility.

(5) To assure timely completion of a project, the department may withhold 10% of the grant or loan amount until the project is complete.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71514 Rules generally.

Sec. 71514. The department shall promulgate rules as are necessary or required to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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Popular name: NREPA

PART 716
LOCAL RECREATION GRANTS

324.71601 Definitions.

Sec. 71601. As used in this part:

(a) "Community recreation plan" means a 5-year, comprehensive recreation plan for a given local unit of government, approval of which is required by the department for participation in the land and water conservation fund program pursuant to the land and water conservation fund act of 1965, public law 88-578, 78 Stat. 897, and the Michigan natural resources trust fund grant program under part 19.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Grant" means a local recreation grant under this part.

(e) "Infrastructure improvement" means restoration of the natural environment or the renovation, repair, replacement, upgrading, or structural improvement of an existing facility that is not less than 15 years old, including any of the following:

(*i*) Recreation centers.

(*ii*) Sports fields.

(*iii*) Beaches.

(*iv*) Trails.

(*v*) Playgrounds.

(f) "Local recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities. Local recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(g) "Local unit of government" means a county, city, township, village, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or any combination of those entities, which authority is legally constituted to provide public recreation.

(h) "Regional park" means a public recreation site that is under the applicant's control and that is in compliance with all of the following requirements as determined by the department:

(*i*) The site does now, or will, attract not less than 25% of its users from areas in the region that are 30 minutes or more driving time from the site.

(*ii*) The site provides passive, water-based, and active recreation opportunities.

(*iii*) The site is contiguous to, or encompasses, a natural resource feature.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71602 Local recreation grant program; establishment; provisions; prohibitions.

Sec. 71602. (1) The department shall establish a local recreation grant program. The grant program shall provide grants to local units of government for local recreation projects that provide for 1 or more of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, playgrounds, skating rinks, toboggan runs, sledding hills, and park support facilities.

(b) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, picnic facilities, nature centers, nonmotorized trails and walkways, amphitheaters, and fishing piers and fishing access sites.

(c) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, and fishing access sites.

(2) A grant shall not be provided under this part for land acquisition or a commercial theme park.

(3) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

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(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71603 Allocations to local units of government; zones; purposes; matching requirements; sale, disposal, or conversion of facility.

Sec. 71603. (1) Subject to amounts appropriated to the department under section 19608(5), the total amount of grants made to local units of government under this part shall be allocated as follows:

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(a) Local recreation projects within zone 1.........   3.6%
(b) Local recreation projects within zone 2.........  14.4%
(c) Local recreation projects within zone 3.........    72%
(d) Local recreation projects at regional parks.....    10%
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(2) For purposes of the distribution of grants for local recreation projects under this part, the state is divided into the following 3 zones:

(a) Zone 1—all of the counties of the Upper Peninsula.

(b) Zone 2—Emmet, Charleviox, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Zone 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any such goods and services with which the local unit of government seeks to meet the match requirement.

(4) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant without express approval of the department.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71604 Project funding; conditions.

Sec. 71604. The department shall consider a project application for funding under this part if it is in compliance with all of the following conditions:

(a) The application is submitted by the deadline established by the department.

(b) The application is complete and submitted on the form required by the department.

(c) The application includes the following information:

(*i*) An 8-1/2-inch by 11-inch project location map.

(*ii*) An 8-1/2-inch by 11-inch preliminary site development plan.

(*iii*) Preliminary floor plans and elevation drawings for any building construction.

(*iv*) A certified resolution from the governing body of the local unit of government stating that the proposal will be undertaken if a grant is awarded and designating an authorized project representative.

(*v*) Evidence and results of a preannounced public meeting on the application proposal.

(*vi*) A brief description of the project proposal.

(*vii*) The total cost of the project proposal and the amount of grant requested.

(*viii*) Sources of the local match.

(*ix*) A breakdown of development items and their projected costs.

(*x*) A narrative, limited to 1 page, of what the proposal is and why it is needed.

(*xi*) Attestation, by signature of an authorized project representative, that all statements on the application form are true, complete, and accurate to the best of the representative's knowledge.

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(*xii*) Other information as determined by the department.

(d) The local unit of government has an approved community recreation plan on file with the department. Department-approved plans are valid through December 31 of the fifth full calendar year after adoption by the local unit's governing body.

(e) The project for which funding assistance is sought is listed and justified in the local unit of government's recreation plan.

(f) The local unit of government has submitted notice of the project application to the regional planning agency for review.

(g) The local unit of government has fee title or a legal instrument that demonstrates property control for not less than 15 years from the date of application. If control is evidenced by less than fee title, the length of control shall be commensurate with the value of the proposed project.

(h) The local unit of government's grant request is not more than $750,000.00 and not less than $15,000.00. An applicant may receive more than 1 grant in a funding cycle.

(i) The proposed project addresses at least 1 of the following purposes as described in section 71602:

(*i*) Infrastructure improvement.

(*ii*) Community recreation.

(*iii*) Tourist attraction.

(j) The proposed project is not for the purpose of meeting the physical education and athletic program requirements of a school. Facilities funded under this program on school grounds shall not restrict public use to less than 50% of operating hours. A schedule of when such sites are open to the public may be requested by the department.

(k) The proposed project does not unfairly compete with the private sector. Projects that would create an unfairly competitive situation with private enterprises are not eligible for funding. In situations where privately managed facilities are providing identical or similar recreation opportunities, the local unit of government shall provide written justification of the need for the proposed facility in light of the private sector's presence.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71605 Final grant awards; determination; factors; ratings; priority; upgrade of drinking water systems or rest room facilities.

Sec. 71605. (1) Final grant awards will be determined by the director.

(2) The department shall use the 3 factors listed in subsection (3)(a), (b), and (c) to evaluate projects. All factors are of equal importance in the evaluation of a project.

(3) Each of the 3 factors listed in subdivisions (a), (b), and (c) shall be rated exceptional, good, or fair. An exceptional rating is equal to a score of 80; a good rating is equal to a score of 60; and a fair rating is equal to a score of 10. The factors are as follows:

(a) The need for the project as determined by an overall assessment of the following:

(*i*) The merits of the project relative to cost in addressing 1 of the following program priorities as designated by the applicant:

(A) Infrastructure improvement.

(B) Community recreation.

(C) Tourism.

(*ii*) How well the project meets the following priorities:

(A) Proximity to urban areas.

(B) Attention, beyond the requirements of law, to the needs of special populations, such as minorities, senior citizens, low income individuals, and the handicapped.

(C) Impact on county and regional recreation opportunity deficiencies or identified local recreation deficiencies documented in the community recreation plan.

(b) The capability of the local unit of government to complete the project and to operate and maintain it once completed. Capability will be determined by an overall assessment of all of the following criteria:

(*i*) Demonstrated satisfactory performance of the local unit of government in other department grant programs.

(*ii*) Demonstrated ability to operate and maintain existing recreation facilities.

(*iii*) Assurance of funds for the maintenance and operation of the proposed project.

(*iv*) Demonstrated commitment to public recreation through recreation staffing and the existence of a citizen recreation board or commission.

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(c) The quality of the site and project design. Quality will be determined by an overall assessment of all of the following criteria:

(*i*) The appropriateness of the site for the intended uses.

(*ii*) Clarity and detail of the development plans and the quality of the project design in terms of orientation, spacing of facilities, traffic flow, and effective use of site features.

(*iii*) The quality of any existing development.

(*iv*) The adequacy of safety and health considerations.

(*v*) Evaluation of the impact of proposed development on the natural environment.

(4) If the score on 2 or more projects is the same and does not determine which project should be recommended within available dollars, the department shall consider the following factors to determine priority:

(a) The amount of local recreation grants funds previously received by a local unit of government under this part.

(b) A local unit of government's need for financial assistance. Financial need will be determined by the local unit of government's rank on the distressed communities list.

(c) A local unit of government's commitment to provide more than the required 25% match.

(d) The amount of Michigan natural resources trust fund development grants and land and water conservation grants previously received by the local unit of government.

(5) If a project is determined to be eligible for a grant and the needs at the location of the project include the upgrade of drinking water systems or rest room facilities, the grant award for the project shall first be used for such upgrades at that project location.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71606 Administration of grants; compliance with requirements of part 196.

Sec. 71606. Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71607 Rules.

Sec. 71607. The department may promulgate rules to implement this part.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

TRAILWAYS

PART 721
MICHIGAN TRAILWAYS

324.72101 Definitions.

Sec. 72101. As used in this part:

(a) "Advisory council" means the Michigan trails advisory council created in section 72110.

(b) "Council" means a trail management council established pursuant to section 72106.

(c) "Department" means the department of natural resources.

(d) "Director" means the director of the department or his or her designee.

(e) "Equine access locations" means open access roads, management roads, forestry access roads, 2-track and single-track trails that are not wildlife paths, staging areas for pack and saddle animals to be dropped off or picked up, and associated wilderness campsites.

(f) "Fund" means the Pure Michigan Trails fund created in section 72109.

(g) "Governmental agency" means the federal government, a county, city, village, or township, or a combination of any of these entities.

(h) "Pack and saddle trails" means trails and equine access locations that may be used by pack and saddle animals.

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(i) "Pure Michigan Trail" means a trail designated as a "Pure Michigan Trail" under section 72103.

(j) "Pure Michigan Water Trail" means a water trail designated as a "Pure Michigan Water Trail" under section 72103.

(k) "Pure Michigan Trail Town" means a "Pure Michigan Trail Town" designated under section 72104.

(*l*) "Rail-trail" means a former railroad bed that is in public ownership and used as a trail.

(m) "Statewide trail network" means the statewide trail network established in section 72114.

(n) "Trail" means a right-of-way adapted to foot, horseback, motorized, or other nonmotorized travel. Trail also includes a water trail.

(o) "Water trail" means a designated route on a body of water.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 129, Imd. Eff. Nov. 5, 1997;—Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010;—Am. 2014, Act 211, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72102 Legislative findings.

Sec. 72102. The legislature finds that a statewide system of trails will provide for public enjoyment, health, and fitness; encourage constructive leisure-time activities; protect open space, cultural and historical resources, and habitat for wildlife and plants; enhance the local and state economies; link communities, parks, and natural resources; create opportunities for rural-urban exchange, agricultural education, and the marketing of farm products; and preserve corridors for possible future use for other public purposes. Therefore, the planning, acquisition, development, operation, and maintenance of trails are in the best interest of this state and are a public purpose.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010;—Am. 2014, Act 211, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72103 Designation as "Pure Michigan Trail" or "Pure Michigan Water Trail"; requirements; public hearing; revocation of designation.

Sec. 72103. (1) The director may designate a trail in this state located on land as a "Pure Michigan Trail". A person may request that the director designate a trail as a Pure Michigan Trail. The director shall not designate a trail as a Pure Michigan Trail unless it meets, or will meet when completed, all of the following requirements:

(a) The trail is a model trail for its designated uses and the designation of the trail as a Pure Michigan Trail contributes to a statewide trail network that promotes healthy lifestyles, economic development, recreation, and conservation of the natural and cultural resources of this state.

(b) The land on which the trail is located is owned by this state or a governmental agency, or otherwise is under the long-term control of this state or a governmental agency through a lease, easement, or other arrangement. If the land is owned by a governmental agency, the director shall obtain the consent of the governmental agency before designating the land as part of a Pure Michigan Trail.

(c) The design and maintenance of the trail and its related facilities meet generally accepted standards of public safety.

(d) The trail meets appropriate standards for its designated recreation uses.

(e) The trail is available for designated recreation uses on a nondiscriminatory basis.

(f) The trail is, or has potential to be, a segment of a statewide network of trails, or it attracts a substantial share of its users from beyond the local area.

(g) The trail is marked with an official Pure Michigan Trail sign and logo at major access points.

(h) Where feasible, the trail offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trail.

(i) Potential negative impacts of trail development on owners or residents of adjacent property are minimized through all of the following:

(*i*) Adequate enforcement of trail rules and regulations.

(*ii*) Continuation of access for trail crossings for agricultural and other purposes.

(*iii*) Construction and maintenance of fencing, where necessary, by the owner or operator of the trail.

(*iv*) Other means as considered appropriate by the director.

(j) A trademark license is obtained by the department from the Michigan economic development corporation for use of the words "Pure Michigan".

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(k) Other conditions required by the director.

(2) In designating trails as Pure Michigan Trails under subsection (1), the director shall consider all forms of permissible recreation uses equally in order to develop a Pure Michigan Trails network that is representative of the various trail uses.

(3) The director may designate a water trail as a "Pure Michigan Water Trail". A person may request that the director designate a trail as a Pure Michigan Water Trail. The director shall not designate a trail as a Pure Michigan Water Trail unless it meets, or will meet when completed, all of the following requirements:

(a) The trail and its access points are open to public use and are designed, constructed, and maintained according to best management practices.

(b) The trail is located on a contiguous waterway or a series of waterways that are contiguous or are connected by portages.

(c) The trail is consistent with applicable land use plans and environmental laws.

(d) The trail meets the criteria of subsection (1)(a), (c), (d), (e), (f), (g), (h), (i)(*i*) and (*iv*), and (k).

(e) A trademark license is obtained by the department from the Michigan economic development corporation for use of the words "Pure Michigan".

(4) Prior to designating a Pure Michigan Trail under subsection (1) or a Pure Michigan Water Trail under subsection (3), the director shall refer the proposed designation to the natural resources commission, which shall hold a public hearing on the proposed designation. Within 90 days after receiving the referral under this subsection, the natural resources commission shall provide the director with its recommendation regarding the designation.

(5) The director may revoke a Pure Michigan Trail or a Pure Michigan Water Trail designation if he or she determines that a trail fails to meet the requirements of this section. Before revoking a Pure Michigan Trail or a Pure Michigan Water Trail designation, the director shall provide notice to all entities involved in the management of the trail. If the trail is brought into compliance with this section within 90 days after providing this notice, the director shall not revoke the designation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 210, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72104 Designation as "Pure Michigan Trail Town"; sign and logo; revocation of designation.

Sec. 72104.

(1) The director, upon petition by a person, may designate a city, village, or township as a "Pure Michigan Trail Town" if the director determines that the following conditions have been met:

(a) The city, village, or township is easily accessible to users of a Pure Michigan Trail or a Pure Michigan Water Trail.

(b) The city, village, or township has adopted a resolution in support of the designation.

(c) The city, village, or township has adopted a plan for providing support services to trail users such as parking, sanitary facilities, restaurants, accommodations, grocery stores, bike shops, boat docks, or other services that may be needed or desired by trail users.

(d) The petitioner demonstrates at least 3 of the following:

(*i*) There is community support for the designation as evidenced by creation of an advisory committee.

(*ii*) There has been an annual trail-related project or event within the city, village, or township.

(*iii*) A school board within the city, village, or township has endorsed a trail-based service learning educational component within its schools.

(*iv*) Land use plans, planning tools, ordinances, or guidelines are in place that recognize the relationship between the trail and other community assets, or that there is support to amend, change, or add these provisions.

(e) A trademark license is obtained by the department from the Michigan economic development corporation for use of the words "Pure Michigan".

(2) Upon designation of a city, village, or township as a Pure Michigan Trail Town, the city, village, or township may erect and maintain along the Pure Michigan Trail or Pure Michigan Water Trail at a junction with the city, village, or township an official Pure Michigan Trail Town sign and logo designed by the department. The department shall only provide for the erection and maintenance of an official Pure Michigan Trail Town sign and logo when sufficient private contributions are received to pay for the cost of erecting and maintaining the sign and logo.

(3) The director may revoke a Pure Michigan Trail Town designation if he or she determines that the city,

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village, or township has failed to meet the requirements of this section. Before revoking a Pure Michigan Trail Town designation, the director shall provide notice to the city, village, or township. If the city, village, or township is brought into compliance with this section within 90 days after providing this notice, the director shall not revoke the designation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 210, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72105 Operating and maintaining trail; agreement; provisions.

Sec. 72105. The department may operate and maintain a trail that is located on state owned land or may enter into an agreement with a council or 1 or more governmental agencies to provide for the operation and maintenance of the trail. An agreement entered into under this subsection may include provisions for any of the following:

(a) Construction, maintenance, and operation of the trail.

(b) Enforcement of trail rules and regulations including permitted uses of the trail.

(c) Other provisions consistent with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 212, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72105a Adopt-a-trail program.

Sec. 72105a. (1) The department shall establish an "adopt-a-trail" program that will allow volunteer groups to assist in maintaining and enhancing trails on state owned land.

(2) Subject to subsection (3), volunteer groups in the adopt-a-trail program may adopt any available trail or trail segment and may choose any 1 or more of the following volunteer activities:

(a) Spring cleanups.

(b) Environmental activities.

(c) Accessibility projects.

(d) Special events.

(e) Trail maintenance, enhancement, and development.

(f) Public information and assistance.

(g) Training.

(3) The department shall designate the activities to be performed by a volunteer group in the adopt-a-trail program. The department may provide for more than 1 volunteer group to adopt an eligible trail or trail segment. If the department operates other programs in the vicinity of the trail that allows volunteers to adopt a park or other resource, the department shall coordinate these programs to provide for efficient and effective volunteer programs in the area.

(4) A volunteer group that wishes to participate in the adopt-a-trail program shall submit an application to the department on a form provided by the department. Additionally, volunteer groups shall agree to the following:

(a) Volunteer groups shall participate in the program for at least a 2-year period.

(b) Volunteer groups shall consist of at least 6 people who are 18 years of age or older, unless the volunteer group is a school or scout organization, in which case the volunteers may be under 18 years of age.

(c) Volunteer groups shall contribute a total of at least 400 service hours over a 2-year period.

(d) Volunteer groups shall comply with other reasonable requirements of the department.

(5) A state park manager or a district forest manager may issue to volunteers who are actively working on adopt-a-trail projects that last more than 1 day free camping permits if campsites are available. A state park manager or a district forest manager may waive state park entry fees for volunteers entering state parks to work on adopt-a-trail projects.

(6) While a volunteer is working on an adopt-a-trail project, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of 1964 PA 170, MCL 691.1408.

(7) The department shall design and erect near the entrance of each adopted trail or trail segment an adopt-a-trail program sign with the name of the volunteer group's sponsoring organization listed for each volunteer group that has contributed at least 100 service hours by volunteers.

History: Add. 1997, Act 129, Imd. Eff. Nov. 5, 1997;—Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010;—Am. 2014, Act 212, Eff. Sept. 25, 2014.

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Popular name: Act 451

Popular name: NREPA

324.72106 Trail management council; establishment; purpose; adopting operating procedures and electing officers; powers; dissolution.

Sec. 72106. (1) Two or more governmental agencies may establish a trail management council for the development and management of a trail pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(2) Upon formation, a council shall adopt operating procedures and shall elect officers as the council considers appropriate.

(3) A council may do 1 or more of the following as authorized in an interlocal agreement entered into pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512:

(a) Operate and maintain that portion of 1 or more trails that are owned or under the control of the governmental agencies establishing the council.

(b) Pursuant to an agreement under section 72105, operate and maintain that portion of 1 or more trails that are located on state owned land.

(c) Coordinate the enforcement of trail rules and regulations and other applicable laws and ordinances, including permitted uses of the trail on trails owned or under the control of the governmental agencies establishing the council or, pursuant to an agreement under section 72105, trails that are located on state owned land.

(d) Receive any grant made from the fund or other funding related to that portion of a trail within its jurisdiction.

(e) Acquire or hold real property for the purpose of operating a trail.

(f) Perform other functions consistent with this part.

(4) A council may be dissolved by the governmental agencies that participated in creating the council. However, if a council has entered into an agreement with the department under section 72105, the agreement shall specify how the council may be dissolved.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 212, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72107 Closure during pesticide application.

Sec. 72107. In agricultural areas, a trail may be temporarily closed by the entity operating the trail to allow pesticide application on lands adjoining the trail. The entity operating the trail shall post the closure of the trail or arrange with a landowner or other person for the posting of signs and the closure of the trail during pesticide application and appropriate reentry periods.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 214, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72108 Department; powers; acquisition of land.

Sec. 72108. (1) The department may do any of the following:

(a) Grant easements or, pursuant to part 13, use permits or lease land owned by the state that is being used for a Pure Michigan Trail for a use that is compatible with the use of the Pure Michigan Trail.

(b) Enter into contracts for concessions along a state owned Pure Michigan Trail.

(c) Lease land adjacent to a state owned Pure Michigan Trail for the operation of concessions.

(2) If the department acquires land, the director may state that the specified land is acquired for use as a Pure Michigan Trail. Following acquisition of land that the director states is acquired for use as a Pure Michigan Trail, any revenue derived from that land pursuant to subsection (1), except as otherwise provided by law, shall be deposited into the fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2014, Act 215, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72109 Pure Michigan Trails fund.

Sec. 72109. (1) The Pure Michigan Trails fund is created within the state treasury.

(2) Except as otherwise provided by law, the state treasurer may receive money or other assets from any of

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the following for deposit into the fund:

(a) Payments to the state for easements, use permits, leases, or other use of state owned Pure Michigan Trail property.

(b) Payments to the state for concessions operated by private vendors on state owned property located on or adjacent to a Pure Michigan Trail.

(c) Federal funds.

(d) Gifts or bequests.

(e) State appropriations.

(f) Money or assets from other sources as provided by law.

(3) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) Money in the fund may be expended for any of the following purposes:

(a) The expenses of the department in operating and maintaining the Pure Michigan Trail system and enforcing Pure Michigan Trail rules and regulations.

(b) Grants to or contracts with councils, nonprofit organizations, private sector entities, or governmental agencies to operate and maintain segments of Pure Michigan Trails and to enforce Pure Michigan Trail rules and regulations.

(c) Funding Pure Michigan Trail construction and improvements.

(d) Acquisition of land or rights in land.

(e) Publications and promotions of the Pure Michigan Trails system.

(6) The department shall submit a report to the legislature on or before December 1 of each year describing the use of money appropriated from the fund in the previous fiscal year.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 214, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72110 Michigan trails advisory council; creation; duties; membership; terms; vacancy; qualifications; chairperson; vice-chairperson; staffing; procedures; quorum; meetings; powers; workgroups; compensation; contracts; donations; additional responsibilities.

Sec. 72110. (1) The Michigan trails advisory council is created within the department.

(2) The advisory council shall advise the director and the governor on the creation, development, operation, and maintenance of motorized and nonmotorized trails in this state, including, but not limited to, snowmobile, biking, equestrian, hiking, off-road vehicle, skiing trails, and water trails. In advising the director and the governor on the creation and development of motorized and nonmotorized trails in this state, the advisory council shall seek to have the trails linked wherever possible. The advisory council may perform additional related duties as provided by this part, other law, or as requested by the director or the governor.

(3) The advisory council shall consist of 11 members appointed by the governor. Subject to subsection (4), a member of the advisory council shall be appointed for a term of 4 years.

(4) All of the following apply to the first advisory council appointed after the effective date of the amendatory act that added this subsection:

(a) 2 members shall serve for 1 year.

(b) 3 members shall serve for 2 years.

(c) 3 members shall serve for 3 years.

(d) 3 members, not fewer than 2 of whom shall be members of the equine trailways subcommittee created under section 72110a, shall serve for 4 years.

(5) A vacancy on the advisory council occurring other than by expiration of a term shall be filled by the governor in the same manner as the original appointment for the balance of the unexpired term. A vacancy does not affect the power of the remaining members to exercise the duties of the advisory council.

(6) At least 5 members of the advisory council shall be an owner of an ORV licensed as required under section 81116 or an owner of a snowmobile registered under section 82105. At least 3 members of the advisory council shall be owners of a snowmobile registered under section 82105. At least 1 member of the advisory council shall possess experience as an instructor in a snowmobile safety education and training program or an ORV safety education course. At least 2 members of the advisory council shall be residents of the Upper Peninsula of this state. At least 2 members of the advisory council shall be members of the equine trailways subcommittee created in section 72110a.

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(7) The governor shall designate a member of the advisory council to serve as the chairperson of the advisory council at the pleasure of the governor. The advisory council may select a member of the advisory council to serve as vice-chairperson of the advisory council.

(8) The advisory council shall be staffed and assisted by personnel from the department, subject to available funding. Any budgeting, procurement, or related management functions of the advisory council shall be performed under the direction and supervision of the director.

(9) The advisory council shall adopt procedures consistent with this section and other applicable state law governing its organization and operations.

(10) A majority of the members of the advisory council serving constitute a quorum for the transaction of the advisory council's business. The advisory council shall act by a majority vote of its serving members.

(11) The advisory council shall meet at the call of the chairperson and as may be provided in procedures adopted by the advisory council.

(12) The advisory council may, as appropriate, make inquiries, conduct studies and investigations, hold hearings, and receive comments from the public. The advisory council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, government agencies, and institutions of higher education. The advisory council shall consult with organizations involved with expanding trail access for persons with disabilities.

(13) The advisory council may establish advisory workgroups, including, but not limited to, an advisory workgroup on snowmobiles, as considered necessary by the advisory council to assist the advisory council in performing the duties and responsibilities of the advisory council. In addition, the equine trailways subcommittee created in section 72110a as a subcommittee of the advisory council shall advise the advisory council.

(14) Members of the advisory council shall serve without compensation. Members of the advisory council may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the civil service commission and the department of technology, management, and budget, subject to available funding.

(15) The advisory council may hire or retain contractors, subcontractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the advisory council and the performance of its duties as the director considers advisable and necessary in accordance with this part, other applicable law, and the rules and procedures of the civil service commission and the department of technology, management, and budget, subject to available funding.

(16) The advisory council may accept donations of labor, services, or other things of value from any public or private agency or person.

(17) Members of the advisory council shall refer all legal, legislative, and media contacts to the department.

(18) In addition to the responsibilities provided in this section and otherwise provided by law, the advisory council shall do both of the following:

(a) Make recommendations to the director on the expenditure of money in the fund.

(b) Advise the director on the implementation of this part and the establishment and operation of Pure Michigan Trails and Pure Michigan Water Trails.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2010, Act 46, Imd. Eff. Apr. 2, 2010;—Am. 2013, Act 248, Imd. Eff. Dec. 26, 2013;—Am. 2014, Act 213, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72110a Equine trails subcommittee; creation; staffing; funding; membership; appointments; terms; vacancy; removal; meetings; quorum; business conducted at public meetings; writings subject to freedom of information act; compensation; duties.

Sec. 72110a. (1) The equine trails subcommittee is created as a subcommittee of the advisory council. The department may provide staffing and administrative support to the equine trails subcommittee. The equine trails subcommittee may also be staffed and funded by user groups and other interested persons.

(2) Subject to subsection (3), the equine trails subcommittee shall consist of the following members appointed by the director:

(a) One individual representing the state's tourism industry.

(b) Five individuals representing the equine industry as follows:

(*i*) One individual from the Upper Peninsula.

(*ii*) One individual from the northern Lower Peninsula.

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(*iii*) One individual from the central Lower Peninsula.

(*iv*) One individual from the southeastern Lower Peninsula.

(*v*) One individual from the southwestern Lower Peninsula.

(3) The senate majority leader and the speaker of the house of representatives shall each submit a list of 3 persons to the director. The director shall appoint at least 1 person from each of those lists to the equine trails subcommittee.

(4) Members of the equine trails subcommittee shall serve for terms of 4 years or until a successor is appointed, whichever is later, except that of the members first appointed 2 shall serve for 2 years, 2 shall serve for 3 years, and 2 shall serve for 4 years.

(5) If a vacancy occurs on the equine trails subcommittee, an appointment for the unexpired term shall be made in the same manner as the original appointment.

(6) A member of the equine trails subcommittee may be removed for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(7) The first meeting of the equine trails subcommittee shall be called by the department within 30 days after the appointments have been made. At the first meeting, the equine trails subcommittee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the equine trails subcommittee shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 3 or more members.

(8) A majority of the members of the equine trails subcommittee constitute a quorum for the transaction of business at a meeting of the equine trails subcommittee. A majority of the members present and serving are required for official action of the equine trails subcommittee.

(9) The business that the equine trails subcommittee may perform shall be conducted at a public meeting of the equine trails subcommittee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the equine trails subcommittee in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) Members of the equine trails subcommittee shall serve without compensation. However, subject to the availability of funding, members of the equine trails subcommittee may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the equine trails subcommittee.

(12) The equine trails subcommittee shall do all of the following:

(a) Prepare and submit to the advisory council a recommended plan for a statewide network of pack and saddle trails. The recommended plan for a statewide pack and saddle trails network shall include both of the following:

(*i*) All pack and saddle trails on state owned land that have previously been open for use by pack and saddle animals at any time and that the equine trails subcommittee determines are appropriate for pack and saddle trails.

(*ii*) All additional state lands that the equine trails subcommittee determines would be appropriate for pack and saddle animals and would contribute to a statewide network of pack and saddle trails.

(b) Advise the advisory council and the department on the development and use of the pack and saddle trails network.

(c) Advise the advisory council and the department on other matters related to the promotion of the state's equine industry.

(d) Advise the advisory council and the department on funding to conduct pack and saddle trail reviews under section 72115 and to provide for the reopening of previously closed pack and saddle trails, the preservation of existing pack and saddle trails, and the development of new pack and saddle trails across this state.

History: Add. 2010, Act 46, Imd. Eff. Apr. 2, 2010;—Am. 2014, Act 213, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72111 State agencies; duties.

Sec. 72111. All state agencies shall cooperate with the commission and the department in the implementation of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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Popular name: NREPA

324.72112 Rules.

Sec. 72112. The department may promulgate rules as it considers necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 210, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72113 Repealed. 2014, Act 210, Eff. Sept. 25, 2014.

Compiler's note: The repealed section pertained to Michigan heritage water trail program.

Popular name: Act 451

Popular name: NREPA

324.72114 Statewide trail network; establishment; modification to include additional trails; availability on department's website; recommendations from equine trails subcommittee and other trails users; database of trail maps.

Sec. 72114. (1) The department shall establish a statewide trail network that includes Pure Michigan Trails, Pure Michigan Water Trails, and other recreational use trails. The statewide trail network shall be designed to accommodate a variety of public recreation uses and shall specify the types of uses that are allowed on each trail segment. The statewide trail network shall be in conformance with section 72115 and the determinations made under section 72115. Prior to the department establishing the statewide trail network, the department shall hold a public meeting to receive testimony from the general public.

(2) After the statewide trail network is established, if the department is informed that additional trails should be added to the statewide trail network or that uses on particular trail segments should be modified, the department shall modify the statewide trail network to include additional trails or to modify the uses on particular trails as the department determines appropriate. However, any modifications shall be in conformance with section 72115 and determinations made under section 72115.

(3) Upon establishment of the statewide trail network, the department shall make the statewide trail network available on the department's website. If the department modifies the statewide trail network, the department shall make the updated statewide trail network available on the department's website.

(4) Within 1 year after receiving recommendations from the equine trailways subcommittee under section 72110a, the advisory council shall review recommendations from the equine trails subcommittee as well as other interested trail users and shall make recommendations to the department for the establishment of the statewide trail network.

(5) The department shall work in cooperation with interested parties to facilitate the creation and maintenance of a current database of trail maps for all trails within the statewide trail network on the department's internet website. The database of trail maps shall specifically designate which of the trails are Pure Michigan Trails or Pure Michigan Water Trails. The database of trail maps shall allow trail users to download or print trail maps. In addition, the department shall work in cooperation with interested parties to facilitate the development and maintenance of a mobile software application of trail maps and other information related to specific trails that may be downloaded onto smartphones, tablet computers, and other portable electronic devices. The department shall work in cooperation with these interested parties to assure that the software application is updated to reflect current information from the database of trail maps.

History: Add. 2010, Act 45, Imd. Eff. Apr. 2, 2010;—Am. 2014, Act 210, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72115 Pack and saddle animals; access to pack and saddle trails on public land; restrictions.

Sec. 72115. (1) Subject to subsections (2) and (3), pack and saddle animals shall be allowed to access pack and saddle trails on public land managed by the department as follows:

(a) Access on land of the state forest system is allowed unless restricted by statute, deed restriction, land use order, or other legal mechanism, in effect on April 2, 2010.

(b) Access on land of the state park system or state game area system is prohibited unless authorized by land use order or other legal mechanism in effect on April 2, 2010.

(c) Access on other land managed by the department is allowed according to the specific authorization or restriction applicable to the land.

(2) Access by pack and saddle animals may only be restricted on lands described in subsection (1) after

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April 2, 2010 if conditions are not suitable for pack and saddle animals because of public safety concerns, necessary maintenance, or for reasons related to the mission of the department. Restrictions related to the mission of the department shall be supported, to the greatest extent practicable, by a written science-based rationale that is supported with documentation that is made available to the public. Prior to determining that access by pack and saddle animals be restricted, the department shall make every effort to resolve any public safety or maintenance concerns. Subject to subsection (3), the department shall not restrict pack and saddle animals from lands described in subsection (1) unless all of the following conditions are met:

(a) The department holds a public meeting on a proposal to restrict access by pack and saddle animals on pack and saddle trails to receive testimony from the general public. The department shall invite the advisory council and the equine trails subcommittee created in section 72110a to attend the meeting.

(b) The department, after considering testimony at the meeting under subdivision (a), provides a specific rationale for its determination to restrict access by pack and saddle animals.

(c) Any decision by the department to restrict access by pack and saddle animals shall not take effect for a period of time set by the department, but not less than 60 days. However, if the director determines that a restriction must be imposed because of user conflicts or due to an imminent threat to public health, safety, welfare, or to natural resources or the environment, the director may issue a temporary order restricting access by pack and saddle animals for 30 days or until the threat or user conflict is abated. A temporary order under this subdivision may be reissued if the threat or user conflict persists.

(d) A written statement shall be posted at the trailhead in which the restriction is imposed stating the cause and estimated duration of the closure.

(e) A list of pack and saddle trails on which the department has restricted access for pack and saddle animals, including temporary orders, shall be posted on the department's website and notification shall be provided to the equine trails subcommittee created in section 72110a.

(3) Any restrictions described in subsection (1) on access by pack and saddle animals that were in effect on April 2, 2010 shall remain in effect until those restrictions are reviewed using the process outlined in subsection (2).

(4) A person shall not use pack and saddle animals on state-owned land except on pack and saddle trails that are open for access by pack and saddle animals.

History: Add. 2010, Act 45, Imd. Eff. Apr. 2, 2010;—Am. 2014, Act 213, Eff. Sept. 25, 2014.

Popular name: Act 451

Popular name: NREPA

324.72116 Installation of telecommunication facilities on rail-trail; authorization; deposit of use fees; expenditures; preexisting arrangements or agreements; definitions.

Sec. 72116. (1) If the state owns the land on which a rail-trail is located or if the land is under the long-term control of the state or a state governmental agency through a lease, easement, or other arrangement, the department shall, upon application of a telecommunication provider and payment of not more than $500.00 in application fees, authorize the installation of telecommunication facilities on that land unless the installation is inconsistent with or prohibited by the lease, easement, or other arrangement. The authorization granted under this subsection shall be granted within 45 days and shall require all of the following:

(a) All telecommunication facilities shall be installed underground or shall be attached to existing aboveground structures consistent with subdivision (c).

(b) The telecommunication provider shall notify the department, in writing, of the installation of the facilities and the anticipated completion date of the installation not less than 30 days prior to beginning the installation. Within 5 days after its receipt of the notification, the department shall notify the telecommunication provider, in writing, of any use of the rail-trail for which a permit has been issued by the department.

(c) The use of the land for telecommunication facilities and the installation of the facilities or any repairs to the facilities shall not unreasonably interfere with the use or uses of the rail-trail.

(d) Following installation of the telecommunication facilities or any repairs to the facilities, the land shall be reasonably restored to its condition prior to the installation or repair.

(e) The telecommunication provider shall pay to the department a 1-time use fee of 5 cents per longitudinal linear foot of the space to be occupied by the telecommunication facilities. The fee required under this subdivision shall not be required beginning 6 years after the effective date of the amendatory act that added this section. At no time during or after this 6-year time period shall a telecommunications provider that pays the fee be charged with any additional fee for the use of the land for telecommunication facilities.

(2) The department shall forward use fees collected under this section to the state treasurer for deposit as

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follows:

(a) If the land or rights in land on which the telecommunications facilities are installed was purchased with money from the Michigan natural resources trust fund, money received under subsection (1)(e) shall be deposited into the Michigan natural resources trust fund.

(b) All money not described in subdivision (a) shall be deposited into the fund.

(3) Notwithstanding any other provision of this part, money from the fund that is collected under this section shall be expended, upon appropriation, as follows:

(a) Money collected from application fees under subsection (1) shall be used by the department for the administrative costs of implementing this section.

(b) In each county in which money is collected under subsection (1)(e) for the installation of telecommunication facilities on rail-trails that are used for motorized use, the department shall expend the money for grants to organizations operating in that county that are involved with the motorized use of rail-trails if such organizations exist. Money provided under this subdivision to organizations involved with the motorized use of rail-trails shall be used for the development and maintenance of rail-trails located within the county for motorized recreational uses.

(c) In each county in which money is collected under subsection (1)(e) for the installation of telecommunication facilities, but which is not expended pursuant to subdivision (b), the department shall expend the money for grants to local units of government or other organizations operating in that county that are involved with the use of rail-trails. Money provided under this subdivision to local units of government or organizations involved with the use of rail-trails shall be used for the development and maintenance of rail-trails located within the county for motorized and nonmotorized recreational uses.

(4) This section does not affect the rights and duties set forth in any arrangements or agreements for the installation of telecommunication facilities in a rail-trail described in subsection (1) between the department and a telecommunication provider entered before the effective date of the amendatory act that added this section. This section does not create a right for either the department or a telecommunication provider to terminate any preexisting arrangements or agreements.

(5) As used in this section:

(a) "Michigan natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963, and provided for in part 19.

(b) "Telecommunication facilities" means either or both of the following:

(*i*) Telecommunication facilities as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(*ii*) Facilities used by a video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

(c) "Telecommunication provider" means either or both of the following:

(*i*) A telecommunication provider as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(*ii*) A video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

History: Add. 2012, Act 138, Imd. Eff. May 22, 2012.

Popular name: Act 451

Popular name: NREPA

PART 723

TRAILS

324.72301 "Trail" defined.

Sec. 72301. As used in this part, "trail" means a right-of-way adapted to foot or horseback travel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72302 State system of trails; master plan; development and maintenance of trails with facilities.

Sec. 72302. Within legislative appropriations, the department shall make a survey and prepare a master plan for a state system of trails with campsites and necessary facilities that takes into account points of historical interest and scenic beauty. Revisions of the plan may be made from time to time. On those parts of the trail that are not public roads, the department may prohibit motor equipment. The department may

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provide, develop, and maintain a system of trails with campsites and necessary facilities for the use of the public, within the appropriations made for those purposes by the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72303 Trails; gifts; grants of property interests; prison labor.

Sec. 72303. The department may accept gifts or grants of land, rights-of-way and other property. The department may use state timber, timber materials, equipment, and prison labor on lands that are under lease or use permit to it.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

RECREATIONAL TRESPASS

PART 731
RECREATIONAL TRESPASS

324.73101 Definitions; F to P.

Sec. 73101. As used in this part:

(a) "Farm product" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(b) "Farm property" means land used in the production of a farm product and all lands contained within the farm.

(c) "Fish" means game fish or nongame fish as those terms are defined in section 48701.

(d) "Fur-bearing animal" means that term as defined in section 43503.

(e) "Game" means that term as defined in section 40103.

(f) "Hunting dog" means a dog allowed to range freely to engage in or aid in hunting on the day the dog enters the property of another person.

(g) "License" means a hunting, fishing, or fur harvester's license or, in the discretion of the court, any combination of such licenses. License does not mean a certificate, license, or permit under part 445 or 473.

(h) "Protected animal" means that term as defined in section 40103.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73102 Entering or remaining on property of another; consent; exceptions.

Sec. 73102. (1) Except as provided in subsection (4), a person shall not enter or remain upon the property of another person, other than farm property or a wooded area connected to farm property, to engage in any recreational activity or trapping on that property without the consent of the owner or his or her lessee or agent, if either of the following circumstances exists:

(a) The property is fenced or enclosed and is maintained in such a manner as to exclude intruders.

(b) The property is posted in a conspicuous manner against entry. The minimum letter height on the posting signs shall be 1 inch. Each posting sign shall be not less than 50 square inches, and the signs shall be spaced to enable a person to observe not less than 1 sign at any point of entry upon the property.

(2) Except as provided in subsection (4), a person shall not enter or remain upon farm property or a wooded area connected to farm property for any recreational activity or trapping without the consent of the owner or his or her lessee or agent, whether or not the farm property or wooded area connected to farm property is fenced, enclosed, or posted.

(3) On fenced or posted property or farm property, a fisherman wading or floating a navigable public stream may, without written or oral consent, enter upon property within the clearly defined banks of the stream or, without damaging farm products, walk a route as closely proximate to the clearly defined bank as possible when necessary to avoid a natural or artificial hazard or obstruction, including, but not limited to, a dam, deep hole, or a fence or other exercise of ownership by the riparian owner.

(4) A person other than a person possessing a firearm may, unless previously prohibited in writing or orally by the property owner or his or her lessee or agent, enter on foot upon the property of another person for the

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sole purpose of retrieving a hunting dog. The person shall not remain on the property beyond the reasonable time necessary to retrieve the dog. In an action under section 73109 or 73110, the burden of showing that the property owner or his or her lessee or agent previously prohibited entry under this subsection is on the plaintiff or prosecuting attorney, respectively.

(5) Consent to enter or remain upon the property of another person pursuant to this section may be given orally or in writing. The consent may establish conditions for entering or remaining upon that property. Unless prohibited in the written consent, a written consent may be amended or revoked orally. If the owner or his or her lessee or agent requires all persons entering or remaining upon the property to have written consent, the presence of the person on the property without written consent is prima facie evidence of unlawful entry.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73103 Discharging firearm within right-of-way of public highway abutting certain property; consent; "public highway" defined.

Sec. 73103. (1) A person shall not discharge a firearm within the right-of-way of a public highway adjoining or abutting any platted property, fenced, enclosed, or posted property, farm property, or a wooded area connected to farm property without the consent of the owner of the abutting property or his or her lessee or agent.

(2) As used in this section, "public highway" means a road or highway under the jurisdiction of the state transportation department, the road commission of a county, or of a local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73104 Removing, defacing, or destroying sign or poster.

Sec. 73104. A person shall not remove, deface, or destroy a sign or poster that has been posted pursuant to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73105 Posting or enclosing property.

Sec. 73105. A person shall not post a sign on property owned by another person or enclose the property of another person to prohibit hunting, fishing, trapping, or other recreational activities on that property without the written permission of the owner of that property or his or her lessee or agent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73106 Prosecution generally; seizure and enforcement by peace officer.

Sec. 73106. (1) A prosecution under this part shall be in the name of the people of the state, shall be brought before a district court of competent jurisdiction in the county in which the offense was committed, and shall be brought within 1 year from the time the offense charged was committed.

(2) A peace officer may seize property and otherwise enforce this part upon complaint of the landowner or his or her lessee or agent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73107 Action for injury to person on property of another; exception.

Sec. 73107. (1) Except as provided in subsection (2), a cause of action shall not arise against the owner,

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tenant, or lessee of property for an injury to a person who is on that property with oral or written consent but who has not paid the owner, tenant, or lessee of that property valuable consideration for the recreational or trapping use of the property, unless the injury was caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent and has paid the owner, tenant, or lessee valuable consideration for fishing, trapping, or hunting on that property, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73108 Enforcement and prosecution.

Sec. 73108. The prosecuting attorney for a county shall enforce this part and prosecute all persons charged with violating this part in that county. The attorney representing a municipality may enforce this part in that municipality and prosecute all persons charged with violating this part in that municipality.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73109 Violation of part; cause of action by property owner.

Sec. 73109. The owner of property on which a violation of this part is committed, or his or her lessee, may bring a cause of action against an individual who violates this part for $750.00 or actual property damages, whichever is greater, and actual and reasonable attorney fees.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999;—Am. 2013, Act 176, Eff. Feb. 25, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73110 Violation as misdemeanor; penalties; restitution.

Sec. 73110. (1) Except as provided in subsection (2) or (3), an individual who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $100.00 or more than $500.00, or both.

(2) An individual who kills any protected animal, game, or fish while violating this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $250.00 or more than $750.00, or both.

(3) An individual convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than $250.00 or more than $1,000.00, or both. In addition, the court shall order the individual's license revoked if the individual is licensed to hunt, fish, or trap in this state, and shall order the individual not to seek or possess a license for the remainder of the calendar year in which the individual is convicted and during at least 1 succeeding calendar year. This subsection does not apply after September 30, 2001.

(4) This subsection applies beginning October 1, 2001. An individual convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than $500.00 or more than $1,500.00, or both. In addition, the court may order the individual's license revoked if the individual is licensed to hunt, fish, or trap in this state, and may order the individual not to seek or possess a license for not more than 3 succeeding calendar years.

(5) The court may order an individual convicted of violating this part to pay the costs of prosecution.

(6) The following may be seized and forfeited in the same manner as provided in chapter 47 of the revised

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judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709:

(a) A protected animal, a fur-bearing animal, game, or fish taken while committing any violation of this part.

(b) Property in the possession of the defendant while committing a second or subsequent violation of this part occurring within 3 years of a previous violation of this part. This subdivision does not apply to either of the following:

(*i*) Electronic hunting-dog-retrieval equipment.

(*ii*) A living or dead animal of any kind not described in subdivision (a).

(7) The court shall order an individual convicted of violating this part to make restitution for any damage arising out of the violation, including, but not limited to, reimbursing this state for the value of any protected animal, fur-bearing animal, game, or fish taken while violating this part as provided in section 40119. However, the value of fish shall be determined as provided in section 48740.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999;—Am. 2013, Act 176, Eff. Feb. 25, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73111 Adoption of part as ordinance; effect of contradicting or conflicting ordinance, regulation, or resolution.

Sec. 73111. (1) A local unit of government may adopt this part as an ordinance, except that a penalty imposed for a violation of that ordinance shall not exceed the penalty authorized by law for the violation of an ordinance enacted by that local unit of government.

(2) A local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

PART 733
LIABILITY OF LANDOWNERS

324.73301 Liability of landowner, tenant, or lessee for injuries to persons on property for purpose of outdoor recreation or trail use, using Michigan trailway or other public trail, gleaning agricultural or farm products, fishing or hunting, or picking and purchasing agricultural or farm products at farm or "u-pick" operation; definition.

Sec. 73301. (1) Except as otherwise provided in this section, a cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of entering or exiting from or using a Michigan trailway as designated under part 721 or other public trail, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee. For purposes of this subsection, a Michigan trailway or public trail may be located on land of any size including, but not limited to, urban, suburban, subdivided, and rural land.

(3) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person who is on that land or premises for the purpose of gleaning agricultural or farm products, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(4) A cause of action shall not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who

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is on that farm and has paid the owner, tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(5) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person, other than an employee or contractor of the owner, tenant, or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(6) As used in this section, "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary, including, but not limited to, trees and firewood.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 174, Imd. Eff. Dec. 21, 2007.

Popular name: Act 451

Popular name: NREPA

SUBCHAPTER 2
PARKS

PARKS

PART 741
STATE PARKS SYSTEM

324.74101 Definitions.

Sec. 74101. As used in this part:

(a) "Commercial motor vehicle" means a commercial vehicle as defined in section 7 of the Michigan vehicle code, 1949 PA 300, MCL 257.7.

(b) "Improvement program" means the construction, reconstruction, development, improvement, bettering, operating, maintaining, and extending a facility at a state park, including a site improvement, impoundment, road and parking lot, toilet building, concession building, shelter building, bathhouse, utility, outdoor center, visitor service facility, ski area, ski tow, ski shelter, and administration unit.

(c) "Motor vehicle" means a vehicle that is self-propelled.

(d) "Nonresident motor vehicle" means a motor vehicle other than a commercial motor vehicle that is not registered as a motor vehicle in this state.

(e) "Recreation passport fee" means that term as defined in section 2001.

(f) "Resident motor vehicle" means a motor vehicle other than a commercial motor vehicle that is registered as a motor vehicle in this state.

(g) "State park" means a state park or state recreation area designated by the director.

(h) "State park improvement account" means the state park improvement account of the Michigan conservation and recreation legacy fund provided for in section 2030.

(i) "State park revenues" means all revenues collected for state parks, including but not limited to, revenue from recreation passport fees, motor vehicle permits, concession fees, nonmotorized trail permits, fees, leases, camping fees, sale of farm animals from Maybury state park, donations, and gifts.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 392, Imd. Eff. Oct. 15, 2004;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2010, Act 33, Eff. Oct. 1, 2010.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.74102 Legislative findings; duties of department.

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Sec. 74102. (1) The legislature finds:

(a) Michigan state parks preserve and protect Michigan's significant natural and historic resources.

(b) Michigan state parks are appropriate and uniquely suited to provide opportunities to learn about protection and management of Michigan's natural resources.

(c) Michigan state parks are an important component of Michigan's tourism industry and vital to local economies.

(d) A holistic, integrated park system that reflects the unique value of both state and local parks is a goal of this state.

(e) State and local park planners should work in concert for a coordinated Michigan park and recreation plan.

(2) The department shall create, maintain, operate, promote, and make available for public use and enjoyment a system of state parks to preserve and protect Michigan's significant natural resources and areas of natural beauty or historic significance, to provide open space for public recreation, and to provide an opportunity to understand Michigan's natural resources and the need to protect and manage those resources.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2010, Act 33, Eff. Oct. 1, 2010.

Popular name: Act 451

Popular name: NREPA

324.74102a Duties of commission; report.

Sec. 74102a. (1) The commission shall do all of the following:

(a) Advise and make recommendations to the governor and the legislature on state parks policy and provide guidance on state parks development, management, and planning issues.

(b) Seek the development of a broad variety of programs, facilities, and services for Michigan citizens utilizing the state parks.

(c) Inform and educate the public about the importance of and need for state parks.

(d) Strive to involve citizens in the planning and development of state parks and to ensure that the facilities, programs, and projects are barrier-free and accessible to all citizens.

(e) Establish and maintain effective public relations regarding state parks, utilizing all appropriate communications media.

(f) Advise on financial planning and pursue adequate budget support for state parks.

(g) Serve as a liaison and coordinate with other agencies to ensure a cooperative effort to provide the most effective and economical services possible at state parks.

(h) Periodically evaluate and submit a report to the standing committees of the legislature with jurisdiction over issues pertaining to natural resources and the environment on the state parks programs, facilities, services, and relationships to ensure that the goals and objectives of this section are being achieved.

(i) Advise and make recommendations to the department on the gem of the parks award, the state parks volunteer of the year award, and the state parks employee of the year award established under section 74124.

(j) Review and make recommendations to the department on whether land within a state park should be transferred as provided in section 74102b.

(2) Not later than 180 days after the effective date of the amendatory act that added this subsection, the commission shall submit a report to the standing committees and appropriations subcommittees of the legislature with jurisdiction over issues pertaining to natural resources and the environment. The report shall contain recommendations for savings in state park and forest recreation programs. Savings in state park programs equivalent to at least 10% of the cumulative expenditures for state park programs during the fiscal year ending September 30, 2009 shall be identified. In developing recommendations, the commission shall consult with the department and interested parties. The commission shall consider at least all of the following:

(a) Increased preventative maintenance.

(b) Energy conservation and efficiency.

(c) Contracting concessions, major maintenance or renovation work, and other park operations to private parties.

(d) Sharing resources and coordinating activities with parks or public recreation facilities owned by local units of government.

History: Add. 2004, Act 392, Imd. Eff. Oct. 15, 2004;—Am. 2006, Act 307, Imd. Eff. July 20, 2006;—Am. 2010, Act 33, Imd. Eff. Mar. 31, 2010.

Compiler's note: For transfer of powers and duties of citizens committee for Michigan state parks from department of natural resources to natural resources commission, and abolishment of the committee, see E.R.O. No. 2009-31 compiled at MCL 324.99919.

Popular name: Act 451

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Popular name: NREPA

324.74102b Transfer of 100 acres or more than 15% of total acreage of state park; proposal; public hearing; recommendation; conditions; website; definitions.

Sec. 74102b. (1) Prior to recommending that the state transfer more than 100 acres or more than 15% of the total acreage of a state park, whichever is less, by sale or otherwise, the department shall do both of the following:

(a) Submit a proposal with detailed information regarding the potential transfer to the committee for its review and recommendation.

(b) Submit a proposal with detailed information regarding the potential transfer to the commission for its review and approval.

(c) Hold a public hearing, following appropriate public notice, in the vicinity of the state park.

(2) Upon receipt of a proposal under subsection (1), the committee shall review the proposal and make a recommendation to the department. The committee's recommendation is not binding on the department.

(3) Following the public hearing under subsection (1) and receipt of the committee's recommendation under subsection (2), if the commission has approved the proposed transfer, the department may prepare a written recommendation for the transfer of land within a state park. The written recommendation shall include the committee's recommendation. The written recommendation shall be submitted to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment and to the senate and house appropriations committees. If the recommendation is for the transfer of more than 100 acres or more than 15% of the total acreage of a state park, whichever is less, to another public entity without compensation, the recommendation shall include a proposed deed restriction on the land that provides for public access to the land for purposes of hunting and fishing and other similar recreational uses of the land.

(4) The transfer of more than 100 acres or more than 15% of the total acreage of a state park, whichever is less, is prohibited unless specifically authorized by law.

(5) State park land, other than state park land described in subsection (4), shall not be sold unless all of the following conditions are met:

(a) The department has posted on its website notice of the proposed sale.

(b) The department has provided written notice of the proposed sale to the standing committees of the legislature with jurisdiction over issues primarily dealing with natural resources and the environment.

(c) The commission has approved the sale.

(d) The sale is not completed for a period of at least 30 days after the notice has been provided to the standing committees under subdivision (b).

(6) The department shall publish on its website a list of the acreage of each state park on the effective date of the amendatory act that added this subsection.

(7) As used in this section:

(a) "State park" means land within the dedicated boundary of a state park or state recreation area that was designated as a state park or state recreation area on the effective date of the amendatory act that added this section and any land within the dedicated boundary of a state park or state recreation area that is designated as a state park or state recreation area by the director after the effective date of the amendatory act that added this section.

(b) "Total acreage of a state park" means the total acreage within the dedicated boundaries of a state park on the effective date of the amendatory act that added this section or the largest amount of acreage included within the dedicated boundaries of a state park after the effective date of the amendatory act that added this section, whichever is greater.

History: Add. 2006, Act 307, Imd. Eff. July 20, 2006.

Popular name: Act 451

Popular name: NREPA

324.74103 Powers of department; land acquisition and improvement program.

Sec. 74103. In implementing the responsibilities under this part, the department may do 1 or more of the following:

(a) Enter into contracts or agreements that may be necessary to implement this part.

(b) Lease state park property to a person.

(c) Accept gifts, grants, or bequests from any public or private source to be used for a purpose consistent with this part.

(d) Acquire property for designation as a state park.

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(e) Provide the granting of concessions to a person within the boundaries of a state park. In granting a concession, the department shall provide that each concession is awarded at least every 7 years based on extension, renegotiation, or competitive bidding.

(2) The department may acquire land and undertake an improvement program for state parks, pursuant to the powers, rights, and privileges conferred by this part, but land acquisition or an improvement program shall not be undertaken until approved by the legislature in the annual capital outlay appropriation act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: In the first paragraph, "(1)" evidently should appear between "Sec. 74103." and the beginning of the sentence.

Popular name: Act 451

Popular name: NREPA

324.74103a Shooting range; posting hours of operation.

Sec. 74103a. At each state park that contains a designated shooting range that is open to visitors, the department shall post a notice at the entrance to the recreational areas of the state park that states the regular hours of operation of the shooting range. The notice shall be posted in a visible location, and the lettering on the notice shall be of a sufficient type size to be easily read by state park visitors. The department is not required to post the hours of operation in which the shooting range is open for special events. However, if the department does not post the hours of operation in which the shooting range is open for special events, the notice shall include a statement to that effect.

History: Add. 2006, Act 15, Imd. Eff. Feb. 9, 2006.

Popular name: Act 451

Popular name: NREPA

324.74104 “Adopt-a-park” program.

Sec. 74104. (1) The department shall establish an “adopt-a-park” program that will allow volunteer groups to assist state park staff in maintaining and enhancing state parks.

(2) Subject to subsection (3), volunteer groups in the adopt-a-park program may adopt any available state park and may choose any 1 or more of the following volunteer activities:

(a) Spring cleanups.

(b) Environmental activities.

(c) Accessibility projects.

(d) Special events.

(e) Park maintenance and development.

(f) Public information and assistance.

(g) Training.

(3) The department shall designate the activities to be performed by a volunteer group in the adopt-a-park program. The department may provide for more than 1 volunteer group to adopt a state park.

(4) A volunteer group that wishes to participate in the adopt-a-park program shall submit an application to the department on a form provided by the department. Additionally, volunteer groups shall agree to the following:

(a) Volunteer groups shall participate in the program for at least a 2-year period.

(b) Volunteer groups shall consist of at least 6 people who are 18 years of age or older, unless the volunteer group is a school or scout organization, in which case the volunteers may be under 18 years of age.

(c) Volunteer groups shall give a total of 400 hours over a 2-year period.

(d) Volunteer groups shall comply with other reasonable requirements of the department.

(5) A state park manager may issue to volunteers who are actively working on adopt-a-park projects that last more than 1 day free camping permits if campsites are available. A state park manager may waive state park entry fees for volunteers entering state parks to work on adopt-a-park projects.

(6) The department shall design and erect near the state park headquarters of each state park in the adopt-a-park program an adopt-a-park program sign with the name of the volunteer group's sponsoring organization listed for each volunteer group that has contributed at least 100 service hours by volunteers.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74105 Volunteers; appointment; immunity from civil liability; carrying of firearm prohibited.

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Sec. 74105. The department may appoint persons to serve as volunteers for the purpose of facilitating the responsibilities of the department as provided in this part. While a volunteer is serving in such a capacity, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of Act No. 170 of the Public Acts of 1964, being section 691.1408 of the Michigan Compiled Laws. A volunteer shall not carry a firearm while functioning as a volunteer.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74106 Revenue bonds; issuance; amount; notice; includable costs; resolution.

Sec. 74106. For the purpose of providing a park improvement program, the commission may issue revenue bonds as provided in this part. The commission may issue revenue bonds payable from state park revenues. The aggregate principal amount of the revenue bonds shall not exceed $100,000,000.00. The department shall provide notice to the appropriations committee of the senate and the house of representatives at least 30 days before bonds are offered for sale. There may be included in the cost for which bonds are to be issued a reasonable allowance for legal, engineering, architectural and consultant services, traffic studies, cost of printing and issuing of the bonds, interest on the bonds becoming due before collection of the first available state park revenues and for a period of 1 year thereafter, and other incidental expenses. The bonds shall be authorized by a resolution adopted by a majority vote of a quorum of the commission and may be issued in 1 or more series as shall be determined by the commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74107 Authority of department.

Sec. 74107. The commission may authorize the department, but only within limitation which shall be contained in the commission's authorizing resolution, to do 1 or more of the following:

(a) Sell and deliver and receive payment for bonds.

(b) Approve interest rates, purchase prices, discounts, premiums, maturities, principal amounts, interest payment dates, redemption rights at the option of the commission or the holder, and the place and time of delivery and payment for the bonds.

(c) Deliver bonds to refund prior bonds or partly to refund bonds and partly for other authorized purposes.

(d) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(e) Any other matters and procedures necessary to complete the issuance and delivery of the bonds.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74108 Resolution authorizing issuance of bonds; contents.

Sec. 74108. A resolution adopted by the commission authorizing the issuance of bonds shall contain all of the following:

(a) A description in reasonable detail of the improvement program as approved by the legislature, for which the bonds are to be issued.

(b) The form of the bonds and all of the following:

(*i*) The maturity date or dates for the bonds with no maturity later than 30 years after the issuance of the bonds.

(*ii*) The principal amount of and principal payment dates for the bonds.

(*iii*) The interest rate or rates for the bonds or that bonds shall not bear any interest.

(*iv*) The redemption provisions, with or without premium, for the bonds, if any.

(*v*) The authorized denominations for the bonds.

(*vi*) Whether the bonds may be sold at a discount or for a premium.

(*vii*) The manner in which the bonds will be executed.

(*viii*) Any other provision concerning the bonds or the security for the bonds the commission considers appropriate.

(c) A provision that the state park revenues shall be pledged for the payment of the bonds. However, the pledge of state park revenues shall be on a parity with pledges of the revenues previously or subsequently made by the commission pursuant to any other resolution authorizing the issuance of bonds under this part

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and the resolution shall state that the pledge complies with this subdivision.

(d) A covenant that the park permit fees and penalties provided in section 74117 shall be revised from time to time within the limits permitted by law when necessary to ensure that the revenues to be derived from the fees shall be sufficient to pay the principal of and interest on bonds issued pursuant to this part and other obligations of the commission in connection with the issuance of bonds.

(e) A provision requiring the fiscal agent to set aside money from the state park revenue bond receiving fund into a fund to be designated as the state park debt service fund in a sum proportionately sufficient to provide for the payment of the principal of and interest upon all bonds payable from the fund as and when the principal and interest becomes due and payable in the manner prescribed by the commission. In addition the resolution shall authorize the commission to provide that a reasonable excess amount may be set aside by the fiscal agent from time to time as directed by the commission in the state park debt service fund to produce and provide a reserve to meet a possible future deficiency in the fund. The resolution shall further provide that out of the revenues remaining each quarter, after having first met the requirements of the state park debt service fund, including the reserve for the fund, the commission may by direction to the fiscal agent next set aside additional money in the state park debt service fund for the purpose of calling bonds for redemption, subject to approval by the state administrative board. The resolution shall also contain a provision for the investment of funds held by the fiscal agent.

(f) A provision that money on deposit in the state park revenue bond receiving fund after setting aside the amounts in the state park debt service fund is surplus money, and shall be deposited quarterly by the fiscal agent upon the order of the commission in the state treasury in the state park improvement account. Money in the state park improvement account shall be used only for the improvement, operation, and maintenance of state parks and recreation areas and for the administration of the state park improvement account. Not less than $10.00 of each annual permit and not less than $2.00 of each daily permit projected to be sold in a fiscal year may be appropriated from the state park improvement account for the maintenance and operation of state parks and recreation areas in that fiscal year.

(g) The terms and conditions under which additional bonds payable from the state park revenues of equal standing with a prior issue of bonds may be issued.

(h) A provision for deposit and expenditure of the proceeds of sale of the bonds and for investment of the proceeds of sale of the bonds and of other funds of the commission relating to bonds authorized by this part.

(i) A provision that in the event of a default in the payment of principal of or interest on the bonds, or in the performance of an agreement or covenant contained in the resolution, the holders of a specified percentage of the outstanding bonds may institute 1 or more of the following for the equal benefit of the holders of all of the bonds:

(*i*) An action of mandamus or any other suit, action, or proceeding to enforce the rights of the holders of the bonds.

(*ii*) An action upon the defaulted bonds or coupons.

(*iii*) Any other action as may be provided by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.74109 Repealed. 2003, Act 170, Eff. Jan. 1, 2004.

Compiler's note: The repealed section pertained to prohibited use of increased fee revenue for state park operations and the conditional repeal of 177 PA 1989.

Popular name: Act 451

Popular name: NREPA

324.74110 Revenue bonds; state debt; extent of liability.

Sec. 74110. Any bond issued under this part shall state that it is not a general obligation of the state of Michigan, but is a revenue bond payable only from state park revenues. Nothing in this part authorizes the state to incur debt contrary to the constitution or laws of the state. The holders of the bonds shall not have the right to compel a sale of any real estate or personal property of the state parks, nor shall the holders of the bonds have any lien, mortgage, or other encumbrances upon any property of the state of Michigan, real, personal, or mixed. Bonds shall be fully negotiable within the meaning of the negotiable instruments law of this state.

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History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74111 Revenue bonds; refunding issue.

Sec. 74111. The commission may issue bonds for the purpose of refunding any obligations issued under this part, or may authorize a single issue of bonds in part for the purpose of refunding such obligations and in part for the purpose of financing any additional cost of land or improvement program. Bonds issued under this section are payable only from state park revenues and may be sold in the manner provided for the sale of bonds in this part. If sold, that portion of the proceeds representing the refunding portion may be either applied to the payment of the obligations refunded or deposited in escrow for their retirement.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74112 Maximum rate of interest; sale and award of bonds; public or private sale; advertisement; notice of sale.

Sec. 74112. (1) The maximum rate of interest on bonds issued under this part shall be that set forth for bonds in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The sale and award of bonds shall be conducted and made by the commission at a public or private sale. If a public sale is held, the bonds shall be advertised for sale once not less than 7 days before sale in a publication with statewide circulation that carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form designated by the commission.

(2) Bonds issued under this part are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds under this part is subject to the agency financing reporting act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2002, Act 249, Imd. Eff. Apr. 30, 2002.

Popular name: Act 451

Popular name: NREPA

324.74113 State park revenues; fiscal agent; receiving fund; expenses; designation of paying agents.

Sec. 74113. All state park revenues shall be deposited with the state treasurer who shall act as the fiscal agent for the department. The state treasurer shall establish a special depositary account to be designated “state park revenue bond receiving fund”. The necessary expenses of the fiscal agent incurred by reason of his or her duties under this part shall be paid from the state park revenue bond receiving fund. The commission may designate banks or trust companies to act as paying agents for bonds issued pursuant to this part. The paying agent shall be paid from the state park debt service fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74114 Fees; establishment; collection; deposit.

Sec. 74114. The department may establish fees and collect fees for activities in state parks except those activities for which fees are established under this part. All fees collected under this section shall be deposited into the state park improvement account.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.74115 Free entry of motor vehicles into posted park prohibited.

Sec. 74115. Except as otherwise provided in this part, free entry of a motor vehicle shall not be permitted into any state park or portion of a state park posted in accordance with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

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Popular name: Act 451

Popular name: NREPA

324.74116 Entry into state park by nonresident or resident motor vehicle; permit; payment of recreation passport fee; registration tab or sticker; exceptions.

Sec. 74116. (1) Subject to subsection (4), the operator of a nonresident motor vehicle or commercial motor vehicle shall not enter any state park with that motor vehicle unless a valid motor vehicle park permit issued under section 74117 is affixed to the lower right-hand corner of the windshield. An annual motor vehicle park permit for a nonresident motor vehicle shall be affixed permanently for that year. The department shall post signs at parks that state that a motor vehicle park permit is required for entry by a nonresident motor vehicle or commercial motor vehicle.

(2) Subject to subsection (4), the operator of a resident motor vehicle shall not enter a state park with the resident motor vehicle unless the recreation passport fee has been paid for that motor vehicle. Payment of the recreation passport fee authorizes entry into all state parks and recreation areas and designated state-operated public boating access sites until expiration of the motor vehicle registration.

(3) Subject to subsection (4), if the secretary of state issues registration tabs or stickers as described in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805, the operator of a resident motor vehicle shall not enter a state park with the resident motor vehicle unless the resident motor vehicle has a registration tab or sticker marked as provided under that section to show that the recreation passport fee has been paid.

(4) Subsections (1) to (3) do not apply under any of the following circumstances:

(a) While the motor vehicle is being driven or parked within an established federal, state, or county highway within a state park.

(b) If the motor vehicle is used in the operation or maintenance of a state park, is an emergency motor vehicle, is a state owned or law enforcement motor vehicle, or is a private motor vehicle being operated on official state business.

(c) If the motor vehicle is registered under section 803e(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, and is exempt under section 803e(6) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, from the registration tax, or if the motor vehicle is registered under section 217d or 803f of the Michigan vehicle code, 1949 PA 300, MCL 257.217d and 257.803f.

(d) At a state-operated public boating access site or a state park where there is an opportunity to fish on a day that the department has designated as a free winter fishing day or a free fishing day under section 43534.

(e) If and to the extent that the department waives the requirements for department-sponsored events or other circumstances as determined by the director or the director's designee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2010, Act 33, Eff. Oct. 1, 2010;—Am. 2013, Act 81, Eff. May 1, 2014;—Am. 2016, Act 1, Eff. Apr. 25, 2016.

Popular name: Act 451

Popular name: NREPA

324.74117 Park permits beginning October 1, 2010; nonresident motor vehicle park permit; fees; sale; loss or destruction of permit; use of credit card; additional permits for special services or park privileges; adjustment of amounts.

Sec. 74117. (1) This subsection and subsections (2) to (9) apply beginning October 1, 2010. The department shall prepare and distribute park permits as necessary to implement this part.

(2) Except as otherwise provided in this section, the department shall issue an annual nonresident motor vehicle park permit that authorizes the entry of a nonresident motor vehicle to which it is originally attached within any state park during the calendar year for which it is issued. The fee for the annual nonresident motor vehicle park permit for the owner of a nonresident motor vehicle is $29.00. An annual park permit shall not be used for a commercial motor vehicle.

(3) The department shall issue a daily motor vehicle park permit, valid for 1 day only, that authorizes the entry of a nonresident motor vehicle or commercial motor vehicle to which it is originally attached within any state park during the day for which it is issued. The fee for a daily nonresident motor vehicle park permit is $8.00. The fee for a daily commercial motor vehicle park permit is $15.00.

(4) A person who has obtained an annual nonresident motor vehicle park permit under this section for a recreational vehicle to be used as a stationary primary camping shelter camped legally in and not moved from a state park campground during the period of the camping stay may obtain a duplicate nonresident motor vehicle park permit effective for the duration of the camping stay for a towed second motor vehicle present at the time of entry for a fee of $6.00.

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(5) The department may designate persons in this state authorized to sell park permits. The department shall require as a condition of the designation of a person other than a department employee that the person furnish a surety bond in an amount and form and with a surety acceptable to the department. After being designated by the department, a person may issue park permits in accordance with this part. This subsection does not apply to employees of the department of state acting under section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805.

(6) If a person's annual nonresident motor vehicle park permit is lost or destroyed, the department shall provide that person with a replacement motor vehicle park permit free of charge. The department may require a person requesting a replacement motor vehicle park permit to supply sufficient evidence of the loss or destruction of the original motor vehicle park permit.

(7) The department may add to the cost of a reservation or a motor vehicle park permit or camping fee the charges that the state incurs because of the use of a credit card.

(8) This section and section 74116 apply only to the entry of motor vehicles into state parks and do not obviate the necessity of obtaining additional permits for special services or park privileges as may be required by law or by rules promulgated by the department.

(9) For each calendar year, the state treasurer shall adjust the amounts set forth in subsections (2) to (4) by an amount determined by the state treasurer to reflect the cumulative percentage change in the consumer price index from October 1, 2010 to the October 1 immediately preceding that calendar year, using the most recent data available and rounded to the nearest dollar.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 170, Eff. Jan. 1, 2004;—Am. 2006, Act 477, Imd. Eff. Dec. 21, 2006;—Am. 2009, Act 197, Imd. Eff. Dec. 28, 2009;—Am. 2010, Act 33, Imd. Eff. Mar. 31, 2010;—Am. 2010, Act 33, Imd. Eff. Mar. 31, 2010;—Am. 2013, Act 81, Eff. May 1, 2014.

Popular name: Act 451

Popular name: NREPA

324.74118 Park permits; monthly accounting; compensation; report.

Sec. 74118. On or before the tenth day of every month, all persons authorized to sell park permits shall pay to the department all money received from the sale of park permits for the preceding month. Any person who refuses or neglects to pay the money as provided in this section, in addition to other penalties provided by law, forfeits the right to sell park permits. All persons authorized to sell park permits, except employees of the department who receive a regular salary from the state, may charge the purchaser as compensation 15 cents additional for each annual park permit and 10 cents additional for each daily park permit issued. On or before February 15 of each year a complete report of all permits sold during the previous calendar year shall be filed with the department by each person authorized to sell park permits, and all unsold park permits for the previous year shall be returned to the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74119 Michigan state parks endowment fund.

Sec. 74119. (1) In accordance with section 35a of article IX of the state constitution of 1963, the Michigan state parks endowment fund is created within the state treasury. The Michigan state parks endowment fund may be referred to as the Genevieve Gillette state parks endowment fund.

(2) The state treasurer may receive money or other assets from any source for deposit into the endowment fund. The state treasurer shall direct the investment of the endowment fund. The state treasurer shall have the same authority to invest the assets of the endowment fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*. The state treasurer shall credit to the endowment fund interest and earnings from endowment fund investments.

(3) Money in the endowment fund at the close of the fiscal year shall remain in the endowment fund and shall not lapse to the general fund.

(4) The accumulated principal of the endowment fund shall not exceed $800,000,000.00, which amount shall be annually adjusted pursuant to the Detroit consumer price index—all items beginning when the endowment fund reaches $800,000,000.00. This annually adjusted figure is the accumulated principal limit of the endowment fund.

(5) Money in the endowment fund shall be expended for operations, maintenance, and capital improvements at Michigan state parks and for the acquisition of land or rights in land for Michigan state parks.

(6) Money in the endowment fund shall be expended as follows:

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(a) Until the endowment fund reaches an accumulated principal of $800,000,000.00, each state fiscal year the legislature may appropriate not more than 50% of the money received under section 35 of article IX of the state constitution of 1963 plus interest and earnings and any private contributions or other revenue to the endowment fund.

(b) Once the accumulated principal in the endowment fund reaches $800,000,000.00, only the interest and earnings of the endowment fund in excess of the amount necessary to maintain the endowment fund's accumulated principal limit shall be expended.

(7) Unexpended appropriations of the endowment fund from any state fiscal year as authorized by this section may be carried forward or may be appropriated as determined by the legislature for purposes of this section.

(8) The department shall annually prepare a report containing an accounting of revenues and expenditures from the endowment fund. This report shall identify the interest and earnings of the endowment fund from the previous year, the investment performance of the endowment fund during the previous year, and the total amount of appropriations from the endowment fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2002, Act 54, Eff. Sept. 21, 2002.

Popular name: Act 451

Popular name: NREPA

324.74120 Rules.

Sec. 74120. (1) The department may promulgate rules to implement this part.

(2) The department may promulgate rules providing a method for an individual whose motor vehicle registration expires annually to pay a state park and state-operated public boating access site recreation passport fee in addition to the method provided for in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805. The amount of the state park and state-operated public boating access site recreation passport fee required to be paid under a method provided for by rule under this subsection shall not exceed twice the amount of a state park and state-operated public boating access site recreation passport fee paid under the method provided for in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805.

(3) The department shall promulgate rules providing a method for an individual whose motor vehicle registration does not expire annually and who is exempt under sections 74116(4)(c) and 78119(4)(b) from the recreation passport fee to voluntarily pay the recreation passport fee as a donation. The amount of the state park and state-operated public boating access site recreation passport fee required to be paid under the method provided for by rule under this subsection shall equal the amount of a state park and state-operated public boating access site recreation passport fee paid under the method provided for in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805.

(4) A rule promulgated under this section shall provide for a method evidencing payment of the state park and state-operated public boating access site recreation passport fee, such as the issuance and display of a permit.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2010, Act 33, Imd. Eff. Mar. 31, 2010;—Am. 2013, Act 81, Eff. May 1, 2014.

Popular name: Act 451

Popular name: NREPA

324.74121 State parks; prohibited conduct.

Sec. 74121. A person shall not do the following in a state park:

(a) Destroy, damage, or remove any tree, shrub, wildflower, or other vegetation or property without the permission of the department.

(b) Operate a motor vehicle except in a designated area.

(c) Violate this part or rules promulgated under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74122 Violation; presumption; penalty.

Sec. 74122. (1) A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor. This subsection does not apply to violations described in subsection (2).

(2) A person who violates section 74116(1), (2), or (3) is responsible for a state civil infraction and may be

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ordered to pay a civil fine of not more than $100.00. A person shall not be cited for a violation of both section 74116(2) and section 74116(3) for the same incident.

(3) In any proceeding for the violation of this part or a rule promulgated under this part, if a motor vehicle is found parked in a state park, the registration plate displayed on the motor vehicle constitutes prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where it was found.

(4) In addition to the penalties provided for in subsection (1), a person convicted of an act of vandalism to state park equipment, facilities, or resources shall reimburse the department up to 3 times the amount of the damage as determined by the court. All money collected pursuant to this subsection shall be credited to the state park improvement account.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2010, Act 33, Eff. Oct. 1, 2010
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Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.74123 Repealed. 2010, Act 32, Eff. Oct. 1, 2010.

Compiler's note: The repealed section pertained to establishment of fine for failure to purchase park permit.

324.74124 Create "gem of the parks", "volunteer of the year", and "employee of the year" award program.

Sec. 74124. (1) The department shall create a "gem of the parks" award to recognize key state parks for their contribution to the state parks system, a "volunteer of the year" award to recognize outstanding individuals who donate time or monetary contributions to the state park system, and an "employee of the year" award to recognize individuals who are outstanding employees of the state park system. The department shall develop a program to facilitate the determination and presentation of these awards. The awards shall be made on a yearly basis.

(2) The department shall develop a set of standards to use in determining the recipients of the awards under subsection (1) with consideration given to the following:

(a) The contribution of the state park, the volunteer, or the employee to the preservation of the state's natural resources.

(b) The amount of any monetary donation.

(c) The length of time donated or the years of employment.

(d) The length of a long-term commitment to the preservation of the environment.

(3) The department annually shall submit the names of the award recipients under subsection (1) to the standing committees in the senate and house of representatives responsible for natural resources matters.

History: Add. 2004, Act 395, Imd. Eff. Oct. 15, 2004.

Compiler's note: Former MCL 324.74124, which pertained to the powers of park and recreation enforcement officers, was repealed by Act 414 of 2000, Eff. Mar.`28, 2001.

Popular name: Act 451

Popular name: NREPA

324.74125 Bonds; exemption from taxation.

Sec. 74125. All bonds issued pursuant to this part and the interest on those bonds is exempt from taxation by the state, or by any municipality, corporation, county, or other political subdivision or taxing district of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74126 "Fred Meijer White Pine Trail State Park"; "Fred Meijer Berry Junction Trail"; criteria for naming state parks and state owned recreational facilities.

Sec. 74126. (1) The state owned land containing the White Pine trail, which traverses an abandoned rail corridor between Comstock Park and Cadillac, shall be known as the "Fred Meijer White Pine Trail State Park".

(2) The department shall facilitate the establishment of a recreational trail that traverses, in part, the

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abandoned rail corridor that runs from White Lake drive, south of the city of Whitehall, to Lake avenue in the city of North Muskegon. This trail shall be known as the "Fred Meijer Berry Junction Trail".

(3) The department, in consultation with the committee, the commission, and the Michigan natural resources trust fund board established in section 1905, shall develop criteria for naming state parks and other state owned recreational facilities. Within 1 year after the effective date of the amendatory act that added this subsection, the department shall present to the standing committees of the senate and the house of representatives with jurisdiction primarily relating to natural resources and state parks the criteria it has developed under this section.

History: Add. 2006, Act 248, Imd. Eff. July 3, 2006.

Popular name: Act 451

Popular name: NREPA

PART 742

CAMP REGISTRATION CARDS

324.74201 Camp registration card; posting; definition.

Sec. 74201. (1) A person shall not camp on any state owned lands under the jurisdiction or control of the department without having first posted a camp registration card.

(2) As used in this part, “to camp” means the erection of a tent or tent-type camper or the parking and occupancy of a travel or house trailer or truck camper.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74202 Camp registration card; obtaining; contents; posting.

Sec. 74202. A person may obtain without charge from a conservation officer or a person authorized to issue fishing or hunting licenses a camp registration card and shall enter on the camp registration card in the space provided, in plain and legible English, the name and address of every person occupying the camp. The card shall be prominently and conspicuously posted at the campsite before the camp is made and shall be left so posted upon the departure of the camping party.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74203 Disposal of rubbish.

Sec. 74203. Upon breaking camp, every member of a camping party is responsible for the disposal, by burying or burning, of all rubbish, papers, cans, containers, or any other article or thing of any nature whatsoever brought into or built upon the premises by the camping party. A person camping upon the state owned lands shall not deposit and leave any tin cans, bottles, refuse, or other rubbish unburied or otherwise disposed of on the premises.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74204 Camp registration cards; printing and distribution.

Sec. 74204. The department shall have printed and distributed a sufficient number of camp registration cards to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74205 Enforcement of part; duty of peace officers.

Sec. 74205. It is the duty of any peace officer, including conservation officers, to enforce this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74206 Violation of part; penalty.

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Sec. 74206. A person who violates this part is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00, and, in addition, is liable for any costs incurred by the department in cleaning up the campsite of the person, which liability shall be recoverable in any court of competent jurisdiction in this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2015, Act 215, Eff. Mar. 14, 2016.

Popular name: Act 451

Popular name: NREPA

324.74207 Applicability of part.

Sec. 74207. This part does not apply to any state park, campground, or recreation area administered by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 743
STATE PARKS FOUNDATION

324.74301 Definitions.

Sec. 74301. As used in this part:

(a) "Foundation" means the Michigan state parks foundation created in section 74302.

(b) "State park" means a state park or state recreation area designated by the director.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74302 Michigan state parks foundation; appointment and terms of members; vacancy; removal; meetings; quorum; selection of chairperson, vice-chairperson, and other officials; compensation; staff assistance; conducting business at public meeting.

Sec. 74302. (1) The department shall create a foundation to be known as the Michigan state parks foundation. The foundation shall exercise its powers, functions, and duties independently of the department of natural resources. The foundation shall be governed by an executive board consisting of the director who shall serve as a nonvoting ex officio member, and 13 voting members who shall be appointed by the governor.

(2) The members of the foundation who are appointed by the governor pursuant to subsection (1) shall serve for a term of 4 years or until a successor is appointed, whichever is later, except that of the members first appointed, 3 shall serve for 1 year, 3 shall serve for 2 years, and 3 shall serve for 3 years.

(3) If a vacancy occurs on the foundation from the members appointed by the governor, an appointment shall be made for the unexpired term in the same manner as the original appointment. The governor may remove appointed foundation members for neglect of duty or malfeasance in relation to the member's foundation duties.

(4) The foundation shall meet immediately upon complete formation and then shall meet at least quarterly.

(5) Seven members of the foundation shall constitute a quorum for the conducting of business. The foundation shall select a chairperson, vice-chairperson, and other officials from the membership as the members of the foundation consider necessary.

(6) A member of the foundation shall not receive compensation for his or her services but may be reimbursed for expenses incurred in the performance of his or her duties as a member of the foundation.

(7) The department shall provide staff assistance to the foundation as necessary for it to carry out its functions.

(8) The business the executive board of the foundation may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meetings shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74303 Michigan state parks foundation; purpose.

Sec. 74303. The purpose of the foundation is to support the overall enhancement of the Michigan state

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parks system and to foster awareness, appreciation, understanding, and involvement in the system through focused assistance that is supplementary to appropriated parks funding.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74304 Michigan state parks foundation; duties.

Sec. 74304. The foundation shall do the following:

(a) Determine those projects or undertakings for which the foundation will solicit funding. In determining projects to fund, the foundation shall select projects that enhance the use, preservation, enjoyment, or understanding of the natural and historic resources of the state parks through the following focus areas of need:

(*i*) Education and outreach.

(*ii*) Visitor information services and interpretive facilities.

(*iii*) Support for volunteer activities.

(*iv*) Employee support program.

(b) Maintain a current list and description of projects for which contributions are sought.

(c) Provide for methods by which persons who contribute to the foundation projects may be commemorated for their contributions.

(d) Advise potential contributors of all tax ramifications of contributions to the foundation.

(e) Invest assets of the foundation in any instrument, obligation, security, or property considered appropriate by the executive board of the foundation.

(f) Provide for receiving contributions in lump sums or periodic sums.

(g) Administer money collected by the foundation.

(h) Segregate contributions to the foundation into various accounts.

(i) Procure insurance against any loss in connection with the assets of the foundation or foundation activities.

(j) Enter into contracts on behalf of the foundation.

(k) Define the terms and conditions under which money may be disbursed by the foundation.

(*l*) Contract for goods and services and engage personnel as is necessary and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for rendering professional, management, and technical assistance and advice, payable out of any money of the foundation. However, not more than 10% of the money of the foundation shall be used for the purpose of this subdivision or other administrative costs of the foundation.

(m) Exercise other powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this part, and the purposes of the foundation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74305 Michigan state parks foundation; management; use of assets.

Sec. 74305. The foundation shall be managed solely pursuant to and for the purpose set forth in this part and money or other assets of the foundation shall not be loaned or otherwise transferred or used by the state for any purpose other than the purposes of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.74306 Accounting.

Sec. 74306. The foundation shall annually prepare or cause to be prepared an accounting which shall be a public document and shall transmit a copy of the accounting to the governor, the senate majority and minority leaders, and the Republican and Democratic leaders of the house of representatives. The foundation may also make available the accounting of the foundation to a contributor to the foundation. The accounts of the foundation are subject to annual audits by the state auditor general or a certified public accountant appointed by the auditor general.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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Popular name: NREPA

PART 751
DARK SKY PRESERVE

324.75101 Definitions.

Sec. 75101. As used in this part:

(a) "Dark sky preserve" means an area designated in section 75102.

(b) "Fully shielded" means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above 15 degrees below the horizontal plane and also constructed so that the filament or light source is not visible to the naked eye when viewed from a point higher than 15 degrees below the horizontal plane.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2012, Act 251, Imd. Eff. July 2, 2012.

Popular name: Act 451

Popular name: NREPA

324.75102 Designation as dark sky preserves; prohibition as to establishment in Upper Peninsula.

Sec. 75102. (1) The following lands are designated as dark sky preserves:

(a) State-owned land at Lake Hudson, legally described as:

All state-owned land located in Sections 25, 26, 27, 34, 35, and 36, T 7 S, R 1 E, and Section 1, T 8 S, R 1 E - Lenawee County, Michigan.

(b) The state-owned land encompassing Wilderness State Park and the state forestland within Bliss Township, Cross Village Township, and Wawatam in Emmet County.

(c) Those portions of Port Crescent State Park lying north and west of the Pinnebog River in section 9 of Hume Township, Huron County, T18N, R12E.

(d) The state-owned land encompassing Rockport State Recreation Area, located in Presque Isle Township, Presque Isle County and Alpena Township, Alpena County.

(e) The state-owned land encompassing Negwegon State Park, located in Sanborn Township, Alpena County and Alcona Township, Alcona County.

(f) The state-owned land encompassing Thompson's Harbor State Park, located in Krakow Township, Presque Isle County.

(2) Notwithstanding any other provision of this part, a dark sky preserve shall not be established in the Upper Peninsula.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2012, Act 251, Imd. Eff. July 2, 2012;—Am. 2016, Act 11, Eff. May 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.75103 Outdoor lighting; installation; limitation.

Sec. 75103. (1) The commission shall ensure that outdoor lighting within a dark sky preserve is not installed unless necessary for safety, security, or the reasonable use and enjoyment of property within the preserve.

(2) The commission shall ensure that outdoor lighting within a dark sky preserve does not unreasonably interfere with nighttime activities that require darkness, including, but not limited to, the enjoyment of the night sky, nighttime photography, and wildlife photography.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.75104 Outdoor lighting; requirements.

Sec. 75104. (1) The commission shall ensure that all outdoor lighting within a dark sky preserve conforms to the following:

(a) Lighting shall be directed downward.

(b) Whenever possible, lighting shall be provided by fully shielded fixtures.

(c) Wherever practical and appropriate, outdoor lighting fixtures shall be motion sensor fixtures, and not fixtures that remain lighted during all hours of darkness.

(2) Notwithstanding any other provision of this part, the use and development of land within a dark sky

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preserve, including the use of the land for motorized and nonmotorized recreation, shall not be restricted due to the designation as a dark sky preserve.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2012, Act 251, Imd. Eff. July 2, 2012.

Popular name: Act 451

Popular name: NREPA

324.75105 Use and development not restricted; conditions.

Sec. 75105. This part does not restrict the use and development of the state owned land at lake Hudson as prescribed by the master plan approved by the commission if the use and development are in compliance with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.75106 Repealed. 2002, Act 3, Eff. Mar. 31, 2003.

Compiler's note: The repealed section pertained to repeal of part.

Popular name: Act 451

Popular name: NREPA

ABORIGINAL RECORDS AND ANTIQUITIES AND ABANDONED PROPERTY

PART 761
ABORIGINAL RECORDS AND ANTIQUITIES

324.76101 Definitions.

Sec. 76101. As used in this part:

(a) "Abandoned property" means an aircraft; a watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of an aircraft or watercraft; the personal property of the officers, crew, and passengers of an aircraft or watercraft; and the cargo of an aircraft or watercraft, which have been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by owners and insurers. Abandoned property also means materials resulting from activities of historic and prehistoric Native Americans.

(b) "Bottomlands" means the unpatented lake bottomlands of the Great Lakes.

(c) "Committee" means the underwater salvage and preserve committee created in section 76103.

(d) "Great Lakes" means lakes Erie, Huron, Michigan, St. Clair, and Superior.

(e) "Great Lakes bottomlands preserve" means an area located on the bottomlands of the Great Lakes and extending upward to and including the surface of the water, which is delineated and set aside by rule for special protection of abandoned property of historical value, or ecological, educational, geological, or scenic features or formations having recreational, educational, or scientific value. A preserve may encompass a single object, feature, or formation, or a collection of several objects, features, or formations.

(f) "Historical value" means value relating to, or illustrative of, Michigan history, including the statehood, territorial, colonial, and historic, and prehistoric native American periods.

(g) "Mechanical or other assistance" means all humanmade devices, including pry bars, wrenches and other hand or power tools, cutting torches, explosives, winches, flotation bags, lines to surface, extra divers buoyancy devices, and other buoyance devices, used to raise or remove artifacts.

(h) "Recreational value" means value relating to an activity that the public engages in, or may engage in, for recreation or sport, including scuba diving and fishing.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76102 Aboriginal records and antiquities; right to explore, survey, excavate, and regulate reserved to state; possessory right or title to abandoned property.

Sec. 76102. (1) The state reserves to itself the exclusive right and privilege, except as provided in this part, of exploring, surveying, excavating, and regulating through its authorized officers, agents, and employees, all aboriginal records and other antiquities, including mounds, earthworks, forts, burial and village sites, mines or

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other relics, and abandoned property of historical or recreational value found upon or within any of the lands owned by or under the control of the state.

(2) The state reserves to itself a possessory right or title superior to that of a finder to abandoned property of historical or recreational value found on the state owned bottomlands of the Great Lakes. This property shall belong to this state with administration and protection jointly vested in the department and the department of history, arts, and libraries.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76103 Underwater salvage and preserve committee; creation; purpose; appointment, qualifications, and terms of members; vacancy; compensation; appointment, term, and duties of chairperson; committee as advisory body; functions of committee; limitation.

Sec. 76103. (1) The underwater salvage and preserve committee is created in the department to provide technical and other advice to the department and the department of history, arts, and libraries with respect to their responsibilities under this part.

(2) The underwater salvage and preserve committee shall consist of 9 members appointed as follows:

(a) Two individuals appointed by the department who have primary responsibility in the department for administering this part.

(b) Two individuals appointed by the director of the department of history, arts, and libraries who have primary responsibility in the department of history, arts, and libraries for administering this part.

(c) Five individuals appointed by the governor with the advice and consent of the senate from the general public. Two of these individuals shall have experience in recreational scuba diving.

(3) An individual appointed to the committee shall serve for a term of 3 years. A vacancy on the committee shall be filled in the same manner as an original appointment and the term of a member appointed to fill a vacancy shall be for 3 years. Members of the committee shall serve without compensation, except for their regular state salary where applicable.

(4) The chairperson of the committee shall alternate between the representatives from the department and the department of history, arts, and libraries. The chairperson shall be designated by the department or the director of the department of history, arts, and libraries, whichever is applicable from among his or her representatives on the committee. The chairperson's term shall run for 12 months, from October 1 through September 30. The department shall appoint the first chairperson of the committee for a term ending September 30, 1989. The chairperson shall call meetings as necessary but not less than 4 times per year, set the agenda for meetings, ensure that adequate minutes are taken, and file an annual report of committee proceedings with the head of the department of natural resources and the director of the department of history, arts, and libraries.

(5) The committee is an advisory body and may perform all of the following functions:

(a) Make recommendations with regard to the creation and boundaries of Great Lakes underwater preserves.

(b) Review applications for underwater salvage permits and make recommendations regarding issuance.

(c) Consider and make recommendations regarding the charging of permit fees and the appropriate use of revenue generated by those fees.

(d) Consider the need for and the content of rules intended to implement this part and make recommendations concerning the promulgation of rules.

(e) Consider and make recommendations concerning appropriate legislation.

(f) Consider and make recommendations concerning program operation.

(6) The committee shall not replace or supersede the responsibility or authority of the department of history, arts, and libraries or the department to carry out their responsibilities under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76104 Deed; clause reserving to state property and exploration rights in aboriginal

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antiquities; exceptions; waiver.

Sec. 76104. A deed, as provided by this part, given by this state, except state tax deeds for the conveyance of any land owned by the state, shall contain a clause reserving to this state a property right in aboriginal antiquities including mounds, earthworks, forts, burial and village sites, mines, or other relics and also reserving the right to explore and excavate for the aboriginal antiquity by and through this state's authorized agent and employee. This section applies only to the sale of tax reverted land. The department, with the approval of the department of history, arts, and libraries, may waive this reservation when conveying platted property and when making conveyances under subpart 3 of part 21.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76105 Permit for exploration or excavation of aboriginal remain; exception.

Sec. 76105. (1) A person, either personally or through an agent or employee, shall not explore or excavate an aboriginal remain covered by this part upon lands owned by the state, except as authorized by a permit issued by the department, with written approval of the department of history, arts, and libraries, pursuant to part 13. A permit shall be issued without charge.

(2) Subsection (1) does not apply to the Mackinac Island state park commission on lands owned or controlled by the Mackinac Island state park commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76106 Removal of relics or records of antiquity; consent of landowner required.

Sec. 76106. Without the consent of the land owner, a person shall not remove any relics or records of antiquity such as human or other bones; shells, stone, bone, or copper implements; pottery or shards of pottery, or similar artifacts and objects from the premises where they have been discovered.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76107 Permit to recover, alter, or destroy abandoned property; recovered property as property of department of history, arts, and libraries; prohibitions as to human body or remains; violation; penalty; prior convictions.

Sec. 76107. (1) Except as provided in section 76108, a person shall not recover, alter, or destroy abandoned property which is in, on, under, or over the bottomlands of the Great Lakes, including those within a Great Lakes bottomlands preserve, unless the person has a permit issued jointly by the department of history, arts, and libraries and the department under section 76109.

(2) A person who recovers abandoned property without a permit when a permit is required by this part shall transmit the property to the department of history, arts, and libraries and the recovered property shall be the property of the department of history, arts, and libraries.

(3) A person shall not remove, convey, mutilate, or deface a human body or the remains of a human body located on the bottomlands of the Great Lakes. This subsection does not apply to a person who removes or conveys a human body or the remains of a human body pursuant to a court order, pursuant to the written consent of the decedent's next of kin if the decedent's death occurred less than 100 years before the removal or conveying, or to a person who removes or conveys the body for law enforcement, medical, archaeological, or scientific purposes. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(4) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the value of the property is less than $200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or 3 times the aggregate value of

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the property involved, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the property involved is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the property involved is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property involved, whichever is greater, or both imprisonment and a fine:

(*i*) The property involved has a value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(5) The values of property recovered or destroyed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the property recovered or destroyed.

(6) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(7) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001;—Am. 2001, Act 155, Eff. Jan. 1, 2002.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76108 Recovery of abandoned property without permit; report; availability of recovered property for inspection; release of property.

Sec. 76108. (1) A person may recover abandoned property outside a Great Lakes bottomlands preserve without a permit if the abandoned property is not attached to, nor located on, in, or located in the immediate vicinity of and associated with a sunken aircraft or watercraft and if the abandoned property is recoverable by hand without mechanical or other assistance.

(2) A person who recovers abandoned property valued at more than $10.00 without a permit pursuant to subsection (1) shall file a written report within 30 days after removal of the property with the department or the department of history, arts, and libraries if the property has been abandoned for more than 30 years. The written report shall list all recovered property that has been abandoned for more than 30 years and the location of the property at the time of recovery. For a period of 90 days after the report is filed, the person shall make the recovered property available to the department and the department of history, arts, and libraries for inspection at a location in this state. If the department of history, arts, and libraries determines that the recovered property does not have historical value, the department of history, arts, and libraries shall release

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the property to the person by means of a written instrument.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76109 Recovery of abandoned property; permit; scope; application; filing, form, and contents; additional information or documents; approval or disapproval of application; conditions; payment of salvage costs; recovery of cargo outside Great Lakes bottomlands preserves; administrative review; conduct of hearing; combined appeals; joint decision and order; duration of permit; issuance of new permit; transfer or assignment of permit.

Sec. 76109. (1) A person shall not recover abandoned property located on, in, or located in the immediate vicinity of and associated with a sunken aircraft or watercraft except as authorized by a permit issued by the department and the department of history, arts, and libraries pursuant to part 13.

(2) Notwithstanding section 1303(1), a person shall file an application for a permit with the department on a form prescribed by the department and approved by the department of history, arts, and libraries. The application shall contain all of the following information:

(a) The name and address of the applicant.

(b) The name, if known, of the watercraft or aircraft on or around which recovery operations are to occur and a current photograph or drawing of the watercraft or aircraft, if available.

(c) The location of the abandoned property to be recovered and the depth of water in which it may be found.

(d) A description of each item to be recovered.

(e) The method to be used in recovery operations.

(f) The proposed disposition of the abandoned property recovered, including the location at which it will be available for inspection by the department and the department of history, arts, and libraries.

(g) Other information which the department or the department of history, arts, and libraries considers necessary in evaluating the request for a permit.

(3) An application for a permit is not complete until all information requested on the application form and any other information requested by the department or the department of history, arts, and libraries has been received by the department. After receipt of an otherwise complete application, the department may request additional information or documents as are determined to be necessary to make a decision to grant or deny a permit.

(4) The department and the department of history, arts, and libraries shall approve or deny an application for a permit with the advice of the committee. A condition to the approval of an application shall be in writing on the face of the permit. The department and the department of history, arts, and libraries may impose such conditions as are considered reasonable and necessary to protect the public trust and general interests, including conditions that accomplish 1 or more of the following:

(a) Protect and preserve the abandoned property to be recovered, and the recreational value of the area in which recovery is being accomplished.

(b) Assure reasonable public access to the abandoned property after recovery.

(c) Conform with rules applying to activities within a Great Lakes bottomlands preserve.

(d) Prohibit injury, harm, and damage to a bottomlands site or abandoned property not authorized for removal during and after salvage operations by the permit holder.

(e) Prohibit or limit the amount of discharge of possible pollutants, such as floating timbers, planking, and other debris, which may emanate from the shipwreck, plane wreck, or salvage equipment.

(f) Require the permit holder to submit a specific removal plan prior to commencing any salvaging activities. Among other matters considered appropriate by either the department or the department of history, arts, and libraries, or both, the removal plan may be required to ensure the safety of those removing or assisting in the removal of the abandoned property and to address how the permit holder proposes to prevent, minimize, or mitigate potential adverse effects upon the abandoned property to be removed, that portion of the abandoned property which is not to be removed, and the surrounding geographic features.

(5) The department shall approve an application for a permit unless the department determines that the abandoned property to be recovered has substantial recreational value in itself or in conjunction with other abandoned property in its vicinity underwater, or the recovery of abandoned property would not comply with rules applying to a Great Lakes bottomlands preserve.

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(6) The department of history, arts, and libraries shall approve the application for a permit unless the department of history, arts, and libraries determines that the abandoned property to be recovered has substantial historical value in itself or in conjunction with other abandoned property in its vicinity. If the property has substantial historical value, the department of history, arts, and libraries, pursuant to subsection (4), may impose a condition on the permit requiring the permittee to turn over recovered property to the department of history, arts, and libraries for the purpose of preserving the property or permitting public access to the property. The department of history, arts, and libraries may authorize the display of the property in a public or private museum or by a local unit of government. In addition to the conditions authorized by subsection (4), the department of history, arts, and libraries may provide for payment of salvage costs in connection with the recovery of the abandoned property.

(7) A person shall not recover cargo situated on, in, or associated with an abandoned watercraft that is located outside of a Great Lakes bottomlands preserve except as authorized by a permit issued pursuant to this section and part 13. Subject to subsection (4), the permit shall be issued to the first person applying for the permit. However, only the person who discovered the abandoned watercraft may apply for a permit during the first 90 days after the discovery. When a watercraft containing cargo is simultaneously discovered by more than 1 person, a permit shall be approved with respect to the first person or persons jointly applying for a permit.

(8) A person aggrieved by a condition contained on a permit or by the denial of an application for a permit may request an administrative review of the condition or the denial by the commission or the department of history, arts, and libraries, whichever disapproves the application or imposes the condition. A person shall file the request for review with the commission or the department of history, arts, and libraries, whichever is applicable, within 90 days after the permit application is submitted to the department. An administrative hearing conducted pursuant to this subsection shall be conducted under the procedures set forth in chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. If neither the department nor the department of history, arts, and libraries approves the application and an administrative review is requested from both the commission and the department of history, arts, and libraries, the appeals shall be combined upon request of the appellant or either the commission or the department of history, arts, and libraries and a single administrative hearing shall be conducted. The commission and the department of history, arts, and libraries shall issue jointly the final decision and order in the case.

(9) A permit issued under this section is valid until December 31 of the year in which the application for the permit was filed and is not renewable. If an item designated in a permit for recovery is not recovered, a permit holder may, upon request following the expiration of the permit, be issued a new permit to remove the same abandoned property if the permit holder demonstrates that diligence in attempting recovery was exercised under the previously issued permit.

(10) A permit issued under this section shall not be transferred or assigned unless the assignment is approved in writing by both the department and the department of history, arts, and libraries.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76110 Recovered abandoned property; report; examination; removal from state; action for recovery; release of property.

Sec. 76110. (1) Within 10 days after recovery of abandoned property, a person with a permit issued pursuant to section 76109 shall report the recovery in writing to the department. The person recovering the abandoned property shall give authorized representatives of the department and the department of history, arts, and libraries an opportunity to examine the abandoned property for a period of 90 days after recovery. Recovered abandoned property shall not be removed from this state without written approval of the department and the department of history, arts, and libraries. If the recovered abandoned property is removed from the state without written approval, the attorney general, upon request from the department or the department of history, arts, and libraries, shall bring an action for the recovery of the property.

(2) If the department of history, arts, and libraries determines that the recovered abandoned property does not have historical value, the department of history, arts, and libraries shall release the property to the person holding the permit by means of a written instrument.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

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Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76111 Great Lakes bottomlands preserve; establishment; rules; determination; factors; granting permit to recover abandoned artifacts; limitation; intentional sinking of vessel; prohibited use of state money; Thunder Bay Great Lakes state bottomland preserve.

Sec. 76111. (1) Subject to subsection (7), the department of environmental quality shall establish Great Lakes bottomlands preserves by rule. A Great Lakes bottomlands preserve shall be established by emergency rule if it is determined by the department that this action is necessary to immediately protect an object or area of historical or recreational value.

(2) A Great Lakes bottomlands preserve may be established whenever a bottomlands area includes a single watercraft of significant historical value, includes 2 or more abandoned watercraft, or contains other features of archaeological, historical, recreational, geological, or environmental significance. Bottomlands areas containing few or no watercraft or other features directly related to the character of a preserve may be excluded from preserves.

(3) In establishing a Great Lakes bottomlands preserve, the department of environmental quality shall consider all of the following factors:

(a) Whether creating the preserve is necessary to protect either abandoned property possessing historical or recreational value, or significant underwater geological or environmental features.

(b) The extent of local public and private support for creation of the preserve.

(c) Whether a preserve development plan has been prepared by a state or local agency.

(d) The extent to which preserve support facilities such as roads, marinas, charter services, hotels, medical hyperbaric facilities, and rescue agencies have been developed in or are planned for the area.

(4) The department of environmental quality and the department of history, arts, and libraries shall not grant a permit to recover abandoned artifacts within a Great Lakes bottomlands preserve except for historical or scientific purposes or when the recovery will not adversely affect the historical, cultural, or recreational integrity of the preserve area as a whole.

(5) An individual Great Lakes bottomlands preserve shall not exceed 400 square miles in area. Great Lakes bottomlands preserves shall be limited in total area to not more than 10% of the Great Lakes bottomlands within this state. However, the limitations provided in this subsection do not apply to the Thunder Bay Great Lakes bottomland preserve established in subsection (7).

(6) Upon the approval of the committee, not more than 1 vessel associated with Great Lakes maritime history may be sunk intentionally within a Great Lakes bottomlands preserve. However, state money shall not be expended to purchase, transport, or sink the vessel.

(7) The Thunder Bay Great Lakes state bottomland preserve established under R 299.6001 of the Michigan administrative code shall have boundaries identical with those described in 15 C.F.R. 922.190 for the Thunder Bay national marine sanctuary and underwater preserve. As long as the Thunder Bay national marine sanctuary and underwater preserve remains a designated national marine sanctuary, the right and privilege to explore, survey, excavate, and regulate abandoned property of historical or recreational value found upon or within the lands owned by or under control of the state within those boundaries shall be jointly managed and regulated by the department of environmental quality and the national oceanic and atmospheric administration. However, this subsection shall not be construed to convey any ownership right or interest from the state to the federal government of abandoned property of historical or recreational value found upon or within the lands owned by or under control of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2000, Act 441, Imd. Eff. Jan. 9, 2001;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 299.6001 et seq. of the Michigan Administrative Code.

324.76112 Rules generally.

Sec. 76112. (1) The department and the department of history, arts, and libraries, jointly or separately, may promulgate rules as are necessary to implement this part.

(2) Within each Great Lakes bottomlands preserve, the department and the department of history, arts, and

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libraries may jointly promulgate rules that govern access to and use of a Great Lakes bottomlands preserve. These rules may regulate or prohibit the alteration, destruction, or removal of abandoned property, features, or formations within a preserve.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76113 Limitations not imposed by MCL 324.76107 to 324.76110.

Sec. 76113. Sections 76107 to 76110 shall not be considered to impose the following limitations:

(a) A limitation on the right of a person to engage in diving for recreational purposes in and upon the Great Lakes or the bottomlands of the Great Lakes.

(b) A limitation on the right of the department or the department of history, arts, and libraries to recover, or to contract for the recovery of, abandoned property in and upon the bottomlands of the Great Lakes.

(c) A limitation on the right of a person to own either abandoned property recovered before July 2, 1980 or abandoned property released to a person after inspection.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76114 Suspension or revocation of permit; grounds; hearing; civil action.

Sec. 76114. (1) If the department or the department of history, arts, and libraries finds that the holder of a permit issued pursuant to section 76105 or 76109 is not in compliance with this part, a rule promulgated under this part, or a provision of or condition in the permit, or has damaged abandoned property or failed to use diligence in attempting to recover property for which a permit was issued, the department or the department of history, arts, and libraries, individually or jointly, may summarily suspend or revoke the permit. If the permit holder requests a hearing within 15 days following the effective date of the suspension or revocation, the commission or the department of history, arts, and libraries shall conduct an administrative hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, to consider whether the permit should be reinstated.

(2) The attorney general, on behalf of the department or the department of history, arts, and libraries, individually or jointly, may commence a civil action in circuit court to enforce compliance with this part, to restrain a violation of this part or any action contrary to a decision denying a permit, to enjoin the further removal of artifacts, geological material, or abandoned property, or to order the restoration of an affected area to its prior condition.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76115 Dangers accepted by participants in sport of scuba diving.

Sec. 76115. Each person who participates in the sport of scuba diving on the Great Lakes bottomlands accepts the dangers that adhere in that sport insofar as the dangers are obvious and necessary. Those dangers include, but are not limited to, injuries which can result from entanglements in sunken watercraft or aircraft; the condition of sunken watercraft or aircraft; the location of sunken watercraft or aircraft; the failure of the state to fund staff or programs at bottomlands preserves; and the depth of the objects and bottomlands within preserves.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76116 Violation as misdemeanor; penalty.

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Sec. 76116. (1) A person who violates section 76105 or 76106 is guilty of a misdemeanor, punishable by imprisonment for not more than 30 days, or a fine of not more than $100.00, or both.

(2) A person who violates sections 76107 or 76111 or a rule promulgated under this part is guilty of a misdemeanor. Unless another penalty is provided in this part, a person convicted of a misdemeanor under this subsection is punishable by imprisonment for not more than 6 months, or a fine of not more than $500.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76117 Attaching, proceeding against, or confiscating equipment or apparatus; procedure; disposition of proceeds.

Sec. 76117. (1) If a person who violates this part or a rule promulgated under this part uses a watercraft, mechanical or other assistance, scuba gear, sonar equipment, a motor vehicle, or any other equipment or apparatus during the course of committing the violation, the items so used may be attached, proceeded against, and confiscated as prescribed in this part.

(2) To effect confiscation, the law enforcement or conservation officer seizing the property shall file a verified complaint in the circuit court for the county in which the seizure was made or in the circuit court for Ingham county. The complaint shall set forth the kind of property seized, the time and place of the seizure, the reasons for the seizure, and a demand for the property's condemnation and confiscation. Upon the filing of the complaint, an order shall be issued requiring the owner to show cause why the property should not be confiscated. The substance of the complaint shall be stated in the order. The order to show cause shall fix the time for service of the order and for the hearing on the proposed condemnation and confiscation.

(3) The order to show cause shall be served on the owner of the property as soon as possible, but not less than 7 days before the complaint is to be heard. The court, for cause shown, may hear the complaint on shorter notice. If the owner is not known or cannot be found, notice may be served in 1 or more of the following ways:

(a) By posting a copy of the order in 3 public places for 3 consecutive weeks in the county in which the seizure was made and by sending a copy of the order by certified mail to the last known business or residential address of the owner. If the last addresses of the owner are not known, mailing a copy of the order is not required.

(b) By publishing a copy of the order in a newspaper once each week for 3 consecutive weeks in the county where the seizure was made and by sending a copy of the order by registered mail to the last known residential address of the owner. If the last residential address of the owner is not known, mailing a copy of the order is not required.

(c) In such a manner as the court directs.

(4) Upon hearing of the complaint, if the court determines that the property mentioned in the petition was possessed, shipped, or used contrary to law, either by the owner or by a person lawfully in possession of the property under an agreement with the owner, an order shall be made condemning and confiscating the property and directing its sale or other disposal by the department. If the owner signs a property release, a court proceeding is not necessary. At the hearing, if the court determines that the property was not possessed, shipped, or used contrary to law, the court shall order the department to immediately return the property to its owner.

(5) The department shall deposit the proceeds it receives under this section into the state treasury to the credit of the underwater preserve fund created in section 76118.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76118 Underwater preserve fund; creation; sources of revenue; purposes for which money appropriated.

Sec. 76118. (1) The underwater preserve fund is created as a separate fund in the state treasury, and it may receive revenue as provided in this part, or revenue from any other source.

(2) Money in the underwater preserve fund shall be appropriated for only the following purposes:

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(a) To the department of history, arts, and libraries for the development of maritime archaeology and for the promotion of Great Lakes bottomlands preserves in this state.

(b) To the department for the enforcement of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

SUBCHAPTER 3
MACKINAC ISLAND STATE PARK

PART 765
MACKINAC ISLAND STATE PARK

324.76501 Definitions.

Sec. 76501. As used in this part:

(a) "Commission" means the Mackinac Island state park commission created in section 76503.

(b) "Director" means the director of the Mackinac Island state park commission.

(c) "Motor vehicle" means any device that is self-propelled, or partially self-propelled, by which a person or property may be transported or drawn.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76502 Mackinac Island state park; establishment.

Sec. 76502. Pursuant to the turning over to the state of Michigan, for use as a state park, and for no other purpose, the military reservation, lands and buildings of the national park on Mackinac Island, subject to a reversion to the United States whenever the state ceases to use the lands for the purpose described in this section, by the secretary of war, under the authorization of an act of congress, the lands and buildings shall be used as a state park and shall be known as the Mackinac Island state park.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76503 Mackinac Island state park commission; members; appointment and qualifications; resident commissioners; terms; vacancies; expenses; officers; powers and duties.

Sec. 76503. (1) The Mackinac Island state park commission shall consist of 7 members appointed by the governor.

(2) Members of the commission shall be citizens of, registered voters, and regularly domiciled in this state. However, the present members of the commission shall hold office until their successors have been appointed. One member of the commission shall be known as the "resident commissioner", and this member shall be a legal resident of the island and a property owner in the city of Mackinac Island for a period of not less than 6 months preceding his or her nomination. One member of the commission shall be a resident of the village of Mackinaw City.

(3) The members of the commission shall be appointed by the governor, by and with the advice and consent of the senate, for terms of 6 years each and shall hold office until their successors are appointed. However, of the members first appointed, 2 shall be appointed for a term of 2 years, 2 for a term of 4 years each, and 3 for a term of 6 years each. Not more than 4 members of the commission at any 1 time shall be of the same political party. Vacancies shall be filled by the governor in the same manner as the original

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appointment for the unexpired term.

(4) A member of the commission shall not receive any compensation for his or her services on the commission, but each member of the commission shall be reimbursed for expenses incurred in connection with the duties of his or her office.

(5) The commission shall annually elect a chairperson, vice-chairperson, and secretary.

(6) The Mackinac Island state park commission is created within the department of history, arts, and libraries and shall have the powers and duties of an agency transferred under a type I transfer pursuant to section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76504 Mackinac Island state park; control and management by commission; quorum; conducting business at public meeting; notice; powers of commissioners; rules; deputy sheriffs; disposition of moneys; availability of writings to public; annual report; statement of receipts and expenditures; recommendations and suggestions.

Sec. 76504. (1) The Mackinac Island state park shall be under the control and management of the commission, and a majority of the members of the commission constitutes a quorum for the transaction of business. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) The commission shall have the exclusive right to do either or both of the following:

(a) Lay out, manage, and maintain the park and preserve the old fort and other property held by the commission on or acquired by the commission after August 6, 2001.

(b) Promulgate and enforce rules not inconsistent with the laws of this state and necessary to implement the commission's duties.

(3) The commission may do 1 or more of the following:

(a) Enter into leases and establish prices for rentals or privileges upon property controlled by the commission.

(b) Sell or lease as personal property buildings or structures acquired by the commission in settlement of delinquent land rentals.

(c) Employ a director and other persons as may be needed.

(4) The rules of the commission shall apply to all roads situated on Mackinac Island state park lands. The commission shall not make a rule permitting the use of motor vehicles except motor vehicles owned by the state, a political subdivision of the state, or by a public utility, and used in the exercise of its franchise. The commission may provide by rule for the issuance of temporary permits for the operation of motor vehicles over roads situated on state park lands. The commission may grant permits pursuant to part 13 for the use of lands for the expansion of existing cemeteries, under terms and conditions as the commission prescribes. The commission may also grant privileges and franchises for waterworks, sewerage, transportation, and lighting, for a period of not more than 40 years. The commission shall prescribe by rule the maximum number of horse drawn vehicles for hire that may be licensed by the commission for operation within the park.

(5) The sheriff of the county of Mackinac, upon the application of the commission, shall appoint 1 or more persons who shall be designated by the commission as deputy sheriffs in and for the county, and who shall be employees of the commission but who shall not receive fees or emoluments for services as deputy sheriffs. The commission may establish the compensation of the persons employed by the commission, but a debt or obligation shall not be created by the commission exceeding the amount of money at its disposal at the time.

(6) All money received from rentals or privileges shall be paid promptly into the state treasury to be credited to the general fund and to be disbursed as appropriated by the legislature. The commission, in consideration of the furnishing of fire protection, street service, sewerage service, and other public service agreed upon, may remit reasonable rentals as the commission determines from leases of property acquired by the state under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and deeded to the commission, to the several tax assessing units in which the property is situated as provided in that act, in proportion to the delinquent taxes and special assessments of the units canceled against the description of

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land.

(7) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The commission shall provide to the governor an annual report and statement of receipts and expenditures, and recommendations and suggestions as the commission considers proper.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 318.111 et seq. of the Michigan Administrative Code.

324.76505 Fort Mackinac; flag; maintenance.

Sec. 76505. The director shall see to it that the United States flag is kept floating from the flagstaff at Fort Mackinac, and rules relative thereto are the same as those that have governed in that matter when the fort was in possession and occupancy by the United States troops.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 176, Imd. Eff. July 1, 2004.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76506 Fort deBuade; restoration; fees; rules.

Sec. 76506. The Mackinac Island state park commission may acquire by purchase, lease, grant, or transfer the use of certain state land in the county of Mackinac for the purpose of developing and restoring as an historical site the area in or near the location where Fort deBuade once stood. After the acquisition and restoration, the site shall be under the jurisdiction, management, and control of the Mackinac Island state park commission, and the commission shall have and exercise the same rights and powers over the site as it has and exercises over Mackinac Island state park, including the right to levy and collect fees for the use of the facilities at the site. All rules promulgated by the commission shall be effective within the whole territory covered by the park. The commission may promulgate and enforce rules relative to any part or portion of the park, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of any political subdivision.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76507 Mackinac Island state park; operation of vehicle without permit; misdemeanor; penalty.

Sec. 76507. Except as provided in section 76504, a person who operates a motor vehicle on land within the Mackinac Island state park without a permit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, plus the costs of prosecution.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 176, Imd. Eff. July 1, 2004.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

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324.76507a Damaging or removing trees, vegetation, or state property; violation; civil liability.

Sec. 76507a. (1) A person shall not cut, peel, damage, destroy, or remove a tree or other vegetation or state property located in any park or other property under the control of the commission, without written permission from the director.

(2) A person who violates subsection (1) is civilly liable to the commission in a sum equal to triple the amount of damage, destruction, or value of the property.

History: Add. 2004, Act 176, Imd. Eff. July 1, 2004.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76508 Special police; appointment; supervision; powers and duties.

Sec. 76508. The director may appoint, by and with the consent of the commission, such number of special police as the commission may by resolution direct, which special police shall be under the supervision and direction of the director, who shall be charged with the enforcement of the laws of this state related to the park and the rules promulgated by the commission for the care and preservation of the park, and the property in and about the fort. The special police shall be vested with the authority of county sheriffs and, within the park, may apprehend and arrest, without warrant, any person whom they may find violating the laws of this state related to the park or the rules that have been promulgated concerning the preservation of property, the mutilation of landmarks, or the destruction or injury to growing trees and shrubs.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.76509 Mackinac Island state park commission; acceptance of gifts.

Sec. 76509. The Mackinac Island state park commission, for and on behalf of the state of Michigan, is authorized to receive, accept, and hold, by gift, grant, devise, or bequest, any property, real or personal, but only for the purposes incidental to or connected with the state parks under its management and control.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

PART 767
MACKINAC ISLAND STATE PARK COMMISSION

324.76701 “Commission” defined.

Sec. 76701. As used in this part, “commission” means the Mackinac Island state park commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76702 Mackinac Island state park commission; additional powers.

Sec. 76702. The Mackinac Island state park commission may, in addition to the powers already conferred on it by law, exercise the following powers: (a) To acquire, construct, improve, repair, maintain, restore, equip, furnish, use, and operate all property, real or personal, necessary or convenient to the exercise of the

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powers or the performance of the duties conferred upon it by law, including, but not limited to, property that in the judgment of the commission will increase the beauty and utility of the state park facilities and provide recreational, historical, or other facilities for the benefit and enjoyment of the public and landscaping, driveways, streets, or walkways for such property.

(b) To employ consulting architects, engineers, museum technicians, landscape architects, supervisors, managers, lawyers, fiscal agents, and other agents and employees as it considers necessary, and to establish their compensation.

(c) To enlist the guidance, assistance, and cooperation of the Michigan historical commission.

(d) To establish charges for admission to the facilities under its jurisdiction, to establish other charges for the use of any facilities, including fees or charges to be imposed on concessionaires, and to charge rentals for the lease or use of any of its facilities as the commission determines proper and as will assure the prompt and full carrying out of all covenants contained in the proceedings authorizing any bonds pursuant to this part.

(e) To accept gifts, grants, and donations.

(f) To acquire, construct, develop, improve, repair, maintain, and operate, but not to extend the runway beyond 3,600 feet, an airport or landing field on property under its jurisdiction, and to lease to any governmental unit any real or personal property under its jurisdiction for use as an airport or landing field on the terms and conditions approved by the commission and the department of management and budget. The exercise of any power granted by this subdivision is subject to determination by the proper federal authority that such exercise will not affect the title of the state to the land involved. All rules and regulations established by any lessee shall reflect written approval by the commission before the rules or regulations are in effect.

(g) To sell real or personal property that is under the control of the commission if all of the following requirements are met:

(*i*) The property is sold for fair market value. The determination of fair market value may take into account a commitment by the buyer to keep the property open or accessible to the public. Furthermore, if the property is sold to a person who donated labor or materials for the improvement, repair, maintenance, or restoration of the property, the price may be reduced by an amount not greater than the portion of the fair market value attributable to the donation of labor or materials.

(*ii*) The commission determines that the property is not of current or potential value to the purposes of the commission as set forth in this subchapter.

(*iii*) The commission determines that the sale of the property is in the best interests of the state.

(*iv*) The sale of the property is not otherwise prohibited by law.

(*v*) If the property is real property, the property is zoned residential or commercial and is not contiguous to state park land.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2006, Act 181, Imd. Eff. June 6, 2006.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76703 Mackinac Island state park commission; gross revenue bonds; purpose; cost; interim receipts or certificates; maximum rate of interest; sale and award of notes; notice; resolution; contents; trust indenture; money received as trust funds; disposition; gross revenue refunding bonds; powers of commission; annual audit; signature on bonds; attestation; electronic format; issuance of bonds subject to agency financing reporting act; interest rate agreement.

Sec. 76703. (1) The commission may issue its gross revenue bonds in anticipation of the collection of all or any part of its revenues, for the purpose of acquiring, constructing, reconstructing, improving, bettering, extending, restoring, refurbishing, renovating, repairing, equipping, furnishing, any or all, the properties and facilities that it is authorized to acquire, construct, reconstruct, maintain, or operate under this part, including properties and facilities owned by it, and shall pledge to the payment of the interest on and principal of the bonds, all or any part of the revenues derived from the operation of the properties and facilities controlled and operated by the commission. There may be included in the cost for which bonds are to be issued, reasonable allowances for legal, engineering, or fiscal services, interest during construction or reconstruction and for 6 months after the estimated date of completion of the construction or reconstruction or until full revenues are being received from the operation of the facility, and other incidental expenses. The bonds shall be authorized by resolution of the commission and may be issued in 1 or more series, may bear the date or dates, may mature at the time or times not exceeding 30 years from their respective dates, may bear interest at the rate or

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rates, may be in the form, either coupon or registered, may be executed in the manner, may be payable at the place or places, may be subject to the terms of redemption, with or without premium, and may contain the terms, covenants, and conditions as the resolution or subsequent resolution may provide. Pending preparation of the definitive bonds, interim receipts, or certificates in the form and with the provisions as the commission may determine may be issued to the purchaser or purchasers of the bonds sold pursuant to this part. The bonds and interim receipts and certificates shall be fully negotiable within the meaning of and for all purposes of the negotiable instruments law of this state. The maximum rate of interest on such bonds shall be that set forth for bonds issued under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The sale and award of notes shall be conducted and made by the commission at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 7 days before sale in a publication printed in the English language and circulated in this state, which carries as a part of its regular service notices of the sales of municipal bonds and which has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form as designated by the commission. Bonds may be sold at a discount as provided in the bond resolution. Bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Any resolution authorizing the issuance of bonds under this part or any instrument of trust entered into as authorized by this part may contain covenants, including, but not limited to, any of the following:

(a) The purpose or purposes to which the proceeds of the sale of the bonds may be applied, and the deposit, use, and disposition of the proceeds.

(b) The use, deposit, securing of deposits, and disposition of the revenues of the commission, including the creation and maintenance of reserves.

(c) The issuance of additional bonds payable from the revenues of the commission.

(d) The operation and maintenance of properties of the commission.

(e) The insurance to be carried thereon, and the use, deposit, and disposition of insurance money.

(f) Books of account and the inspection and audit of the books of account and the accounting methods of the commission.

(g) The nonrendering of any free service by the commission.

(h) The preservation of the properties of the commission, so long as any of the bonds remain outstanding, from any mortgage, sale, lease, or other encumbrance not specifically permitted by the terms of the resolution.

(i) The employment of sufficient personnel for the collection of fees and charges incident to the operation of the facility and for the payment of compensation to the personnel out of the fees and charges.

(3) In the discretion of the commission, any bonds issued under this part may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any bank having the right to exercise the powers of a trust company within this state. Any trust indenture described in this subsection may pledge or assign the revenues from the operation of properties of the commission, but shall not convey or mortgage any properties, except the revenues. Any trust indenture or any resolution providing for the issuance of bonds may contain the provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the improvements in connection with which the bonds have been authorized, and the custody, safeguarding, and application of all money, and provisions for the employment of consulting engineers, architects, and landscape architects in connection with the planning, construction, or operation of the improvements. Any trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any trust indenture or resolution may contain other provisions as the commission considers reasonable and proper for the security of the bondholders. The holder of any bond issued under this part or a trustee in his or her behalf may bring suit against the commission and its members, officers, and agents to enforce the provisions and covenants contained in any trust indenture or resolution. All expenses incurred in carrying out the provisions of any trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

(4) Money received pursuant to this part, whether as proceeds from the sale of bonds or as revenues from the operations of properties, or otherwise received by the commission, shall be considered to be trust funds, to be held and applied solely as provided in this part and in the resolution authorizing, or trust indenture securing, its bonds. All money received may be deposited in as received and paid out by any bank or banks selected for the purpose and eligible to hold public money under the laws of this state, the deposits and paying out to be in the manner provided in the resolution or trust indenture. None of the money need be paid into the state treasury.

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(5) If the commission has issued any bonds under this part, the commission may subsequently issue and negotiate new bonds under this part for the purpose of providing for the retirement of those outstanding bonds, in whole or in part. The new bonds shall be designated "gross revenue refunding bonds", and except as otherwise provided in the refunding resolution, shall be secured to the same extent and shall have the same source of payment as the bonds that have been refunded, or may be payable from earnings on investments held in trust to pay refunded bonds for the period of time specified in the ordinance authorizing the bonds. The refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the callable bonds to be refunded or any premium necessary to be paid in order to secure the surrender of the noncallable bonds to be refunded, interest to the maturity or redemption date of the bonds to be refunded, and the cost of issuing the refunding bonds. This section shall not be construed as providing for the redemption of noncallable unmatured bonds without the consent of the holder or holders of the bonds. The refunding bonds may be sold at public sale, may be privately negotiated, or may be exchanged for the obligations to be refunded by the obligations, and if sold, the proceeds shall be deposited in a bank and credited to a special trust account to be used only for the redemption or purchase of the outstanding bonds. If refunding bonds are to be issued and sold for the purpose of refunding noncallable unmatured bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal and interest to maturity on noncallable bonds. If refunding bonds are to be issued for the purpose of refunding callable bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal, interest, and redemption premium to the earliest redemption date on callable bonds. When the resolution authorizing the bonds to be refunded permits, the borrower may deposit in trust direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States and which do not permit redemption at the option of the issuer, the principal and interest on which when due, without reinvestment, will provide funds sufficient to pay principal, interest, and call premium, when due, on the bonds being refunded.

(6) Notwithstanding the other provisions of this section:

(a) Interest on the bonds may be payable at any time provided in the resolution, and may be set, reset or calculated, or both, as provided in the resolution.

(b) If so authorized in the resolution bonds may be:

(*i*) Made the subject of a put or agreement to repurchase by the commission.

(*ii*) Secured by a letter of credit issued by a bank pursuant to an agreement entered into by the commission or secured by any other collateral.

(*iii*) Callable.

(*iv*) Reissued by the commission once reacquired by the commission pursuant to any put or repurchase agreement.

(c) The commission may by resolution do any of the following:

(*i*) Authorize the issuance of renewal bonds.

(*ii*) Refund, or refund in advance, bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured.

(*iii*) Issue bonds partly to refund bonds and partly for any other purposes authorized by this part.

(*iv*) Buy and sell any bonds issued under this part.

(d) Renewal, refunding, or advance refunding bonds are subject to all of the following:

(*i*) Shall be sold and the proceeds applied to the purchase redemption or payment of the bonds to be renewed or refunded.

(*ii*) May be sold or resold at a public or private sale upon such terms and conditions as the commission may establish in the order.

(*iii*) May pledge the revenues pledged in the issue to be refunded in advance effective when a defeasance has occurred with respect to the original issue.

(e) If authorized by the commission in the resolution authorizing the bonds, any bonds issued may be secured in whole or in part pursuant to a trust or escrow agreement, which agreement may also govern the issuance of renewal bonds, refunding bonds, and advance refunding bonds. The agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(f) Powers specified in this subsection shall be in addition to those set forth in all other subsections and sections of this part.

(7) The commission shall hire an independent certified public accountant approved by the legislative auditor general to perform an annual audit of all of its operations which are required by, or in any way relate to, any covenants made in connection with any bonds issued pursuant to this part.

(8) The bonds may be issued in electronic format only or, if issued in paper copies, shall be signed by the

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chairperson or vice-chairperson of the commission and attested to by any other officer of the commission authorized to do so by resolution of the commission. The signature of either officer, but not both, may be affixed by facsimile or electronically.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the commission may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001;—Am. 2002, Act 389, Imd. Eff. May 30, 2002.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76704 Mackinac Island state park commission; charges and fees; payment of bonds.

Sec. 76704. The commission shall prescribe and collect charges and fees as above authorized for admission to and for the use of the services, facilities and commodities supplied by or through all its properties, including museums, the revenues of which have been pledged to the payment of bonds issued under this part, and shall revise such charges and fees from time to time whenever necessary to ensure that the revenues to be derived from the charges and fees shall be fully sufficient to pay principal of and interest on such bonds, and to carry out all requirements and covenants contained in the proceedings pursuant to which any such bonds are issued. All or any part of the gross revenues derived by the commission from the operation, leasing, or other use of any properties of the commission utilized as a part of any state park project financed under this part may be pledged to the payment of such principal and interest. Each bond shall recite in substance that the bond and the interest on the bond are payable solely from the revenues pledged to the payment thereof, and that the bond does not constitute a debt of the commission or of the state of Michigan within the meaning of any constitutional or statutory limitation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76705 Mackinac Island state park commission; public body corporate; tax exemptions.

Sec. 76705. The commission is a public body corporate constituting an instrumentality of the state of Michigan and carrying out duties and functions imposed upon and in the state under its constitution and laws, and shall have the power to sue and be sued. It is accordingly found, determined, and declared that the carrying out of powers of the commission and the purposes of this part are for the benefit of the people of the state and constitute a public purpose. Accordingly, all property owned by the commission or owned by the state and controlled by the commission shall be exempt from all taxes levied by the state and all of its political subdivisions and taxing districts, and the bonds and interim receipts or certificates issued by the commission and the income therefrom shall be free from taxation within the state, and the commission shall be required to pay no taxes or assessments upon its activities or upon any of its revenues.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Effective date: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76706 Construction of part; indebtedness.

Sec. 76706. This part shall not be construed or interpreted as authorizing or permitting the incurring of the indebtedness of the state of Michigan contrary to the provisions of the constitution or laws of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

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324.76707 Mackinac Island state park commission; authorizing resolution; publication; validity.

Sec. 76707. The commission may in its discretion cause any resolution authorizing the issuance of bonds under this part to be published 1 time in a newspaper published in the county where the facilities are located having a general circulation in that county. Any action or proceeding questioning the validity of the resolution or any provision of the resolution or the validity of the bonds authorized by the resolution or the provisions of any trust indenture in the resolution authorized to be executed for the security of the bonds, must be commenced within 20 days from the publication of the resolution. After the expiration of the 20 days, no right of action or defense founded upon the invalidity of the resolution or any of its provisions or of the trust indenture, if any, or of the bonds, shall be asserted nor shall any court in this state have authority to inquire into such matters.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76708 Mackinac Island state park commission; acts; approval.

Sec. 76708. Except to the extent that the state constitution of 1963 may be construed to require the approval of any act of the commission under this part, by the state administrative board, the commission may carry out all powers and functions granted and imposed in it under this part without first obtaining the approval of any other state department, board, bureau, agency, or official.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76709 Construction of part.

Sec. 76709. If 1 or more provisions of this part are inconsistent with any other act, general or special, this part is controlling.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

PART 769
MACKINAC ISLAND STATE PARK RULES

324.76901 Mackinac Island state park commission; rules; care and preservation; violation; fine.

Sec. 76901. (1) The Mackinac Island state park commission may promulgate and enforce reasonable rules for the care and preservation of the Mackinac Island state park and other property under the control of the Mackinac Island state park commission including, but not limited to, the Mill Creek site described in 1975 PA 285 and the site formerly occupied as a military post under the name of Fort Michilimackinac as described in section 77701.

(2) The Mackinac Island state park commission may promulgate rules for the protection of the lands and property under its control against wrongful use or occupancy to protect the lands and property from depredations and to preserve the lands and property from molestation, spoilation, destruction, or any other improper use or occupancy.

(3) A person who violates a rule promulgated by the Mackinac Island state park commission under this act is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

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Popular name: Act 451

Popular name: NREPA

Administrative rules: R 318.111 et seq. of the Michigan Administrative Code.

324.76902 Repealed. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: The repealed rule pertained to enforcement of rules at Mackinac Island state park.

Popular name: Act 451

Popular name: NREPA

324.76903 Mackinac Island state park commission; rules; jurisdiction.

Sec. 76903. All rules promulgated by the Mackinac Island state park commission under this part, this act, or any other act shall be effective within the whole territory covered by the park, and the Mackinac Island state park commission may promulgate and enforce rules relative to any part or portion of the park or other property controlled by the Mackinac Island state park commission, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of the city of Mackinac Island, the township of Mackinaw, county of Cheboygan, or the village of Mackinaw City.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

PART 771
MACKINAC ISLAND FIRE PROTECTION

324.77101 Mackinac Island state park commission; contract for fire protection.

Sec. 77101. The Mackinac Island state park commission and the city of Mackinac Island by its governing body are authorized to enter into a continuing contract for fire protection to be furnished by the city of Mackinac Island for property under the control and management of the Mackinac Island state park commission. The fire protection service and apparatus to be furnished shall meet with the approval of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b. The contract shall be signed by the chief executive and clerk of the city of Mackinac Island and by the chairperson and secretary of the Mackinac Island state park commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2006, Act 194, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

PART 773
OLD MISSION CHURCH AT MACKINAC ISLAND

324.77301 Old Mission Church; acquisition; description.

Sec. 77301. The Mackinac Island state park commission is authorized to acquire, in consideration of the payment of the sum of $1.00 and other considerations to be in hand paid, the so-called “Old Mission Church”, being all that certain piece or parcel of land situate and being in the city of Mackinac Island, county of Mackinac and state of Michigan, and more particularly described as follows:

Lot 6 of Block 4 of C. R. Miller's Proposed Subdivision of the Mission House Lots in the Village of Mackinac and bounded and more particularly described as follows: Beginning at a point in the North line of East Water Street as prolonged in said subdivision 30 feet North 89° East from the Southeast corner of the North half of Lot 12 (known as the Wendell Homestead) for a place of beginning; thence North 6° East along the East line of Mission Street as platted in said subdivision to the South line of an alley 120 feet; thence along the South line of said alley North 89° 15” East 51 feet; thence Southerly about 118 feet to a point in the

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prolongation of the North line of said East Water Street in said proposed plat of said subdivision; thence Westerly on said North line of said East Water Street 52 feet to the place of beginning, said lot being intended to be the same land on which the Old Mission Church now stands, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.77302 Old Mission Church; maintenance as historic shrine.

Sec. 77302. The property acquired by the Mackinac Island state park commission under this part shall be maintained as a historic shrine by the Mackinac Island state park commission and shall be open to the public subject to such reasonable rules promulgated by the Mackinac Island state park commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

PART 775
MACKINAC ISLAND; CLERK'S QUARTERS—AMERICAN FUR COMPANY

324.77501, 324.77502 Repealed. 2001, Act 78, Eff. Aug. 6, 2001.

Popular name: Act 451

Popular name: NREPA

PART 777
MICHILIMACKINAC STATE PARK

324.77701 Michilimackinac state park; control; name change.

Sec. 77701. The Mackinac Island state park commission shall have the control and management of the site formerly occupied as a military post under the name of Fort Michilimackinac, in the village of Mackinaw City, county of Cheboygan and state of Michigan, previously conveyed by the village of Mackinaw City to the state of Michigan, under and by virtue of Act No. 520 of the local acts of 1903, conveyed as Wawatam park, by deed dated January 27, 1904, which deed is recorded in the office of the register of deeds of Cheboygan county in liber 26 of deeds on page 588. Though conveyed as “Wawatam Park,” the park shall hereafter be known as “Michilimackinac state park”.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

324.77702 Michilimackinac state park; rules; protection and maintenance.

Sec. 77702. The Mackinac Island state park commission may promulgate and enforce reasonable rules for the care and preservation of Michilimackinac state park, for the maintenance of good order, for the protection of property and for the welfare of the park as shall from time to time be considered necessary or expedient by the Mackinac Island state park commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

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Popular name: Act 451

Popular name: NREPA

324.77703 Repealed. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: The repealed section pertained to enforcement of rules at Michilimackinac state park.

Popular name: Act 451

Popular name: NREPA

324.77704 Michilimackinac state park; rules; jurisdiction of commission.

Sec. 77704. All rules promulgated by the Mackinac Island state park commission under this part, this act, or any other act shall be effective within the whole territory covered by the park. The Mackinac Island state park commission may promulgate and enforce rules relative to any part or portion of the park, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of the village of Mackinaw City.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

PART 779.
MILL CREEK

324.77901 Mill creek site; control and management.

Sec. 77901. The Mackinac Island state park commission shall have the control and management of the site known as the Mill Creek site described in 1975 PA 285.

History: Add. 2001, Act 78, Eff. Aug. 6, 2001.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Popular name: Act 451

Popular name: NREPA

SUBCHAPTER 4
THE MICHIGAN STATE WATERWAYS COMMISSION

GENERAL

PART 781
MICHIGAN STATE WATERWAYS COMMISSION

324.78101 Definitions.

Sec. 78101. As used in this part:

(a) "Commercial motor vehicle" means that term as defined in section 74101.

(b) "Commission" means the Michigan state waterways commission.

(c) "Department" means the department of natural resources.

(d) "Designated state-operated public boating access site" means a state-operated public boating access site designated under section 78105(2).

(e) "Director" means the administrative director of the commission.

(f) "Diesel motor fuel" means any liquid fuel used in the operation of engines of the diesel type in motor vehicles or watercraft.

(g) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine, and naphtha. Gasoline also means any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any 1 or more products of petroleum, regardless of their original names or characteristics, with or without other products, unless the resultant product obtained is entirely incapable of use for the generation of power for the propulsion of motor vehicles or watercraft. Gasoline does not include diesel fuel, liquefied petroleum gas, or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed,

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sold, or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.

(h) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for watercraft, including contrivances used or designed for navigation on water and used or owned by the United States.

(i) "Harbor facilities" means the structures at a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and ashore for the mooring and servicing of watercraft and the servicing of crews and passengers.

(j) "Inland lake or stream" means that term as defined in section 30101.

(k) "Liquefied petroleum gas" means gases derived from petroleum or natural gases that are in the gaseous state at normal atmospheric temperature and pressure, but that may be maintained in the liquid state at normal atmospheric temperature by suitable pressure.

(*l*) "Marina" means a site that contains harbor facilities.

(m) "Motor vehicle" means that term as defined in section 74101.

(n) "Navigable water" means any waterway navigable by vessels, or capable of being made navigable by vessels through artificial improvements, and includes the structures and facilities created to facilitate navigation.

(o) "Nonresident motor vehicle" means that term as defined in section 74101.

(p) "Person" includes any individual, partnership, corporation, association, or body politic, except the United States and this state, and includes any trustee, receiver, assignee, or other similar representative of those entities.

(q) "Public boating access site" means a publicly owned site for the launching of recreational watercraft.

(r) "Recreational boating facilities" means boat launches, harbors, marinas, and locks assisting recreational boats accessing water bodies at different elevations.

(s) "Recreation passport fee" means that term as defined in section 2001.

(t) "Resident motor vehicle" means that term as defined in section 74101.

(u) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within this state.

(v) "Secretary of state" means the secretary of state of this state, acting directly or through a duly authorized deputy, investigators, agents, and employees.

(w) "Vessel" means all watercraft except the following:

(*i*) Watercraft used for commercial fishing.

(*ii*) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(*iii*) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(*iv*) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(*v*) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(x) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include contrivances used or owned by the United States.

(y) "Waterway" means any body of water.

(z) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 210, Imd. Eff. July 1, 1998;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2006, Act 466, Imd. Eff. Dec. 20, 2006;—Am. 2010, Act 34, Eff. Oct. 1, 2010;—Am. 2010, Act 302, Imd. Eff. Dec. 16, 2010.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.78102 Michigan state waterways commission; creation; appointment, qualifications, and terms of members; oath; reimbursement for expenses; removal of members; vacancies; seal; rules; election of officers; action by commission; offices and equipment.

Sec. 78102. There is created a state commission to be known and designated as the Michigan state

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waterways commission. The commission shall consist of 7 members, who shall be appointed by the governor, with the advice and consent of the senate. The term of office of each member shall be 3 years, except that of members first appointed, 2 shall be appointed for 1 year, 2 shall be appointed for 2 years, and 1 shall be appointed for 3 years. Not less than 2 members shall reside north of townline 16, 1 of whom shall reside in the upper peninsula and 1 of whom shall reside in the lower peninsula. One of the members shall be an individual who owns or operates a harbor or marina in this state at the time of his or her appointment and during his or her membership on the commission. One member shall be a representative of the marine-trades industry who does not own or operate a harbor or marina. The first term of the individual who owns or operates a harbor or marina shall expire on September 18, 1989. The first term of the marine-trade representative who does not own or operate a harbor or marina shall expire on September 18, 1988. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. Members shall qualify by taking and filing the constitutional oath of office. A member of the commission shall not receive a salary for his or her services as a commissioner, but may be reimbursed for actual and necessary expenses incurred in performance of official duties. The members of the commission may be removed by the governor for inefficiency, neglect of duty, misuse of office, or malfeasance in office, in the manner provided by law for the removal of other public officers for similar causes. Vacancies shall be filled for the unexpired term in the same manner as original appointments. The commission shall, immediately upon its appointment, organize, adopt a seal, and make, amend, and revise the rules necessary for the administration of the commission's duties under this part. The commission at the organization meeting shall elect from its members a chairperson and vice-chairperson to serve for 1 year and annually thereafter shall elect such officers, each to serve until his or her successor is appointed and qualified. Action shall not be taken by the commission with less than a majority assent of its members. The department of management and budget shall provide suitable offices and equipment for the use of the commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78103 Waterways commission; conducting business at public meeting; notice of meeting; availability of writings to public.

Sec. 78103. (1) The business which the Michigan state waterways commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78104 Waterways commission; director; appointment; qualifications; term; compensation; duties; assistants; salaries; expenses.

Sec. 78104. There is established the office of administrative director of the commission. The director qualified by a record of experience in connection with boating shall be appointed by the commission to serve for an indefinite term, during his or her efficient, honest, and businesslike execution of his or her duties. He or she shall receive such compensation as the commission may determine, not in excess of $8,400.00, and shall be reimbursed for all traveling and other expenses incurred by him or her in the discharge of his or her official duties. The director shall be charged with the administration of this part in accordance with the policies established by the commission. The department, upon recommendation of the director, subject to the approval of the commission, may employ such assistants, and make such expenditures as may be necessary in implementing this part related to the powers and duties of the commission. The salaries of all employees, and the necessary expenses while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state employees are paid.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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Popular name: NREPA

324.78105 Powers and duties of department; designation of state-operated boating access sites requiring passes; fees.

Sec. 78105. (1) The department has the following powers and duties:

(a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters lying within the boundaries of this state.

(b) To acquire, by purchase, lease, gift, or condemnation the lands, rights of way, and easements necessary for harbors and channels. For the purposes of this subdivision, the department shall be considered a state agency under 1911 PA 149, MCL 213.21 to 213.25.

(c) To acquire, by purchase, lease, gift, or condemnation suitable areas on shore for disposal of the material from dredging.

(d) To enter into any contracts or agreements that may be necessary in carrying out this part, including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of those works that the United States undertakes.

(e) To provide for the granting of concessions within the boundaries of harbors, so as to furnish the public gas, oil, food, and other facilities.

(f) To represent this state and the governor in dealings with the chief of engineers of the United States army and his or her authorized agents for the purposes set forth in this part.

(g) To charge fees for both seasonal and daily moorage at state-operated small craft mooring facilities. All revenues derived from this source shall be deposited in the waterways account.

(h) To collect the proceeds from the sale of marine fuel at harbors operated by the department. The proceeds from the sales shall be credited to the waterways account and used for the purchase of marine fuel supplies as may be needed. Any remaining revenue from this source not needed for the purchase of marine fuel supplies may be expended in the same manner as other funds within the waterways account.

(2) The director shall designate state-operated public boating access sites that, subject to section 78119(4), shall not be entered by a resident motor vehicle unless the recreation passport fee has been paid or by a nonresident or commercial motor vehicle unless a pass purchased under subsection (3) is affixed to the motor vehicle as described in section 78119.

(3) The department shall charge fees for passes authorizing seasonal or daily entry by nonresident motor vehicles or commercial motor vehicles at designated state-operated public boating access sites. Fee revenue under this subsection shall be deposited in the waterways account.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2010, Act 34, Eff. Oct. 1, 2010 ;—Am. 2013, Act 81, Eff. May 1, 2014.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.78106 Authority of local agencies and public colleges and universities to enter contracts with department.

Sec. 78106. The local units of government of this state, within the jurisdiction of which are situated inland waterways connected with or connecting the waters of the Great Lakes, or within which channels to nearby inland lakes and streams may be constructed or opened for navigation and shelter of light draft vessels, may by majority vote of their respective legislative bodies enter into contracts and agreements with the department in carrying out the purposes of this part. In addition, the public colleges and universities of the state may enter into contracts and agreements with the department in carrying out the purposes of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 19, Imd. Eff. June 18, 2003.

Popular name: Act 451

Popular name: NREPA

324.78107 Facilities in harbors and connecting waterways; use.

Sec. 78107. Facilities in harbors and connecting waterways established under this part shall be open to all on equal and reasonable terms.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

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324.78108 Financing local agencies and public colleges and universities to obtain federal participation; contracts with army corps of engineers.

Sec. 78108. (1) The department may do 1 or more of the following:

(a) Take actions as may be necessary to provide the finances required of local agencies and public colleges and universities as condition for United States' participation in any project in which the department is empowered to act.

(b) Use any part or all of the appropriation and funds otherwise available to meet the portion of the requirement of local participation as the department considers proper.

(c) Enter into agreements with any public college or university or political subdivision of the state in connection with participation with the United States in any project in which the department is empowered to act and provide adjustments which in the judgment of the department are considered to be in the best interest of the state.

(2) The department may enter into any contract or agreement with the army corps of engineers of the United States, or any other agency or instrumentality of the United States for the dredging of harbors, the erection of breakwaters, piers or any other device for the protection of vessels, and may do any act or enter into any contract or agreement desirable in implementing this part. The department may take such steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 19, Imd. Eff. June 18, 2003.

Popular name: Act 451

Popular name: NREPA

324.78109 Administration of part; advice by commission.

Sec. 78109. The commission shall advise the department on the administration of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78110 Waterways account; use.

Sec. 78110. Money in the waterways account shall be used only for the following:

(a) The construction, operation, and maintenance of the following that are associated with recreational boating facilities:

(*i*) Ramps and related support infrastructure for launching watercraft.

(*ii*) Piers, jetties, breakwaters, or other similar structures connected to existing or proposed recreational boating facilities or harbors of refuge.

(*iii*) Moorage facilities and related support infrastructure at marinas to provide dockage for transient and seasonal users.

(*iv*) Studies and surveys necessary for the development of recreational boating facilities or the operation of recreational boating facilities, and the implementation of recommendations from these studies and surveys.

(*v*) Restrooms, sewage treatment facilities, showers, potable water supplies, security lights, and parking areas.

(*vi*) Pump outs.

(*vii*) Access roads, bridges, signals, and other infrastructure to provide the public access to recreational boating facilities.

(*viii*) Engineering costs, including planning and construction costs and costs of environmental assessments and permit applications.

(*ix*) Dredging, stump removal, and aquatic weed control when the activities can be shown to clear lanes to make a water body more accessible primarily for recreational boats as opposed to general navigation.

(*x*) Navigational aids in the immediate area of recreational boating facilities.

(*xi*) Signage for the effective use of recreational boating facilities.

(*xii*) Publication of guides, brochures, maps, road signs, internet sites, and other aids to inform boaters of recreational boating facilities.

(*xiii*) Projects that compensate or mitigate for natural resource losses caused by activities described in this subdivision.

(*xiv*) Locks used exclusively by recreational boaters.

(*xv*) Leases of property for recreational boating facilities or parking areas for the exclusive use of recreational boating facilities.

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(*xvi*) Boat storage facilities, boat lift facilities, and boat servicing facilities within recreational boating facilities when constructed so as to be leased to a private marina operator under the guidelines of part 791.

(*xvii*) Equipment used exclusively for the development, maintenance, or operation of recreational boating facilities.

(b) The acquisition of property or rights in property for the purposes of this part, including both of the following:

(*i*) Land acquisition for the development of recreational boating facilities or parking areas exclusively for the servicing of recreational boating facilities.

(*ii*) Water rights for the securing of recreational boating access facilities.

(c) For grants to local units of government and state colleges or universities to acquire and develop harbors of refuge and public boating access sites under section 78115.

(d) For the purposes provided in part 791.

(e) For the administration of this part and part 791, including the following:

(*i*) Administrative and overhead cost directly related to recreational boating facilities.

(*ii*) Employee wages and benefits incurred for the administration of this part.

(*iii*) Conferences, meetings, and training for employees working at or on recreational boating facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 210, Imd. Eff. July 1, 1998;—Am. 2003, Act 19, Imd. Eff. June 18, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2010, Act 302, Imd. Eff. Dec. 16, 2010.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.78111 State appropriation as advancement.

Sec. 78111. It is the purpose of this part, in providing for harbors and channels, that the appropriation made by the state be considered an advancement, and that the fees, taxes, and other revenues received under this part, to be credited to the waterways account, shall be applied against the advancement, until all advancements have been fully paid. Thereafter, all such fees, taxes, and revenues shall be available for continued expansion and development of harbors and connecting waterways. However, subject to the approval of the state administrative board, the necessary expense of administration of this part, and any expense necessary to the protection of the harbors, and connecting waterways, constructed or established under the provisions of this part, or any improvement to the harbors and connecting waterways necessary for the proper and adequate protecting of vessels, shall be paid from the fees, taxes, and revenues before being credited to the advancements. The state administrative board shall from time to time provide for the transfer of credits to advancements from the waterways account to the general fund, until the advancements have been fully paid.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.78112 State acceptance of federal program for construction of harbors of refuge.

Sec. 78112. In addition to the other matters contained in this part, this part shall constitute prima facie evidence of the acceptance by the state of Michigan of the provisions for state participation in the federal program for construction of certain harbors of refuge within the boundaries of the state of Michigan as provided for in chapter 19, 59 Stat. 10, Public Law 14 of the 79th Congress authorized March 2, 1945, pursuant to House Document No. 446 of the 78th Congress.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78113 Public boating access site advisory committee.

Sec. 78113. (1) Within 30 days after the effective date of this section, the department shall establish a public boating access site advisory committee to advise the department and the legislature on the state's method of acquiring public boating access sites. The advisory committee shall consist of not more than 20

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members representing the boating industry, recreational users, riparian owners, local public officials who have public boating access sites within their local unit of government, experts from Michigan institutions of higher education, and other interested parties as appointed by the department. At least 2 members of the advisory committee shall be representatives of the general public. The advisory committee shall review and make recommendations regarding the current method of acquiring and operating public boating access sites. Additionally, the committee shall make recommendations on all of the following:

(a) The protection of the ecological integrity of lakes from degradation.

(b) The protection of the boating public and other lake users, including, but not limited to, riparian owners, from overly intense use of lakes.

(c) The provision of recreational boating opportunities for members of the general public.

(d) Other issues the advisory committee considers relevant.

(2) A meeting of the advisory committee shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Within 6 months after the advisory committee is established under subsection (1), the advisory committee shall deliver a report to the department, the commission, and the legislature on administrative and any legislative changes that the state should consider in acquiring and operating public boating access sites.

(4) Not later than 1 year after the advisory committee is established under subsection (1), the advisory committee shall be disbanded.

History: Add. 1998, Act 210, Imd. Eff. July 1, 1998.

Compiler's note: For transfer of public boating access site advisory committee to department of natural resources by type III transfer, see E.R.O. No. 2010-13, compiled at MCL 324.99917.

Popular name: Act 451

Popular name: NREPA

324.78114 Acquisition of public boating access site; placement of land option.

Sec. 78114. (1) Prior to acquiring a public boating access site, the department shall obtain a 90-day option on the land proposed for acquisition. In obtaining this option, the department shall attempt to negotiate an option that may be transferred to a local unit of government. Upon placing the option on the land, the department shall notify the municipality and the county in which the land is located of the option and whether the department plans to hold a public hearing on the proposed purchase and development of the land as a public boating access site. The municipality or county in which the proposed public boating access site is located may hold a public hearing on the proposed purchase and development of the land as a public boating access site. If a municipality or county holds a public hearing under this subsection, the municipality or county shall notify the department, and a representative of the department shall attend the public hearing.

(2) During the 90-day period in which the department holds an option under subsection (1), the municipality or county in which the land is located may do either of the following:

(a) Notify the department that it intends to operate a public boating access site on that land. If the department receives a notice pursuant to this subdivision, the department shall transfer the option, if possible, to the municipality or county so that it may exercise the option and purchase the land. If the municipality exercises the option and purchases the land, the exercise of the option shall be contingent upon the municipality or county and the department entering into a legally enforceable agreement that specifies how the public boating access site will be operated. The agreement shall provide that the public boating access site will be operated in the same manner as a public boating access site that is operated by the department, unless the department agrees to alternative terms. The agreement shall also provide that if the municipality or county violates the agreement, the department may operate the public boating access site in compliance with the agreement.

(b) Identify another suitable location on the lake that the department could acquire for a public boating access site. The public boating access site shall be comparable for development as the one proposed by the department.

History: Add. 1998, Act 210, Imd. Eff. July 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.78115 Public boating access sites grant program.

Sec. 78115. (1) The department shall establish a public boating access sites grant program. The grant program shall provide funding with money in the waterways account to local units of government and public colleges or universities for all or a portion of the cost of either or both of the following:

(a) The acquisition of land for the establishment of a public boating access site.

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(b) The cost of developing a public boating access site.

(2) A grant under subsection (1)(a) may be used as the required match by a local unit of government or a public college or university under part 19 or another state or federal program.

(3) A local unit of government or a public college or university receiving a grant under subsection (1)(b) must agree to operate the public boating access site in accordance with the department's operational requirements. The operational requirements shall be included within a grant agreement that is entered into by the grant recipient and the department. The grant agreement may contain, but need not be limited to, 1 or more of the following provisions as required by the department:

(a) Any net revenues accruing from the operation of the public boating access site shall be separately accounted for and reserved in a restricted fund by the grantee for the future maintenance or expansion of the public boating access site or, with the approval of the department, the construction of other recreational boating facilities. Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, if a fee is charged for the use of the public boating access site, the fee shall be the same as the fee rates set by the department.

(b) Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, the public boating access site and any facilities constructed for use in conjunction with the public boating access site shall be reserved by the grantee exclusively for the use or rental, on a daily basis, of recreational watercraft.

(c) Unless otherwise provided in the grant agreement or otherwise authorized in writing by the department, commercial operations of any type shall not be permitted to regularly use the public boating access site or any of the facilities constructed for use in conjunction with the public boating access site.

(d) The public boating access site and any facilities constructed for use in conjunction with that public boating access site shall be open to the public at all times on equal and reasonable terms.

(4) A local unit of government or a public college or university that wishes to be considered for a grant under this section shall submit an application to the department in a manner prescribed by the department and containing the information required by the department.

History: Add. 1998, Act 210, Imd. Eff. July 1, 1998;—Am. 2003, Act 19, Imd. Eff. June 18, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Compiler's note: Act 451

Popular name: NREPA

324.78116 Rules.

Sec. 78116. The department may promulgate rules to implement this part.

History: Add. 1998, Act 210, Imd. Eff. July 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.78117 Township ordinances regulating activities at public boating access site; scope.

Sec. 78117. A township may by ordinance regulate activities at a public boating access site owned by the department and located on an inland lake or stream. However, the scope of the ordinance shall not exceed the scope of applicable rules promulgated or orders issued by the department under section 504.

History: Add. 2006, Act 466, Imd. Eff. Dec. 20, 2006.

Popular name: Act 451

Popular name: NREPA

324.78119 Entry into state-operated boating access site; pass, tab, or sticker required; recreation passport fee; exceptions; violation as civil infraction; fine; evidence.

Sec. 78119. (1) Subject to subsection (4), a person shall not enter, in a nonresident motor vehicle or commercial motor vehicle, a state-operated public boating access site designated under section 78105(2) without a valid pass affixed to the lower right-hand corner of the windshield. A seasonal pass shall be affixed permanently for the season.

(2) Subject to subsection (4), the operator of a resident motor vehicle shall not enter a state-operated public boating access site designated under section 78105(2) with the resident motor vehicle unless the recreation passport fee has been paid for that motor vehicle. Payment of the recreation passport fee authorizes entry into all state parks and recreation areas and designated state-operated public boating access sites until expiration of

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the motor vehicle registration.

(3) Subject to subsection (4), if the secretary of state issues registration tabs or stickers as described in section 805 of the Michigan vehicle code, 1949 PA 300, MCL 257.805, the operator of a resident motor vehicle shall not enter a designated state-operated public boating access site with the resident motor vehicle unless the resident motor vehicle has a registration tab or sticker marked as provided under that section to show that the recreation passport fee has been paid.

(4) Subsections (1) to (3) do not apply under any of the following circumstances:

(a) If the motor vehicle is used in the operation or maintenance of the public boating access site, is an emergency motor vehicle, is a state-owned or law enforcement motor vehicle, or is a private motor vehicle being operated on official state business.

(b) If the motor vehicle is registered under section 803e(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, and is exempt under section 803e(6) of the Michigan vehicle code, 1949 PA 300, MCL 257.803e, from the registration tax, or if the motor vehicle is registered under section 217d or 803f of the Michigan vehicle code, 1949 PA 300, MCL 257.217d and 257.803f.

(c) If and to the extent the department waives the requirements for department-sponsored events or other circumstances as determined by the director or the director's designee.

(5) A person who violates subsection (1), (2), or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00. A person shall not be cited for a violation of both subsections (2) and (3) for the same incident.

(6) In any proceeding for the violation of this part or a rule promulgated under this part, if a motor vehicle is found parked in a designated state-operated public boating access site, the registration plate displayed on the motor vehicle constitutes prima facie evidence that the owner of the motor vehicle was the person who parked or placed it at the location where it was found.

History: Add. 2010, Act 34, Eff. Oct. 1, 2010;—Am. 2013, Act 81, Eff. May 1, 2014.

Popular name: Act 451

Popular name: NREPA

PART 783
FERRY DOCKS AT THE STRAITS OF MACKINAC

324.78301 Ferry docks at Straits of Mackinac; jurisdiction and control; transfer; description.

Sec. 78301. The jurisdiction and control of the following described lands is transferred from the state transportation department to the department:

Mackinaw City Dock

Lots 1 to 6, both inclusive, of block 9 and Railroad avenue lying east of the east line of Huron avenue in Wendell's addition to Mackinaw City, Cheboygan county, Michigan.

Oil Storage Area

All that part of the unplatted portion of government lot 1 of section 18, town 39 north, range 3 west, village of Mackinaw City, Cheboygan county, Michigan, and water lots 55 and 56, block B of the plat of “Mackinaw City” as recorded in the office of the register of deeds, Cheboygan county, Michigan, described as:

Beginning at a point on the southerly line of government lot 1 of said section 18 which is 93.7 feet easterly, measured along said southerly lot line from its intersection with the former westerly line of Huron avenue according to the recorded plat of the village of Mackinaw City, said point of beginning being the center line of the existing pavement on Huron avenue; thence northeasterly along said center line at an angle of 103° 03' 15” with the southerly line of said government lot 1, a distance of 418.54 feet to the northerly line of water lot 55 extended westerly; thence easterly at an angle to the right of 77° 02' 25”, along said extension and the northerly line of said water lot 55, a distance of 410 feet more or less to the water's edge of the Straits of Mackinac; thence southerly along said water's edge, 408 feet more or less to the southerly line of government lot 1 of said section 18; thence westerly along said southerly line of said government lot 1, a distance of 520 feet more or less, to the point of beginning; reserving an easement for highway purposes in, over and upon that part of the above described property which lies westerly of a line 100 feet easterly of, measured at right angles to, and parallel with the center line of the existing pavement on Huron avenue. Subject to the reservation in favor of the Michigan Central railroad company and the New York Central railroad company as recorded in liber 122, on pages 467-469, office of the register of deeds, Cheboygan county, Michigan.

St. Ignace Dock 1

Lots 6 to 12, both inclusive, of block 2, of assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

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St. Ignace Dock 2

Lots 1 and 2, block 2, assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

Also, that part of private claim 15 located south of assessor's plat No. 5, city of St. Ignace, lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

Also, that part of the north 2/3 of private claim 14 lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

St. Ignace Dock 3

Lots 16 to 28, both inclusive, of block 1 and entire blocks 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 39, register's office, Mackinac county, Michigan.

Also, that part of private claim 2 located south of the south line of Straits subdivision and east of the east line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, that part of private claim 1 located north of the north line of block 1 of the partition plat of private claim 1 and east of a line 363 feet east of, measured at right angles, and parallel with the centerline of State street, city of St. Ignace, Mackinac county, Michigan.

Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19, both inclusive, block 2 and lots 1 to 4, both inclusive, block 5, including the streets and alley adjacent thereto, of the partition plat of private claim 1, city of St. Ignace, Mackinac county, Michigan.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78302 Operation and maintenance of docks and approaches to docks; determination; purpose; relinquishment of control.

Sec. 78302. The department shall operate and maintain the docks, and approaches to the docks, as the department determines is necessary to serve tourism and boating in the area. The department shall relinquish control of the docks and approaches for use by the state or any of its agencies if for any reason the Mackinac Straits bridge becomes unusable, or in the event of an emergency declared by the governor.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78303 Ferry docks at Straits of Mackinac; leases; concessions; rules.

Sec. 78303. Subject to the provisions of this part, the department may grant leases and concessions for the use of the properties transferred by this part. The department shall promulgate rules for the use of these properties by all persons without discrimination. The department shall not grant exclusive use of the docking facilities to any person, but may lease designated areas to particular persons for the operation of commercial enterprises. The department may make arrangements with other state agencies for use of portions of the properties transferred by this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78304 Entering into lease with village of Mackinaw City; duration; duties of village.

Sec. 78304. The department may enter into a lease for a period not to exceed 25 years with the village of Mackinaw City, whereby the village agrees to operate and maintain the parking facilities located on the property described in section 78301 as the Mackinaw City dock, to construct, operate, and maintain buildings on the Mackinaw City dock, or to perform other functions in relation to the Mackinaw City dock, under such terms and conditions as may be agreed upon by the department and the village of Mackinaw City.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78305 Entering into lease with city of St. Ignace; duration; duties of city.

Sec. 78305. The department may enter into a lease for a period not to exceed 25 years with the city of St. Ignace, whereby the city agrees to operate and maintain the parking facilities located on the property described in section 78301 as the St. Ignace docks numbers 1 and 2, to construct, operate, and maintain

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buildings on the St. Ignace docks numbers 1 and 2, or to perform other functions in relation to the St. Ignace docks numbers 1 and 2, under such terms and conditions as may be agreed upon by the department and the city of St. Ignace.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78306 Land transferred from Mackinac Island state park commission to department; small craft harbor facility.

Sec. 78306. (1) The jurisdiction and control of the following described land is transferred from the Mackinac Island state park commission to the department:

A parcel of land beginning at the northwest corner of lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, extending along the south side of Huron street in a westerly direction 530 feet thence to the shoreline of lake Huron in a southerly direction, the distance from Huron street to the shore of lake Huron being approximately 80 feet; thence easterly along the shore of lake Huron to the southwest corner of Lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, and thence northerly approximately 80 feet along the west line of lot No. 88, assessors plat No. 2, city of Mackinac Island, county of Mackinac, to the point of beginning; also the docks, piers, buildings and appurtenances situated thereon or attached thereto, which are now under the jurisdiction of the Mackinac Island state park commission.

(2) The department shall operate the properties transferred by this section as a harbor facility for small craft and shall not permit the operation of any commercial enterprise thereon except the sale of marine fuel and other supplies for small craft by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78307 Disposition of revenues.

Sec. 78307. All revenues received by the department under this part shall be deposited in the state treasury to the credit of the state waterways fund and shall be expended as appropriated by the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78308 Administration of part; advice by commission.

Sec. 78308. The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 785
CHEBOYGAN LOCK AND DAM

324.78501 Cheboygan lock and dam; acquisition.

Sec. 78501. The department may purchase and receive from its owners on behalf of the state for a nominal consideration of not to exceed $1.00 and subject to an agreement that the department maintain the property and such terms, conditions, and stipulations as the department may approve, the locks, dams, races, structures, and related properties, facilities, flowage easements, and real estate connected with or a part of the facility now known as the Cheboygan lock and dam, at Cheboygan, Michigan.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.78502 Cheboygan lock and dam; leases; agreements.

Sec. 78502. The department may operate, control, maintain, and lease such property and may establish and revise fees and hours of operation for the facility. The department may enter into agreements with any person with respect to water rights, water levels, controls, lockage fees, and related matters.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

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Popular name: Act 451

Popular name: NREPA

324.78503 Revenues; disposition.

Sec. 78503. Revenues received by the department under this part shall be deposited in the state treasury to the credit of the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:
"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.78504 Administration of part; advice by commission.

Sec. 78504. The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

HARBOR DEVELOPMENT

PART 791
HARBOR DEVELOPMENT

324.79101 Definitions.

Sec. 79101. As used in this part:

(a) “Commission” means the Michigan state waterways commission created in part 781.

(b) “Harbor” means a portion of a lake or other body of water either naturally or artificially protected in order to be a place of safety for watercraft.

(c) “Harbor facilities” means the structures of a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and on shore for the mooring and servicing of watercraft and the servicing of crews and passengers.

(d) “Marina” means a site which contains harbor facilities.

(e) “Nonrevenue-producing harbor facilities” means any portion of harbor facilities that would not normally produce revenue and includes, but is not limited to, jetties, breakwaters, dredging, and shore protection.

(f) “Revenue-producing harbor facilities” means any portion of harbor facilities that normally produce revenue and includes, but is not limited to, watercraft slips, watercraft launching facilities, watercraft storage, lodging, access roads, watercraft repair facilities, parking lots, mechanical haul-out devices, and facilities for fuel, food, and other services.

(g) “Watercraft” means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79102 Providing assistance to certain persons.

Sec. 79102. The department may provide assistance to a person seeking to secure construction, operation, and maintenance of recreational boat slips on the waters of this state as provided in this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79103 Purchase of real property for development of marinas.

Sec. 79103. The department may purchase real property accessible to, or capable of being made accessible to, the waters of this state for the development of marinas, as provided in this part, only when it can be

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demonstrated that the demand for recreational boat slips within a specific harbor or within a local unit of government exceeds the available supply.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79104 Purchase of property located within local unit of government.

Sec. 79104. The department shall not purchase property located within a local unit of government, under this part, if the local unit of government where the property is located imposes property taxes on property containing a shoreline recreational facility that is owned by an adjacent local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79105 Sale of structures, real property, or rights or interest in real property.

Sec. 79105. The department may sell or remove buildings or other structures on real property acquired by the department under this part, and may sell real property or rights or interest in real property not considered essential for the purposes of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79106 Construction of nonrevenue-producing harbor facilities.

Sec. 79106. If, in the judgment of the department, real property acquired under this part requires modification or improvement to make it financially attractive to potential investors in a marina, the department may construct nonrevenue-producing harbor facilities at those sites.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79107 Leases of real property.

Sec. 79107. After real property is acquired under this part, the department may enter into leases of the real property or portions of the real property the department determines will aid in the construction of a marina, the provision of summer or winter storage of watercraft, or the provision of services normally found at commercial marinas.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79108 Solicitation and evaluation of proposals.

Sec. 79108. (1) If the department determines that real property acquired by it under this part is suitable for use as a marina, the department shall publicly solicit proposals for the development of the marina and the lease of the real property. The solicitation of proposals shall include published notices in at least 1 local news publication of general circulation in the area in which the marina will be located and in at least 2 journals related to the marina, watercraft, or harbor industries, which journals have statewide circulation. A reasonable time shall be allowed for bidders to respond, and all proposals shall be publicly opened and read. A proposal received by the department in response to the solicitation may be rejected by the department for any reason or without cause if the department believes such action to be appropriate. The department may waive any defects in any proposals received, at its discretion, but is not required to do so.

(2) In evaluating proposals for the construction of revenue-producing harbor facilities and the operation of a marina, the department shall take into consideration, among other things, the technical qualifications of the applicants; the financial responsibility of the applicants; the ability of the applicants to perform efficiently the services necessary to maintain a sound facility, including the prior experience, if any, of the applicants in operating a marina; the proposed lease payments; the nature and scope of each applicant's plans for the marina; and the timetables for development of the proposed marina.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

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Popular name: NREPA

324.79109 Term of lease; extension; rule establishing penalty schedule for nonpayment of lease payments; notice of taxation.

Sec. 79109. (1) A lease entered into by the department under this part shall be for an initial term of not more than 25 years. A lease may be extended for a period not to exceed 5 years, at the discretion of the department, if the lessee has complied with the provisions of the lease and has made appropriate efforts to upgrade and maintain the real property.

(2) The department shall establish, by rule, a penalty schedule for nonpayment of lease payments. The department shall provide in a lease entered into under this part that, if a lessee is in default on a payment for more than 60 days, or if a lessee defaults on a payment or delays making a payment for more than 30 days on more than 2 occasions in a single year, the department may declare the lease agreement breached and seek its remedies at law or in accordance with the lease agreement.

(3) The department shall provide notice in any lease entered into under this part that the lessee may be subject to taxation under Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79110 Sale, transfer, or assignment of lease; transfer by bequest or descent of lessee.

Sec. 79110. A lease entered into by the department under this part or an interest in a lease entered into by the department under this part shall not be sold, transferred, or assigned unless the sale, transfer, or assignment is first approved by the department, after receipt of a written application containing the same information as to the purchaser, transferee, or assignee as is required of an original applicant. This section does not restrict the transfer by bequest or descent of the lessee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79111 Consideration for issuance of lease; reduction of initial financial burden.

Sec. 79111. A lease entered into by the department under this part shall not be issued without consideration. However, the department may establish annual lease payments, which reduce the initial financial burden on the lessee as much as is reasonably possible, with subsequent payments to be appropriately increased to assure payment of the total lease obligation prior to the termination of the lease.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79112 Lease agreements with 1 or more local units of government; apportionment of revenue.

Sec. 79112. The department may enter into lease agreements for purposes of this part with 1 or more local units of government or public colleges or universities acting jointly with the department as a lessor. Revenue from each lease shall be apportioned according to the proportional share of the investments made by the department and the local unit or units of government or public colleges or universities in the construction of nonrevenue-producing harbor facilities and in consideration of the relative land investments of the entities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 19, Imd. Eff. June 18, 2003.

Popular name: Act 451

Popular name: NREPA

324.79113 Minimum standards for construction and operation of harbor facilities by lessee.

Sec. 79113. The department may establish minimum standards applicable to the construction and operation of harbor facilities by a lessee including, but not limited to, restrooms and showers, the number of slips available to transient and seasonal watercraft rentals, construction material, parking lots, engineering and architectural plans and designs, watercraft launching facilities, and watercraft storage and repair facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

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324.79114 Disposition of revenue from lease contracts.

Sec. 79114. All revenue from lease contracts entered into under this part shall be deposited in the state treasury and credited to the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.79115 Liability.

Sec. 79115. The department shall not be liable for loss of life or injury or damage to persons or property as a result of the conditions on real property, waterways, or facilities on real property leased to persons by the department under this part. However, this section shall not relieve lessees of any obligations they may otherwise have to persons or to damages if they are found to have failed to meet their obligations properly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79116 Rules.

Sec. 79116. The department shall promulgate rules as are necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79117 Administration of part; advice by department.

Sec. 79117. The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79118 Discrimination prohibited.

Sec. 79118. A person shall not deny another individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations created under this part because of religion, race, color, national origin, age, sex, or marital status.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 793
HARBORS, CHANNELS, AND OTHER NAVIGATIONAL FACILITIES

324.79301 “Political subdivision” defined.

Sec. 79301. As used in this part, “political subdivision” means any local unit of government or port district of this state and any other governmental agency or subdivision, public corporation, authority, or district in this state, which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate harbors, channels, and other navigational facilities. Whenever used in this part, the term political subdivision includes any combination of political subdivisions acting jointly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79302 Political subdivision; powers.

Sec. 79302. A political subdivision may do 1 or more of the following:

(a) Adopt and amend all necessary rules, regulations, and ordinances for the management, government, and

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use of any waterways, harbors, channels, or other navigational facilities under its control, either within or outside of its territorial limits; employ harbor guards, police, or a harbormaster with full police powers; establish penalties for the violation of the rules, regulations, and ordinances; and enforce those penalties.

(b) Adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of harbors, channels, connecting waterways, or other navigational facilities within the political subdivision or its political jurisdiction, which rules shall be consistent with and conform to, as nearly as possible, the laws of this state.

(c) Vest authority for the maintenance, operation, and regulation thereof in an officer, board, or body of the political subdivision by ordinances or resolution which shall prescribe the duties and powers of the officers, boards, or body.

(d) Employ a regular harbormaster for the harbors, channels, connecting waterways, or navigational facilities under its control; or, in cases where a harbor board or body is established, the harbormaster may be employed by the board or body.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79303 Political subdivisions; joint action.

Sec. 79303. All powers, rights, and authority granted to any political subdivision in this part may be exercised and enjoyed by 2 or more political subdivisions, or by this state through its appropriate agencies and 1 or more such political subdivisions acting jointly, either within or outside of the territorial limits of either of them, and contracts may be entered with each political subdivision for the purposes of implementing this part and authorizing joint action.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 795
WATERFRONT REVITALIZATION

324.79501 Definitions.

Sec. 79501. As used in this part:

(a) "Commission" means the Michigan jobs commission.

(b) "Department" means the department of environmental quality.

(c) "Gaming facility" means a gaming facility regulated under the Michigan gaming control and revenue act, the initiated law of 1996, MCL 432.201 to 432.226.

(d) "Grant" means a waterfront redevelopment grant under this part.

(e) "Response activity" means that term as it is defined in part 201.

(f) "Waterfront" means land that is contiguous to the Great Lakes or their connecting waterways, a river, or a lake or impoundment that has a surface area of not less than 50 acres.

(g) "Waterfront planning area" means the geographic area included within a waterfront redevelopment plan.

(h) "Waterfront redevelopment plan" means a waterfront redevelopment plan prepared by a local unit of government under section 79503 or a state approved recreation plan that includes waterfront improvements.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79502 Waterfront redevelopment grants program; establishment; provisions; funding sources; waterfront public access.

Sec. 79502. (1) The department shall establish a waterfront redevelopment grants program. A local unit of government may apply to the department for a grant to conduct a project that does any of the following:

(a) Provides for response activities on waterfront property consistent with a waterfront redevelopment plan.

(b) Provides for the demolition of buildings and other facilities along a waterfront that are inconsistent with a waterfront redevelopment plan.

(c) Provides for the acquisition of waterfront property or the assembly of waterfront property consistent with a waterfront redevelopment plan.

(d) Provides public infrastructure and public facility improvements to waterfront property consistent with a

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waterfront redevelopment plan.

(2) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

(3) For any grant issued under this part, the department shall require that a local unit of government provide at least 25% of the total project's cost from other public or private funding sources.

(4) A project funded pursuant to this part shall provide for waterfront access to the general public.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79503 Waterfront redevelopment plan; preparation.

Sec. 79503. A local unit of government that wishes to apply for a grant shall prepare a waterfront redevelopment plan that provides for the improvement of the waterfront. The waterfront redevelopment plan, at a minimum, shall do both of the following:

(a) Clearly designate the geographic area included within the waterfront planning area.

(b) Identify the economic impact on the improved area, the surrounding neighborhood, and the region in which the waterfront planning area is located.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79504 Grant application.

Sec. 79504. A local unit of government that wishes to be considered for a grant shall submit a written grant application to the department in a manner prescribed by the department and containing the information required by the department. The grant application shall also include all of the following:

(a) A detailed description of the project and how the grant would be used, including any private sector participation.

(b) A copy of the waterfront redevelopment plan for the area in which the project is to be located.

(c) An explanation of how the project will contribute significantly to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.

(d) An explanation of how the project will provide for public access to the waterfront or will provide recreational opportunities for the public.

(e) If the project includes the purchase of property, an identification of the intended use of the property, and a timeline for redevelopment of the property.

(f) The total cost of the project and the source of the local unit of government's contribution to the project.

(g) A detailed description of the practices the local unit of government will implement and maintain to control nonpoint source pollution from the project site both during construction activities and throughout the period of time in which the state is paying off the bonds that were issued pursuant to the clean Michigan initiative act.

(h) Other information that the department and the commission consider relevant.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79505 Grant application; review by department and commission.

Sec. 79505. Upon receipt of a grant application under section 79504, the department shall forward a copy of the application to the commission. The department and the commission shall jointly review the grant applications. In reviewing grant applications, the department and the commission shall consider all of the following:

(a) Whether the project proposed to be funded is authorized by this part.

(b) Whether the grant application submitted complies with this part.

(c) Whether the project is consistent with the waterfront redevelopment plan for the area in which the project is located.

(d) Whether the project provides significant public access to the waterfront or provides recreational

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opportunities for the public.

(e) Whether the project will significantly contribute to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.

(f) Whether there is evidence of adverse economic and socioeconomic conditions within the waterfront planning area.

(g) The viability of the waterfront redevelopment plan.

(h) Whether the project is innovative in comparison to other grant applications.

(i) The level of public and private commitment and other resources available for the project.

(j) The level of public and private commitment to other aspects of the waterfront redevelopment plan.

(k) How the project relates to a broader economic and community development plan for the local unit of government as a whole.

(*l*) The level of demonstrated commitment from other governmental agencies.

(m) The level of public and private commitment to improving abandoned real property within the waterfront planning area in which the project is located.

(n) Other criteria that the department and the commission consider relevant.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79506 Issuance of grants.

Sec. 79506. The department, with the approval of the commission, shall issue grants under this part for projects that the department determines meet the requirements of this part and will contribute to the revitalization of waterfronts throughout the state that are not being used in a manner that maximizes economic and public value.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79507 Recovery of costs.

Sec. 79507. The department and the department of attorney general may recover costs expended pursuant to section 79502(1)(a) and all other costs recoverable under part 201 from persons who are liable under part 201. Actions to recover costs shall proceed in the manner provided in part 201.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79508 Administration of part.

Sec. 79508. Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

SUBCHAPTER 5
WATERCRAFT AND MARINE SAFETY

PART 801
MARINE SAFETY

324.80101 Definitions; A to C.

Sec. 80101. As used in this part:

(a) "Airboat" means a motorboat that is propelled, wholly or in part, by a propeller projecting above the water surface.

(b) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(c) "Anchored rafts" means all types of nonpowered rafts used for recreational purposes that are anchored seasonally on waters of this state.

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(d) "Associated equipment" means any of the following that are not radio equipment:

(*i*) An original system, part, or component of a boat at the time that boat was manufactured, or a similar part or component manufactured or sold for replacement.

(*ii*) Repair or improvement of an original or replacement system, part, or component.

(*iii*) An accessory or equipment for, or appurtenance to, a boat.

(*iv*) A marine safety article, accessory, or equipment intended for use by a person on board a boat.

(e) "Boat" means a vessel.

(f) "Boat livery" means a business that holds a vessel for renting, leasing, or chartering.

(g) "Boating safety certificate" means any of the following:

(*i*) The document issued by the department under part 802 that certifies that the individual named in the document has successfully completed a boating safety course and passed an examination approved and administered as required under section 80212.

(*ii*) A document issued by the United States coast guard auxiliary or United States power squadron that certifies that the individual named in the document has successfully completed a United States coast guard auxiliary course concerning boating safety.

(*iii*) A written rental agreement provided to an individual named in the rental agreement entered into under section 44522 only on the date or dates indicated on the rental agreement while the named individual is operating a personal watercraft leased, hired, or rented from a boat livery.

(h) "Boating safety course" means a course that meets both of the following requirements:

(*i*) Provides instruction on the safe operation of a personal watercraft that meets or exceeds the minimum course content for boating or personal watercraft education established by the national association of state boating law administrators education committee (October 1996), a province of the commonwealth of Canada, or another country.

(*ii*) Is approved by the department.

(i) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(j) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt, or a probate court or family division disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 547, Imd. Eff. Jan. 3, 2005;—Am. 2012, Act 120, Eff. Nov. 1, 2012;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80102 Definitions; D to L.

Sec. 80102. As used in this part:

(a) "Dealer" means a person and an authorized representative of that person who annually purchases from a manufacturer, or who is engaged in selling or manufacturing, 6 or more vessels that require certificates of number under this part.

(b) "Identification document" means any of the following:

(*i*) A valid Michigan operator's or chauffeur's license.

(*ii*) A valid driver's or chauffeur's license issued by an agency, department, or bureau of the United States or another state.

(*iii*) An official identification card issued by an agency, department, or bureau of the United States, this state, or another state.

(*iv*) An official identification card issued by a political subdivision of this state or another state.

(c) "Issuing authority" means the United States coast guard or a state that has a numbering system approved by the United States coast guard.

(d) "Law of another state" means a law or ordinance enacted by any of the following:

(*i*) Another state.

(*ii*) A local unit of government in another state.

(*iii*) Canada or a province or territory of Canada.

(*iv*) A local unit of government in a province or territory of Canada.

(e) "Lifeboat" means a small boat designated and used solely for lifesaving purposes, and does not include a dinghy, tender, speedboat, or other type of craft that is not carried aboard a vessel for lifesaving purposes.

(f) "Long-term incapacitating injury" means an injury that causes serious impairment of a body function.

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History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80103 Definitions; M to O.

Sec. 80103. As used in this part:

(a) “Manufacturer” means a person engaged in any of the following:

(*i*) The manufacture, construction, or assembly of boats or associated equipment.

(*ii*) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(*iii*) The importation of a boat or associated equipment into the state for sale.

(b) “Marine law” means this part, a local ordinance adopted in conformity with this part, or a rule promulgated under this part.

(c) “Marine safety act” means former Act No. 303 of the Public Acts of 1967.

(d) “Marine safety program” means marine law enforcement, search and rescue operations, water safety education, recovery of drowned bodies, and boat livery inspections.

(e) “Michigan vehicle code” means Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(f) “Motorboat” means a vessel propelled wholly or in part by machinery.

(g) “Operate” means to be in control of a vessel while the vessel is under way and is not secured in some manner such as being docked or at anchor.

(h) “Operator” means the person who is in control or in charge of a vessel while that vessel is underway.

(i) “Owner” means a person who claims or is entitled to lawful possession of a vessel by virtue of that person's legal title or equitable interest in a vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80104 "Highly restricted personal information" defined; definitions; P to W.

Sec. 80104. As used in this part:

(a) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(b) "Passenger" means a person carried on board, attached to, or towed by a vessel, other than the operator.

(c) "Peace officer" means any of the following:

(*i*) A sheriff.

(*ii*) A sheriff's deputy.

(*iii*) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

(*iv*) A village or township marshal.

(*v*) An officer of the police department of any municipality.

(*vi*) An officer of the Michigan state police.

(*vii*) The director and conservation officers employed by the department.

(d) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on watercraft operation and equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally-related information.

(e) "Personal watercraft" means that term as defined in 40 CFR 1045.801.

(f) "Political subdivision" means any county, metropolitan authority, municipality, or combination of those entities in this state. If a body of water is located in more than 1 political subdivision, all of the subdivisions shall act individually in order to comply with this part, except that if the problem is confined to a specific area of the body of water, only the political subdivision in which the problem waters lie shall act.

(g) "Port" means left, and reference is to the port side of a vessel or to the left side of the vessel.

(h) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(*i*) A violation or an attempted violation of section 80176(1), (3), (4), (5), (6), or (7), except that only 1

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violation or attempted violation of section 80176(6), a local ordinance substantially corresponding to section 80176(6), or a law of another state substantially corresponding to section 80176(6), or a law of the United States substantially corresponding to section 80176(6) may be used as a prior conviction other than for enhancement purposes as provided in section 80178a(1)(b).

(*ii*) Negligent homicide, manslaughter, or murder resulting from the operation of a vessel or an attempt to commit any of those crimes.

(*iii*) Former section 73, 73b, or 171(1) of the marine safety act.

(i) "Probate court or family division disposition" means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(j) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a political subdivision of government.

(k) "Regatta", "boat race", "marine parade", "tournament", or "exhibition" means an organized water event of limited duration that is conducted according to a prearranged schedule.

(*l*) "Slow—no wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

(m) "Starboard" means right, and reference is to the starboard side of a vessel or to the right side of the vessel.

(n) "State aid" means payment made by the state to a county for the conduct of a marine safety program.

(o) "Undocumented vessel" means a vessel that does not have, and is not required to have, a valid marine document issued by the United States coast guard or federal agency successor to the United States coast guard.

(p) "Uniform inspection decal" means an adhesive-backed sticker created by the department that is color-coded to indicate the year that it expires and is attached to a vessel in the manner prescribed for decals in section 80122 when a peace officer inspects and determines that the vessel complies with this part.

(q) "Use" means operate, navigate, or employ.

(r) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(s) "Waters of this state" means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.

(t) "Waterways account" means the waterways account established in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2012, Act 58, Eff. Nov. 1, 2012;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80105 Application of part.

Sec. 80105. (1) This part applies to vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this state.

(2) This part, except where expressly indicated otherwise, does not apply to any of the following:

(a) Foreign vessels temporarily using waters subject to state jurisdiction.

(b) Military or public vessels of the United States, except recreational-type public vessels.

(c) A vessel whose owner is a state or political subdivision of a state, other than this state and its political subdivisions, that is used principally for governmental purposes and that is clearly identifiable as such.

(d) A ship's lifeboat.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80106 Administration of part; advisory representative.

Sec. 80106. The department shall be responsible for administration of this part except as otherwise provided in this part. The Michigan sheriffs' association shall designate an advisory representative to the department who shall transmit information, advice, and recommendations relative to county marine activities

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and assist in the coordination of state and county marine safety programs.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80107 Review of boating accidents, safety education programs, and policies.

Sec. 80107. The department shall review boating accidents on Michigan waters and study the development of marine safety education programs and other policies of state government relating to marine safety and shall consider changes to department policies and programs.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80108 Regulations of waterborne vehicles; exclusive diving, fishing, swimming or water ski areas; special local regulations.

Sec. 80108. The department may regulate the operation of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on the waters of this state. Where special regulations are determined necessary, the department may establish vessel speed limits; prohibit the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances; restrict the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances by day and hour; establish and designate areas restricted solely to boating, skin or scuba diving, fishing, swimming, or water skiing; and prescribe any other regulations relating to the use or operation of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances that will assure compatible use of state waters and best protect the public safety. The department shall prescribe special local regulations in such a manner as to make the regulations uniform with other special local regulations established on other waters of this state insofar as is reasonably possible.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80108[1] Lists of information; sale prohibited.

Sec. 80108. The department or any other state department or agency that maintains or collects lists of information as part of its duties or responsibilities under this act shall not sell any lists of information maintained or collected for the purpose of surveys, marketing, and solicitations.

History: Add. 2000, Act 194, Eff. Jan. 1, 2001.

Compiler's note: Section 80108, as added by Act 194 of 2000, was compiled as MCL 324.80108[1] to distinguish it from another section 80108, deriving from Act 58 of 1995 and pertaining to regulation of waterborne vehicles.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80108a Operation of airboat within certain distance of residence; limitation; exceptions.

Sec. 80108a. (1) A person shall not operate an airboat on the waters of this state within 450 feet of a residence between the hours of 11 p.m. and 6 a.m. at a speed in excess of the minimum speed required to maintain forward movement.

(2) Subsection (1) does not apply to any of the following:

(a) The operation of an airboat in an emergency when necessary to protect public safety.

(b) The operation of an airboat so as to free the airboat when it has run aground.

(c) The operation of an airboat for a governmental purpose if the airboat is clearly marked and identified as being used for a governmental purpose.

History: Add. 2008, Act 152, Imd. Eff. June 5, 2008.

Compiler's note: Former MCL 324.80108a, which pertained to operation of airboat within certain distance of residence, was repealed by Act 547 of 2004, Eff. May 1, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

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Popular name: NREPA

324.80109 Rules; subsection (1) inapplicable to special local rules.

Sec. 80109. (1) Except as provided in subsection (2), the department shall promulgate rules authorized by this part. The department shall publish the approved rules in a convenient form.

(2) Subsection (1) shall not apply to special local rules adopted pursuant to sections 80110 and 80111.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80110 Special rules for vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances; investigations and inquiries; preliminary report; notice of public hearing; presentation of views by interested persons; determination by department; proposal for local ordinance; appeal; "water body" defined.

Sec. 80110. (1) The department may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state to assure compatibility of uses and to protect public safety. If the department receives a resolution pursuant to section 80112, the department shall initiate an investigation and inquiry under this subsection.

(2) The department's investigation and inquiry under subsection (1) into whether special rules are needed on a particular water body shall include a consideration of all of the following:

(a) Whether the activities subject to the proposed special rules pose any issues of safety to life or property.

(b) The profile of the water body, including local jurisdiction, size, geographic location, and amount of vessel traffic.

(c) The current and historical depth of the water body, including whether there is an established lake level for the water body.

(d) Whether any identifiable special problems or conditions exist on the water body for the activities subject to the proposed special rules, such as rocks, pier heads, swimming areas, public access sites, shallow waters, and submerged obstacles.

(e) Whether the proposed special rules would unreasonably interfere with normal navigational traffic.

(f) Whether user conflicts exist on the water body.

(g) Complaints received by local law enforcement agencies regarding activities on the water body.

(h) The status of any accidents that have occurred on the water body.

(i) Historical uses of the water body and potential future uses of the water body.

(j) Whether the water body is public or private.

(k) Whether existing law adequately regulates the activities subject to the proposed special rules.

(3) Following completion of the department's investigation and inquiry, the department shall prepare a preliminary report that includes the department's evaluation of the items listed in subsection (2) and the department's preliminary recommendation as to whether special rules are needed for the water body.

(4) Upon preparation of the preliminary report, the department shall provide a copy of the preliminary report to the local political subdivision that has waters subject to its jurisdiction for which the proposed special rules are being considered and shall schedule a public hearing in the vicinity of the water body to gather public input on the preliminary report and the need for special rules. Notice of the public hearing shall be made in a newspaper of general circulation in the area where the water body is located, not less than 10 calendar days before the hearing. At the public hearing, interested persons shall be afforded an opportunity to present their views on the preliminary report and the need for special rules, either orally or in writing.

(5) Within 90 days following the public hearing under subsection (4), if the department determines that there is a need for special rules for the water body, the department shall propose a local ordinance or appropriate changes to a local ordinance. If the department determines that there is not a need for special rules, the department shall notify the political subdivision that has waters subject to its jurisdiction and shall provide the specific reasons for its determination.

(6) A determination by the department that there is not a need for special rules for a water body may be appealed to the commission by the political subdivision that has waters subject to its jurisdiction. The commission shall make the final agency decision on the need for special rules for a water body.

(7) As used in this section, "water body" includes all or a portion of a water body.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2006, Act 237, Imd. Eff. June 26, 2006.

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Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80111 Proposed local ordinance; submission to governing body; approval or disapproval; enactment; enforcement.

Sec. 80111. A local ordinance proposed pursuant to section 80110 shall be submitted to the governing body of the political subdivision in which the water body subject to the proposed special rules is located. Within 60 calendar days, the governing body shall inform the department that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the department shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in all respects to the local ordinance proposed by the department. After the local ordinance is enacted, the local ordinance shall be enforced as provided for in section 80113.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2006, Act 237, Imd. Eff. June 26, 2006.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80112 Special local ordinances; request for assistance; form; receipt of resolution by department.

Sec. 80112. Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision following a public hearing on the resolution. Upon receipt of a resolution under this section, the department shall proceed as required by sections 80110 and 80111.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2006, Act 237, Imd. Eff. June 26, 2006.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80113 Enforcement of local ordinances; existing rules; enactment of statutory provisions as ordinance.

Sec. 80113. (1) State, county, and local peace officers shall enforce local ordinances enacted in accordance with this part.

(2) All rules establishing special local watercraft controls promulgated under former 1967 PA 303 before March 17, 1986 shall remain in effect unless rescinded pursuant to sections 80108, 80110, 80111, and 80112.

(3) Local political subdivisions may enact as an ordinance any or all of sections 80101 to 80104, 80122 to 80124, 80126, 80140, 80141, 80144 to 80153, 80155, 80164, 80165, and 80166 to 80173.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2000, Act 215, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

Administrative rules: R 281.700.1 et seq. of the Michigan Administrative Code.

324.80114 Rules; violation; fine.

Sec. 80114. (1) The department may promulgate rules to establish performance or other safety standards relating to boat construction or the installation, use, or carriage of associated equipment.

(2) In order that a boat operator may pass unhindered from jurisdiction to jurisdiction, rules authorized by this section shall be identical to federal regulations for enforcement purposes. However, rules requiring the carrying or using of marine safety articles to meet uniquely hazardous conditions or circumstances within this state may be promulgated, if the rules for the safety articles are approved by the United States coast guard.

(3) A person who violates a rule promulgated to implement this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

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Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80114a Prohibition against operation of motorized vessel; exemption; marine exemption certificate; physician's attestation.

Sec. 80114a. (1) A marine law that prohibits the operation of a motorized vessel on a portion of the waterways of this state shall not be enforced against an individual who meets all of the following qualifications:

(a) The individual has a disability that prevents him or her from rowing or paddling a vessel.

(b) The individual has in his or her possession a marine exemption certificate.

(c) The individual is operating a noncommercial vessel at slow—no wake speed using an electric motor that is rated at 100 pounds of thrust or less.

(2) This section does not exempt an individual from compliance with any other marine law.

(3) An individual may obtain a marine exemption certificate from either the department or a sheriff's department by presenting a physician's attestation that the physician has examined the individual and determined that the individual has a disability that prevents him or her from rowing or paddling a vessel.

(4) The department shall develop and make available for use as prescribed in this section a physician's attestation form and a marine exemption certificate.

History: Add. 2008, Act 119, Imd. Eff. Apr. 29, 2008.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80115 Disposition of revenues; credit to waterways account; appropriation; fees.

Sec. 80115. (1) The revenue received under this part shall be deposited in the state treasury. The revenue division, department of treasury, shall annually present to the department an accurate total of all the revenues collected, and shall then, except as provided in section 80124b, credit the revenues collected to the waterways account to be used as follows:

(a) 17.5% to implement part 781.

(b) 33.5% to implement part 791.

(c) 49% for water safety education programs and for the administration and enforcement of this part, including state aid to counties, and for no other purpose.

(2) Fees provided for in section 80124 shall not be appropriated for the inspection of vessels that carry passengers for hire and are regulated under part 445.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 292, Imd. Eff. Jan. 8, 2004;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80116 Boating safety program; compliance with rules; federal financial assistance.

Sec. 80116. The department shall do all things necessary to conduct a comprehensive boating safety program as provided in chapter 131 of part I of subtitle II of title 46 of the United States Code, 46 U.S.C. 13101 to 13110; to comply with rules promulgated under that act by the secretary of the department in which the coast guard is operating; and to accept federal financial assistance as provided in that act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80117 Marine safety program; state aid; formula; limitation on determination; use; statement of expenditures.

Sec. 80117. (1) Each county of the state is entitled to receive state aid as provided in this part. A county board of commissioners desiring to conduct a marine safety program shall submit to the department by

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December 31 of each year an estimate of authorized expenditures for the following calendar year, in the form and containing the information the department requires. The department shall review the entire request and may approve the county request for state aid. The department shall annually survey the marine safety program of each county to assist in determining the amount of state aid to be allocated to a county for its marine safety program. In making its annual determination of the amount of state aid to be allocated to a county, the department shall develop and employ a formula which shall include such factors as:

(a) The number of students to be trained in boating safety in any United States coast guard auxiliary, United States power squadron, or department-sponsored marine safety classes.

(b) The number of boat user days.

(c) The number of livery boats.

(d) Program effectiveness measured by comparing the existing rate of compliance with current statutes to the acceptable rate of compliance determined by the department.

(e) The number and type of boat access areas requiring a county marine safety program.

(f) The water area of the county.

(2) A determination of the amount of state aid allocated to a county under this part shall not be based, wholly or in part, upon the number of vessels within that county that are stopped or inspected under section 80166.

(3) State aid allocated to a county under this part shall be used exclusively for the conduct of the county marine safety program as provided by this part and rules promulgated under this part. Within 90 days after the close of each calendar year, a county board of commissioners shall submit to the department a statement of authorized expenditures actually incurred, in the form and containing the information that the department requires. A county that provides the department with statements or supplements to statements subsequent to the 90-day period is not eligible for state aid under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80118 Allocation of state aid to counties.

Sec. 80118. The amount of state aid to be allocated to a county pursuant to this part shall be determined by the department in the manner the department determines is appropriate. The department shall review the county's statement of authorized expenditures actually incurred and if satisfied shall provide state aid in an amount not to exceed 3/4 of the county's estimated authorized expenditures for the past calendar year. If the county's authorized expenditures actually incurred for the past calendar year exceed the county's estimated authorized expenditures for that calendar year, the department, if it considers it to be in the best interests of the state and adequate funds have been appropriated by the legislature for state aid to counties, may provide state aid in excess of 3/4 of the county's estimated authorized expenditures for that calendar year, but not in excess of 3/4 of the county's authorized expenditures actually incurred. If the amount appropriated by the legislature for state aid to counties is insufficient to pay the full amount to which the counties are entitled, the department shall reduce the allocations proportionate to the shortfall of revenue among all state and local programs for which waterways account money was appropriated.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80119 Marine safety program; audits of county records; refunds to state.

Sec. 80119. Annually the department of the treasury shall audit the county records pertaining to the marine safety program to assure the proper disposition of this money in accordance with this part and rules promulgated under this part. If the audit reveals that a refund of state aid money is due to the state, the county treasurer, within 30 days of the completion of the audit, shall send to the department the amount of the refund due to the state, which the department shall return to the waterways account to be used for the purpose described in section 80115(1)(c).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

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Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80120 Marine safety program; cooperation with county sheriffs; records; reports.

Sec. 80120. The department and the county sheriffs shall cooperate in the conduct of the marine safety program. The county sheriffs shall maintain records and submit reports in a form and containing information as the department may require.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80121 Rules.

Sec. 80121. The department may promulgate rules as may be necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80122 Conditions to operation of vessels; violation; fine.

Sec. 80122. (1) Except as otherwise provided in this part, a person shall not operate or give permission for the operation of a vessel of any length on the waters of this state unless the fees prescribed in section 80124 for the vessel are paid, the certificate of number assigned to the vessel is on board and is in full force and effect, and, except for the following, the identifying number and decal are displayed on each side of the forward half of the vessel in accordance with this part and the rules promulgated by the department under this part:

(a) A decal and identifying numbers for a wooden hull and historic vessel as that term is defined in section 80124 may be displayed in the manner described in section 80126(2).

(b) A decal for an inflatable boat may be displayed on the transom of the boat.

(2) If a vessel is actually numbered in another state of principal use in accordance with a federally approved numbering system, it is in compliance with the numbering requirements of this state while it is temporarily being used in this state. This subsection applies to a vessel for which a valid temporary certificate is issued to the vessel's owner by the issuing authority of the state in which the vessel is principally used.

(3) If a vessel is removed to this state as the new state of principal use, a number awarded by any other issuing authority is valid for not more than 60 days before numbering is required by this state.

(4) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80123 Exemption.

Sec. 80123. (1) The owner of a vessel is not required to pay a fee and a vessel is not required to be numbered and to display a decal under this part if the vessel is 1 or more of the following:

(a) Used temporarily on the waters of this state and the owner and the vessel are from a country other than the United States.

(b) A vessel that is owned by the United States, used in the public service for purposes other than recreation, and clearly identifiable as such a vessel.

(c) A vessel's lifeboat.

(d) An all-terrain vehicle not used as a vessel.

(e) A raft, sailboard, surfboard, or swim float.

(f) A vessel 16 feet or less, propelled by hand either with oars or paddles, and not used for rental or other commercial purposes.

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(g) A nonmotorized canoe or kayak not used for rental or other commercial purposes.

(2) The owner of a vessel documented by the United States coast guard or a federal agency that is the successor to the United States coast guard shall comply with this part, including the payment of fees as provided in this part. However, the vessel shall not be required to display numbers under this part.

(3) This part does not prohibit the numbering of an undocumented vessel pursuant to this part upon request by the owner, even though the vessel is exempt from the numbering requirements of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80124 Application for certificate of number; certificate of title; 15-day permit; fee; "the length of vessel" defined; tax exemption; issuance; delinquent fee or tax; penalty; retention of certificate of number on shore; contents of lease or rental agreement; painting or attaching number; assigning block of numbers; federally documented vessel; decal; issuance of original certificate of number, numbering renewal decal, or other renewal device; numbering system; registration; issuance of certificate of number; historic vessel; refund to owner of nonmotorized canoe or kayak; refund and computation of fee.

Sec. 80124. (1) Except as otherwise provided in this section, the owner of a vessel required, pursuant to sections 80122 and 80123, to be numbered and to display a decal shall file an application for a certificate of number with the secretary of state. The secretary of state shall prescribe and furnish certificate of title application forms. If a vessel requiring a certificate of title under part 803 is sold by a dealer, that dealer shall combine the application for a certificate of number that is signed by the vessel owner with the application for a certificate of title. The dealer shall obtain the certificate of number in the name of the owner. The application for a certificate of number shall include a certification. The owner of the vessel shall sign the application or, if the application is filed electronically, provide information requested by the secretary of state to verify the owner's identity. A person shall not file an application for a certificate of number that contains false information. A dealer who fails to submit an application as required by this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(2) A dealer who submits an application for a certificate of number as provided in subsection (1) may issue to the owner of the vessel a 15-day permit, on forms prescribed by the secretary of state, for the use of the vessel while the certificate of number is being issued.

(3) A dealer may issue a 15-day permit, on a form prescribed by the secretary of state, for the use of a vessel purchased in this state and delivered to the purchaser for removal to a place outside of this state, if the purchaser certifies by his or her signature that the vessel will be registered and primarily used and stored outside of this state and will not be returned to this state by the purchaser for use or storage. A certificate of number shall not be issued for a vessel holding a permit under this subsection.

(4) A 15-day permit issued under subsection (2) or (3) shall not be renewed or extended.

(5) A person shall operate or permit the operation of a vessel for which a 15-day permit has been issued under this section only if the permit is valid and displayed on the vessel as prescribed by rule promulgated by the department under this part.

(6) Except as otherwise provided in this section, an applicant shall pay the following fee at the time of application:

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     (a) A 15-day permit issued under subsection (3).. $    10.00
     (b) Nonpowered vessels, other than nonmotorized
canoes or kayaks.....                                        9.00
     (c) Nonmotorized canoes or kayaks.................      5.00
     (d) Motorboats less than 12 feet in length........     14.00
     (e) Motorboats 12 feet or over but less than
16 feet in length....................................       17.00
     (f) Motorboats 16 feet or over but less than
21 feet in length....................................       42.00
     (g) Motorboats 21 feet or over but less than
28 feet in length....................................      115.00
     (h) Motorboats 28 feet or over but less than
35 feet in length....................................      168.00
     (i) Motorboats 35 feet or over but less than
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42 feet in length..... 244.00

(j) Motorboats 42 feet or over but less than 50 feet in length..... 280.00

(k) Motorboats 50 feet in length or over..... 448.00

(*l*) Pontoon vessels regardless of size..... 23.00

(m) Motorized canoes regardless of size..... 14.00

(n) Vessels licensed under part 473..... 15.00

(o) Vessels carrying passengers for hire that are in compliance with part 445, or under federal law; and vessels carrying passengers and freight or freight only and owned within this state or hailing from a port within this state..... 45.00

(7) As used in this section, "the length of a vessel" means the distance from end to end over the deck, excluding the longitudinal upward or downward curve of the deck, fore and aft. For a pontoon boat, length of a vessel means the length of its deck, fore and aft.

(8) Payment of the fee specified in this section exempts the vessel from the tax imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(9) Upon receipt of an initial application for a certificate of number in approved form and payment of the required fee, the secretary of state shall enter the information upon the official records and issue to the applicant a certificate of number containing the number awarded to the vessel, the name and address of the owner, and other information that the secretary of state determines necessary. The secretary of state shall issue a certificate of number that is pocket size and legible. Except as provided in subsection (13), a person operating a vessel shall present that vessel's certificate of number to a peace officer upon the peace officer's request.

(10) If a check or draft payable to the secretary of state under this part is not paid on its first presentation, the fee or tax is delinquent as of the date the draft or check was tendered. The person tendering the check or draft remains liable for the payment of the fee or tax and a penalty.

(11) Upon determining that a fee or tax required by this part has not been paid and remains unpaid after reasonable notice and demand, the secretary of state may suspend a certificate of number.

(12) If a person who tenders a check or draft described in subsection (10) fails to pay the fee or tax for which the check or draft was tendered within 15 days after the secretary of state gives him or her notice that the check or draft described in subsection (10) was not paid on its first presentation, the secretary of state shall assess and collect a penalty of $5.00 or 20% of the check or draft, whichever is larger, in addition to the fee or tax.

(13) The owner or authorized agent of the owner of a vessel less than 26 feet in length that is leased or rented to a person for noncommercial use for not more than 24 hours may retain, at the place from which the vessel departs or returns to the possession of the owner or the owner's representative, the certificate of number for that vessel if a copy of the lease or rental agreement is on the vessel. Upon the demand of a peace officer, the operator shall produce for inspection either the certificate of number or a copy of the lease or rental agreement for that vessel. The lease or rental agreement shall contain each of the following:

(a) The vessel number that appears on the certificate of number.

(b) The period of time for which the vessel is leased or rented.

(c) The signature of the vessel's owner or that person's authorized agent.

(d) The signature of the person leasing or renting the vessel.

(14) Upon receipt of a certificate of number for a vessel, the owner of that vessel shall paint on or attach in a permanent manner to each side of the forward half of the vessel the number identified in the certificate of number, in the manner prescribed by rules promulgated by the department. The secretary of state shall assign to the owner of vessels for rent or lease a block of numbers sufficient to number consecutively all of that owner's rental or lease vessels. The owner shall maintain the numbers in a legible condition. A vessel documented by the United States coast guard or a federal agency that is the successor to the United States coast guard is not required to display numbers under this part but shall display a decal indicating payment of the fee prescribed in subsection (6), and shall otherwise be in compliance with this part. This subsection does not apply to a nonpowered vessel 12 feet or less in length.

(15) Upon receipt of an application for a certificate of number in an approved form and payment of the fee required by this part, the secretary of state shall issue a decal that indicates that the vessel is numbered in compliance with this part. The decal shall be color-coded and dated to identify the year of its expiration. The department shall promulgate a rule or rules to establish the manner in which the decal is to be displayed. A person who operates a vessel in violation of a rule promulgated to implement this subsection is responsible for

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a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(16) A decal is valid for a 3-year period that begins on April 1 and expires on March 31 of the third year. An original certificate of number may be issued up to 90 days before April 1. A numbering renewal decal or other renewal device may be issued up to 90 days before the expiration of a certificate.

(17) Upon receipt of a request for renewal of a decal and payment of the fee prescribed in subsection (6), the secretary of state shall issue to the applicant a decal as provided in subsection (15). A person who operates a vessel for which no decal was issued as required under this section or for which a decal has expired is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(18) The numbering system adopted under this part shall be in accordance with the standard system of numbering established by the secretary of the department in which the United States coast guard operates.

(19) An agency of this state, a political subdivision of this state, or a state supported college or university of this state that owns a vessel that is required to be numbered under this part shall register that vessel and upon payment of either of the following shall receive from the secretary of state a certificate of number for that vessel:

(a) A fee of $3.00 for a vessel that is not used for recreational, commercial, or rental purposes.

(b) The fee required under subsection (6) for a vessel that is used for recreational, commercial, or rental purposes.

(20) The secretary of state shall, upon receipt of payment of the fee required under subsection (19), issue a certificate of number for each vessel subject to subsection (19).

(21) A vessel that is 30 years of age or older and not used other than in club activities, exhibitions, tours, parades, and other similar activities is a historic vessel. The secretary of state shall make available to the public application forms for certificates of number for historic vessels and, upon receipt of a completed application form and fee, shall number a historic vessel as a historic vessel. The fee for the numbering of a historic vessel is 1/3 of the otherwise applicable fee specified in subsection (6).

(22) The secretary of state shall refund to the owner of a vessel registered under this part all of the registration fee paid for that vessel under this section if all of the following conditions are met during the period for which the registration fee was paid:

(a) The owner transfers or assigns title or interest in the registered vessel before placing the decal issued under subsection (15) on the vessel.

(b) The owner surrenders the unused decal to the secretary of state within 30 days after the date of transfer or assignment.

(23) The secretary of state shall refund to the surviving spouse of a deceased vessel owner the registration fee paid under this part, prorated on a monthly basis, upon receipt of the decal issued under subsection (15) or evidence satisfactory to the secretary of state that the decal issued under subsection (15) has been destroyed or voided.

(24) If the secretary of state computes a fee under this part that results in a figure other than a whole dollar amount, the secretary of state shall round the figure to the nearest whole dollar.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007;—Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012;—Am. 2012, Act 294, Imd. Eff. Aug. 1, 2012.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80124a Great Lakes protection specialty watercraft decal.

Sec. 80124a. (1) Subject to subsection (4), the secretary of state shall make available for purchase an annual Great Lakes protection specialty watercraft decal. The Great Lakes protection specialty watercraft decal shall be designed by the secretary of state and shall depict some aspect of the Great Lakes or of Great Lakes water quality.

(2) The Great Lakes protection specialty watercraft decal shall be sold for $35.00. Revenues from the sale of Great Lakes specialty watercraft decals shall be expended as provided for in section 80124b.

(3) The secretary of state may establish the appropriate placement of Great Lakes protection specialty watercraft decals on watercraft so as not to create confusion for law enforcement officers with decals required under section 80124.

(4) The secretary of state shall discontinue sales of Great Lakes protection specialty watercraft decals under subsection (1) if the secretary of state is unable to sell at least 2,000 decals in the 2-year period ending September 30, 2006 and at least 500 decals in each fiscal year thereafter.

History: Add. 2003, Act 293, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 271, Imd. Eff. Dec. 19, 2005.

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Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80124b Great Lakes protection specialty watercraft decal; use of money received from sale; definitions.

Sec. 80124b. (1) Money received by the secretary of state from the sale of each Great Lakes protection specialty watercraft decal under section 80124a shall be used as follows:

(a) $10.00 shall be retained by the secretary of state for use in creating and distributing the decal.

(b) $25.00 shall be forwarded to the state treasurer for deposit into the Michigan Great Lakes protection fund to be used for research on aquatic nuisance species, for public education of the threat of aquatic nuisance species, and for efforts to eradicate aquatic nuisance species from the Great Lakes and other waters of the state.

(2) As used in this section:

(a) "Aquatic nuisance species" means that term as it is defined in section 3101.

(b) "Michigan Great Lakes protection fund" means the Michigan Great Lakes protection fund created in section 32905.

History: Add. 2003, Act 294, Imd. Eff. Jan. 8, 2004.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80125 Notice of destruction or sale of vessel; transfer of vessel; change of address; surrender of certificate; cancellation of certificate and reassignment of number; certificate for replacement vessel; refund; recording new address and returning certificates; application for transfer of certificate; fees; duration of certificate; duplicate certificate.

Sec. 80125. (1) The owner of a vessel shall notify the secretary of state within 15 days if the vessel is destroyed or sold; if an interest in the vessel is transferred either wholly or in part, to another person; or if the owner's address no longer conforms to the address appearing on the certificate of number. The notice shall consist of a surrender of the certificate of number, on which the proper information shall be noted on a place to be provided on the certificate. When the surrender of the certificate is due to the vessel being destroyed, the secretary of state shall cancel the certificate and enter that fact in the secretary of state's records, and the number may be reassigned.

(2) The owner of a destroyed vessel, upon proper application, may receive a new certificate of number, valid for the remainder of the numbering period, for a replacement vessel, if all of the following conditions are met:

(a) The replacement vessel is owned by the same person who owned the destroyed vessel.

(b) The owner of the replacement vessel pays additional fees, if required under section 80124, due to the change in vessel size or classification.

(c) Payment of a $2.00 application fee.

(3) If the fees required for the replacement vessel under section 80124 are less than the fees that were required for the destroyed vessel, the owner of the vessel shall not receive a refund.

(4) If the surrender of the certificate of number is due to a change of the owner's address, the new address shall be recorded by the secretary of state and a certificate of number bearing that information shall be returned to the owner.

(5) The transferee of a vessel registered under this part, within 15 days after acquisition of the vessel, shall apply to the secretary of state for transfer to the transferee of the certificate of number issued to the vessel. The transferee shall provide his or her name, address, and the number of the vessel and pay to the secretary of state a transfer fee of $2.00. The registration fee for the certificate of number shall be 2/3 the fee provided in section 80124 if the transferred certificate of number would have remained valid for 1 year or less. The registration fee for the certificate of number shall be 1/3 the fee provided in section 80124 if the transferred certificate of number would have remained valid for more than 1 year but less than 2 years. An additional registration fee shall not be assessed if the transferred registration would have remained valid for 2 or more years. Unless the application is made and the fee paid within 15 days after acquisition of the vessel, the vessel shall be considered to be without certificate of number and a person shall not operate the vessel until a certificate is issued. Upon receipt of the application and appropriate fees, the secretary of state shall transfer the certificate of number issued for the vessel to the new owner. The certificate of number shall be valid for a 3-year period.

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(6) If a certificate of number is lost, mutilated, or illegible, the owner of the vessel shall obtain a duplicate of the certificate upon application and payment of a fee of $2.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80126 Dealer certificates of number and dealer decals.

Sec. 80126. (1) A dealer shall apply for and obtain from the secretary of state dealer certificates of number and dealer decals for each vessel of the dealer that is tested, demonstrated, or otherwise operated. Upon receipt of an application in a form approved by the secretary of state and payment of $30.00 for each set of dealer certificates of number and dealer decals, the secretary of state shall issue to the applicant the dealer certificates of number and dealer decals. A single dealer certificate of number and dealer decal issued pursuant to this section may be used on only 1 vessel at a time.

(2) The operator of a vessel governed by this section shall do each of the following:

(a) Maintain the dealer certificate of number on board the vessel.

(b) Upon demand of a peace officer, display the dealer certificate of number.

(c) Permanently or temporarily display the identifying number and dealer decal on the vessel in accordance with rules promulgated by the department under this part.

(3) A person shall not operate a vessel numbered under this section unless the dealer is on board the vessel or the operator has the written authorization of the dealer to operate the vessel. A person shall not use a vessel numbered under this section for commercial purposes that include the rental of the vessel or the carrying of passengers for hire on the vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80127 Payment of fee by credit card or check.

Sec. 80127. The secretary of state may accept payment by a credit card or check in lieu of cash of a fee required under this part. The secretary of state shall determine which major credit cards may be utilized, provided, however, that the fee received shall not be less than 100% of the applicable fee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80128 Secretary of state; certificate of number.

Sec. 80128. The secretary of state may award any certificate of number directly or may authorize any person to act as his or her agent for the awarding of a certificate of number.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80129 Maintenance of records; availability to the public.

Sec. 80129. Records maintained under this part, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this part and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130 Commercial lookup service of records; disposition of fees; computerized central file; purpose; creation; maintenance; providing records to nongovernmental person or

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entity; payment; admissibility in evidence.

Sec. 80130. (1) The secretary of state may provide a commercial lookup service of records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state shall credit fees collected under this subsection on and after October 1, 2005 to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b, through October 1, 2019.

(2) To provide an individual, historical boating record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(3) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(4) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2005, Act 174, Imd. Eff. Oct. 12, 2005;—Am. 2009, Act 100, Imd. Eff. Sept. 30, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 77, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130a Disclosure of information prohibited; exceptions.

Sec. 80130a. (1) Except as provided in this section and section 80130c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity considered satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 80130c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this act may be disclosed to any person by the secretary of state as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of watercraft and operator safety or watercraft theft; watercraft emissions; watercraft product alterations, recalls, or advisories; performance monitoring of watercraft; watercraft research activities including survey research; and the removal of nonowner records from the original records of watercraft manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of

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any court, administrative agency, or self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded watercraft.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. “News medium” includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(j) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130b Resale or redisclosure of personal information; maintenance of records; duration; availability for inspection.

Sec. 80130b. (1) An authorized recipient of personal information may resell or redisclose the information for any use permitted under section 80130a. An authorized recipient of an individual record or records under section 81114a may resell or redisclose personal information for any purpose.

(2) Any authorized recipient who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130c Furnishing list of information to federal, state, or local governmental agency; contract for sale of list of information; insertion of safeguard in agreement or contract; resale or redisclosure of information; disclosure of list based on watercraft operations or sanctions to nongovernmental agency.

Sec. 80130c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds $25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 80130a(3). The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information,

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which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the permissible purposes described in section 80130a(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on watercraft operation or sanctions to a nongovernmental agency, including an individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130d Prohibited conduct; violations as felony; penalties.

Sec. 80130d. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 80130a or 80130c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130f Abandonment of vessel prohibited; presumption; violation; civil infraction; "abandoned vessel" defined; determination that vessel not stolen; duties of police agency; notice of abandoned vessel; duties of secretary of state; request for hearing by owner to contest abandonment; redemption of vessel; abandonment of vessel on private property without owner consent; offer of vessel for public sale.

Sec. 80130f. (1) A person shall not abandon a vessel in this state. It is presumed that the last titled owner or, if there is no titled owner, the last registered owner of the vessel is responsible for abandoning the vessel unless the person provides a record of the transfer of the vessel to another person. For the purposes of this subsection, the record of transfer must be either a photocopy of the reassigned title or reassigned registration or a form or document that includes the transferee's name, address, driver license number, and signature, the date of transfer of the vessel, and, if applicable, the sale price. A person who violates this subsection and who fails to redeem the vessel before disposition of the vessel under section 80130k is responsible for a state civil infraction as provided in section 8905a.

(2) As used in this section through section 80130p, "abandoned vessel" means any of the following:

(a) A vessel that is on private property without the consent of the property owner.

(b) A vessel that has remained on public property that is not a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, for a period of 48 hours or more without the permission of the governmental unit with custody of the property.

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(c) A vessel that meets all of the following requirements:

(*i*) Is stationary on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651.

(*ii*) Is not on a motor vehicle or trailer as described under subdivision (d)(*i*).

(*iii*) is not under the immediate custody of the owner or owner's agent.

(d) A vessel on a motor vehicle or trailer if the motor vehicle or trailer meets all of the following requirements:

(*i*) Displays a valid registration plate under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(*ii*) Has remained parked on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, for a period of 18 hours or more.

(*iii*) Is not under the immediate custody of the owner of the vessel, motor vehicle, or trailer or the owner's agent.

(3) If a vessel qualifies as abandoned under subsection (2)(b) or (c), a police agency having jurisdiction over the vessel or the agency's designee shall determine whether the vessel has been reported stolen and, if the vessel has not been reported stolen, may have a towing agency take the vessel into custody.

(4) A police agency that has a vessel taken into custody under subsection (3) or that receives notice of a vessel taken into custody under subsection (10) shall do all of the following:

(a) Recheck to determine if the vessel taken into custody under subsection (3) or check if the vessel taken into custody under subsection (10) has been reported stolen.

(b) If the vessel has not been reported stolen, within 24 hours after the vessel is taken into custody, enter the vessel in the law enforcement information network as an abandoned vessel and notify the secretary of state through the law enforcement information network that the vessel has been taken into custody as abandoned. The notification shall contain all of the following information:

(*i*) The year, make, and vessel identification number of the vessel, if available.

(*ii*) The address or approximate location from which the vessel was taken into custody.

(*iii*) The date on which the vessel was taken into custody.

(*iv*) The name and address of the police agency.

(*v*) The name and business address of the custodian of the vessel.

(*vi*) The name of the court that has jurisdiction over the case.

(5) Within 7 days after receiving notice under subsection (4)(b) that a vessel has been taken into custody as abandoned, the secretary of state shall do both of the following:

(a) Send to the last titled owner and secured party, as shown by the records of the secretary of state, or, if there is no titled owner, to the last registered owner, by first-class mail or personal service, notice that the vessel is considered abandoned. Each notice form shall contain all of the following information:

(*i*) The year, make, and vessel identification number of the vessel, if available.

(*ii*) The address or approximate location from which the vessel was taken into custody.

(*iii*) The date on which the vessel was taken into custody.

(*iv*) The name and address of the police agency that had the vessel taken into custody under subsection (3) or received notice of a vessel taken into custody under subsection (10).

(*v*) The name and business address of the custodian of the vessel.

(*vi*) The procedure to redeem the vessel.

(*vii*) The procedure to contest the fact that the vessel is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(*viii*) A form petition that the owner may file in person or by mail with the specified court having jurisdiction to request a hearing on the validity of the grounds for taking custody of the vessel.

(*ix*) A warning that if the vessel is not redeemed or a hearing requested within 20 days after the date of the notice, the vessel may be sold and all rights of the owner and the secured party to the vessel or to the proceeds of the sale terminated.

(b) Enter the information described in subdivision (a) on a website maintained by the secretary of state for public use in locating vessels that are taken into custody under this section as abandoned. The secretary of state shall maintain the data on the website for 1 year or until the vessel is disposed of under this part, whichever occurs first.

(6) To contest whether the vessel is abandoned or, unless the towing fees and daily storage fees are established by contract with the local governmental unit or police agency and comply with section 80130m, the reasonableness of the towing fees and daily storage fees, the owner shall request a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice under subsection (5) within 20 days after the date of the notice under subsection (5). If the owner requests a hearing, the matter shall be resolved after a hearing conducted under section 80130j. An owner who requests a hearing may redeem the

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vessel by posting a towing and storage bond with or paying a fee to the court. The bond or fee shall be equal to $40.00 plus the accrued towing and storage fees.

(7) If the owner does not request a hearing under subsection (6), he or she may redeem the vessel by paying a fee of $40.00 and the accrued towing and storage fees to the custodian of the vessel. The custodian of the vessel shall forward $25.00 of the fee to the secretary of state within 30 days after receipt, in a manner prescribed by the secretary of state. The secretary of state shall deposit the $25.00 into the abandoned vessel, ORV, and snowmobile fund created in section 80130*l*.

(8) If the owner does not redeem the vessel or request a hearing within 20 days after the date of the notice under subsection (5)(a), the secured party may redeem the vessel by paying a $40.00 fee plus the accrued charges to the custodian of the vessel. The custodian of the vessel shall forward $25.00 of the fee to the secretary of state within 30 days after receipt, in a manner prescribed by the secretary of state. The secretary of state shall deposit that portion of the fee into the abandoned vessel, ORV, and snowmobile fund created in section 80130*l*.

(9) If a vessel is on private property without the consent of the property owner, the owner of the private property may have the vessel taken into custody as an abandoned vessel by contacting a local towing agency. A local towing agency is a towing agency whose storage lot is located within 15 miles from the border of the local unit of government having jurisdiction over the abandoned vessel.

(10) Before removing the vessel from private property, the towing agency contacted under subsection (9) shall provide reasonable notice by telephone, or otherwise, to a police agency having jurisdiction over the vessel that the vessel is being removed. The police agency shall determine if the vessel has been reported stolen, and if the vessel has not been reported stolen, comply with subsection (4)(b). Verification by the police agency of compliance with this section is not necessary and is not a predicate to entering the vessel in the law enforcement information network. Subsections (5) to (8) apply to a vessel removed from private property.

(11) Not less than 20 days after a determination that the vessel is abandoned in a hearing under subsection (6) or, if a hearing is not requested, not less than 20 days after the date of the notice, the following shall offer the vessel for sale at a public sale under section 80130k:

(a) The police agency, if the abandoned vessel is found on public property.

(b) The custodian of the vessel, if the vessel is found on private property.

(12) If the ownership of a vessel that is considered abandoned under this section cannot be determined either because of the condition of the vessel identification numbers or because a check with the records of the secretary of state as described in section 80310 does not reveal ownership, the police agency may sell the vessel at public sale as provided in section 80130k not less than 30 days after public notice of the sale has been published.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130g Definitions; unregistered abandoned scrap vessel; custody; duties of police agency; release of vessel to towing service; certificate of scrapping; retention of records; abandonment of vessel on private property; notice of abandoned vessel; request for hearing by owner to contest abandonment; redemption of vessel.

Sec. 80130g. (1) As used in this section:

(a) "Registered abandoned scrap vessel" means a vessel that meets all of the following requirements:

(*i*) Is 7 or more years old.

(*ii*) Is apparently inoperable or is damaged, to the extent that the cost of repairing the vessel to make it operational and safe would exceed the fair market value of that vessel.

(*iii*) Is currently registered or titled in this state or displays a current year registration or current year registration decal from another state.

(b) "Unregistered abandoned scrap vessel" means a vessel that meets all of the following requirements:

(*i*) Is apparently inoperable or is damaged, to the extent that the cost of repairing the vessel to make it operational and safe would exceed the fair market value of that vessel.

(*ii*) Is not currently registered or titled in this state and does not display a current year registration or current year registration decal from another state.

(2) A police agency or the agency's designee or, if the vessel is on private property, the property owner may have an unregistered abandoned scrap vessel taken into custody, in which case the police agency shall determine if the vessel has been reported stolen. If the vessel has not been reported stolen, the police agency

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shall do all of the following:

(a) Take 2 photographs of the vessel.

(b) Make a report to substantiate the vessel as an unregistered abandoned scrap vessel. The report shall contain the following information:

(*i*) The year, make, and vessel identification number, if available, and a brief description of the vessel.

(*ii*) The date of abandonment.

(*iii*) The location of abandonment.

(*iv*) A detailed listing of the damage or the missing equipment.

(*v*) The reporting officer's name and title.

(*vi*) The location where the vessel is being held.

(c) Within 24 hours after taking the vessel into custody, enter the vessel in the law enforcement information network as an abandoned vessel.

(3) The secretary of state shall furnish the police agency with a release form that includes a certification that the police agency has complied with the requirements of subsection (2)(a) and (b).

(4) If the police agency determined under subsection (2) that a vessel was not reported stolen, then within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vessel into custody, the police agency or the agency's designee shall complete a release form and certification and release the vessel to the towing service.

(5) The towing service shall complete the certificate of scrapping on the back of the release form and transfer the form to and dispose of the vessel with a scrap metal processor or landfill operator. The scrap metal processor or landfill operator shall transfer the form to the secretary of state.

(6) The secretary of state shall retain the records relating to an abandoned scrap vessel for not less than 2 years. The police agency or the agency's designee shall retain the 2 photographs taken under subsection (2)(a) for not less than 2 years. After the certificate of scrapping has been issued, the secretary of state shall not reissue a certificate of title for the vessel.

(7) A police agency or the agency's designee or, if the vessel is on private property, the property owner may have a registered abandoned scrap vessel taken into custody, in which case the police agency shall determine if the vessel has been reported stolen. If the vessel has not been reported stolen, the police agency shall do all of the following:

(a) Take 2 photographs of the vessel.

(b) Make a report to substantiate the vessel as a registered abandoned scrap vessel. The report shall contain the following information:

(*i*) The year, make, and vessel identification number, if available.

(*ii*) The date of abandonment.

(*iii*) The location of abandonment.

(*iv*) A detailed listing of the damage or the missing equipment.

(*v*) The reporting officer's name and title.

(*vi*) The location where the vessel is being held.

(c) Within 24 hours after taking the vessel into custody, cause the vessel to be entered in the law enforcement information network as abandoned.

(8) If the police agency determined under subsection (7) that a vessel was not reported stolen, within 7 days after the vessel is taken into custody, the secretary of state shall send to the last titled or registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vessel is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(a) The year, make, and vessel identification number of the vessel, if available.

(b) The address or approximate location from which the vessel was taken into custody.

(c) The date on which the vessel was taken into custody.

(d) The name and address of the police agency that had the vessel taken into custody, if applicable.

(e) The name and business address of the custodian of the vessel.

(f) The procedure to redeem the vessel.

(g) The name of the court that has jurisdiction of the case.

(h) The procedure to contest whether the vessel is abandoned or the reasonableness of the towing fees and daily storage fees.

(i) A form that the owner may file in person or by mail with the specified court that requests a hearing on the custody of the vessel.

(j) A warning that if the vessel is not redeemed or a hearing requested within 20 days after the date of the notice, the vessel may be sold and all rights of the owner and the secured party to the vessel or the proceeds of

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the sale terminated.

(9) To contest designation of the registered vessel as an abandoned scrap vessel or, unless the towing fees and daily storage fees are established by contract with the local governmental unit or police agency and comply with section 80130m, the reasonableness of the towing fees and daily storage fees the registered owner shall request a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice under subsection (8) within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under section 80130j. An owner who requests a hearing may redeem the vessel by posting a towing and storage bond with or paying a fee to the court. The bond or fee shall equal $40.00 plus the accrued towing and storage fees.

(10) If the owner does not request a hearing under subsection (9), he or she may redeem the vessel by paying a fee of $40.00 plus the accrued charges to the custodian of the vessel. Within 30 days after receipt of a fee under this subsection, the custodian shall forward $25.00 of the fee to the secretary of state in a manner prescribed by the secretary of state. The secretary of state shall deposit the fee into the abandoned vessel, ORV, and snowmobile fund created in section 80130*l*.

(11) If the owner does not redeem the vessel or request a hearing within 20 days after the date of the notice under subsection (8), the secured party may redeem the vessel by paying a fee of $40.00 plus the accrued charges to the custodian of the vessel. Within 30 days after the receipt of the fee under this subsection, the custodian shall forward $25.00 of the fee to the secretary of state in a manner prescribed by the secretary of state. The secretary of state shall deposit the fee into the abandoned vessel, ORV, and snowmobile fund created in section 80130*l*.

(12) Not less than 20 days after a determination that the vessel is abandoned in a hearing described in subsection (9) or, if a hearing is not requested, not less than 20 days after the date of the notice under subsection (8), the police agency or the agency's designee, scrap metal processor or landfill operator, and secretary of state shall follow the procedures established in subsections (3) to (6).

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130h Determination that vessel not stolen; immediate removal from public or private property; arrival of owner before towing or removal; entering vessel in law enforcement information network as abandoned; release of vessel to owner; authorization required; notice.

Sec. 80130h. (1) After determining under subsection (3) that a vessel has not been reported stolen, a police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vessel from public or private property to a place of safekeeping at the expense of the last titled owner or, if there is no titled owner, the last registered owner of the vessel in any of the following circumstances:

(a) The vessel is in such a condition that the operation of the vessel would constitute an immediate hazard to the public.

(b) The vessel is parked or standing upon a highway, road, or street in a manner that creates an immediate public hazard or an obstruction of traffic.

(c) The vessel is parked in a posted tow-away zone.

(d) There is reasonable cause to believe that the vessel or any part of the vessel is stolen.

(e) The vessel must be seized to preserve evidence of a crime or because there is reasonable cause to believe that the vessel was used in the commission of a crime.

(f) Removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.

(g) The vessel is interfering with the owner's or owner's agent's use of private property or is parked in a manner that impedes the movement of another vessel or vehicle.

(h) The vessel is stopped, standing, or parked in a space designated as parking for persons with disabilities and is not permitted by law to be stopped, standing, or parked in a space designated as parking for persons with disabilities.

(i) The vessel is located in a clearly identified access aisle or access lane immediately adjacent to a space designated as parking for persons with disabilities.

(j) The vessel is interfering with the use of a ramp or a curb-cut by persons with disabilities.

(k) The vessel has been involved in a crash and cannot be safely operated to remove it from the scene of the crash.

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(*l*) The vessel is submerged in, partially submerged in, or floating unanchored or untethered upon a public waterway.

(2) Unless the vessel is ordered to be towed by a police agency or a governmental agency designated by a police agency under subsection (1)(a), (d), (e), or (k), if the owner or other person who is legally entitled to possess a vessel to be towed or removed arrives at the vessel's location before the actual towing or removal of the vessel, the vessel shall be disconnected from the tow truck or other towing vehicle, and the owner or other person who is legally entitled to possess the vessel may take possession of the vessel and remove it without interference upon the payment of the reasonable service fee to the towing agency, for which the towing agency shall provide a receipt.

(3) Before authorizing the removal of a vessel under subsection (1), a police agency shall check to determine if the vessel has been reported stolen. Except for vessels removed under subsection (1)(d), (e), or (k), the police agency shall enter the vessel in the law enforcement information network as abandoned not less than 7 days after authorizing the removal and the procedures set forth in section 80130f apply.

(4) The towing agency or custodian shall not release to the vessel owner a vessel removed under subsection (1)(d), (e), or (k) unless the release has been authorized by the police agency that authorized the removal.

(5) Not less than 20 days but not more than 30 days after a vessel has been released by the police agency under subsection (4), the towing agency or custodian shall notify the police agency to enter the vessel in the law enforcement information network as abandoned and the police agency shall follow the procedures set forth in section 80130f if the impounded vessel has not been redeemed.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130i Courts; jurisdiction; venue; use of bond to pay towing and storage fees; exclusive remedies.

Sec. 80130i. (1) The following courts have jurisdiction to determine if a police agency, towing agency or custodian, or private property owner has acted properly in reporting or processing a vessel under section 80130f, 80130g(7) to (12), or 80130h:

(a) The district court.

(b) A municipal court.

(2) The court specified in the notice prescribed in section 80130f(4)(b) or 80130g(8) shall be the court that has territorial jurisdiction at the location from which the vessel was removed or where it was abandoned. Venue in the district court is governed by section 8312 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8312.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure redemption of the vessel under section 80130f or 80130g shall be used to pay the towing and storage fees.

(4) The remedies under sections 80130f to 80130p are the exclusive remedies for the disposition of abandoned vessels.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130j Filing of petition by owner of vessel; duties of court; burden of showing compliance with act; decision of court.

Sec. 80130j. (1) Upon the filing of a petition prescribed in section 80130f or 80130g, signed by the owner of the vessel that has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency, towing agency or custodian, or private property owner acted in accordance with this part.

(b) Notify the owner, towing agency or custodian, police agency, and, if the vessel was removed from private property, the private property owner of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency, towing agency or custodian, and, if the vessel was removed from private property, the private property owner have the burden of showing by a preponderance of the evidence that they have complied with the requirements of this act in reporting or

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processing the abandoned vessel or vessel removed under section 80130h.

(3) After the hearing, the court shall make a decision that includes 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vessel or a vessel removed under section 80130f, 80130g, or 80130h, and an order providing a period of 20 days after the decision for the owner to redeem the vessel. If the owner does not redeem the vessel within 20 days, the police agency shall dispose of the vessel under section 80130g or 80130k. Within 30 days after the court's decision, the court shall forward $25.00 of the fee collected under section 80130g or 80130k to the secretary of state in a manner prescribed by the secretary of state. The towing and storage fees and $15.00 of the fee collected under section 80130g or 80130k shall be forwarded to the towing agency.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vessel or a vessel removed under section 80130f, 80130g, or 80130h and directing all of the following:

(*i*) That the vessel immediately be released to the owner.

(*ii*) That the police agency is responsible for the accrued towing and storage charges.

(*iii*) That any fee or bond posted by the owner be returned.

(c) A finding that the towing fees and daily storage fees were reasonable.

(d) A finding that the towing fees and daily storage fees were unreasonable and directing the towing agency or custodian of the vessel to provide the last titled owner or, if there is no titled owner, the last registered owner of the vessel with an appropriate reduction or refund.

(e) A finding that the owner of the real property complied with section 80130o, if applicable.

(f) A finding that the owner of the real property did not comply with section 80130o, if applicable, and an order requiring the owner of the real property to reimburse the last titled owner of the vessel for the accrued towing and storage charges.

(g) A finding that the towing agency did not comply with the procedures established for the proper removal and reporting of a vessel removed under section 80130f, 80130g, or 80130h and an order directing all of the following:

(*i*) That the vessel immediately be released to the owner.

(*ii*) That the towing agency is responsible for the accrued towing and storage charges.

(*iii*) That any fee or bond posted by the owner be returned.

(h) A finding that the towing agency did comply with the procedures established for the proper removal and reporting of a vessel removed under section 80130f, 80130g, or 80130h.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130k Public sale of abandoned vessel.

Sec. 80130k. (1) A public sale for a vessel, and its contents, that has been determined to be abandoned under section 80130f or 80197 or removed under section 80130h shall comply with all of the following:

(a) Be under the control of the police agency or, if the vessel is being sold under section 80130f(11), the custodian of the vessel. However, a police agency may designate the custodian of the vessel or a third party to conduct the auction.

(b) Be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the police agency or the agency's designee or, if the vessel is being sold under section 80130f(11), the custodian of the vessel shall provide the person submitting a bid with a receipt for the bid.

(c) Except as otherwise provided in section 80130f(11) and (12), be held not less than 5 days after public notice of the sale has been published. The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vessel was abandoned or on a publicly accessible website maintained by the secretary of state. The public notice shall give a description of the vessel for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vessel shall be applied in the following order of priority:

(a) Accrued towing and storage charges. If the money received from the public sale does not satisfy the accrued towing, storage, and disposal fees, the towing company may collect the balance of those unpaid fees from the last titled owner or, if there is no titled owner, the last registered owner, subject to section 80130m(2) and (3).

(b) Expenses incurred by the police agency or the custodian of the vessel, for disposition as described in

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section 80130j(3)(a).

(c) Payment of the $40.00 in fees under section 80130j(3)(a).

(d) Sent to the department of treasury's unclaimed property division to be disbursed as follows:

(*i*) To the secured party, if any, in the amount of the debt outstanding on the vessel.

(*ii*) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the last titled owner or, if there is no titled owner, the last registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the local unit of government whose police agency entered the vessel in the law enforcement information network.

(3) If there are no bidders on the vessel, the police agency or the custodian of the vessel may do 1 of the following:

(a) Turn the vessel over to the towing firm or the custodian of the vessel to satisfy charges against the vessel by completing the release form under section 80130g. However, if the value of the vessel does not satisfy the accrued towing, storage, and disposal fees, the custodian of the vessel may collect the balance of those unpaid fees from the last titled owner or, if there is no titled owner, the last registered owner, subject to section 80130m.

(b) Obtain title to the vessel for the police agency or the unit of government the police agency represents, by doing both of the following:

(*i*) Paying the towing and storage charges.

(*ii*) Applying for title to the vessel.

(c) Holding another public sale under subsection (1).

(4) Upon disposition of the vessel, the police agency or towing agency or custodian shall provide the secretary of state and the police agency, if that police agency did not conduct the sale, with the vessel's disposition and the name of the agency that disposed of it and the police agency shall cancel the entry in the law enforcement information network under section 80130f or 80130h, if applicable.

(5) If by 25 days after the date of notice required under section 80130f the police agency has not provided a copy of the bill of sale by the police agency for the abandoned vessel to the towing agency or custodian or police agency's designee, the towing agency or custodian or police agency designee may obtain an original of the bill of sale by submitting an application to the secretary of state in a form as determined by the secretary of state.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

324.80130l Abandoned vessel, ORV, and snowmobile fund.

Sec. 80130*l*. (1) The abandoned vessel, ORV, and snowmobile fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and other earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of state shall be the administrator of the fund for auditing purposes.

(5) The department of state shall expend money from the fund, upon appropriation, to administer sections 80130f to 80130p, 81151, and 82161 and other provisions of this act relating to abandoned vessels, ORVs and snowmobiles.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130m Towing or storage fees.

Sec. 80130m. (1) A towing service, custodian of a vessel, or both, may recover towing fees or, subject to subsection (2), storage fees from the last titled owner or, if there is no titled owner, the last registered owner of a vessel considered abandoned under section 80130f or section 80130g or removed under section 80130h.

(2) If a vessel is released for disposition under section 80130g or section 80130k, the amount of storage fees that may be collected is the least of the following:

(a) The daily storage rate established by contract or agreement with the law enforcement agency or unit of government that authorized the towing and storage of the vessel.

(b) The daily storage rate charged by the storage facility.

(c) $1,000.00.

(3) Subsection (2) does not apply to a commercial vessel or a vessel that is owned or leased by an entity

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other than an individual.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130n Applicability of MCL 324.80130f and 324.80130g.

Sec. 80130n. Sections 80130f and 80130g do not apply to a vessel that is owned by the person who owns the private real property on which the vessel is located and do not prohibit or preempt a local unit of government from regulating the number and placement of vessels on private property.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130o Notice of towing or removal of vessel; posting; requirements; use of term "vehicles."

Sec. 80130o. (1) Except as otherwise provided in section 80130p, an owner or lessor of private real property shall post a notice before authorizing the towing or removal of a vessel from the real property without the consent of the owner or other person who is legally entitled to possess the vessel. The notice shall meet all of the following requirements:

(a) Be prominently displayed at each point of entry for vehicular access to the real property. If the real property lacks curbs or access barriers, not less than 1 notice shall be posted for each 100 feet of road frontage.

(b) Subject to subsection (2), clearly indicate in letters not less than 2 inches high on a contrasting background that unauthorized vessels will be towed away at the owner's expense.

(c) Provide the name and telephone number of the towing service responsible for towing or removing vessels from that property.

(d) Be permanently installed with the bottom of the notice located not less than 4 feet from the ground and continuously maintained on the property for not less than 24 hours before a vessel is towed or removed.

(2) Instead of "vessels", the sign required under subsection (1) may use the term "vehicles", which shall be construed to give notice that vehicles as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79, as well as vessels, may be towed.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80130p Applicability of MCL 324.80130o.

Sec. 80130p. Section 80130o does not apply to any of the following:

(a) Real property that is appurtenant to and obviously part of a single- or dual-family residence.

(b) If notice of both of the following is personally given to the owner or other person legally entitled to control of a vessel:

(*i*) That the area where the vessel is parked is reserved or otherwise unavailable to unauthorized vessels.

(*ii*) That the vessel is subject to towing or removal from the private real property without the consent of the vessel owner or other person legally entitled to control of the vessel.

(c) A vessel removed from private property under section 80130h.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80131 Violation of part or ordinance; record of charge or citation; forwarding abstracts or report to secretary of state; statement; certification; noncompliance; public inspection; basis for issuing order; transmitting and entering order of reversal; modifying requirements.

Sec. 80131. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every

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case in which a person is charged with or cited for a violation of this part or of a local ordinance corresponding to this part regulating the operation of vessels.

(2) Within 14 days after a conviction, forfeiture of bail, entry of a civil infraction determination, or default judgment upon a charge of, or citation for, violating this part or a local ordinance corresponding to this part regulating the operation of vessels, except as provided in subsection (11), the municipal judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the record of the court for the case. The abstract shall be certified to be true and correct by signature, stamp, or facsimile signature by the person required to prepare the abstract. If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this part, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The date and nature of the violation.

(c) The type of vessel operated at the time of the violation.

(d) The date of the conviction, finding, forfeiture, judgment, or determination.

(e) Whether bail was forfeited.

(f) Any order issued by the court pursuant to this part.

(g) Other information considered necessary to the secretary of state.

(4) As used in subsections (5) to (7), "felony in which a vessel was used" means a felony during the commission of which the person operated a vessel and while operating the vessel presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(a) The vessel was used as an instrument of the felony.

(b) The vessel was used to transport a victim of the felony.

(c) The vessel was used to flee the scene of the felony.

(d) The vessel was necessary for the commission of the felony.

(5) If a person is charged with a felony in which a vessel was used, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a vessel was used. If you are convicted and the judge finds that the conviction is for a felony in which a vessel was used, as defined in section 80131 of the natural resources and environmental protection act, the secretary of state will order you not to operate a vessel on the waters of this state.".

(6) If a child is accused of an act the nature of which constitutes a felony in which a vessel was used, the prosecuting attorney or juvenile court shall include the following statement on the petition filed in the probate court:

"You are accused of an act the nature of which constitutes a felony in which a vessel was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a vessel was used, as defined in section 80131 of the natural resources and environmental protection act, the secretary of state will order you not to operate a vessel on the waters of this state.".

(7) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (5) or (6) is a felony in which a vessel was used, the clerk of the court shall forward an abstract of the court record of that conviction or adjudication to the secretary of state.

(8) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name and title of the person required to forward abstracts.

(b) The court for which the certification is filed.

(c) The time period covered by the certification.

(d) The following statement:

"I certify that all abstracts required by section 80131 of the natural resources and environmental protection act for the period _____ through _____ have been forwarded to the secretary of state.".

(e) Other information the secretary of state considers necessary.

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(f) The signature of the person required to forward abstracts.

(9) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(10) Except as provided in subsection (11), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office, and the abstracts shall be open for public inspection during the office's usual business hours. The secretary of state shall enter each abstract upon the boating record of the person to whom it pertains and shall record the information in a manner that makes the information available to peace officers through the law enforcement information network.

(11) The court shall not submit, and the secretary of state shall discard and not enter on the boating record, an abstract for a conviction or civil infraction determination for a violation of this part that could not be the basis for the secretary of state's issuance of an order not to operate a vessel on the waters of this state. The secretary of state shall discard and not enter on the boating record an abstract for a bond forfeiture that occurred outside this state.

(12) The secretary of state shall inform the court of the violations of this part that are used by the secretary of state as the basis for issuance of an order not to operate a vessel on the waters of this state.

(13) If a conviction or civil infraction determination is reversed upon appeal, the court shall transmit a copy of the order of reversal to the secretary of state, and the secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(14) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 80168, the form of the written notice and report shall be as prescribed by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80132 Applicability of MCL 324.80134 and 324.80135; applicability of section.

Sec. 80132. (1) Sections 80134 and 80135 apply to a vessel operated on waters subject to the jurisdiction of this state when the vessel is either of the following:

(a) Operated by its operator for recreational purposes.

(b) Required to be numbered in this state.

(2) This section does not apply to a vessel required to have a certificate of inspection under chapter I of title 46 of the Code of Federal Regulations.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80133 Casualty involving vessel; assistance to injured persons.

Sec. 80133. (1) The operator of a vessel involved in a collision, accident, or other casualty, and the operator of any other vessel, to the extent that he or she can do so without serious danger to his or her own vessel, crew, and passengers, shall render reasonable assistance to a person affected by the collision, accident, or other casualty, including the transporting of the injured person to a physician or surgeon for medical or surgical treatment, if it is apparent that treatment is necessary or when requested by the injured person.

(2) A person who complies with subsection (1), or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of the person assisted, is not liable for civil damages as a result of the rendering of assistance, or for an act or omission in providing or arranging towage, medical treatment, or other assistance, if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

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324.80134 Casualties involving vessels; exchange of identification.

Sec. 80134. In the case of collision, accident, or other casualty involving a vessel, the operator shall stop his or her vessel and give his or her name and address and identification of his or her vessel, and the name and address of the owner of the vessel if he or she is not the operator, to the operator or occupants of any other vessel involved or to the owner or his or her agents of any property damaged by the accident.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80134a Accident involving serious impairment of body function or death; remaining at scene of accident; violation as felony; "serious impairment of a body function" defined.

Sec. 80134a. (1) The operator of a vessel who knows or who has reason to believe that he or she has been involved in an accident resulting in serious impairment of a body function or death of a person shall immediately stop his or her vessel at the scene of the accident and shall remain there until the requirements of sections 80133 and 80134 are fulfilled.

(2) Except as provided in subsection (3), a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or by a fine of not more than $5,000.00, or both.

(3) A person who violates subsection (1) following an accident caused by that person that results in the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(4) As used in this section, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: Add. 2003, Act 231, Eff. Apr. 1, 2004.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80135 Casualty involving vessel; report.

Sec. 80135. (1) In the case of collision, accident, or other casualty involving a vessel, the operator shall report the collision, accident, or other casualty to the nearest peace officer, state police post, or the sheriff of the county in which the collision, accident, or other casualty occurred.

(2) A report of a collision, accident, or other casualty involving a vessel that is made to a peace officer other than the sheriff of the county in which the collision, accident, or other casualty occurred shall be reported without delay by the peace officer to the sheriff of the county in which the collision, accident, or other casualty occurred.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80136 Peace officer receiving report or investigating casualty involving vessel; report to department and county sheriff; form and contents.

Sec. 80136. A peace officer receiving a report or investigating the collision, accident, or other casualty involving a vessel shall prepare and submit within 15 days a complete report thereof to the department and the sheriff of the county where the collision, accident, or other casualty involving a vessel occurred, in a form and containing such information as the department may require.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80137 Casualty reports involving vessel; use; fee; copies; admissibility in court.

Sec. 80137. All collision, accident, or other casualty reports involving a vessel shall be without prejudice and shall be for the information of the department. Any person upon the payment of $2.00 to the department shall be furnished a copy of the report. The report required in section 80136 is not admissible in a court.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

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Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80138 Transmission of information for analytical or statistical purposes.

Sec. 80138. In accordance with a request by an authorized official or agency of the United States or by the department, information compiled or otherwise available to the secretary of state and the department under this part shall be transmitted to the official or agency of the United States or to the department for analytical and statistical purposes.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80139 Rules.

Sec. 80139. The department shall promulgate rules to establish a state vessel collision, accident, or other casualty reporting system in conformity with that established by the United States coast guard.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

Administrative rules: R 281.1221 et seq. of the Michigan Administrative Code.

324.80140 Educational programs; establishment; youthful boat operators training program; certificates of completion; information to be included in program.

Sec. 80140. (1) In order to protect the public interest in the prudent and equitable use of the waters of this state and to enhance the enjoyment of pleasure boating and other recreational water sports on the waters of the state, the department shall establish and pursue comprehensive educational programs designed to advance boating and general water safety.

(2) The department shall put into effect a program to train youthful boat operators and shall issue a boating safety certificate to those who satisfactorily complete the program. For the purpose of giving the courses of instruction and awarding boating safety certificates, the department may designate as its agent any person it considers qualified to act in this capacity. A charge shall not be made for any instruction given or for the award of boating safety certificates.

(3) The department shall include in its educational programs under this section all of the following:

(a) Information on proper marine fueling techniques.

(b) Information on the problems that marine fuel spillage may cause to water bodies.

(c) Information on how and where to report a marine fuel spill.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 95, Imd. Eff. May 7, 2004.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80141 Operation of motorboat by person less than 12 years of age; operation of motorboat by person 12 through 15 years of age; operation of motorboat by person on or after July 1, 1996.

Sec. 80141. (1) Except as otherwise provided in this section, a person less than 12 years of age shall not operate a motorboat on the waters of this state unless all of the following conditions are met:

(a) He or she has been issued and is in possession of a boating safety certificate.

(b) He or she is under the direct supervision of a person on board the motorboat who is 16 years of age or older.

(c) The motorboat he or she operates is powered by a motor or motors totaling no more than 35 horsepower.

(2) Except as otherwise provided in this section, a person 12 through 15 years of age may operate a motorboat on the waters of this state only if that person complies with either of the following:

(a) He or she is accompanied by at least 1 person 16 years of age or older.

(b) He or she is in possession of a boating safety certificate issued after he or she has satisfactorily

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completed a department approved course in boating safety.

(3) A person operating a motorboat as described in this section shall present the boating safety certificate issued to him or her upon the demand of any peace officer.

(4) This section does not apply to the operation of a motorboat that is powered by a motor or motors totaling no more than 6 horsepower.

(5) Beginning July 1, 2012, a person who is born on or after July 1, 1996 shall not operate a motorboat on the waters of this state unless the person has been issued and is in possession of a boating safety certificate.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2012, Act 120, Eff. Nov. 1, 2012.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80142 Wearing of personal flotation device by child required; exception; "charter boat" and "class C vessel" defined; violation; fine.

Sec. 80142. (1) Except as provided in subsection (3), a person shall not operate a vessel on the waters of this state unless each person in an open deck area on board the vessel who is less than 6 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.

(2) A parent or guardian of a child less than 6 years of age who accompanies that child on board a vessel that is not a charter boat described in subsection (3) shall ensure that the child is wearing a personal flotation device that complies with this section.

(3) This section does not apply to a charter boat bearing either of the following:

(a) A valid certificate of inspection issued by the United States coast guard that verifies the charter boat's compliance with subchapter H or subchapter T of the code of federal regulations, 46 C.F.R. 70.01-1 to 80.40 and 175.01-1 to 185.30-30.

(b) A valid certificate of inspection issued by the department for a class C vessel that is greater than 45 feet in length.

(4) As used in this section, "charter boat" and "class C vessel" mean those terms as defined in section 44501.

(5) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80143 Barge; lights; number; placement; position; barges moored together; limitation; order to move moored vessel; violation as misdemeanor; penalty; costs; definitions.

Sec. 80143. (1) The owner of a barge shall place his or her name, address, and telephone number on a prominent place on the hull of the barge in letters that are light-reflective, in a contrasting color to the hull, and not less than 6 inches in height.

(2) In addition to the other lighting requirements of this chapter and subject to subsection (3), the operator of a barge shall ensure that the barge is properly lit with 4 or more white lights during the period from sunset to sunrise and as practicable during all periods of limited visibility if any of the following apply:

(a) The barge projects into a restricted channel or into a channel established by buoys.

(b) The barge is moored so that it reduces the available navigable width of a channel.

(c) The barge is not parallel to the bank or dock to which it is moored.

(d) The barge is moored as part of a group of 2 or more barges.

(3) The lights on a barge described in subsection (1) shall be placed as follows if either of the following applies:

(a) If the barge or group formation of barges is positioned so that vessels may navigate on 1 or more sides of the barge or group formation of barges, the lights shall be displayed on each outside corner of the barge or group formation of barges.

(b) If the barge projects from a group formation of barges, the lights shall be displayed on the corners of the projecting barge that are outboard of the group.

(4) Lights used under this section shall meet the requirements of R 281.1233 of the Michigan administrative code and shall be positioned in such a manner and be of sufficient intensity as to be visible

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from any direction for at least 1 nautical mile at night under clear conditions.

(5) A group of barges shall not be moored together if the total width of those barges would exceed 82 feet.

(6) The department or a local authority may order a vessel moored in violation of this section that poses a hazard to navigation to be immediately moved and, if the vessel is not moved as ordered, may move or cause the vessel to be moved, with the owner subject to the payment of costs under subsection (8).

(7) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $10,000.00, or both. For purposes of this subsection, each 24-hour period that a violation exists constitutes a separate violation.

(8) The court shall order a person convicted of violating this section to pay the actual and reasonable costs incurred by this state or a local unit of government in moving a vessel under subsection (6).

(9) As used in this section:

(a) "Barge" means a flat-bottomed displacement vessel that is used to carry cargo or as a work platform, whether or not it operates under its own power.

(b) "Operator" includes a person in command of a barge while it is moored.

History: Add. 2012, Act 59, Eff. Nov. 1, 2012.

Compiler's note: Former MCL 324.80143, which pertained to requirements for operation of personal watercraft, was repealed by Act 263 of 1998, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80143a Carrying, storing, maintaining, and using marine safety equipment onboard vessel; violation as civil infraction; fine.

Sec. 80143a. A person who operates a vessel, or the owner of a vessel who operates or causes or permits the vessel to be operated, on the waters of this state shall carry, store, maintain, and use marine safety equipment onboard the vessel as required by the department. A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

History: Add. 2012, Act 58, Eff. Nov. 1, 2012.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80144 Operation of vessels; rules; violation; fine.

Sec. 80144. (1) When vessels are being operated in such a manner as to make collision imminent or likely, the following apply:

(a) When 2 vessels are approaching each other head-on, or nearly so, the operator of each shall cause his or her vessel to pass on the port side of the other.

(b) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessel, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

(c) When 2 vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when 1 vessel is overtaking another, the operator of the vessel that has the other on his or her own port side shall hold his or her course and speed, and the operator of the vessel that has the other on his or her own starboard side shall give way to the other by directing his or her course to starboard so as to cross the stern of the other vessel or, if necessary to do so, shall slacken his or her speed, stop, or reverse.

(d) When a motorboat and a vessel under sail are proceeding in a manner that involves a risk of collision, the operator of the motorboat shall give way to the vessel under sail.

(e) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in a manner that involves risk of collision, the operator of the motorboat shall give way to the other vessel.

(f) When, by any of the rules provided in this section, the operator of a vessel is required to give way to the other, the operator of the other vessel shall maintain his or her direction and speed.

(2) This section does not relieve the operator of a vessel otherwise privileged by this section from the duty to operate with due regard for the safety of all persons using the waters of this state.

(3) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

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Popular name: NREPA

324.80145 Operation of vessels; speed; interference with use of waters by others; violation; fine.

Sec. 80145. A person operating or propelling a vessel upon the waters of this state shall operate it in a careful and prudent manner and at such a rate of speed so as not to endanger unreasonably the life or property of any person. A person shall not operate any vessel at a rate of speed greater than will permit him or her, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. A person shall not operate a vessel in a manner so as to interfere unreasonably with the lawful use by others of any waters. A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80146 Maximum or unlimited motorboat speed; rules; maximum motorboat speed where limits not established; exceptions; resolution requesting reduction in maximum speed limit; conditions requiring slow—no wake speed or minimum speed; violation; fine; exceptions; waiver.

Sec. 80146. (1) The department may promulgate rules to establish maximum motorboat speed limits or to allow unlimited motorboat speed on the waters of this state.

(2) On waters of this state for which a motorboat speed limit is not established under subsection (1), on any waters for which the department has not established an unlimited motorboat speed limit, or on any waters for which stricter speed restrictions are not established pursuant to an act, a maximum speed limit of 55 miles per hour is established, except in an emergency and except for authorized peace and conservation officers when engaged in official duties. The maximum speed limit of 55 miles per hour does not apply to the Great Lakes and Lake St. Clair, except for an area within 1 mile of the shoreline measured at a right angle from the shoreline. Upon receipt of a resolution by the governing body of a local unit of government having jurisdiction over waters of this state requesting a reduction in the maximum speed limit on those waters, the department, pursuant to sections 80108 to 80113, may establish a maximum speed limit not to exceed 40 miles per hour on those waters.

(3) A person shall not operate a motorboat on the waters of this state at a speed greater than slow—no wake speed or the minimum speed necessary for the motorboat to maintain forward movement when within 100 feet of the shoreline where the water depth is less than 3 feet, as determined by vertical measurement, except in navigable channels not otherwise posted.

(4) A person who violates subsection (2) or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00, unless 1 of the following conditions exists:

(a) The requirements of this section have been waived as described under subsection (5).

(b) The person violates this section in a manner that constitutes reckless operation of a motorboat as described in section 80147.

(5) The department may waive the requirements of this section and section 80156 for marine events authorized by the department under section 80164.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80147 Reckless operation of vessels; penalty.

Sec. 80147. (1) If a person carelessly and heedlessly operates a vessel upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a vessel and is subject to the penalties described in subsection (3).

(2) If a person, while being towed on water skis, a water sled, a surfboard, or a similar contrivance upon the waters of this state, carelessly and heedlessly navigates, steers, or controls himself or herself in disregard of the rights or safety of others or without due caution and circumspection and in a manner that endangers or is likely to endanger a person or property, then that person is guilty of reckless operation of the contrivance

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that he or she controls is subject to the penalties described in subsection (3).

(3) Upon a person's conviction under this section, the court may issue an order prohibiting that person from operating a vessel on the waters of this state for a period of not more than 2 years. Upon a person's subsequent conviction under this section, the court shall order that person to participate in and complete a marine safety educational program approved by the department. An order issued pursuant to this subsection is in addition to any other penalty authorized under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80148 Operating motorboat at more than slow—no wake speed; prohibitions; exceptions.

Sec. 80148. (1) Subject to the exceptions described in subsection (2), a person shall not operate a motorboat at more than slow—no wake speed if any of the following circumstances exist:

(a) A person is located on or in the bow of the motorboat, and that motorboat is not manufactured to provide bow seating.

(b) A person or a portion of a person's body extends beyond the exterior port or starboard walls of the hull of the motorboat.

(2) This section does not apply to either of the following:

(a) A person engaged in the operation of a sailboat that is not being powered by a motor.

(b) A person on board a vessel who is attempting to anchor, moor, dock, or otherwise secure the vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80149 Operation of vessels in counter-clockwise fashion; distance between persons being towed and other objects; exception; violation as misdemeanor; violation as civil infraction; fine.

Sec. 80149. (1) A person operating a vessel on the waters of this state in areas not marked by well defined channels, canals, rivers, or stream courses shall operate the vessels in a counter-clockwise fashion to the extent that it is reasonably possible. These persons and persons being towed on water skis or on a water sled, kite, surfboard, or similar contrivance shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when the vessel is proceeding at a slow—no wake speed or when water skiers are being picked up or dropped off, if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state. Except as otherwise provided in subsection (2), a person who violates this section is guilty of a misdemeanor.

(2) A person who violates this section while on any of the following bodies of water in this state is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00:

(a) The Great Lakes.

(b) Lake St. Clair.

(c) The St. Clair river.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80150 Operation of vessels; prohibited in certain areas.

Sec. 80150. A person shall not operate a vessel on any of the waters of this state within a lawfully authorized restricted area clearly marked by buoys, beacons, or other distinguishing devices as being prohibited to vessels.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

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324.80151 Towing of persons; prohibited time; violation; fine.

Sec. 80151. (1) A person operating a vessel shall not have in tow or otherwise be assisting in the propulsion of a person on water skis or on a water sled, surfboard, or other similar contrivance during the period of 1 hour after sunset to 1 hour prior to sunrise.

(2) A person shall not permit himself or herself to be towed on water skis or on a water sled, surfboard, or similar contrivance in violation of this part.

(3) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80152 Towing or assisting person prohibited; exceptions; violation; fine; subsections (1) and (3) inapplicable under certain conditions; standards; rules; certification; information to be provided; specification of bodies of water for use in practice.

Sec. 80152. (1) Except as otherwise provided in this section, a person shall not operate a vessel on the waters of this state while towing or otherwise assisting a person being towed unless both of the following conditions are met:

(a) A person capable of communicating to the vessel operator the condition and needs of the person being towed or assisted is on board the vessel and positioned to observe the person being towed or assisted.

(b) The person being towed is wearing the proper type I, type II, or type III personal flotation device, as applicable. The wearing of an inflatable personal flotation device does not satisfy this requirement.

(2) A person who violates subsection (1) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(3) A person shall not permit himself or herself to be towed or otherwise assisted by a vessel on the waters of this state unless he or she complies with the conditions listed in subsection (1).

(4) A person who violates subsection (3) who is 16 years of age or older is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(5) Subsections (1) and (3) do not apply to any of the following:

(a) A person who operates or who is towed by a vessel used by a ski school in the giving of instructions or a vessel used in sanctioned ski tournaments, competitions, expositions, or trials if the vessel is equipped with a 170-degree wide-angle rearview mirror affixed in a manner that will permit the operator to observe the progress of the person being towed.

(b) A person being towed by a motorboat less than 16 feet in length that is actually operated by the person being towed if the vessel is constructed to be incapable of carrying the operator in or on the motorboat.

(c) A vessel operator or the person being towed if the vessel operator is towing a person preparing for a specific water ski tournament and if all of the following conditions are met:

(*i*) The vessel operator is certified as provided in subsection (6).

(*ii*) The person being towed is certified as provided in subsection (7).

(*iii*) Towing is conducted so that, on average, not more than 1 vessel approaches within 300 feet of the towing vessel during any 5-minute period.

(*iv*) The vessel is equipped with all of the following:

(A) A center-mounted tow pylon.

(B) A large clear rearview mirror capable of allowing the vessel operator to distinguish hand signals at a distance of 75 feet.

(C) Markings that identify the vessel as a vessel that is being operated in conformance with this subdivision.

(6) The department shall adopt standards for water ski tournament boat operation established by U.S.A. water ski in "Trained Boat Driver Program", April 1997, and by the American water ski association in "Drivers' Policy Manual". However, the department may promulgate rules providing for alternative standards under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall certify each individual who satisfies the standards described in this subsection as a tournament water ski vessel operator and issue proof of that certification to the individual.

(7) The department shall adopt standards for tournament water skiers established by the Michigan water ski association in "Guidelines for Training Permit Eligibility", proposed revision 125 of 1996. However, the department may promulgate rules providing for alternative standards under the administrative procedures act

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of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall certify each individual who satisfies the standards described in this subsection as a tournament water skier and issue proof of that certification to the individual.

(8) The Michigan water ski association shall provide annually to the department and the Michigan sheriffs association both of the following:

(a) A list of the individuals whom the organization considers qualified for tournament water skiing.

(b) The names of not more than 3 bodies of water on which each of those individuals may be authorized to practice for tournament water skiing.

(9) The department shall specify the body or bodies of water upon which a water skier may practice upon each certificate issued under subsection (7).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1999, Act 19, Imd. Eff. Apr. 30, 1999;—Am. 2012, Act 58, Eff. Nov. 1, 2012.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80153 Vessels; use of portions unintended for occupancy prohibited; exceptions.

Sec. 80153. Any occupant or operator of any vessel under way on the waters of this state shall not sit, stand, or walk upon any portion of the vessel not specially designed for that purpose, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80154 Interference with operation of vessel by nonoccupant.

Sec. 80154. A person not in a boat shall not intentionally rock, tip, jostle, or otherwise interfere with the operation of any vessel, except under supervised training.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80155 Divers; marking point of submergence; distance from diver's flag.

Sec. 80155. Any person diving or submerging in any of the waters of this state with the aid of a diving suit or other mechanical diving device shall place a buoy or boat in the water at or near the point of submergence. The buoy or boat shall bear a red flag not less than 14 inches by 16 inches with a 3-1/2 inch white stripe running from 1 upper corner to a diagonal lower corner. The flag shall be in place only while actual diving operations are in progress. A vessel shall not be operated within 200 feet of a buoyed diver's flag unless it is involved in tendering the diving operation. A person diving shall stay within a surface area of 100 feet of the diver's flag.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80156 Motorboat; muffler or underwater exhaust system required; maximum sound levels; test and maximum decibel levels; new motorboat to comply with prescribed sound levels; exceptions; “dB(A)” defined; violation as misdemeanor; penalty.

Sec. 80156. (1) Subject to subsection (2), a person shall not operate a motorboat on the waters of this state unless the motorboat is equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005 or a sound level in excess of 75 dB(A) when subjected to a shoreline sound level measurement procedure as described by SAE J1970. The operator of a motorboat shall present the motorboat for a sound level test as prescribed by SAE J2005 upon the request of a peace officer. If a motorboat is equipped with more than 1 motor or engine, the test shall be performed with all motors or engines operating. To determine whether a person is violating this subsection, a peace officer may measure sound levels pursuant

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to procedures prescribed in SAE J1970, issued 1991-92.

(2) The department may by rule establish a motorboat sound level test and set a maximum decibel level or levels permitted for motorboat operation that replace the tests and maximum decibel levels permitted under subsection (1). If a test and maximum decibel level or levels are established pursuant to this subsection, all of the following apply:

(a) A person shall not operate a motorboat on the waters of this state if the motorboat produces sound levels that exceed the maximum decibel level or levels established under this subsection.

(b) The operator of a motorboat shall present the motorboat for the sound level test established pursuant to this subsection upon the request of a peace officer.

(c) A motorboat equipped with more than 1 motor or engine shall be tested with all motors or engines operating.

(3) A person shall not manufacture, sell, or offer for sale a motorboat for use on the waters of this state unless that motorboat is equipped and maintained with an effective muffler or underwater exhaust system that complies with the applicable sound levels permitted under subsection (1) or (2).

(4) Subsections (1) and (2) do not apply to any of the following:

(a) A motorboat tuning up or testing for or participating in official trials for speed records or a sanctioned race conducted pursuant to a permit issued by an appropriate unit of government.

(b) A motorboat being operated by a boat or marine engine manufacturer for the purpose of testing or development.

(c) A motorboat that qualifies as an historic vessel.

(5) As used in this section, “dB(A)” means decibels on the “A” scale on a sound meter having characteristics of a general purpose sound meter as defined by American national standards institute S1.4-1983.

(6) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days and a fine of not less than $100.00 or more than $500.00. Additionally, before putting the motorboat back in use, a person who violates this section is required to install an effective muffler or underwater exhaust system that meets the requirements of this section on the motorboat in violation at his or her expense.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 274, Imd. Eff. June 17, 1996.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80157 Liability of vessel owner for negligent operation; presumption of consent to use.

Sec. 80157. The owner of a vessel is liable for any injury occasioned by the negligent operation of the vessel, whether the negligence consists of a violation of the statutes of this state, or in the failure to observe such ordinary care in the operation as the rules of the common law require. The owner is not liable unless the vessel is being used with his or her expressed or implied consent. It shall be presumed that the vessel is being operated with the knowledge and consent of the owner if it is driven at the time of the injury by his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the owner's family.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80158 Responsibility of vessel owner for damage caused by vessel wake.

Sec. 80158. The owner of any vessel operated upon the waters of this state is personally responsible for any damage to life or property resulting from a wake or swell created by the negligent operation or propulsion of the vessel, if the vessel is being operated with his or her consent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80159 Buoys or beacons; permit for placement; application; revocation; removal.

Sec. 80159. A person shall not place a beacon or buoy, other than a mooring buoy, in the waters of this state except as authorized by a permit issued by the department pursuant to part 13. The department may issue

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a permit for the placing of buoys or beacons in the waters of this state to mark obstruction to navigation, to designate bathing areas, to designate vessel anchorages, or for any other purpose if it will promote safety or navigation. An application for a permit shall contain information required by the department. If buoys or beacons are placed in the waters of this state without a permit having been issued, the department may order their removal. If, in the judgment of the department, buoys or beacons authorized by the department are found to be improperly placed, the reason for their placement no longer exists, or the buoys or beacons do not conform to the uniform system of marking established by state regulation, the department may revoke the permit authorizing their placement and may order their removal. Revocation of permits and orders of removal shall be by written notice to the person placing the buoys or beacons or to the person to whom the permit was issued at his or her last known address, directing the removal within a specified time. The person to whom the notice is directed shall remove the buoys or beacons in accordance with the instructions. If the person fails to remove the buoys or beacons within the specified time, the department may cause their removal, and the cost and expense of the removal shall be charged against the person authorized to place the buoys or beacons or, where authorization has not been granted, the person placing such buoys or beacons and shall be recoverable through any court of competent jurisdiction.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80160 Buoys or beacons; uniform marking system.

Sec. 80160. The department shall establish a uniform waterway marking system for the marking of all buoys and beacons authorized by this part to be placed in the waters of this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80161 Buoys or beacons; compliance with federal law or regulations; permits.

Sec. 80161. Sections 80159 and 80160 do not exempt any person from compliance with applicable federal law or regulation, and sections 80159 and 80160 do not require the securing of a state revocable permit if a permit therefor has been obtained from an authorized agency of the United States.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80162 Buoys or beacons; use as moorings; moving, removal or damaging.

Sec. 80162. A person shall not moor or fasten a vessel to a lawfully placed buoy or beacon, except mooring buoys, or willfully move, remove, or damage such a buoy or beacon.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80163 Anchored raft or other item or material; relocation or removal as navigation hazard; costs; failure to pay; lien.

Sec. 80163. (1) If an anchored raft or other item or material, whether floating free or attached to the bottomland or a shoreline, presents a hazard to navigation, the department or a peace officer with jurisdiction over the body of water where the anchored raft or other item or material is located may relocate or remove it or may order its relocation or removal.

(2) The person who owns or who caused a navigational hazard that is relocated or removed under subsection (1) is liable to pay the actual and reasonable costs of relocation or removal. The department or the law enforcement agency with jurisdiction over the body of water where the navigational hazard was located may send written notice of the relocation or removal under subsection (1) and the associated costs to the person determined to own or to have caused the navigational hazard. If the owner or person who caused the navigational hazard fails to pay the costs within 30 days of the date the written notice is mailed, the costs may

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become a lien against the person's property.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2010, Act 101, Imd. Eff. June 22, 2010.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80164 Regattas; rules; permit; authorization; applications.

Sec. 80164. The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions, or trials for those events, on any waters of this state. The department shall promulgate and may amend rules concerning the conduct of such marine events. Whenever a regatta, motorboat or other boat race, marine parade, tournament, or exhibition, or trials for those events, is proposed to be held, the person in charge of the event, at least 30 days prior to the event, shall file an application with the department for permission to hold the regatta, motorboat or other boat race, marine parade, tournament, exhibition, or trials. The application shall set forth the date, time, and location where it is proposed to hold the regatta, motorboat or other boat race, marine parade, tournament, or exhibition, and it shall not be conducted without the written authorization of the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80164a Personal flotation device and throwable flotation device; exception from requirements.

Sec. 80164a. The requirements for having a personal flotation device and a throwable flotation device in a vessel do not apply to a person in a racing shell or rowing scull.

History: Add. 2010, Act 298, Imd. Eff. Dec. 16, 2010.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80165 Regattas, races, or trials; compliance with federal law or regulation; permit; waiver.

Sec. 80165. Section 80164 does not exempt a person from compliance with an applicable federal law or regulation, and it shall not be construed to require the securing of a state permit if a permit for an event, exhibition, or trial described in section 80164 has been obtained from an authorized agency of the United States. The department in its permit may waive the provisions of sections 80122, 80144, 80146, 80149, 80151, 80152, and 80156, as well as the registration provisions of the laws of this state, and any of the rules promulgated by the department under this part, to the extent that they apply to vessels participating in races, regattas, or trials sanctioned by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80166 Peace officers; stopping of vessels; duty of operator; reasonable suspicion; furnishing false information as misdemeanor; arrest without warrant.

Sec. 80166. (1) Upon the direction of a peace officer acting in the lawful performance of his or her duty, the operator of a vessel moving on the waters of this state shall immediately bring the vessel to a stop or maneuver it in a manner that permits the peace officer to come beside the vessel. The operator of the vessel shall do the following upon the request of the peace officer:

(a) Provide his or her correct name and address.

(b) Exhibit the certificate of number awarded for the vessel.

(c) If the vessel does not bear a decal described in section 80166a or an equivalent decal issued by or on behalf of another state, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.

(2) A peace officer shall not stop and inspect a vessel bearing the decal described in section 80166a or an equivalent decal issued by or on behalf of another state during the period the decal remains in effect unless

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that peace officer has a reasonable suspicion that the vessel or the vessel's operator is in violation of a marine law or is otherwise engaged in criminal activity.

(3) A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who furnishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.

(4) A peace officer who observes a marine law violation or the commission of a crime may immediately arrest the person without a warrant or issue to the person a written or verbal warning.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2002, Act 636, Imd. Eff. Dec. 23, 2002;—Am. 2012, Act 62, Eff. Nov. 1, 2012.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80166a Agreement with United States coast guard.

Sec. 80166a. (1) The department may enter into an agreement with the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary to provide for vessel safety checks of a vessel and its equipment. An agreement entered into under this subsection shall not preclude the department, or any peace officer within his or her jurisdiction, from performing an inspection of a vessel or the vessel's equipment for enforcement purposes or courtesy purposes.

(2) An agreement entered into under this section shall specify that the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary shall provide the department with a sufficient number of vessel safety check decals for conservation officers and those counties that participate in the marine safety program. In addition to any other information that is included on a vessel safety check decal, each vessel safety check decal shall bear the likeness of the state seal of Michigan. The vessel safety check decal shall display the year in which the decal was issued and during which it is valid.

(3) Upon the completion of an inspection of a vessel or the vessel's equipment by a peace officer, the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary, the peace officer or person performing the inspection shall affix to the vessel the vessel safety check decal provided for in this section.

History: Add. 2002, Act 636, Imd. Eff. Dec. 23, 2002.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80167 Arrest without warrant; cases in which arrested person arraigned by magistrate or judge.

Sec. 80167. If a person is arrested without a warrant for any of the following, the arrested person shall, without unreasonable delay, be arraigned by a magistrate or judge who is within the county in which the offense charged is alleged to have been committed, who has jurisdiction of the offense, and who is nearest or most accessible with reference to the place where the arrest is made:

(a) The person is arrested upon a charge of negligent homicide.

(b) The person is arrested under section 80176(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 80176(1) or (3).

(c) The person is arrested under section 80147 or a local ordinance substantially corresponding to section 80147. If in the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 80168.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80168 Arrest without warrant; notice to appear in court; time; place; appearance; acceptance of pleas.

Sec. 80168. (1) When a person is arrested without a warrant for a violation of this part punishable as a misdemeanor, or of a provision of any local ordinance or rule established in conformity with this part, under

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conditions not referred to in section 80167, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of the person, the offense charged, and the time and place when and where the person shall appear in court. If the arrested person so demands, he or she shall be arraigned by a magistrate or a district court judge as provided in section 80167 in lieu of being given the notice.

(2) The time specified in the notice to appear shall be within a reasonable time after the arrest unless the person arrested demands an earlier hearing.

(3) The place specified in the notice to appear shall be before a magistrate or a district court judge who is within the township or county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense.

(4) Appearance may be made in person, by representation, or by mail. When appearance is made by representation or mail, the magistrate or the district court judge may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him or her. The magistrate or the district court judge, by giving notice 5 days prior to the date of appearance, may require appearance in person at the time and place designated in the notice.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80169 Arrest without warrant; nonresidents; recognizance; receipt and summons; failure to appear; deposit of money; report; embezzlement.

Sec. 80169. (1) If a person not a resident of this state is arrested without a warrant for a violation of this part under conditions not referred to under section 80167, the officer making the arrest, upon demand of the arrested person, shall immediately take the person for arraignment by a magistrate or a district court judge in the vicinity to answer to the complaint made against him or her. If a magistrate or a district court judge is not available or an immediate trial cannot be had, the person arrested may recognize to the officer for his or her appearance by leaving with him or her not more than $200.00.

(2) The officer making the arrest shall give a receipt to the person arrested for the money deposited with him or her under subsection (1), together with a written summons as provided in section 80168.

(3) If the offender fails to appear as required, the deposit shall be forfeited as in other cases of default in bail, in addition to any other penalty provided in this part.

(4) Not more than 48 hours after taking a deposit under this section, the officer shall deposit the money with the magistrate or the district court judge named in the notice to appear, together with a report stating the facts relating to the arrest. Failure to make the report and deposit the money is embezzlement of public money.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80170 Violation by officer, magistrate, or district court judge as misconduct in office; removal from office; applicability and construction of MCL 324.80168 and 324.80169.

Sec. 80170. (1) Any officer, magistrate, or district court judge violating section 80168 or 80169 is guilty of misconduct in office and is subject to removal from office.

(2) Sections 80168 and 80169 govern all peace officers in making arrests without a warrant for violations of this part and do not prevent the execution of a warrant for the arrest of the person as in other cases of misdemeanors when it may be necessary.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80171 Violation of part or rules; penalties.

Sec. 80171. Unless otherwise specified under this part, a violation of this part or rules promulgated under this part is a misdemeanor. A political subdivision having adopted a local ordinance in conformity with this part may provide that any violation of the ordinance is a misdemeanor. Any person convicted of reckless

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operation of a vessel as defined in section 80147, or of operating a motorboat while under the influence of alcoholic liquor or narcotic drugs, or with any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214, in his or her body, in addition to any other penalty, may be refused by the court having jurisdiction of the violation the right of operating any motorboat on any of the waters of this state for a period of not more than 2 years.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80172 Negligent crippling or death; penalty.

Sec. 80172. A person who, by the operation of any vessel at an immoderate rate of speed or in a careless, reckless, or negligent manner, but not willfully or wantonly, injures so as to cripple or cause the death of another is guilty of a misdemeanor, and shall be imprisoned for not more than 2 years, or fined not more than $2,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80173 Felonious operation of watercraft; penalty.

Sec. 80173. A person who operates any vessel carelessly and heedlessly in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injures so as to cripple any person, but not causing death, is guilty of the offense of felonious operation, and shall be imprisoned for not more than 2 years, or fined not more than $2,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80174 Negligent homicide included in charge of manslaughter.

Sec. 80174. The crime of negligent homicide is included within every crime of manslaughter charged to have been committed in the operation of any vessel, and where a defendant is charged with manslaughter committed in the operation of any vessel, if the jury finds the defendant not guilty of the crime of manslaughter, the jury may render a verdict of negligent homicide.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80175 Nonresidents; secretary of state as attorney for service of summons; service; procedure; sufficiency; death; appointment of secretary of state as attorney; abatement of actions; costs; applicability to all courts.

Sec. 80175. (1) The operation by a nonresident of a vessel upon the waters of this state, or the operation on the waters of this state of a vessel owned by a nonresident if operated with his or her consent, expressed or implied, is the appointment by the nonresident of the secretary of state as his or her true and lawful attorney, upon whom may be served the summons in any action against him or her, growing out of any accident or collision in which the nonresident may be involved while operating a vessel on the waters of this state, or in which the vessel may be involved while being so operated. The operation is a signification of his or her agreement that any summons against him or her that is so served has the same legal force and validity as if served on him or her personally within this state. Service of summons shall be made by leaving a copy of the summons with the secretary of state, or his or her deputy, who shall keep a record of each process and the day and hour of service. Service shall be sufficient service upon the nonresident, if notice of the service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of

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the county in which he or she resides or sent by certified mail by the plaintiff or his or her attorney to the defendant. If personal service of the notice and copy of summons is had upon the defendant, the officer making the service shall so certify in his or her return, which shall be filed with the court having jurisdiction of the cause. If service is made by certified mail, then the plaintiff or his or her attorney shall make an affidavit showing that he or she has made service of the notice and summons upon the defendant by certified mail, and the affiant shall attach to the affidavit a true copy of the summons and notice so served and the return receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as is necessary to afford the defendant reasonable opportunity to defend the action.

(2) The death of a nonresident does not revoke the appointment by him or her of the secretary of state as his or her true and lawful attorney upon whom may be served the summons in an action against him or her growing out of any such accident or collision, and any action growing out of such accident or collision may be commenced or prosecuted against his or her executor or administrator duly appointed by the state, territory, or district of the United States or foreign country in which the nonresident was domiciled at the time of his or her death. Service of the summons shall be made upon the secretary of state, and personal service of such notice and the copy of the summons be upon his or her executor or administrator, in like manner, with the same force and effect as service upon the nonresident during his or her lifetime.

(3) Any action or proceeding pending in any court of this state, in which the court has obtained jurisdiction of the nonresident pursuant to this section, shall not abate by reason of the death of the nonresident, but his or her executor or administrator duly appointed in the state, territory, or district of the United States or foreign country in which he or she was domiciled at the time of his or her death, upon the application of the plaintiff in the action and upon such notice as the court may prescribe, shall be brought in and substituted in the place of the decedent, and the action or proceeding shall continue.

(4) The court shall include as taxable costs, in addition to other legal costs against the plaintiff in case the defendant prevails in the action, the actual traveling expenses of the defendant from his or her residence to the place of trial and return, not to exceed the sum of $100.00.

(5) This section applies to actions commenced in all courts of this state having civil jurisdiction, including justice courts.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80176 Operation of or authorizing operation of motorboat while under influence of alcoholic liquor or controlled substance prohibited; visible impairment; violation as felony; penalty; "serious impairment of a body function" defined; operation by person less than 21 years of age; "any bodily alcohol content" defined; requirements; "operate" defined.

Sec. 80176. (1) A person shall not operate a motorboat on the waters of this state if any of the following apply:

(a) The person is under the influence of alcoholic liquor or a controlled substance, or both.

(b) The person has a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person has in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(2) The owner of a motorboat or a person in charge or in control of a motorboat shall not authorize or knowingly permit the motorboat to be operated on the waters of this state by a person if any of the following apply:

(a) The person is under the influence of alcoholic liquor or a controlled substance, or both.

(b) The person has a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate the motorboat is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(3) A person shall not operate a motorboat on the waters of this state when, due to the consumption of an alcoholic liquor or a controlled substance, or both, the person's ability to operate the motorboat is visibly

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impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person who operates a motorboat on the waters of this state in violation of subsection (1) or (3) and by the operation of that motorboat causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years, or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(5) A person who operates a motorboat on the waters of this state in violation of subsection (1) or (3) and by the operation of that motorboat causes a serious impairment of a body function of another person is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than $1,000.00 or more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(6) A person who is less than 21 years of age, whether licensed or not, shall not operate a motorboat on the waters of this state if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(7) A person, whether licensed or not, is subject to the following requirements:

(a) He or she shall not operate a motorboat in violation of subsection (1), (3), (4), or (5) while another person who is less than 16 years of age is occupying the motorboat.

(b) He or she shall not operate a motorboat in violation of subsection (6) while another person who is less than 16 years of age is occupying the motorboat.

(8) As used in this section, "operate" means to be in control of a vessel propelled wholly or in part by machinery while the vessel is underway and is not docked, at anchor, idle, or otherwise secured.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996;—Am. 2001, Act 12, Eff. July 1, 2001;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80177 Violation of MCL 324.80176(1) and 324.80176(2); sanctions; costs.

Sec. 80177. (1) If a person is convicted of violating section 80176(1), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor and shall be punished by 1 or more of the following:

(*i*) Community service for not more than 45 days.

(*ii*) Imprisonment for not more than 93 days.

(*iii*) A fine of not less than $100.00 or more than $500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00 and either of the following:

(*i*) Community service for not less than 10 days or more than 90 days, and may be imprisoned for not more than 1 year.

(*ii*) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person is guilty of a felony and shall be sentenced to imprisonment for not less than 1 year or more than 5 years, or a fine of not less than $500.00 or more than $5,000.00, or both.

(2) A term of imprisonment imposed under subsection (1)(b)(*ii*) shall not be suspended. A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(3) In addition to the sanctions prescribed under subsection (1) and section 80176(4) and (5), the court may, under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under sections 80185 and 80186.

(4) A person who is convicted of violating section 80176(2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than $100.00 or more than $500.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 12, Eff. July 1, 2001;—Am. 2014, Act 402, Eff. Mar. 31,

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2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80178 Violation of MCL 324.80176(3); sanctions; costs.

Sec. 80178. (1) If a person is convicted of violating section 80176(3), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(*i*) Community service for not more than 45 days.

(*ii*) Imprisonment for not more than 93 days.

(*iii*) A fine of not more than $300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:

(*i*) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(*ii*) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:

(*i*) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(*ii*) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(2) In addition to the sanctions prescribed in subsection (1), the court may, under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under sections 80185 and 80186.

(3) A person sentenced to perform service to the community under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 12, Eff. July 1, 2001;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80178a Violation of MCL 324.80176(6); sanctions; costs.

Sec. 80178a. (1) If a person is convicted of violating section 80176(6), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both of the following:

(*i*) Community service for not more than 360 hours.

(*ii*) A fine of not more than $250.00.

(b) If the violation occurs within 7 years of 1 or more prior convictions, including a prior conviction for section 80176(6), the person may be sentenced to 1 or more of the following:

(*i*) Community service for not more than 60 days.

(*ii*) A fine of not more than $500.00.

(*iii*) Imprisonment for not more than 93 days.

(2) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(3) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

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324.80178b Violation of MCL 324.80176(7)(a) or 324.80176(7)(b); sanctions; costs.

Sec. 80178b. (1) A person who violates section 80176(7)(a) is guilty of a crime punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 80176(7)(a) is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(*i*) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(*ii*) Community service for not less than 30 days or more than 90 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 80176(7)(a) is guilty of a felony and shall be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and to either of the following:

(*i*) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(*ii*) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(2) A person who violates section 80176(7)(b) is guilty of a misdemeanor punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 80176(7)(b) may be sentenced to 1 or more of the following:

(*i*) Community service for not more than 60 days.

(*ii*) A fine of not more than $500.00.

(*iii*) Imprisonment for not more than 93 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 80176(7)(b) shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(*i*) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(*ii*) Community service for not less than 30 days or more than 90 days.

(3) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(4) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80179 Enhanced sentencing based on prior convictions; conditions; attempted violation of MCL 324.80176(1), MCL 324.80176(3), or local ordinance.

Sec. 80179. (1) If the prosecuting attorney intends to seek an enhanced sentence under section 80177 or 80178 based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

(2) A prior conviction shall be established at sentencing by 1 or more of the following:

(a) An abstract of conviction.

(b) A copy of the defendant's boating record.

(c) An admission by the defendant.

(3) A person who is convicted of an attempted violation of section 80176(1) or (3), or a local ordinance substantially corresponding to section 80176(1) or (3), shall be punished as if the offense had been completed.

(4) When issuing an order under this part, the secretary of state and the court shall treat a conviction of an attempted violation of section 80176(1) or (3), former section 171(1) or (3) of the marine safety act, a local ordinance substantially corresponding to section 80176(1) or (3), or a law of another state substantially corresponding to section 80176(1) or (3) the same as if the offense had been completed.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

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Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80180 Peace officer; arrest without warrant; reasonable cause; conditions; returning motorboat and occupants to shore; effect of not charging person receiving citation.

Sec. 80180. (1) A peace officer, without a warrant, may arrest a person if the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vessel involved in the accident in this state while in violation of section 80176(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 80176(1), (3), or (6).

(2) A peace officer who has reasonable cause to believe that a person was operating a motorboat on the waters of this state, and that, by the consumption of alcoholic liquor, the person may have affected his or her ability to operate a motorboat, may require the person to submit to a preliminary chemical breath analysis. The following apply with respect to a preliminary chemical breath analysis:

(a) Only a peace officer who has successfully completed a training course taught by a state-certified instructor in the administration of the preliminary chemical breath analysis may administer that test.

(b) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(c) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime described in section 80187(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(d) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 80187 to 80190 for the purposes of chemical tests described in those sections.

(e) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(3) A peace officer making an arrest under this part shall take measures to assure that the motorboat and its occupants are safely returned to shore.

(4) If, not more than 60 days after the issuance of a citation for a state civil infraction under this section, the person to whom the citation is issued is not charged with a violation of section 80176(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 80176(1), (3), or (6), the citation issued for the state civil infraction is void. Upon application of the person to whom the citation is issued, money paid by the person as a fine, costs, or otherwise shall be immediately returned.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996;—Am. 2007, Act 8, Imd. Eff. May 11, 2007;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80181 Chemical test and analysis of blood, urine, or breath; collection of sample or specimen; application of administrative rules.

Sec. 80181. (1) The following apply with respect to a chemical test and analysis of a person's blood, urine, or breath, other than a preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance, or both, in an operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 80187(1) shall be advised of all of the following:

(*i*) That if the person takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, the person has the right to demand that someone of the person's own choosing administer 1 of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this part and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that the person is responsible for obtaining a chemical analysis of a test sample obtained pursuant to the person's own request.

(*ii*) That if the person refuses the request of a peace officer to take a test described in subparagraph (*i*), the test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

(*iii*) That the person's refusal of the request of a peace officer to take a test described in subparagraph (*i*) will result in issuance of an order that the person not operate a vessel on the waters of this state for at least 6

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months.

(2) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician, qualified to withdraw blood and acting in a medical environment, may withdraw blood at the request of a peace officer for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in a person's blood, as provided in this subsection. A qualified person who withdraws or analyzes blood, or assists in the withdrawal or analysis, in accordance with this part is not liable for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures unless the withdrawal or analysis is performed in a negligent manner.

(3) A rule relating to a chemical test for alcohol or a controlled substance promulgated under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, applies to a chemical test administered under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80182 Chemical test; administration at request of peace officer, during medical treatment, or by medical examiner if operator of vessel is deceased; procedures.

Sec. 80182. (1) A chemical test described in section 80181 shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 80187(1). A person who takes a chemical test administered at the request of a peace officer, as provided in section 80181, shall be given a reasonable opportunity to have someone of the person's own choosing administer 1 of the chemical tests described in section 80181 within a reasonable time after the person's detention, and the results of the test are admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by someone of the person's own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(2) If, after an accident, the operator of a vessel involved in the accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(3) If, after an accident, the operator of a vessel involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80183 Chemical test; introduction of other competent evidence; availability of test results.

Sec. 80183. (1) The provisions of sections 80181 and 80182 relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, alcoholic liquor or a controlled substance, or both, or whether the person had a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whether the person had any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214, in his or her body.

(2) If a chemical test described in sections 80181 and 80182 is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a

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copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80184 Refusal to submit to chemical test as admissible evidence.

Sec. 80184. A person's refusal to submit to a chemical test as provided in sections 80181 and 80182 is admissible in a criminal prosecution for a crime described in section 80187(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80185 Advising defendant of penalties and sanctions; ordering screening, assessment, and rehabilitative services.

Sec. 80185. (1) Before accepting a plea of guilty or nolo contendere under sections 80176 to 80179, or a local ordinance substantially corresponding to section 80176(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible sanctions that may be imposed will be based upon the boating record maintained by the secretary of state pursuant to section 80130 or other evidence of a prior conviction as provided in section 80179.

(2) Before imposing sentence, other than court-ordered operating sanctions, for a violation of section 80176(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80186 Sentencing as multiple offender; consideration of prior convictions; sanctions.

Sec. 80186. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 80176(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 80176(1), (3), or (6), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the boating record of the person or other evidence of prior convictions established under section 80179, except those convictions that, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following sanctions:

(a) For a conviction under section 80176(4) or (5), the court shall order with no expiration date that the person not operate a motorboat on the waters of this state.

(b) For a conviction under section 80176(1) or a local ordinance substantially corresponding to section 80176(1):

(*i*) If the court finds that the person has no prior convictions within 7 years, the court may order that the person not operate a motorboat on the waters of this state for not less than 1 year or more than 2 years.

(*ii*) If the court finds that the person has 1 or more prior convictions within 7 years, the court shall order that the person not operate a motorboat on the waters of this state for not less than 2 years.

(*iii*) If the court finds that the person has 2 or more prior convictions within 10 years, the court shall order

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with no expiration date that the person not operate a motorboat on the waters of this state.

(c) For a conviction under section 80176(3) or a local ordinance substantially corresponding to section 80176(3):

(*i*) If the court finds that the convicted person has no prior conviction within 7 years, the court may order that the person not operate a motorboat on the waters of this state for not less than 6 months or more than 1 year.

(*ii*) If the court finds that the person has 1 prior conviction within 7 years, the court shall order that the person not operate a motorboat on the waters of this state for not less than 1 year or more than 2 years.

(*iii*) If the court finds that the person has 2 or more prior convictions within 10 years, the court shall order with no expiration date that person not to operate a motorboat on the waters of this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80187 Consent to chemical tests of blood, breath, or urine; circumstances; exception; administration.

Sec. 80187. (1) A person who operates a motorboat on the waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his or her blood in all of the following circumstances:

(a) The person is arrested for a violation of section 80176(1), (3), (4), (5), (6), or (7), or a local ordinance substantially corresponding to section 80176(1), (3), or (6).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a motorboat, and the peace officer had reasonable grounds to believe that the person was operating the motorboat in violation of section 80176.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) A chemical test described in subsection (1) shall be administered as provided in sections 80181 and 80182.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80188 Refusal to submit to chemical test at request of peace officer; obtaining court order; forwarding report to secretary of state.

Sec. 80188. (1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 80181 or 80182, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) If a person refuses a chemical test offered pursuant to section 80181 or 80182, the peace officer who requested the person to submit to the test shall immediately forward a written report to the secretary of state. The report shall state that the officer had reasonable grounds to believe the person committed a crime described in section 80187(1) and that the person refused to submit to the test upon the request of the peace officer and has been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80189 Refusal to submit to chemical test; notice of right to request hearing.

Sec. 80189. (1) If a person refuses to submit to a chemical test pursuant to section 80181 or 80182, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 80190. The form of the notice shall be prescribed and

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furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in issuance of an order that the person not operate a vessel on the waters of this state. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel is permitted to represent the person at the hearing.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80190 Refusal to submit to chemical test; failure to request hearing; manner and conditions of hearing if requested; record of proceedings; order; petitions to review order or to review determination of hearing officer.

Sec. 80190. (1) If a person who refuses to submit to a chemical test under section 80181 or 80182 does not request a hearing within 14 days of the date of notice under section 80189, the secretary of state shall issue an order that the person not operate a motorboat on the waters of this state for 1 year or, for a second or subsequent refusal within 7 years, for 2 years.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, 1949 PA 300, MCL 257.322. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) to (d). Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 80188, and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and, except for delay attributable to the unavailability of the defendant, a witness, or material evidence or to an interlocutory appeal or exceptional circumstances, but not for delay attributable to docket congestion, shall be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 80187(1).

(b) Whether the person was placed under arrest for a crime described in section 80187(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of his or her rights under section 80181.

(3) The hearing officer shall make a record of proceedings held under subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review under section 80194 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall order that the person not operate a motorboat on the waters of this state for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. The person may file a petition in the circuit court of the county in which the arrest was made to review the order as provided in section 80194. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 80188 may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 80194.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 402, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80191 Order not to operate vessel on waters of state; convictions requiring issuance of

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order by secretary of state; effectiveness of order if more than 1 conviction resulting from same incident.

Sec. 80191. (1) Notwithstanding a court order issued under section 80176(1), (3), (4), or (5), section 80185 or 80186, former section 171(1), (3), (4), or (5), 181, or 182 of the marine safety act, former section 73 or 73b of the marine safety act, or a local ordinance substantially corresponding to section 80176(1) or (3), section 80185 or 80186, or former section 73 or 73b of the marine safety act, if a court has not ordered a person not to operate a vessel as authorized by this part, the secretary of state shall issue an order that the person not operate a vessel on the waters of this state for not less than 6 months or more than 2 years, if the person has the following convictions within a 7-year period, whether under the law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) One conviction under section 80176(1), former section 171(1) of the marine safety act, or former section 73 of the marine safety act.

(b) Any combination of 2 convictions under section 80176(3), former section 171(3) of the marine safety act, or former section 73b of the marine safety act.

(c) One conviction under section 80176(1), former section 171(1) or the marine safety act, or former section 73 of the marine safety act and 1 conviction under section 80176(3), former section 171(3) of the marine safety act, or former section 73b of the marine safety act.

(d) One conviction under section 80176(4) or (5) or former section 171(4) or (5) of the marine safety act followed by 1 conviction under section 80176(3) or former section 171(3) of the marine safety act.

(2) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, an order not to operate shall be issued solely for that violation for which an order could be effective for the longest period of time under this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: In subsection (1)(c), "former section 171(1) or the marine safety act" evidently should read "former section 171(1) of the marine safety act."

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80192 Convictions requiring order with no expiration date; terminating order; multiple convictions from same incident; judicial review.

Sec. 80192. (1) Upon receipt of the appropriate records of conviction, the secretary of state shall issue an order with no expiration date that the person not operate a vessel on the waters of this state to a person having any of the following convictions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Four convictions under section 80147, former section 74 of the marine safety act, or a local ordinance substantially corresponding to section 80147 within 7 years.

(b) Two convictions of a felony involving the use of a vessel within 7 years.

(c) Any combination of 2 convictions within 7 years for 1 or more of the following:

(*i*) A violation of section 80176(1) or former section 171(1) of the marine safety act.

(*ii*) A violation of former section 73 of the marine safety act.

(*iii*) A violation of section 80176(4) or (5) or former section 171(4) or (5) of the marine safety act.

(d) One conviction under section 80176(4) or (5) or former section 171(4) or (5) of the marine safety act.

(e) Any combination of 3 convictions within 10 years for 1 or more of the following:

(*i*) A violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) of the marine safety act.

(*ii*) A violation of former section 73 or former section 73b of the marine safety act.

(2) The secretary of state shall issue an order with no expiration date that a person not operate a vessel on the waters of this state notwithstanding a court order issued under section 80176, section 80185 or 80186, former section 73, 73b, 171, 181, or 182 of the marine safety act, or a local ordinance substantially corresponding to section 80176, section 80185 or 80186, or former section 73 or 73b of the marine safety act.

(3) The secretary of state shall not terminate an order with no expiration date issued under this part until both of the following occur:

(a) The later of the following:

(*i*) The expiration of not less than 1 year after the order was issued.

(*ii*) The expiration of not less than 5 years after the date of a subsequent issuance of an order with no

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expiration date occurring within 7 years after the date of a prior order.

(b) The person meets the requirements of the department.

(4) Multiple convictions resulting from the same incident shall be treated as a single violation for purposes of issuance of an order under this section.

(5) Judicial review of an administrative sanction under this section is governed by the law in effect at the time the offense was committed or attempted.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80193 Failure to answer citation or notice to appear in court or comply with judgment or order; notice of issuance of order without expiration date; conditions terminating order.

Sec. 80193. (1) If a person is charged with, or convicted of, a violation of section 80176(1), (2), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1), (2), or (3), and the person fails to answer a citation or a notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim's rights assessments, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim's rights assessments, within 14 days after the notice is issued, the secretary of state will issue an order with no expiration date that the person not operate a vessel on the waters of this state. If the person fails to appear within the 7-day period or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately issue the order and send a copy to the person by personal service or first-class mail sent to the person's last known address.

(2) An order imposed under subsection (1) remains in effect until both of the following occur:

(a) The court informs the secretary of state that the person has appeared before the court and that all matters relating to the violation are resolved.

(b) The person has paid to the court a $25.00 administrative order processing fee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80194 Petition for review of determination; order setting cause for hearing; service; authority and duty of court; applicability of section.

Sec. 80194. (1) A person who is aggrieved by a final determination of the secretary of state under this part may petition for a review of the determination in the circuit court in the county where the person was arrested. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 80190, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 80190 may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made.

(2) The circuit court shall enter an order setting the cause for hearing for a day certain that is not more than 63 days after the date of the order. The order, a copy of the petition, which shall include the person's full name, current address, and birth date, and all supporting affidavits shall be served on the secretary of state's office in Lansing not less than 20 days before the date set for the hearing. If the person is seeking a review of the record prepared pursuant to section 80190, the service upon the secretary of state shall be made not less than 50 days before the date set for the hearing.

(3) Except as provided in subsections (4) and (6), the court may take testimony and examine all the facts and circumstances incident to the order that the person not operate a vessel on the waters of this state. The court may affirm, modify, or set aside the order. The order of the court shall be duly entered, and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

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(4) In reviewing a determination under section 80190, the court shall confine its consideration to a review of the record prepared pursuant to section 80190 to determine whether the hearing officer properly determined the issues enumerated in section 80190.

(5) This section does not apply to an order issued by the secretary of state pursuant to a court order issued as part of the sentence for a conviction under section 80176, section 80185 or 80186, former sections 171, 181, or 182 of the marine safety act, former section 73 or 73b of the marine safety act, or a local ordinance substantially corresponding to section 80176(1), (2), or (3), or former section 73 or 73b of the marine safety act.

(6) In reviewing a determination resulting in issuance of an order under section 80192(1)(c), (d), or (e), the court shall confine its consideration to a review of the record prepared pursuant to section 80190 or the boating record. The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following:

(a) In violation of the constitution of the United States, the state constitution of 1963, or a statute.

(b) In excess of the statutory authority or jurisdiction of the secretary of state.

(c) Made upon unlawful procedure resulting in material prejudice to the petitioner.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80195 Petition for stay of order; entering ex parte order; terms and conditions; exception.

Sec. 80195. (1) Within 63 days after the determination, a person who is aggrieved by a final determination of the secretary of state under this part may petition the circuit court for the county in which the conviction or determination resulting in issuance of the order that the person not operate a vessel on the waters of this state for an order staying the order. Except as provided in subsection (2), the court may enter an ex parte order staying the order subject to terms and conditions prescribed by the court until the determination of an appeal to the secretary of state or of an appeal or a review by the circuit court, or for a lesser time that the court considers proper.

(2) The court shall not enter an ex parte order staying the order if the order is based upon a claim of undue hardship.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80196 Person subject to order not to operate vessel on waters of state; prohibited conduct; violation of subsection (1) as misdemeanor; penalty; extending length of order; obtaining and furnishing boating record; applicability of section; confiscating certificate of number and cancelling registration numbers.

Sec. 80196. (1) A person who is ordered not to operate a vessel on the waters of this state and who has been notified of the order by personal service or first-class mail shall not operate a vessel on the waters of this state. A person shall not knowingly permit a vessel owned by the person to be operated on the waters of this state by a person who is subject to such an order. A person who violates this subsection is guilty of a misdemeanor punishable as follows:

(a) By imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

(b) For a second or subsequent violation punishable under this subsection, by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(2) Upon receiving a record of the conviction of a person upon a charge of unlawful operation of a vessel while the person is subject to an order not to operate a vessel on the waters of this state, the secretary of state shall immediately extend the length of the order for an additional like period. If the secretary of state receives records of more than 1 conviction resulting from the same incident, all of the convictions shall be treated as a single violation for purposes of extending the length of an order under this subsection.

(3) Before a person is arraigned before a judge or district court magistrate on a charge of violating this

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section, the arresting officer shall obtain the boating record of the person from the secretary of state and shall furnish the record to the court. The boating record of the person may be obtained from the secretary of state's computer information network.

(4) This section does not apply to a person who operates a vessel solely for the purpose of protecting human life or property, if the life or property is endangered and the summoning or giving of prompt aid is essential.

(5) If a person is convicted of violating subsection (1), the court shall order confiscation of the vessel's certificate of number and cancellation of the vessel's registration numbers, unless the vessel was stolen or permission to use the vessel was not knowingly given. The secretary of state shall not assign a registration number to or issue a certificate of number for a vessel whose number is canceled and certificate confiscated until after the expiration of 90 days after the cancellation or confiscation, whichever is later.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80197 Impoundment of vessel; order; execution; liability for expenses; rights of conditional vendor, chattel mortgagee, or lessor of vessel.

Sec. 80197. (1) When a person is convicted under section 80196(1), the vessel, if it is owned in whole or in part by that person, shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment. An order of impoundment issued pursuant to this subsection is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vessel to the storage for insurance coverage purposes.

(2) The owner of a vessel impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vessel whether or not the vessel is returned to him or her. The vessel shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vessel is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the vessel, the vessel shall be considered abandoned.

(3) Nothing in this section affects the rights of a conditional vendor, chattel mortgagee, or lessor of a vessel registered in the name of another person as owner who becomes subject to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80197a Conviction based on plea of nolo contendere.

Sec. 80197a. A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty or a finding of guilt for all purposes under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80198 Administrative order processing fee; disposition and allocation.

Sec. 80198. Whether with or without an expiration date, an order not to operate a vessel on the waters of this state or to operate a vessel with restrictions does not expire until the person subject to the order pays an administrative order processing fee of $125.00 to the secretary of state. The state treasurer shall deposit $10.00 of the fee in the drunk driving prevention equipment and training fund created under section 625h of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.625h of the Michigan Compiled Laws, and $30.00 in the drunk driving caseflow assistance fund created under section 625h of Act No. 300 of the Public Acts of 1949. The state treasurer shall allocate the balance of the fee to the department of state for the administration of orders issued under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

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324.80198a Public dock, pier, wharf, or retaining wall; entry or use prohibited under certain wind conditions; barricades; notice.

Sec. 80198a. (1) When wind conditions on the Great Lakes attain a magnitude whereby 1/3 of the waves resulting from the conditions cause any public dock, pier, wharf, or retaining wall to be awash, it constitutes a state not conducive to the orderly and safe use and occupancy of those structures.

(2) When the conditions described in subsection (1) exist, any harbormaster, peace or police officer, or other authorized official may rope off or barricade entry to these structures or post in a conspicuous manner notices that entry on those structures for the purpose of fishing, swimming, or other recreational activity is prohibited.

(3) A person shall not knowingly enter or remain upon any public dock, pier, wharf, or retaining wall for the purpose of fishing, swimming, or other recreational activity when the structure is roped, cabled, or otherwise barricaded in a manner designed to exclude intruders, when notice against entry is given by posting in a conspicuous manner, or when notice to leave or stay off is personally communicated to that person by a peace or police officer or other authorized official of the local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80198b Public bathing beaches; buoys required; prohibited swimming area; exception; violation; fine.

Sec. 80198b. (1) The owner or person in charge of a bathing beach maintained primarily for public use shall not knowingly permit a person to bathe or swim from the bathing beach unless buoys outlining a safe bathing or swimming area are established in accordance with section 80159.

(2) A person who is bathing or swimming from a bathing beach maintained primarily for public use shall not bathe or swim in waters that are within 100 feet beyond the buoyed bathing or swimming area. This subsection does not apply to persons swimming from adjacent privately owned beaches that are not open to the general public.

(3) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 8, Imd. Eff. May 11, 2007.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

324.80199 Part not to affect owner's rights under laws of United States.

Sec. 80199. This part does not affect any of the rights of an owner under the laws of the United States.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA

PART 802
PERSONAL WATERCRAFT

324.80201 Definitions.

Sec. 80201. As used in this part:

(a) “Associated equipment” means any of the following that are not radio equipment:

(*i*) An original system, part, or component of a personal watercraft at the time that boat was manufactured, or a similar part or component manufactured or sold for replacement.

(*ii*) Repair or improvement of an original or replacement system, part, or component.

(*iii*) An accessory or equipment for, or appurtenance to, a personal watercraft.

(*iv*) A marine safety article, accessory, or equipment intended for use by a person on board a boat.

(b) “Boat livery” means that term as defined in section 44501.

(c) “Boating safety certificate” means either of the following:

(*i*) The document issued by the department under this part that certifies that the individual named in the document has successfully completed a boating safety course and passed an examination approved and

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administered as required under section 80211.

(*ii*) A document issued by the United States coast guard auxiliary that certifies that the individual named in the document has successfully completed a United States coast guard auxiliary course concerning boating safety.

(*iii*) A written rental agreement provided to an individual named in the rental agreement entered into under section 44522 only on the date or dates indicated on the rental agreement while the named individual is operating a personal watercraft leased, hired, or rented from a boat livery.

(d) "Boating safety course" means a course that meets both of the following requirements:

(*i*) Provides instruction on the safe operation of a personal watercraft that meets or exceeds the minimum course content for boating or personal watercraft education established by the national association of state boating law administrators education committee (October 1996).

(*ii*) Is approved by the department.

(e) "Channel" means either of the following:

(*i*) The deepest part of a stream, bay, or straight through which the main current flows.

(*ii*) The part of a body of water deep enough for navigation through an area otherwise not suitable for navigation that is marked by a single or double line of navigational aids or range markers.

(f) "Dealer" means a person and an authorized representative of that person who annually purchases from a manufacturer, or who is engaged in selling or manufacturing, 6 or more personal watercraft that require certificates of number under part 801.

(g) "Department" means the department of natural resources.

(h) "Director" means the director of the department of natural resources.

(i) "Manufacturer" means a person engaged in any of the following:

(*i*) The manufacture, construction, or assembly of personal watercraft or associated equipment.

(*ii*) The manufacture or construction of components for personal watercraft and associated equipment to be sold for subsequent assembly.

(*iii*) The importation of a personal watercraft or associated equipment into the state for sale.

(j) "Operate" means to be in control of a personal watercraft while the personal watercraft is under way and is not docked or at anchor or secured in another way.

(k) "Operator" means the person who is in control or in charge of a personal watercraft while that vessel is under way.

(*l*) "Owner" means a person who claims or is entitled to lawful possession of a personal watercraft by virtue of that person's legal title or equitable interest in a personal watercraft.

(m) "Peace officer" means 1 or both of the following:

(*i*) A law enforcement officer as that term is defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(*ii*) A deputy who is authorized by a sheriff to enforce this act and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

(n) "Person" means an individual, corporation, limited liability company, partnership, association, governmental entity, or other legal entity.

(o) "Personal watercraft" means a vessel that meets all of the following requirements:

(*i*) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.

(*ii*) Is designed without an open load carrying area that would retain water.

(*iii*) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.

(p) "Political subdivision" means a county, metropolitan authority, municipality, or combination of those entities in this state.

(q) "Slow--no wake speed" means the use of a vessel at a very slow speed so that the resulting wake or wash is minimal.

(r) "Use" means operate, navigate, or employ.

(s) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(t) "Waters of this state" means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Compiler's note: In subdivision (e)(*i*), the word "straight" should evidently read "strait."

Popular name: Act 451

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Popular name: NREPA

324.80202 Scope.

Sec. 80202. (1) This part applies to personal watercraft and associated equipment used on the waters of this state.

(2) Except where expressly indicated otherwise, this part does not apply to a personal watercraft that is all of the following:

(a) Owned by a state or political subdivision of a state other than this state and its political subdivisions.

(b) Used principally for governmental purposes.

(c) Clearly marked and identifiable as personal watercraft that is used principally for governmental purposes.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80203 Administration of part.

Sec. 80203. Except as otherwise provided in this part, the department is responsible for the administration of this part.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80204 Rules.

Sec. 80204. The department shall promulgate rules authorized by this part under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall publish the approved rules in a convenient form.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80205 Operation of personal watercraft; requirements; violation; fine; exception; accident report.

Sec. 80205. (1) A person shall not operate a personal watercraft on the waters of this state unless each person riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan administrative code.

(2) A person shall not operate a personal watercraft on the waters of this state unless each person on board the personal watercraft is wearing a personal flotation device that is not inflatable.

(3) A person shall not operate a personal watercraft on the waters of this state if a child who is under 7 years of age is on board or being towed behind the personal watercraft unless the child is in the company of his or her parent or guardian or a designee of the parent or guardian.

(4) While operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch on the waters of this state, a person shall have the lanyard attached to his or her person, clothing, or personal flotation device as is appropriate for the personal watercraft.

(5) A person shall not operate a personal watercraft on the waters of this state during the period that begins at sunset and ends at 8 a.m. As used in this subsection, "sunset" means that time as determined by the national weather service.

(6) A person operating a personal watercraft on the waters of this state shall not cross within 150 feet behind another vessel, other than a personal watercraft, unless the person is operating the personal watercraft at slow—no wake speed. A person who violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(7) A person shall not operate a personal watercraft on the waters of this state where the water depth is less than 2 feet, as determined by vertical measurement, unless 1 or both of the following circumstances exist:

(a) The personal watercraft is being operated at slow—no wake speed.

(b) The personal watercraft is being docked or launched.

(8) A person who violates subsection (7) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(9) A person shall operate a personal watercraft in a reasonable and prudent manner. A maneuver that unreasonably or unnecessarily endangers life, limb, or property, including, but not limited to, all of the

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following, constitutes reckless operation of a personal watercraft under section 80208:

(a) Weaving through congested vessel traffic.

(b) Jumping the wake of another vessel unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is obstructed.

(c) Waiting until the last possible moment before swerving to avoid a collision.

(10) A person shall not operate a personal watercraft on the waters of this state carrying more persons than the personal watercraft is designed to carry.

(11) A violation of subsection (10) is prima facie evidence of reckless operation of a watercraft under section 80208.

(12) A person operating a personal watercraft in excess of the speeds established under part 801 is guilty of reckless operation of a personal watercraft under section 80208.

(13) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with section 80164 under a permit issued by the department and at the time and place specified in the permit.

(14) The department shall annually prepare and submit to the standing committees of the senate and house of representatives with primary jurisdiction over marine safety issues an accident report related to the use of personal watercraft, the types of personal flotation devices that were being used, and the injuries that resulted.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000;—Am. 2004, Act 27, Imd. Eff. Mar. 16, 2004;—Am. 2007, Act 8, Imd. Eff. May 11, 2007;—Am. 2008, Act 178, Eff. Mar. 31, 2009;—Am. 2012, Act 61, Eff. Nov. 1, 2012.

Popular name: Act 451

Popular name: NREPA

324.80206 Operation of personal watercraft; prohibition; violation as civil infraction; fine.

Sec. 80206. (1) A person shall not operate a personal watercraft on the waters of this state outside of a channel or in an area where aquatic rooted vegetation is visible above the surface of the water in the deltaic wetlands of a lake that is greater than 32 square miles and less than 144 square miles in area.

(2) A person who violates subsection (1) is responsible for a state civil infraction punishable by a fine of $25.00.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80207 Liability of personal watercraft owner; negligence; presumption of consent.

Sec. 80207. The owner of a personal watercraft is liable for any injury occasioned by the negligent operation of the personal watercraft, whether the negligence consists of a violation of the statutes of this state, or in the failure to observe the ordinary care in the operation that the rules of the common law require. The owner is not liable unless the personal watercraft is being used with his or her expressed or implied consent. It shall be rebuttably presumed that the personal watercraft is being operated with the knowledge and consent of the owner if it is driven at the time of the injury by his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the owner's family.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80208 Reckless operation of personal watercraft; violation; penalty; impoundment; storage cost.

Sec. 80208. (1) If a person carelessly and heedlessly operates a personal watercraft upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a personal watercraft and is subject to the penalties described in subsection (2) or (3), or both, as applicable.

(2) Upon a person's conviction under this section, the court may issue an order prohibiting the person from operating a personal watercraft on the waters of this state for a period of not more than 2 years and shall order the person to participate in and complete a boating safety course. An order issued pursuant to this subsection is in addition to any other penalty authorized under section 80219 or subsection (3).

(3) A person who violates this section twice within a 3-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $1,000.00, or both. A person who violates this section 3 or more times within a 5-year period is guilty of a misdemeanor punishable by

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imprisonment for not more than 90 days or a fine of not more than $2,000.00, or both. Upon a person's second or subsequent conviction under this section, the court may issue an order impounding the personal watercraft that the person was operating at the time the person violated subsection (1) for a period of not more than 1 year, if either of the following conditions exists:

(a) The person is an owner of the personal watercraft.

(b) The person is the minor child of an owner of the personal watercraft.

(4) The cost of storage for an impoundment ordered under subsection (3) shall be paid by the owner of the personal watercraft.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80209 Operation of personal watercraft; distance requirements; exceptions.

Sec. 80209. (1) Except when traveling at slow--no wake speed perpendicular to the shoreline, a person who operates a personal watercraft on 1 of the Great Lakes that is under the jurisdiction of this state shall maintain a distance of 200 feet from the shoreline.

(2) Except as provided in subsection (4), a person who operates a personal watercraft or a person who is being towed by a personal watercraft on a water sled, kite, surfboard, parachute, tube, water ski, or similar equipment on the waters of this state shall maintain a distance of not less than 100 feet from a dock, raft, or buoyed or occupied bathing or swimming area, a person in the water or on the water in a personal flotation device, or a vessel moored, anchored, drifting, or sitting in dead water.

(3) A person who operates a personal watercraft or a person who is being towed by a personal watercraft on a water sled, kite, surfboard, parachute, tube, water ski, or similar equipment on the waters of this state shall maintain a distance of not less than 200 feet from a submerged diver, vessel engaged in underwater diving activities, or a flotation device displaying the international diving insignia.

(4) Subsection (2) does not apply under either of the following conditions:

(a) The personal watercraft being operated or the person being towed is proceeding at a slow--no wake speed.

(b) The personal watercraft being operated or the person being towed is in a navigable channel, canal, river, or stream not otherwise posted.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80210 Possession of boating safety certificate.

Sec. 80210. An individual who is required to complete a boating safety course under this part shall not operate a personal watercraft upon the waters of this state unless that individual has in his or her immediate possession a boating safety certificate.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80211 Advancement of boating safety; educational programs.

Sec. 80211. (1) In order to protect the public interest in the prudent and equitable use of the waters of this state and to enhance the enjoyment of pleasure boating and other recreational water sports on the waters of this state, the department shall establish and pursue comprehensive educational programs designed to advance boating safety.

(2) The department shall put into effect a program to train boat operators and shall issue a boating safety certificate to those who satisfactorily complete the program. For the purpose of giving the courses of instruction and awarding boating safety certificates, the department may designate as its agent any person it considers qualified to act in this capacity. The department or its agent may offer a video or home study boating safety course. A charge shall not be made for any instruction given or for the award of boating safety certificates by any of the following:

(a) The department or another state agency.

(b) A law enforcement agency of this state or of a political subdivision of this state.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

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Popular name: NREPA

324.80212 Boating safety certificate; issuance.

Sec. 80212. (1) The department shall issue a boating safety certificate to each individual who successfully completes a boating safety course as described in section 80211 and passes an examination prescribed by the department.

(2) The department shall consider the number of examinations that are administered under this section when calculating the state aid to counties under section 80117.

(3) The department shall not issue a boating safety certificate to an individual unless the individual has successfully completed a boating safety course and passed an examination as described in subsection (1). A boating safety certificate issued under this section is valid, unless revoked, for the life of the person who earned the certificate.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000;—Am. 2012, Act 120, Eff. Nov. 1, 2012.

Popular name: Act 451

Popular name: NREPA

324.80213 Boating safety certificate; display.

Sec. 80213. (1) An individual who is required to complete a boating safety course under this part and who operates a personal watercraft on the waters of this state shall display his or her boating safety certificate upon the demand of a peace officer who identifies himself or herself as a peace officer.

(2) A person shall display only his or her own boating safety certificate upon the demand of a peace officer under subsection (1).

(3) A person shall not display a fraudulent boating safety certificate to a peace officer under subsection (1).

(4) A peace officer shall not stop a personal watercraft solely for the purpose of determining whether the operator has in his or her possession a boating safety certificate.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80214 Modification or suspension of boating safety certificate requirements.

Sec. 80214. The director may by written authorization modify or suspend the boating safety certificate requirements under this part if the modification or suspension of those certificate requirements is for individuals engaged in a marine event authorized by the director or for which the director receives a copy of a United States coast guard authorization.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80215 Operation of personal watercraft; graduated age provisions; amendatory act known and cited as "Ashleigh Iserman's law."

Sec. 80215. (1) Until October 1, 2011, except as provided in subsection (2), a person under the age of 14 shall not operate a personal watercraft on the waters of this state.

(2) Until October 1, 2011, a person who is 12 or more and less than 14 years of age may operate a personal watercraft on the waters of this state if all of the following circumstances exist:

(a) The person is accompanied solely by the person's parent or legal guardian.

(b) Both the person and the parent or legal guardian have obtained a boating safety certificate.

(c) The personal watercraft is equipped by the manufacturer with a lanyard-type engine cutoff switch, and the parent or legal guardian has the lanyard attached to his or her person, clothing, or personal flotation device.

(d) The personal watercraft is designed to carry not less than 2 persons.

(3) A person who was born after December 31, 1978 shall not operate a personal watercraft upon the waters of this state unless he or she first obtains a boating safety certificate.

(4) Beginning October 1, 2011, a person under the age of 16 shall not operate a personal watercraft on the waters of this state unless the person is not less than 14 years of age and 1 of the following circumstances applies:

(a) The person is riding the personal watercraft with his or her parent or guardian or an individual 21 years of age or older designated by the parent or guardian.

(b) The person is operating or riding a personal watercraft at a distance of not more than 100 feet from his

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or her parent or guardian or an individual 21 years of age or older designated by the parent or guardian.

(5) The owner of a personal watercraft or a person having charge over or control of a personal watercraft shall not authorize or knowingly permit the personal watercraft to be operated in violation of this section.

(6) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with section 80164 under a permit issued by the department and at the time and place specified in the permit.

(7) The amendatory act that added subdivisions (4)(a) and (b) shall be known and may be cited as "Ashleigh Iserman's Law".

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000;—Am. 2008, Act 178, Eff. Mar. 31, 2009.

Compiler's note: In subsection (7), the citation to "subdivisions (4)(a) and (b)" evidently should read "subsection (4)(a) and (b)".

Popular name: Act 451

Popular name: NREPA

324.80217 Dealers of personal watercraft; advising buyer about sources of boating safety courses; violation; fine.

Sec. 80217. (1) A dealer of a new or used personal watercraft shall advise each person who buys a personal watercraft from the dealer of the sources of boating safety courses in the area.

(2) A dealer who violates this section is responsible for a state civil infraction and shall be ordered to pay a civil fine in the amount of $100.00.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80218 Creation and availability of documents by department; documents provided by dealer to buyer; violation; fine.

Sec. 80218. (1) The department shall create and make available to dealers of personal watercraft both of the following:

(a) A document that summarizes the laws that pertain exclusively to personal watercraft.

(b) A document that summarizes the safety features of personal watercraft. This document may be a generic document and shall not represent the safety features of a particular style or brand of personal watercraft.

(2) A dealer shall provide a copy of each of the documents described in subsection (1) to each person who buys a personal watercraft from the dealer. A dealer who violates this subsection is responsible for a state civil infraction and shall be ordered to pay a civil fine in the amount of $100.00.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80219 Violation of part; penalty.

Sec. 80219. Unless otherwise specified in this part, a person who violates this part is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both. In addition, a person who violates this part may be required to participate in and complete a boating safety course.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80220 Tracking offenses; duties of secretary of state.

Sec. 80220. (1) Not later than April 30, 2000, the secretary of state shall begin tracking individual offenses of this part.

(2) In order to accomplish the tracking requirement described in subsection (1), the secretary of state shall do both of the following:

(a) Pursue and implement a comprehensive technology system.

(b) Work cooperatively with the appropriate departments of this state.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

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324.80221 Enforcement.

Sec. 80221. Peace officers shall enforce this part. If a person has received a citation for a violation of a certification requirement prescribed in section 80210, 80213, or 80215, the court shall waive any fine and costs upon receipt, not more than 10 days after the citation is issued, of proof of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid boating safety certificate or other certification described in section 80216, as applicable, that was valid on the date the violation occurred.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

324.80222 Compliance.

Sec. 80222. Except as otherwise provided in this part, a personal watercraft operator shall comply with part 801.

History: Add. 2000, Act 229, Imd. Eff. June 27, 2000.

Popular name: Act 451

Popular name: NREPA

PART 803
WATERCRAFT TRANSFER AND CERTIFICATE OF TITLE

324.80301 Additional definitions.

Sec. 80301. As used in this part:

(a) “Highly restricted personal information” means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(b) “Personal information” means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number.

(c) “Watercraft” means a contrivance used or designed for navigation on water, including a vessel, boat, motor vessel, steam vessel, vessel operated by machinery either permanently or temporarily affixed, scow, tugboat, or any marine equipment that is capable of carrying passengers, except a ferry.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80302 Exceptions; appropriate forms.

Sec. 80302. (1) This part does not apply to any of the following:

(a) A boat from a jurisdiction other than this state temporarily using the waters of this state.

(b) A boat whose owner is the United States, a state, or political subdivision thereof.

(c) A ship's lifeboat.

(d) Watercraft less than 20 feet in length that do not have permanently affixed engines unless the owner, lessee, or operator voluntarily wishes to become subject to this part.

(e) Watercraft documented by an agency of the United States government.

(2) The various certificates, applications, and assignments necessary to provide certificates of title for watercraft shall be made upon appropriate forms approved by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80303 Rules; cancellation of improperly issued certificate of title.

Sec. 80303. (1) The secretary of state shall promulgate rules to implement this part.

(2) If it appears that a certificate of title is improperly issued, the secretary of state shall cancel the certificate. The secretary of state shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on the certificate of title, of the cancellation, and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of a lien noted on the certificate of title. The holder of the certificate of title shall return it to the secretary of state immediately.

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History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80304 Sale, purchase, or other disposition or acquisition of watercraft; certificate of title required.

Sec. 80304. (1) A person, except as provided in section 80306, shall not sell or otherwise dispose of a watercraft without delivering to the purchaser or transferee of the watercraft a certificate of title with such assignment on the certificate of title as is necessary to show title in the purchaser.

(2) A person shall not purchase or otherwise acquire a watercraft without obtaining a certificate of title for it in the person's name pursuant to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80305 Acquisition of watercraft from owner; certificate of title or manufacturer's or importer's certificate required; waiver or estoppel; judicial recognition of right, title, claim, or interest.

Sec. 80305. (1) A person acquiring a watercraft from the owner of the watercraft, whether the owner is a manufacturer, importer, dealer, or otherwise, shall not acquire any right, title, claim, or interest in or to the watercraft until that person has issued to him or her a certificate of title to the watercraft, or delivered a manufacturer's or importer's certificate for the watercraft. A waiver or estoppel shall not operate in favor of that person against a person having possession of the certificate of title, or manufacturer's or importer's certificate for the watercraft, for a valuable consideration.

(2) A court shall not recognize the right, title, claim, or interest of a person in or to a watercraft sold or disposed of, or mortgaged or encumbered, unless:

(a) Evidenced by a certificate of title or a manufacturer's or importer's certificate issued pursuant to this part.

(b) Evidenced by admission in the pleadings or stipulation of the parties.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80306 Sale or other disposition of new watercraft to dealer for display or resale; manufacturer's or importer's certificate required; contents; assignment.

Sec. 80306. (1) A manufacturer, importer, dealer, or other person shall not sell or otherwise dispose of a new watercraft to a dealer, to be used by the dealer for purposes of display and resale, without delivering to the dealer a manufacturer's or importer's certificate executed in accordance with this section and with those assignments on the certificate as are necessary to show title in the purchaser of the watercraft. A dealer shall not purchase or acquire a new watercraft without obtaining from the seller of the watercraft the manufacturer's or importer's certificate.

(2) A manufacturer's or importer's certificate of the origin of a watercraft shall contain, in the form and together with the information the secretary of state requires, the following information:

(a) A description of the watercraft, including, if applicable, make, year, length, series of model, hull type, and hull identification number.

(b) Certification of the date of transfer of the watercraft to a distributor, dealer, or other transferee, and the name and address of the transferee.

(c) Certification that this transaction is the first transfer of the new watercraft in ordinary trade and commerce.

(d) Signature and address of a representative of the transferor.

(3) An assignment of a manufacturer's or importer's certificate shall be printed on the reverse side of the manufacturer's or importer's certificate in the form to be prescribed by the secretary of state. The assignment form shall include the name and address of the transferee, a certification that the watercraft is new, and a warranty that the title at the time of delivery is subject only to the liens and encumbrances that are set forth

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and described in full in the assignment.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80307 Certificate of title; application; form; fee; evidence of ownership; certificate of hull identification number; duties of secretary of state; surety bond; name in which certificate of title to be obtained.

Sec. 80307. (1) Application for a certificate of title for a watercraft shall be made upon a form prescribed by the secretary of state. The application shall be filed with the secretary of state within 15 days after the date of purchase or transfer. At the request of the applicant, an application shall be processed on an expedited basis. The application shall be accompanied by the fee or fees prescribed in section 80311, and if a certificate of title was previously issued for the watercraft, it shall be accompanied by the certificate of title duly assigned, unless otherwise provided in this part. Unless otherwise provided in this part, if a certificate of title was not previously issued for the watercraft in this state, the application shall be accompanied by a manufacturer's or importer's certificate, by a certificate of ownership, or a certificate of number issued under part 801 or former 1967 PA 303, if purchased by the applicant on or before July 1, 1976, or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the watercraft is brought into this state. Evidence of ownership of a watercraft for which a Michigan certificate of title was not previously issued, and which does not have permanently affixed to it a hull identification number, shall be accompanied by the certificate of hull identification number assigned by the secretary of state as provided in section 80308. The secretary of state shall retain the evidence of title presented by the applicant and upon which the certificate of title is issued, and shall use reasonable diligence in ascertaining whether the facts in the application are true by checking the application and documents accompanying the application with the records of watercraft in the secretary of state's office. If satisfied that the applicant is the owner of the watercraft and that the application is in the proper form, the secretary of state shall issue a certificate of title.

(2) If the secretary of state is not satisfied as to the ownership of a watercraft having a value of more than $2,500.00, before registering the watercraft and issuing a certificate of title, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the watercraft as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser and their successors in interest against any expense, loss, or damage, including reasonable attorney fees, incurred as a result of the issuance of a certificate of title for the watercraft or any defect in the right, title, or interest of the applicant in the watercraft. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the watercraft is no longer registered in this state and the currently valid certificate of title is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a watercraft that is worth $2,500.00 or less, the secretary of state shall require the applicant to certify that the applicant is the owner of the watercraft and entitled to register and title the watercraft.

(3) When a watercraft is sold by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. In other cases, the certificate shall be obtained by the purchaser.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 271, Imd. Eff. Dec. 19, 2005.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80308 Application for watercraft certificate of title; certification; contents; permanent or assigned hull identification number; affixing or imprinting assigned hull identification number.

Sec. 80308. (1) An application for a watercraft certificate of title shall include a certification. The owner or purchaser of the watercraft shall sign the application or, if the application is filed electronically, provide

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information requested by the secretary of state to verify the owner's or purchaser's identity. The application shall contain, in the form and together with other information that the secretary of state requires, the following information:

(a) Name and address of the applicant.

(b) Name and address of the previous owner.

(c) A statement of liens, mortgages, or other encumbrances on the watercraft, and the name and address of the holder of the liens, mortgages, or other encumbrances.

(d) If a lien, mortgage, or other encumbrance is not outstanding, a statement of that fact.

(e) A description of the watercraft, including, if applicable, the make, year, length, series or model, hull type, and hull identification number.

(2) If the watercraft contains a permanent hull identification number placed on the watercraft by the manufacturer of the watercraft, this number shall be used as the hull identification number. If there is not a manufacturer's hull identification number, or if the manufacturer's hull identification number is removed or obliterated, the secretary of state, upon a prescribed application that includes information indicating proof of ownership, shall assign a hull identification number to the watercraft. This assigned hull identification number shall be permanently affixed to, or imprinted by the applicant, at the place and in the manner designated by the secretary of state, upon the watercraft to which the hull identification number is assigned.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80309 Certificate of title; issuance; contents; assignment form.

Sec. 80309. The secretary of state shall issue a certificate of title containing the information required in the application for a certificate of title, as prescribed by section 80308, except for the name and address of the previous owner. The certificate of title shall also contain space for the notation and cancellation of a lien, mortgage, or encumbrance. An assignment of certificate of title shall appear on the certificate of title in the form to be prescribed by the secretary of state. The assignment form shall include a warranty that the signer is the owner of the watercraft and that a mortgage, lien, or encumbrance is not on the watercraft, except as noted on the face of the certificate of title.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 271, Imd. Eff. Dec. 19, 2005.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80310 Certificate of title; uniform method of numbering; indexes; destruction by secretary of state; furnishing information to law enforcement and conservation officers.

Sec. 80310. (1) The secretary of state shall prescribe a uniform method of numbering certificates of title, and shall maintain in his or her office indexes for the certificates of title.

(2) The secretary of state may destroy a certificate of title or supporting evidence of a certificate of title covering a watercraft which was on file for 10 years after the date of its filing.

(3) The secretary of state shall furnish information on a title without charge to authorized law enforcement and conservation officers when engaged in official duties.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80311 Fee for processing application for certificate of title or duplicate; additional fee; check or draft not paid on first presentation as delinquent fee; liability; notice or demand; suspension of certificate; penalty.

Sec. 80311. (1) The secretary of state shall charge a fee of $5.00 for the processing of an application for a certificate of title or a duplicate certificate of title. The secretary of state shall charge an additional fee of $5.00 for the processing of an application on an expedited basis.

(2) If a check or draft in payment of a fee payable to the secretary of state under this section is not paid on its first presentation, the fee is delinquent as of the date the check or draft was tendered. The person tendering the check or draft remains liable for the payment of each fee and any penalty.

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(3) The secretary of state may suspend a certificate of title if the secretary of state determines that a fee prescribed in this section has not been paid and remains unpaid after reasonable notice or demand.

(4) If a fee is still delinquent 15 days after the secretary of state gives notice to a person who tendered the check or draft, a $5.00 penalty shall be assessed and collected in addition to the fee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80312 Certificate of title for watercraft; issuance; compliance; transfer of ownership; requirements; petition for watercraft not owned; proof of ownership and right of possession; statement of lien.

Sec. 80312. (1) The secretary of state may issue a certificate of title for a watercraft to a person who complies with subsection (2) or (3) if the transfer of ownership of that watercraft is any of the following:

(a) By operation of law including, but not limited to, inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution of sale.

(b) By sale to satisfy a storage or repair charge.

(c) By repossession upon default in performance of the terms of a security agreement.

(d) As provided in subsection (3).

(2) A person applying for a certificate of title under this section shall do all of the following:

(a) Surrender to the secretary of state either a valid certificate of title or the manufacturer's or importer's certificate for the watercraft or, if surrender of a certificate for that watercraft is not possible, present proof satisfactory to the secretary of state of the applicant's ownership of and right of possession to the watercraft.

(b) Pay the fee prescribed in section 80311.

(c) Present to the secretary of state an application for certificate of title.

(3) A person may petition the secretary of state for a certificate or certificates of title for 1 or more registered watercraft that the person does not own, if each of the following circumstances exists:

(a) The record owner of the registered watercraft dies without leaving other property that requires the procurement of letters under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(b) The total value of the deceased owner's interest in all watercraft subject to the petition for a certificate or certificates of title under this section is $100,000.00 or less.

(c) The person petitioning for a certificate or certificates of title under this section is 1 of the following, in the following order of priority:

(*i*) The surviving spouse of the watercraft owner.

(*ii*) A person entitled to the certificate or certificates of title in the order specified in section 2103 of the estates and protected individuals code, 1998 PA 386, MCL 700.2103.

(d) The person who petitions for a certificate of title under this section furnishes the secretary of state with proof satisfactory to the secretary of state of each of the following:

(*i*) The death of the owner of each watercraft for which a certificate of title is sought.

(*ii*) The petitioner's priority to receive the decedent's interest in each watercraft for which a certificate of title is sought.

(4) A certification by the person, or agent of the person, to whom possession of the watercraft passed, that sets forth the facts entitling that person to possession and ownership of the watercraft, together with a copy of the journal entry, court order, instrument, or other document upon which the claim of possession and ownership is founded, are satisfactory proof of ownership and right of possession. If the applicant cannot produce proof of ownership, the applicant may apply to the secretary of state for a certificate of title and submit evidence that establishes that person's ownership interest in the watercraft. If the secretary of state finds the evidence sufficient, the secretary of state may issue to that person a certificate of title for that watercraft. The office of secretary of state shall examine the records in its possession and, if it determines from that examination that a lien is on the watercraft, and if the applicant fails to provide satisfactory evidence of extinction of the lien, the secretary of state shall furnish a certificate of title that contains a statement of the lien.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2000, Act 65, Eff. Apr. 1, 2000.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

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324.80313 Dismantling, destroying, or changing watercraft; surrender, cancellation, and destruction of certificate of title.

Sec. 80313. (1) An owner of a watercraft and a person mentioned as owner in the last certificate of title, when the watercraft is dismantled, destroyed, or changed in such manner that it loses its character as a watercraft, or changed in such manner that it is not the watercraft described in the certificate of title, shall surrender the certificate of title to the secretary of state, and the secretary of state shall, with the consent of a holder of a lien noted on the certificate of title, enter a cancellation upon his or her records.

(2) Upon the cancellation of a certificate of title in the manner prescribed by subsection (1), the secretary of state may cancel and destroy the certificates.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80314 Loss, mutilation, or illegibility of certificate of title; application and fee for duplicate copy; issuance and contents of duplicate copy; rights and indemnification of purchaser; surrender and cancellation of original certificate; conditions not requiring duplicate of lost watercraft certificate of title at time of transfer; record; definitions.

Sec. 80314. (1) If certificate of title is lost, mutilated, or becomes illegible, the person to whom that certificate of title was issued shall apply to the secretary of state for a duplicate copy of the certificate of title upon a form prescribed by the secretary of state and accompanied by the fee prescribed by section 80311. The applicant shall certify the application. Upon an applicant's compliance with this section, the secretary of state shall issue to that applicant a duplicate copy of the certificate of title that contains the legend, “This is a duplicate certificate and may be subject to the rights of a person under the original certificate.”. A purchaser of watercraft who obtains title to the watercraft through a duplicate copy of the watercraft's certificate of title acquires only those rights in the watercraft that the holder of the duplicate certificate of title had. At the time of purchase, a watercraft purchaser may require the seller to indemnify the purchaser and subsequent purchasers of the watercraft against a losss which the purchaser or subsequent purchasers may suffer by reason of a claim presented upon the original certificate of title. If the original certificate of title is recovered by the owner, the owner shall immediately surrender it to the secretary of state for cancellation.

(2) The secretary of state is not required to issue a duplicate of a lost watercraft certificate of title at the time ownership of the watercraft is being transferred if all of the following conditions are met:

(a) The transferor personally appears before an authorized representative of the secretary of state and does all of the following:

(*i*) Provides evidence of the transferor's identity and ownership interest in the watercraft that is satisfactory to the authorized representative of the secretary of state.

(*ii*) Pays the fee required under section 80311.

(b) The transferee or the transferee's representative accompanies the transferor in appearing before the authorized agent of the secretary of state and does all of the following:

(*i*) Applies for an original certificate of title for the watercraft.

(*ii*) Provides evidence of the transferee's identity that is satisfactory to the authorized representative of the secretary of state.

(*iii*) Pays the fee required under section 80311.

(3) If a duplicate certificate of title is not required for the transfer of a watercraft under subsection (2), the secretary of state shall maintain a record specifying that ownership of the watercraft was transferred without a surrender of the watercraft's certificate of title.

(4) As used in this section, “transfer” or “transferred” includes a conveyance, assignment, and gift.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80315 Records available to the public; commercial lookup service of watercraft title records; disposition of fees; computerized central file; creation; maintenance; providing to nongovernmental person or entity; payment; admissibility in evidence.

Sec. 80315. (1) The secretary of state shall make available to the public records maintained under this part,

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other than those declared to be confidential by law or that are restricted by law from disclosure to the public, under procedures prescribed in this part and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of watercraft title records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state shall credit fees collected under this subsection on and after October 1, 2005 to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b, through October 1, 2019.

(3) The secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(4) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(5) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2005, Act 174, Imd. Eff. Oct. 12, 2005;—Am. 2009, Act 100, Imd. Eff. Sept. 30, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 77, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80315a Disclosure of personal information; uses.

Sec. 80315a. (1) Except as provided in this section and section 80315c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity considered satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 80315c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this part may be disclosed as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of watercraft and operator safety or watercraft theft; watercraft emissions; watercraft product alterations, recalls; or advisories; performance monitoring of watercraft; watercraft research activities, including survey research; and the removal of nonowner records from the original records of watercraft manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court, administrative agency, or self-regulatory body.

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(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded watercraft.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by a watercraft rental business or its employees, agents, contractors, or service firms for the purpose of making rental decisions.

(j) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. “News medium” includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(k) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80315b Resale or redisclosure of information; maintenance of records; duration; availability for inspection.

Sec. 80315b. (1) An authorized recipient of personal information under section 80315a may resell or redisclose the information for any use permitted under section 80315a.

(2) Any authorized recipient who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80315c Furnishing list of information to federal, state, or local governmental agency; contract for sale of list of information; insertion of safeguard in agreement or contract; resale or redisclosure of information; duties of recipient.

Sec. 80315c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds $25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 80315a(3) as well as for surveys, marketing, and solicitations. The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The

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proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or redisclosES the information for any of the permissible purposes described in section 80315a(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80316 Authorized agents.

Sec. 80316. Manufacturers and importers shall appoint and authorize agents who shall sign manufacturer's or importer's certificates. The secretary of state may require that a certified copy of a list containing the names and the facsimile signatures of authorized agents be furnished to him or her. The secretary of state may prescribe the form of authorization to be used by manufacturers or importers and the method of certification of the names of agents.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80317 Stolen or converted watercraft; information; record; report; notice of recovery; removal of record from file.

Sec. 80317. (1) Upon receiving knowledge of a stolen watercraft, a law enforcement agency shall immediately furnish the sheriff's department of the county in which the watercraft was stolen and the department of state police with full information concerning the theft.

(2) The law enforcement agency receiving the initial report of the theft or conversion of a watercraft shall notify the department and the secretary of state, and shall furnish the secretary of state with a distinctive record of the initial report, including the make of the stolen watercraft and its manufacturer's hull identification number or assigned hull identification number. The secretary of state shall file the record in the numerical order of the manufacturer's hull identification number or assigned hull identification number with the index records of the watercraft. The secretary of state shall prepare a report listing watercraft stolen and recovered as disclosed by the reports submitted to the secretary of state, to be distributed as the secretary of state considers advisable.

(3) If a stolen or converted watercraft is recovered, the owner or recovering agency shall immediately notify the law enforcement agency which received the initial theft report, which shall immediately notify the department, the sheriff of the county from which the watercraft was stolen, the department of state police, and the secretary of state. The secretary of state shall remove the record of the theft or conversion from the file in which the report is recorded.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80318 Prohibited conduct generally.

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Sec. 80318. A person shall not do any of the following:

(a) Operate in this state a watercraft for which a certificate of title is required without having a certificate as prescribed by this part.

(b) Operate in this state a watercraft for which a certificate of title is required for which the certificate of title is canceled.

(c) Fail to surrender a certificate of title upon cancellation of the certificate by the secretary of state and notice of the cancellation as prescribed in this part.

(d) Fail to surrender the certificate of title to the secretary of state, as provided in this part, if the watercraft is destroyed, dismantled, or changed in such manner that it is not the watercraft described in the certificate of title.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80319 Additional prohibited conduct; violation as misdemeanor; penalty.

Sec. 80319. (1) A person shall not do any of the following:

(a) Alter or forge a certificate of title, or a manufacturer's or importer's certificate, to a watercraft, an assignment of either, or a cancellation of a lien on a watercraft.

(b) Hold or use a certificate, assignment, or cancellation knowing it is altered or forged.

(c) Procure or attempt to procure a certificate of title to a watercraft, or pass or attempt to pass a certificate of title or an assignment of title to a watercraft, knowing or having reason to believe that the watercraft is stolen.

(d) Sell or offer for sale in this state a watercraft on which the manufacturer's or assigned hull identification number is destroyed, removed, covered, altered, or defaced, with knowledge of the destruction, removal, covering, alteration, or defacement of the manufacturer's or assigned hull identification number.

(e) Use a false or fictitious name, give a false or fictitious address, or make a false statement in an application or certificate required under this part, or in a bill of sale or sworn statement of ownership, or otherwise commit a fraud in an application.

(f) Sell or transfer a watercraft without delivering to the purchaser or transferee of the watercraft a certificate of title, or a manufacturer's or importer's certificate to the watercraft, assigned to the purchaser as provided for in this part.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $5,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80319a Prohibited conduct; violations as felony; penalties.

Sec. 80319a. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 80315a or 80315c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80320 Secured interest in watercraft; notation; discharge; perfection.

Sec. 80320.

(1) A party with a secured interest in a watercraft, upon presentation of a properly completed application

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for certificate of title to the secretary of state, together with the fee prescribed by section 80311, may have a notation of the security interest made on the face of the certificate of title to be issued by the secretary of state. The secretary of state shall enter the notation and the date and shall note the security interest and the date in his or her files.

(2) When the security interest is discharged, the holder shall note the discharge on the certificate of title over his or her signature.

(3) Receipt by the secretary of state of a properly tendered application for a certificate of title on which a security interest in a watercraft is to be indicated is a condition of perfection of a security interest in the watercraft and is equivalent to filing a financing statement under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, with respect to the watercraft. When a security interest in a watercraft is perfected, it has priority over the rights of a lien creditor as lien creditor is defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 37, Imd. Eff. June 7, 2005.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80321 Watercraft acquired prior to January 1, 1977.

Sec. 80321. A watercraft acquired by the owner prior to January 1, 1977, is not the subject of a certificate of title until it is mortgaged, sold, transferred, or a lien placed on the watercraft.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

324.80322 Violation; penalty.

Sec. 80322. A person who violates sections 80301 to 80319 or rules promulgated under this part is guilty of a misdemeanor, and shall be imprisoned for not more than 90 days, or fined not more than $100.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Watercraft Title Act

SUBCHAPTER 6
MOTORIZED RECREATIONAL VEHICLES

OFF-ROAD RECREATION VEHICLES

PART 811
OFF-ROAD RECREATION VEHICLES

324.81101 Definitions.

Sec. 81101. As used in this part:

(a) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(b) "ATV" means a vehicle with 3 or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels.

(c) "Code" means the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(d) "County road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655, or a segment thereof.

(e) "Dealer" means a person engaged in the sale, lease, or rental of an ORV as a regular business or, for purposes of selling licenses under section 81116, any other person authorized by the department to sell licenses or permits, or both, under this act.

(f) "Designated", unless the context implies otherwise, means posted by the department, with appropriate signs, as open for ORV use.

(g) "Farm vehicle" means either of the following:

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(*i*) An implement of husbandry as defined in section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

(*ii*) A vehicle used in connection with a farm operation as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(h) "Forest road" means a hard surfaced road, gravel or dirt road, or other route capable of travel by a 2-wheel drive, 4-wheel conventional vehicle designed for road use. Forest road does not include a street, county road, or highway.

(i) "Forest trail" means a designated path or way that is not a route.

(j) "Highway" means a state trunk line highway or a segment of a state trunk line highway.

(k) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(*l*) "Late model ORV" means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.

(m) "Law of another state" means a law or ordinance enacted by any of the following:

(*i*) Another state.

(*ii*) A local unit of government in another state.

(*iii*) Canada or a province or territory of Canada.

(*iv*) A local unit of government in a province or territory of Canada.

(n) "Local unit of government" means a county, township, or municipality.

(o) "Maintained portion" means the roadway and any shoulder of a street, county road, or highway.

(p) "Manufacturer" means a person, partnership, corporation, or association engaged in the production and manufacture of ORVs as a regular business.

(q) "Municipality" means a city or village.

(r) "Off-road vehicle account" means the off-road vehicle account of the Michigan conservation and recreation legacy fund established in section 2015.

(s) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.

(t) "Operator" means an individual who operates or is in actual physical control of the operation of an ORV.

(u) "ORV" or, unless the context implies a different meaning, "vehicle" means a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(v) "ORV safety certificate" means an ORV safety certificate issued under section 81130 or, except as used in section 81130, a comparable safety certificate issued under the authority of another state or province of Canada.

(w) "Owner" means any of the following:

(*i*) A vendee or lessee of an ORV that is the subject of an agreement for the conditional sale or lease of the ORV, with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee.

(*ii*) A person renting an ORV, or having the exclusive use of an ORV, for more than 30 days.

(*iii*) A person who holds legal ownership of an ORV.

(x) "Person with a disability" means an individual who has 1 or more of the following physical characteristics:

(*i*) Blindness.

(*ii*) Inability, during some time of the year, to ambulate more than 200 feet without having to stop and rest.

(*iii*) Loss of use of 1 or both legs or feet.

(*iv*) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.

(*v*) A lung disease from which the individual's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the individual's arterial oxygen tension is less than 60 mm/hg of room air at rest.

(*vi*) A cardiovascular disease that causes the individual to measure between 3 and 4 on the New York heart

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classification scale, or that results in a marked limitation of physical activity by causing fatigue, palpitation, dyspnea, or anginal pain.

(*vii*) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.

(y) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on ORV operation or equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally related information.

(z) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(*i*) A violation or an attempted violation of section 81134(1), (3), (4), (5), (6), or (7), except that only 1 violation or attempted violation of section 81134(6), a local ordinance substantially corresponding to section 81134(6), a law of another state substantially corresponding to section 81134(6), or a law of the United States substantially corresponding to section 81134(6) may be used as a prior conviction other than for enhancement purposes as provided in section 81134(11)(b).

(*ii*) Negligent homicide, manslaughter, or murder resulting from the operation of an ORV, or an attempt to commit any of those crimes.

(*iii*) Former section 81135.

(aa) "Public agency" means the department or a local or federal unit of government.

(bb) "Roadway" means the portion of a street, county road, or highway improved, designed, or ordinarily used for travel by vehicles registered under the code. Roadway does not include the shoulder.

(cc) "Route" means a forest road or other road that is designated for purposes of this part by the department.

(dd) "Safety chief instructor" means an individual who has been certified by a nationally recognized ORV organization to certify instructors and to do on-sight evaluations of instructors.

(ee) "Shoulder" means that portion of a street, county road, or highway contiguous to the roadway and generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped motor vehicles otherwise permitted on the roadway.

(ff) "Southern county" means Muskegon, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, or Macomb county, or a county lying south of the territory constituted by these counties.

(gg) "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659, or a segment thereof.

(hh) "Traffic lane" means a clearly marked lane on a roadway.

(ii) "Unmaintained portion" means the portion of a street, county road, or highway that is not the maintained portion.

(jj) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 2003, Act 111, Eff. Oct. 1, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2009, Act 196, Imd. Eff. Dec. 28, 2009;—Am. 2009, Act 200, Imd. Eff. Dec. 29, 2009;—Am. 2012, Act 246, Imd. Eff. July 2, 2012;—Am. 2013, Act 119, Imd. Eff. Sept. 25, 2013;—Am. 2013, Act 249, Imd. Eff. Dec. 26, 2013;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81102 Repealed. 2013, Act 119, Imd. Eff. Sept. 25, 2013.

Compiler's note: The repealed section pertained to vehicles exempt from licensure requirements.

324.81103 ORV; certificate of title generally.

Sec. 81103. (1) After April 1, 1991, every ORV sold by a dealer to a retail purchaser shall be subject to the certificate of title provisions of this part.

(2) After April 1, 1991, a person who purchases or otherwise acquires an ORV shall make application for a certificate of title as provided in this part.

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(3) After April 1, 1991, the owner of an ORV that has not been titled pursuant to subsection (1) or (2) or the code may apply for and, if otherwise eligible, receive a certificate of title issued under this part. If the ORV was previously titled under the code, it is not eligible for titling under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81104 Application for title to ORV under code.

Sec. 81104. The owner of an ORV that has been and is titled under this part may, if the ORV is otherwise eligible, apply for a title to the ORV under the code. If the owner applies for a title under the code, the title issued under this part shall at that time be surrendered to the department of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81105 ORV; sale or assignment of ownership; purchase or acquisition; requirements.

Sec. 81105. After an ORV has been titled under this part, both of the following shall occur:

(a) The owner, except as provided in section 81104, shall not sell or otherwise assign ownership in the ORV without delivering to the transferee a certificate of title showing assignment of the ORV in the transferee's name.

(b) A person shall not purchase or otherwise acquire an ORV without obtaining a certificate of title to it in the person's name pursuant to either this part or the code.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81106 ORV exempt from MCL 257.1101 to 257.1133 and MCL 500.3101 to 500.3179.

Sec. 81106. An ORV is exempt from the motor vehicle accident claims act, Act No. 198 of the Public Acts of 1965, being sections 257.1101 to 257.1133 of the Michigan Compiled Laws, and from sections 3101 to 3179 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81107 Manufacturer's certificate of origin.

Sec. 81107. (1) A person shall not sell or otherwise transfer an ORV to a dealer, to be used by the dealer for purposes of display and resale, without delivering to the dealer a manufacturer's certificate of origin executed in accordance with this section. A dealer shall not purchase or otherwise acquire a new ORV without obtaining a manufacturer's certificate of origin.

(2) A manufacturer's certificate of origin shall contain the following information:

(a) A description of the ORV, including year, make, model or series, and vehicle identification number.

(b) Certification of the date of the transfer of the ORV to the dealer.

(c) The dealer's name and address.

(d) Certification that this transaction is the first transfer of the new ORV in ordinary commerce.

(e) The transferor's signature and address.

(3) An assignment of a manufacturer's certificate of origin shall be printed on the reverse side of the certificate. The assignment shall include the name and address of the transferee, a certification that the ORV is new, and a warranty that the title at the time of delivery is subject only to the secured interests set forth in

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the assignment.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81108 Application for ORV certificate of title; form; contents; security agreement; perfection of security interest; priority.

Sec. 81108. (1) An application for an ORV certificate of title shall be on a form prescribed by the department of state. The application shall include a certification. The owner or purchaser shall sign the application or, if the application is filed electronically, provide information requested by the department of state to verify the owner's identity. The application shall contain, in addition to other information required by the department of state, the following information:

(a) The applicant's name and address.

(b) A statement of any security interest or other liens on the ORV, along with the name and address of any lienholder.

(c) If a lien is not outstanding, a statement of that fact.

(d) A description of the ORV, including the year, make, model or series, and vehicle identification number.

(2) An application for an ORV certificate of title that indicates the existence of a security interest in the ORV shall, if requested by the security interest holder, be accompanied by a copy of the security agreement, which may be unsigned. The department of state shall indicate on the copy the date and place of filing and shall return the copy to the person who filed the application. The filer shall forward the copy to the security interest holder identified in the application.

(3) Receipt by the secretary of state of a properly tendered application for an ORV certificate of title that indicates the existence of a security interest in the ORV is a condition of perfection of a security interest in the ORV and is equivalent to filing a financing statement under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, with respect to the ORV. When a security interest in an ORV is perfected, it has priority over the rights of a lien creditor as lien creditor is defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 39, Imd. Eff. June 7, 2005;—Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81109 Making application to department of state for issuance of ORV certificate of title.

Sec. 81109. (1) The purchaser or other transferee of an ORV subject to the titling provisions of this part shall, except as provided in subsection (2), make application to the department of state for issuance of a certificate of title to the ORV. The application shall be filed within 15 days after the date of purchase or transfer.

(2) A dealer selling ORVs at retail, within 15 days after delivering an ORV to a retail purchaser, shall make application for issuance of an ORV certificate of title in the purchaser's name. The purchaser of the ORV shall sign the application and other papers necessary to enable the dealer to secure the title from the department of state. If the ORV was not previously titled, the application shall be accompanied by a manufacturer's certificate of origin.

(3) At the request of the applicant, the department of state shall process an application for an ORV certificate of title on an expedited basis.

(4) An application filed with the department of state pursuant to this section shall be accompanied by the fee or fees prescribed in section 81110.

(5) Beginning January 1, 1992, a person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 175, Imd. Eff. Apr. 18, 1996.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

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Popular name: ORV

324.81110 Fee for processing application for ORV certificate of title.

Sec. 81110. (1) The department of state shall charge a fee of $11.00 for processing an application for an ORV certificate of title or a duplicate ORV certificate of title. The department of state shall charge an additional fee of $5.00 for processing an application on an expedited basis.

(2) If a check or draft in payment of a required fee is not paid on its first presentation, the fee is delinquent as of the date the check or draft was tendered. The person tendering the check or draft remains liable for the payment of each fee and any penalty.

(3) The department of state may suspend an ORV certificate of title if the department of state determines that a fee prescribed in this section has not been paid and remains unpaid after reasonable notice or demand.

(4) If a fee is still delinquent 15 days after the department of state has given notice to a person who tendered the check or draft, a $10.00 penalty shall be assessed and collected in addition to the fee.

(5) The revenue collected from the fees imposed under this section shall be used to support the administrative costs of the secretary of state required by this section. Annual revenue collected in excess of these administrative costs shall be credited to the off-road vehicle account. Amounts appropriated for administrative costs but unexpended shall be credited to the off-road vehicle account.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81111 Refusal to issue ORV certificate of title; grounds; issuance and delivery; requiring certification of ownership.

Sec. 81111. (1) The department of state may refuse to issue an original or duplicate ORV certificate of title if any of the following occur:

(a) The applicant fails to furnish all required information or reasonable additional information requested by the department of state.

(b) The required fee has not been paid.

(c) The applicant is not entitled to an ORV certificate of title under this part.

(d) The ORV is titled under the code.

(e) The application contains a false or fraudulent statement.

(f) The department of state has reasonable grounds to believe that the ORV was stolen or embezzled.

(2) If satisfied that the applicant is the owner of the ORV and is otherwise entitled to an ORV certificate of title, the department of state shall issue an ORV certificate of title in the applicant's name. The certificate shall be mailed or otherwise delivered to the owner of the ORV or to another person specified by the owner in a separate instrument, in a form prescribed by the department of state.

(3) If the secretary of state is not satisfied as to the ownership of an ORV which is not a late model ORV and whose value does not exceed $1,500.00, the secretary of state shall require the applicant to certify that the applicant is the owner of the ORV and therefore entitled to make application for a certificate of title for the ORV.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81112 Manufacturing requirements for ORV certificate of title; uniform method of numbering; contents; prohibited acts; penalties.

Sec. 81112. (1) An ORV certificate of title shall be manufactured in a manner to prevent as nearly as possible the reproduction, alteration, counterfeiting, forging, or duplication of the certificate without ready detection. An ORV certificate of title shall contain on its face the information set forth in the application, including a notation of all secured interests in the ORV, the date on which the application was filed, and other information required by the department of state.

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(2) The department of state shall prescribe a uniform method of numbering ORV certificates of title.

(3) An ORV certificate of title shall contain a form for assignment and warranty of title by the owner with space for the notation of a security interest in the ORV. The ORV certificate of title may also contain other forms that the department of state considers necessary to facilitate the effective administration of this part. The certificate shall bear the coat of arms of this state.

(4) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates an ORV certificate of title or who uses a reproduced, altered, counterfeited, forged, or duplicated ORV certificate of title is subject to the following penalties:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for a period equal to that which could be imposed for the commission of the offense the person had the intent to aid or commit or a fine of not more than $5,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 271, Imd. Eff. Dec. 19, 2005.

Popular name: Act 451

Popular name: ORV

Popular name: Off-Road Vehicle Act

Popular name: NREPA

324.81113 Loss, mutilation, or illegibility of ORV certificate; application for and issuance of duplicate; legend; indexes.

Sec. 81113. (1) If an ORV certificate of title or duplicate certificate of title is lost or mutilated or becomes illegible, the person entitled to possession of the certificate, or the legal representative or successor in interest to the titleholder of record, may make application to the department of state for a duplicate ORV certificate of title. Upon receipt of the application, the fee prescribed in section 81110, and information satisfactory to the department of state to establish entitlement to the duplicate, the department of state may issue a duplicate ORV certificate of title to the applicant.

(2) Every duplicate ORV certificate of title shall contain the legend: “This is a duplicate certificate of title and may be subject to the rights of a person under the original certificate.”.

(3) The secretary of state shall maintain 1 or more indexes pertaining to ORV certificates of title. Upon receiving an application for an ORV certificate of title, the secretary of state may check the information in the application and accompanying documents against the indexes of titled, registered, stolen, and recovered ORVs and against other records maintained by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81114 Records available to public; commercial lookup service of ORV operation, title, and registration; disposition of fees; computerized central file; purging records; providing records to nongovernmental person or entity; payment; admissibility in evidence.

Sec. 81114. (1) The secretary of state shall make available to the public records maintained under this part, other than those declared to be confidential by law or that are restricted by law from disclosure to the public, under procedures prescribed in this part and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of ORV operation, title, and registration records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state shall credit fees collected under this subsection on and after October 1, 2005 to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b, through October 1, 2019.

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(3) The secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(4) The secretary of state may purge a record of an ORV certificate of title and any record pertaining to it 7 years after the title was issued or the record was made or received.

(5) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(6) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2005, Act 174, Imd. Eff. Oct. 12, 2005;—Am. 2009, Act 100, Imd. Eff. Sept. 30, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 77, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81114a Disclosure of personal information; uses.

Sec. 81114a. (1) Except as provided in this section and in section 81114c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity considered satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 81114c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this part may be disclosed as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of ORV and operator safety or ORV theft; ORV emissions; ORV product alterations, recalls, or advisories; performance monitoring of ORVs; ORV research activities, including survey research; and the removal of nonowner records from the original records of ORV manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court, administrative agency, or self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded ORV.

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(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by an ORV rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.

(j) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. “News medium” includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(k) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81114b Resale or redisclosure of personal information; maintenance of records; duration; availability for inspection.

Sec. 81114b. (1) An authorized recipient of personal information under section 81114a may resell or redisclose the information for any use permitted under section 81114a.

(2) Any authorized recipient of personal information disclosed under section 81114a who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81114c Furnishing list of information to federal, state, or local governmental agency; contract for sale of lists of records; surveys, marketing, and solicitations; insertion of safeguards in agreement or contract; resale or redisclosure of information; disclosure of list based on ORV operation or sanctions to nongovernmental agency.

Sec. 81114c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds $25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 81114a(3). The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that

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personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the permissible purposes described in section 81114a(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on ORV operation or sanctions to a nongovernmental agency, including an individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81115 Licensing of ORV required; exceptions; reciprocal agreement.

Sec. 81115. (1) Subject to subsection (2), a person shall not operate an ORV under any of the following conditions unless the ORV is licensed with the department or a dealer as provided under this part:

(a) Except as otherwise provided by law, on or over land, snow, ice, or other natural terrain.

(b) Except as otherwise provided in this part, on a forest trail or in a designated area.

(c) On a street, county road, or highway, except if the vehicle is registered under the code.

(2) An ORV is not required to be licensed under this part under any of the following circumstances:

(a) The ORV is used exclusively in a comprehensive program for training as required in section 81129.

(b) The ORV is operated solely on private property by the owner of the property, a family member of the owner, or an invited guest of the owner.

(c) The ORV is being operated on a free ORV-riding day. The department shall designate as free ORV-riding days each year a Saturday and the following Sunday that are also designated as free fishing days under section 43534. In addition, the department may designate 1 other day or 2 other consecutive days each year as free ORV-riding days. A person operating an unlicensed ORV during a free ORV-riding day has the same privileges and is subject to the same rules and regulations as a person operating an ORV licensed as required under subsection (1).

(d) If and to the extent the department waives the requirement pursuant to a reciprocal agreement with another state.

(3) The department is authorized to enter a reciprocal agreement described in subsection (2)(d).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 111, Eff. Oct. 1, 2003;—Am. 2008, Act 240, Imd. Eff. July 17, 2008;—Am. 2013, Act 119, Imd. Eff. Sept. 25, 2013.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81116 Application for license by owner or dealer of ORV; filing; form; application fee; false information prohibited; issuance of license; validity; permit fees; purchase and resale of ORV licenses; refunds; records; attachment of license to vehicle; license not required for vehicle used and stored outside state; lost or destroyed license.

Sec. 81116. (1) The owner of an ORV requiring licensure under this part shall file an application for a license with the department or a dealer on forms provided by the department. If an ORV is sold by a dealer, the application for a license shall be submitted to the department by the dealer in the name of the owner. The application shall include a certification. The owner of the vehicle shall sign the application or, if the application is filed electronically, provide information requested by the department to verify the owner's identity. The application shall be accompanied by a fee as provided in subsection (2). A person shall not file

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an application for a license that contains false information. Upon receipt of the application in approved form and upon payment of the appropriate fee, the department or dealer shall issue to the applicant a license which is valid for the 12-month period for which it is issued. A license shall be issued for the 12-month period beginning April 1 and ending March 31 each year.

(2) The fee for a license is as follows:

(a) For a license valid for the 12-month period beginning April 1, 2013, $16.25.

(b) For a license valid for a 12-month period beginning April 1, 2014, 2015, 2016, 2017, or 2018 and that does not authorize operation of the ORV on state ORV trails, $26.25.

(c) For a license valid for a 12-month period beginning April 1, 2014, 2015, 2016, 2017, or 2018 and that authorizes operation of the ORV on state ORV trails, $36.25.

(d) For a license valid for a 12-month period beginning April 1, 2019 or a subsequent April 1, no fee.

(3) Dealers may purchase from the department ORV licenses for resale to owners of vehicles requiring licensure under this part. The department shall refund to dealers the purchase price of any ORV licenses returned within 90 days after the end of the 12-month period for which they were valid. A dealer shall maintain and provide to the department records of ORV license sales on forms provided by the department. In addition to the sale of ORV licenses, a dealer engaged in the sale, lease, or rental of ORVs as a regular business may sell any other license or permit authorized by the department to be sold by other dealers under the statutes of this state.

(4) The license shall be permanently attached to the vehicle in the manner prescribed and in the location designated by the department before the vehicle may legally be operated in accordance with this part.

(5) If at the time of sale the purchaser certifies on a form provided by the department that the purchased vehicle otherwise requiring a license under this part will be used and stored outside of this state and will not be returned by the purchaser to this state for use, then a license is not required.

(6) If a license acquired by the owner of an ORV is lost or destroyed, the department shall provide that person with a replacement license free of charge. The department may require a person requesting a replacement license to supply sufficient evidence of the loss or destruction of the original license.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1995, Act 99, Imd. Eff. June 22, 1995;—Am. 2003, Act 111, Eff. Oct. 1, 2003;—Am. 2006, Act 477, Imd. Eff. Dec. 21, 2006;—Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012;—Am. 2013, Act 75, Imd. Eff. June 25, 2013.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81117 Off-road vehicle account.

Sec. 81117. (1) Money in the off-road vehicle account shall be used only for the following:

(a) Signage for and improvement, maintenance, and construction of ORV trails, routes, or areas.

(b) The administration and enforcement of this part.

(c) The leasing of land.

(d) The acquisition of easements, permits, or other agreements for the use of land for ORV trails, routes, or areas.

(e) The restoration of any of the natural resources of this state on public land that are damaged due to ORV use in conjunction with the plan required by section 81123.

(f) One dollar of the revenue from each fee collected under section 81116 shall be used for the purposes of sections 81129 and 81130.

(2) All revenue from each fee collected under section 81116 shall be deposited in the off-road vehicle account.

(3) All funds allocated under this part shall be for projects that are open to the public.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 111, Eff. Oct. 1, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

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324.81118 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: The repealed section pertained to creation of safety education fund.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81119 Distribution of revenue in form of grants.

Sec. 81119. (1) Not less than 50% of the money in the off-road vehicle account shall be distributed each year in the form of grants for the purpose of planning, improving, constructing, signing, and maintaining ORV trails, areas, and routes and access to those trails, areas, and routes, the leasing of land, the acquisition of easements, permits, or other agreements for the use of land for ORV trails, areas, and routes, to public agencies and nonprofit incorporated clubs and organizations.

(2) An application by a public agency or a nonprofit incorporated club or organization shall include a plan for restoration of any of the natural resources of this state on public land that are damaged due to ORV use. The public agencies or nonprofit incorporated clubs or organizations shall indicate on their application that their use of grant money is consistent with, and meets the requirements of, the plan developed by the department pursuant to section 81123, and the trail, route, or area is available to the public. The department shall not approve a grant unless the application meets the requirements of the plan. The department shall make application forms available and consider grant requests on a yearly basis.

(3) A grant shall not be made for a trail, route, or area unless the trail, route, or area is available for ORV use and is approved by the department. A grant for the cost of leasing of land and the acquisition of easements, permits, or other agreements may equal 100% of incurred expense. Specifications shall be prescribed by the department.

(4) Not less than 31-1/4% of the money in the off-road vehicle account shall be used each year for enforcement of this part or the purchase of any necessary equipment used for enforcement of this part. Of the amount available for enforcement, the department shall make available 24% of the funds for distribution in the form of grants by the department to the county sheriffs' departments. The balance of the funds available shall be used by the department for the enforcement of this part or for the purchase of any necessary equipment used for the enforcement of this part. In making grants available for distribution under this subsection, the department shall consider the following factors:

(a) The number of miles of ORV trails, routes, or areas within the county.

(b) The number of sheriff's department employees available for enforcement of this part.

(c) The estimated number of ORVs within the county and that are brought into the county for ORV use.

(d) The estimated number of days that ORVs may be used within that county.

(e) Any other factors considered appropriate by the department. The department shall require a county sheriff receiving a grant under this subsection to maintain records and submit an annual report to verify expenditure of grant money received.

(5) Not less than 12-1/2% of the revenue in the off-road vehicle account shall be distributed each year in the form of grants to public agencies and nonprofit incorporated clubs and organizations for the restoration of damage that is caused by ORV use to natural resources on public land. A grant under this subsection may be in addition to a grant under subsection (1). An application for a grant under this subsection shall comply with subsection (2).

(6) Not more than 3-1/8% of the revenue in the off-road vehicle account in any year shall be used for administration of this part. The department may use revenue from the funds for personnel to operate the program under this part.

(7) The remaining 3-1/8% of the revenue in the off-road vehicle account may be used for the purposes described in subsections (1) and (4), except that 25 cents of each fee for a license sold by a dealer shall be retained by the dealer as a commission for services rendered. If the remainder of the money in the off-road vehicle account is used for the purposes described in subsection (4), it shall be allocated as provided in subsection (4).

(8) Grants under this section shall remain available until expended once a contract or commitment has been entered into under this section. A contract shall be for a period of not more than 2 years. A grant not expended within the contract period may be renewed by the department by entering into a new contract.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part

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of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81120 Prohibited conduct; violations as felony; penalties.

Sec. 81120. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 81114a or 81114c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81121 Renting, leasing, or furnishing ORV; maintaining safe operating condition; explanation of operation; liability insurance.

Sec. 81121. (1) A dealer shall maintain in safe operating condition an ORV rented, leased, or furnished by the dealer. The dealer, dealer's agents, or employees shall explain the operation of the vehicle being rented, leased, or furnished, and if the dealer, dealer's agent, or employee believes the person to whom the vehicle is to be rented, leased, or furnished is not competent to operate the vehicle with safety to that person or others, the dealer, dealer's agent, or employee shall refuse to rent, lease, or furnish the vehicle.

(2) A dealer renting, leasing, or furnishing a vehicle shall carry a policy of liability insurance subject to limits, exclusive of interest and costs, with respect to the vehicle, as follows: $20,000.00 because of bodily injury to, or death of, 1 person in any 1 accident, and $40,000.00 because of bodily injury to, or death of, 2 or more persons in any 1 accident, and $10,000.00 because of injury to, or destruction of, property of others in any 1 accident, or alternatively, the dealer shall demand and be shown proof that the person renting, leasing, or being furnished a vehicle carries a liability policy of at least the type and coverage as specified above.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81122 Prohibited operation of unregistered ORV; permit not required; operator as prima facie negligent.

Sec. 81122. (1) A person shall not operate an ORV that is not registered under the code upon a street, county road, or highway, except as provided in section 81131 or under the following conditions and circumstances:

(a) The operator of a vehicle may cross a street, county road, or highway, other than a limited access highway, at right angles, for the purpose of getting from 1 area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a street, county road, or highway, and shall yield the right-of-way to oncoming traffic.

(b) A vehicle may be operated on a street, county road, or highway for a special event of limited duration and conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. Subject to subsection (2), a special event involving ORVs may be conducted on the frozen surface of public waters only under permit from the department.

(c) A farmer, employee of a farmer, or family member of a farmer who is at least 16 years of age may operate an ORV on a street, county road, or highway while traveling to or from the farmer's residence or work location or field during the course of farming operations. An ORV shall not be operated pursuant to this

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subdivision during the period of 30 minutes before sunset to 30 minutes after sunrise or when visibility is substantially reduced due to weather conditions. The individual shall operate the ORV in the same manner and on the same portion of the street, county road, or highway as required under section 81131(9). The state transportation department and all of its employees are immune from tort liability for injury or damages sustained by any person arising in any way by reason of the operation or use of an ORV for the limited purposes allowed under this subdivision. An operator of an ORV under this subdivision shall have attached to the ORV a flag made of reflective material. The flag shall extend not less than 8 feet from the surface of the street, county road, or highway and not less than 4 feet above the top of the ORV. The flag shall be not less than 12 inches high by 18 inches long and not measure less than 100 square inches.

(2) The department shall not require a permit under this part merely for organized group recreational ORV riding on department lands, or for an ORV event on the frozen surface of public waters, if conducted in compliance with applicable statutes, rules, and orders. Within 90 days after the effective date of the amendatory act from the 2013-2014 legislative session that added this subsection, the department shall develop and establish, in consultation with representatives of the Michigan snowmobile and trails advisory committee and other interested parties, policy criteria for determining circumstances under which notice to the department or a permit is required for ORV events on department lands.

(3) In a court action in this state if competent evidence demonstrates that a vehicle that is permitted to operate on a highway pursuant to the code is in a collision on a roadway with an ORV that is not registered under the code, the operator of the ORV involved in the collision shall be considered prima facie negligent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2013, Act 119, Imd. Eff. Sept. 25, 2013.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81123 Comprehensive plan for management of ORV use of certain areas, routes, and trails; revision; approval; designation of ORV trails and areas for nonconflicting recreation trail use; designated scramble area; maps of trails.

Sec. 81123. (1) The department shall, by October 1, 1991, develop a comprehensive plan for the management of ORV use of areas, routes, and trails maintained by or under the jurisdiction of the department or a local unit of government pursuant to section 81131. The plan shall, as a minimum, set forth the following methods and timetable:

(a) The inventorying, by appropriate means, of all areas, forest roads, and forest trails used by or suitable for use by ORVs.

(b) The identification and evaluation of the suitability of areas, forest roads, and forest trails to sustain ORV use.

(c) The designation of areas, forest roads, and forest trails for ORV use, including use by persons with disabilities.

(d) The development of resource management plans to maintain areas, forest roads, or forest trails and to restore or reconstruct damaged areas, forest roads, or forest trails. The plans shall include consideration of the social, economic, and environmental impact of ORV use.

(e) Specifications for trails and areas.

(2) The plan developed under subsection (1) shall be revised every 2 years. The plan shall be submitted to the legislature for approval. The legislature shall approve the plan without amendment by concurrent resolution adopted by both standing committees of the house of representatives and senate that consider natural resources matters and both houses of the legislature by recorded vote. The department shall submit any subsequent revisions to the plan to the secretary of the senate and the clerk of the house of representatives at least 20 session days before the effective date of the revisions. If both standing committees of the house of representatives and senate that consider natural resources matters fail to reject the revisions within those 20 session days, the revisions shall be considered approved.

(3) The plan may designate where bicyclists, hikers, equestrians, and other nonconflicting recreation trail users may use ORV trails or areas.

(4) By May 7, 1992, the department shall designate an appropriate area in the northern Lower Peninsula and an appropriate area in southeast Michigan as a scramble area.

(5) Copies of maps of trails shall be prepared and made available by the department in sufficient quantities to accompany each ORV certificate of title issued by the secretary of state and to place in each county sheriff's office and each department of natural resources field office.

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History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81124 Rules.

Sec. 81124. If the department finds that rules are necessary to implement the regulatory provisions of this part or to clarify the intent of this part, the department shall promulgate rules.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81125 Repealed. 2003, Act 111, Eff. Oct. 1, 2003.

Compiler's note: The repealed section pertained to ORV trails advisory committee.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81126 Applicability of MCL 324.81123, 324.81125, and 324.81127 to Upper Peninsula; Upper Peninsula task force; creation; appointment of members; meetings; evaluation; report.

Sec. 81126. (1) Except as otherwise provided in sections 81119 and 81125, sections 81123, 81125, and 81127 do not apply to the Upper Peninsula of this state.

(2) Not later than January 1, 1998, the advisory committee created by the commission shall report its findings to the standing committees of the senate and house of representatives that consider legislation affecting this part including its recommendations on whether this act should be implemented on a statewide basis.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81127 Comprehensive system; considerations.

Sec. 81127. (1) Under the comprehensive system previously approved and implemented under former section 16d of 1975 PA 319, all state owned land under the jurisdiction of the department shall be closed to ORV use except designated routes, designated trails, and designated areas. The commission shall approve any subsequent revisions to the system and shall establish an effective date for the revisions. The department shall submit the revisions approved by the commission to the secretary of the senate and the clerk of the house of representatives at least 20 session days before the effective date determined by the commission. If both standing committees of the senate and the house of representatives that primarily consider issues pertaining to the protection of natural resources fail to reject the revisions within those 20 session days, the revisions shall be considered approved.

(2) In developing the system, the department shall consider the needs of hunters, senior citizens, and persons with disabilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81128 Repealed. 2013, Act 119, Imd. Eff. Sept. 25, 2013.

Compiler's note: The repealed section pertained to citizens review board.

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324.81129 Operation of ORV or ATV by child; requirements; ORV information and safety advice; training program and performance testing; course instruction; ORV safety certificates; rules; exceptions; report; additional requirements.

Sec. 81129. (1) Subject to subsections (2), (3), and (17), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has an ORV safety certificate in his or her immediate possession.

(2) Subject to subsection (17), a parent or legal guardian of a child less than 12 years of age shall not permit the child to operate an ATV with 4 or more wheels unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(3) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a 3-wheeled ATV.

(4) Subject to subsections (5), (6), and (17), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has an ORV safety certificate in his or her immediate possession.

(5) Subject to subsection (17), the owner or person in charge of an ATV with 4 or more wheels shall not knowingly permit the vehicle to be operated by a child less than 12 years of age unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(6) The owner or person in charge of a 3-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(7) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by an individual who is incompetent to operate the vehicle because of mental or physical disability.

(8) The department shall implement a comprehensive program for the training of ORV operators and the preparation and dissemination of ORV information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training and may include separate instruction for each type of ORV.

(9) In implementing a program under subsection (8), the department shall cooperate with private organizations and associations, private and public corporations, the department of education, the department of state, and local governmental units. The department shall consult with ORV and environmental organizations and associations in regard to the subject matter of a training program and performance testing that leads to certification of ORV operators.

(10) The department may designate a qualified individual to provide course instruction and to award ORV safety certificates.

(11) The department may promulgate rules to implement subsections (8) to (10) and (17).

(12) Subject to subsections (13), (14), and (17), a child who is less than 16 years of age shall not operate an ORV unless the child is under the direct visual supervision of an adult and the child has an ORV safety certificate in his or her immediate possession.

(13) Subject to subsection (17), a child who is less than 12 years of age shall not operate an ATV with 4 or more wheels unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(14) A child who is less than 16 years of age shall not operate a 3-wheeled ATV.

(15) Subject to subsection (17), when operating an ORV, a child who is less than 16 years of age shall present the ORV safety certificate to a peace officer upon demand.

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a street, county road, or highway. An operator who is not less than 12 years of age but less than 16 years of age may cross a street, county road, or highway or operate an ORV pursuant to section 81131(9) if the operator has an ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(17) The requirement that a child possess an ORV safety certificate to operate an ORV, and the requirement that a child who is less than 12 years of age not operate an ATV with 4 or more wheels unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child, do not apply if all of the following requirements are met:

(a) The child is participating in an organized ORV riding or racing event held on land not owned by this state.

(b) The child's parent or legal guardian has provided the event organizer with written permission for the

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child to participate in the event.

(c) The event organizer has not less than $500,000.00 liability insurance coverage for the event.

(d) A physician or physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a paramedic or emergency medical technician licensed under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979, is present at the site of the event or available on call.

(e) The event is at all times under the direct visual supervision of adult staff of the event organizer and a staff member serves as a flagger to warn participants if another participant is injured or an ORV is inoperable in the ORV operating area.

(f) Fencing or another means of crowd control is used to keep spectators out of the ORV operating area.

(g) If the event is on a closed course, dust is controlled in the ORV operating area and the riding surface in the ORV operating area is otherwise properly prepared.

(h) Three-wheeled ATVs are not used by participants.

(i) Any ATVs used by participants are equipped with a side step bar or comparable safety equipment and with a tether kill switch, and the tether is used by all participants.

(j) Each participant in the event wears a crash helmet approved by the United States department of transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.

(k) Any other applicable requirements of this part or rules promulgated under this part are met.

(18) If a child less than 16 years of age participates and is injured in an organized ORV riding or racing event, the organizer of the event shall, within 30 days after the event, submit to the department a report on a form developed by the department. The report shall include all of the following information, as applicable:

(a) Whether any participant less than 16 years of age was killed or suffered an injury resulting in transportation to a hospital as a result of an ORV accident at the event.

(b) The age of the child.

(c) Whether the child had been issued an ORV safety certificate.

(d) The type of ORV operated.

(e) A description of the accident and injury.

(19) By December 31 of each year, the department shall submit to the legislature a report that summarizes reports received under subsection (18) during the preceding calendar year. In the report, the department may recommend amendments to this part to improve the safety of children less than 16 years of age participating in organized ORV riding or racing events.

(20) The requirements of this section are in addition to any applicable requirements of section 81131(13).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 111, Eff. Oct. 1, 2003;—Am. 2008, Act 164, Imd. Eff. June 19, 2008;—Am. 2008, Act 240, Imd. Eff. July 17, 2008;—Am. 2013, Act 119, Imd. Eff. Sept. 25, 2013;—Am. 2013, Act 249, Imd. Eff. Dec. 26, 2013.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81130 ORV safety education course.

Sec. 81130. (1) A person who is under 16 years of age, before operating an ATV or ORV, shall complete an ORV safety education course approved by the department. This course may include a written examination and a driving test designed to test the competency of the applicant. Upon successful completion of this safety education course, a person shall receive an ORV safety certificate.

(2) A safety education course conducted by a college or university, an intermediate school district, a local school district, a law enforcement agency, or another governmental agency located in this state or by a department approved nonprofit service organization shall be conducted in compliance with this section. An agency or a school conducting a course under this subsection may apply to the department for a grant from the off-road vehicle account for costs associated with conducting a course.

(3) Except for a course conducted by a private business enterprise as provided by subsection (4), an applicant for a safety education course under this section shall pay not more than a $25.00 course fee or in the case of a university or community college a fee not more than the cost of 1 credit hour of instruction. The course fees shall only be used for funding the administration and implementation of the course.

(4) An ATV or ORV, or both, safety education course required by this section and approved by the department may be conducted by a private business enterprise. A private business enterprise may charge a course fee not to exceed the cost of conducting the course.

(5) The director shall designate a person to be the state coordinator of the ATV and ORV safety education

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program. A person designated under this subsection shall have successfully completed ATV and ORV safety courses.

(6) The director shall designate a person who has successfully completed ATV and ORV safety courses to perform annual inspections of course sites.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 111, Eff. Oct. 1, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81131 Ordinance allowing disabled person to operate ORV; notice of public hearing; closure of county road to operation of ORVs; operation of ORVs on highway; operation of ORV with flow of traffic; maintaining county road or street or highway not required; immunity from tort liability; "gross negligence" defined; operator of ORV as prima facie negligent; violation as municipal civil infraction; deposit of fines; violation as state civil infraction.

Sec. 81131. (1) A municipality may pass an ordinance allowing a permanently disabled person to operate an ORV in that municipality.

(2) Subject to subsection (4), a county board of commissioners may adopt an ordinance authorizing the operation of ORVs on 1 or more county roads located within the county. Not less than 45 days before a public hearing on the ordinance, the county clerk shall send notice of the public hearing, by certified mail, to the county road commission, to the legislative body of each township and municipality located within the county, to the state transportation department if the road intersects a highway, and, if state forestland is located within the county, to the department. If the county is a southern county, before adopting an ordinance under this subsection, the county board of commissioners shall consult with the board of county road commissioners.

(3) Subject to subsection (4), the legislative body of a township or municipality may adopt an ordinance authorizing the operation of ORVs on 1 or more county roads located within the township or municipality, respectively. Not less than 28 days before a public hearing on the ordinance, the clerk of the township or municipality shall send notice of the public hearing, by certified mail, to the county road commission, to the county board of commissioners, to the legislative body of every other township and municipality located within the county, to the state transportation department if the road intersects a highway, and, if state forestland is located within the township or municipality, to the department. If the township or municipality is located in a southern county, before adopting an ordinance under this subsection, the legislative body of the township or municipality shall consult with the board of county road commissioners. This subsection does not apply to a township or municipality until 1 year after the effective date of the amendatory act that first authorized the county in which that township or municipality is located to adopt an ordinance under subsection (2).

(4) The board of county road commissioners may close a county road to the operation of ORVs otherwise authorized pursuant to subsection (2) or (3). A county road commission shall not under this subsection close more than 30% of the linear miles of county roads located within the county to the operation of ORVs otherwise authorized pursuant to subsection (2) or (3). The legislative body of a township or municipality may adopt an ordinance to close a county road located in the township or municipality to the operation of ORVs otherwise authorized pursuant to subsection (2). The legislative body of a village may adopt an ordinance to close a county road located in the village to the operation of ORVs otherwise authorized by the township pursuant to subsection (3). A county road may be closed to the operation of ORVs under this subsection only to protect the environment or if the operation of ORVs poses a particular and demonstrable threat to public safety.

(5) The legislative body of a municipality may adopt an ordinance authorizing the operation of ORVs on 1 or more streets within the municipality.

(6) The legislative body of a local unit of government may request the state transportation department to authorize the local unit of government to adopt an ordinance authorizing the operation of ORVs on a highway, other than an interstate highway, located within the local unit of government. The request shall describe how the authorization would meet the requirements of subsection (7). The state transportation

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department shall solicit comment on the request from the department, ORV clubs, and local units of government where the highway is located. The state transportation department shall consider comments received on the request before making a decision on the request. The state transportation department shall grant the request in whole or in part or deny the request not more than 60 days after the request is received. If the state transportation department grants a request in whole or in part under this subsection, the local unit of government that submitted the request may adopt an ordinance authorizing the operation of ORVs on the highway that was the subject of the request. A county may submit a request for authorization under this subsection on behalf of 1 or more local units of government located within that county if requested by those local units of government. Before January 1, 2015, the state transportation department may authorize the operation of ORVs on a highway as provided in this subsection and subsection (7) on the department's initiative and without having received a request from a local unit of government.

(7) The state transportation department shall authorize operation of an ORV under subsection (6) only on a highway that is not an interstate highway and that meets 1 or more of the following requirements:

(a) Serves as a connector between ORV areas, routes, or trails designated by the department or an ORV user group.

(b) Provides access to tourist attractions, food service establishments, fuel, motels, or other services.

(c) Serves as a connector between 2 segments of the same county road that run along discontinuous town lines and on which ORV use is authorized pursuant to subsection (2) or (3).

(d) Includes a bridge or culvert that allows an ORV to cross a river, stream, wetland, or gully that is not crossed by a street or county road on which ORVs are authorized to operate under subsection (2), (3), or (5).

(8) The state transportation department may close a highway to the operation of ORVs otherwise authorized pursuant to subsection (6) after written notice to the clerk of each local unit of government where the highway is located and the senate and house committees with primary responsibility for natural resources, recreation, and transportation. The notice shall be in writing and sent by first-class United States mail or personally delivered not less than 30 days before the adoption of the rule or order closing the highway. The notice shall set forth specific reasons for the closure.

(9) Subject to subsection (4), if a local unit of government adopts an ordinance pursuant to subsection (2), (3), or (5), a person may operate an ORV with the flow of traffic on the far right of the maintained portion of the street or county road covered by the ordinance. If the operation of ORVs on a highway is authorized pursuant to subsection (6), a person may operate an ORV with the flow of traffic as follows:

(a) On the right shoulder of the highway.

(b) If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the highway.

(c) On the far right of the right traffic lane of the highway, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.

(10) A person shall not operate an ORV as authorized pursuant to subsection (2), (3), (5), or (6) at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the street, county road, or highway.

(11) Unless the person possesses a license as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a person shall not operate an ORV as authorized pursuant to subsection (2), (3), (5), or (6) if the ORV is registered as a motor vehicle under chapter II of the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and either is more than 65 inches wide or has 3 wheels. ORVs operated as authorized pursuant to subsection (2), (3), (5), or (6) shall travel single file, except that an ORV may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by, another ORV.

(12) A person shall not operate an ORV as authorized pursuant to this section without displaying a lighted headlight and lighted taillight.

(13) A person under 18 years of age shall not operate an ORV as authorized pursuant to this section unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. A person under 12 years of age shall not operate an ORV as authorized pursuant to this section. The requirements of this subsection are in addition to any applicable requirements of section 81129.

(14) A township that has authorized the operation of ORVs on a county road under subsection (3) does not have a duty to maintain the maintained portion or unmaintained portion of the county road in a condition reasonably safe and convenient for the operation of ORVs. This state does not have a duty to maintain a highway in reasonable repair so that it is reasonably safe and convenient for the operation of ORVs except ORVs registered and operated as motor vehicles as provided in the code. A board of county road

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commissioners, a county board of commissioners, or a municipality does not have a duty to maintain the maintained portion or unmaintained portion of a county road or street under its jurisdiction in a condition reasonably safe and convenient for the operation of ORVs, except the following ORVs:

(a) ORVs registered and operated as motor vehicles as provided in the code.

(b) ORVs operated as authorized pursuant to subsection (1).

(15) Subject to section 5 of 1964 PA 170, MCL 691.1405, this state, a board of county road commissioners, a county board of commissioners, and a local unit of government are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use, on the maintained portion or unmaintained portion of a highway, road, or street, of an ORV that is not registered under the code or that is registered under the code but is operated as authorized pursuant to subsection (2), (3), (5), or (6). The immunity provided by this subsection does not apply to actions of an employee of this state, an employee of a board of county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(16) In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road, street, or highway pursuant to the code was in a collision on a roadway with an ORV that is not registered under the code, the operator of the ORV shall be considered prima facie negligent.

(17) A violation of an ordinance described in this section is a municipal civil infraction. The ordinance may provide for a fine of not more than $500.00 for a violation of the ordinance. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a street, county road, or highway, or public property as a result of the violation.

(18) The treasurer of the local unit of government shall deposit fines collected by that local unit of government under section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379, and subsection (17) and damages collected under subsection (17) into a fund to be designated as the "ORV fund". The legislative body of the local unit of government shall appropriate revenue in the ORV fund as follows:

(a) Fifty percent to the county sheriff or police department responsible for law enforcement in the local unit of government for ORV enforcement and training.

(b) Fifty percent to the board of county road commissioners or, in the case of a city or village, to the department responsible for street maintenance in the city or village. However, if a fine was collected for a violation of an ordinance adopted under subsection (6), 50% of the fine revenue shall be appropriated to the state transportation department. Revenue appropriated under this subdivision shall be used for repairing damage to streets, county roads, or highways and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets, county roads, or highways are open or closed to the operation of ORVs under this section.

(19) A person who violates a rule promulgated or order issued under subsection (6) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a highway, or public property as a result of the violation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2008, Act 240, Imd. Eff. July 17, 2008;—Am. 2009, Act 175, Imd. Eff. Dec. 15, 2009;—Am. 2011, Act 107, Imd. Eff. July 19, 2011;—Am. 2013, Act 117, Imd. Eff. Sept. 25, 2013;—Am. 2013, Act 118, Imd. Eff. Sept. 25, 2013.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81132 Rules; ordinance enacted under authority of rule; enforcement.

Sec. 81132. (1) The department may promulgate rules governing the operation and conduct of ORVs, vehicle speed limits, use of vehicles by day and hour, and the establishment and designation of areas within which vehicles may be used in a manner compatible with, and that will best protect, the public safety and general welfare on the frozen surface of public waters, and that will preserve the submerged marshlands adjacent to the borders of the Great Lakes, lake St. Clair, and the navigable inland waters of the state.

(2) The department, on its own initiative or upon receipt of a certified resolution of the governing body of a local unit of government may initiate investigations into the need for special rules governing the operation of vehicles on the frozen surface of public waters and the submerged marshlands adjacent to the borders of the Great Lakes, lake St. Clair, and the navigable inland waters of the state. If controls for that activity are considered necessary, or when the amendment or rescission of an existing rule is required, a rule shall be

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prepared. Notice of a public hearing shall be made not less than 10 days prior to the hearing, in a newspaper of general circulation in the area within which the rules are to be imposed, amended, or rescinded.

(3) The proposed rule shall then be submitted to the governing body of the political subdivision in which the affected frozen waters or marshes lie. Within 30 calendar days, the governing body shall inform the department that it approves or disapproves of the proposed rule. If the governing body disapproves the proposed rule, further action shall not be taken. If the governing body approves the proposed rule, a local ordinance may be enacted which shall be identical to the rule, and which ordinance shall not be effective until the rule is in effect in accordance with law. The department shall then promulgate the rule.

(4) When an ordinance is enacted under the authority of a rule, and that rule is subsequently suspended by the legislature, or amended or rescinded by the department, the ordinance shall also be suspended, amended, or repealed.

(5) A local law enforcement officer may enforce an ordinance enacted pursuant to this section, and a state law enforcement officer shall enforce a rule promulgated under this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81133 Operation of ORV; prohibited acts; crash helmet and protective eyewear required; exception; assumption of risk.

Sec. 81133. (1) An individual shall not operate an ORV:

(a) At a rate of speed greater than is reasonable and proper, or in a careless manner, having due regard for conditions then existing.

(b) During the hours of 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and lighted taillight. The requirements of this subdivision are in addition to any applicable requirements of section 81131(12).

(c) Unless the vehicle is equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

(d) In a state game area or state park or recreation area, except on roads, trails, or areas designated for this purpose; on other state-owned lands under the control of the department where the operation would be in violation of rules promulgated by the department; in a forest nursery or planting area; on public lands posted or reasonably identifiable as an area of forest reproduction, and when growing stock may be damaged; in a dedicated natural area of the department; or in any area in such a manner as to create an erosive condition, or to injure, damage, or destroy trees or growing crops. However, the department may permit an owner and guests of the owner to use an ORV within the boundaries of a state forest in order to access the owner's property.

(e) On the frozen surface of public waters within 100 feet of an individual not in or upon a vehicle, or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle, or as may be authorized by permit in special events.

(f) Unless the vehicle is equipped with a spark arrester type United States forest service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the vehicle is under full throttle, traveling in second gear, and measured 50 feet at right angles from the vehicle path with a sound level meter that meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986, or that level comparable to the current sound level as provided for by the United States environmental protection agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this part, manufactured or assembled after December 31, 1972 and used, sold, or offered for sale in this state, shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1972, 42 USC 4901 to 4918.

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(g) Within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except under any of the following circumstances:

(*i*) On property owned by or under the operator's control or on which the operator is an invited guest.

(*ii*) On a forest road or forest trail if the forest road or forest trail is maintained by or under the jurisdiction of the department.

(*iii*) On a street, county road, or highway on which ORV use is authorized pursuant to section 81131(2), (3), (5), or (6).

(h) In or upon the lands of another without the written consent of the owner, the owner's agent, or a lessee, when required by part 731. The operator of the vehicle is liable for damage to private property caused by operation of the vehicle, including, but not limited to, damage to trees, shrubs, or growing crops, injury to other living creatures, or erosive or other ecological damage. The owner of the private property may recover from the individual responsible nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders or of the private property owner or other authorized person to personally communicate against trespass does not imply consent to ORV use.

(i) In an area on which public hunting is permitted during the regular November firearm deer season, from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, or to remove from public land a deer, elk, or bear that has been taken under a valid license; except to conduct necessary work functions involving land and timber survey, communication and transmission line patrol, or timber harvest operations; or except on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game under this subdivision may leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the code is exempt from this subdivision while operating on a private road capable of sustaining automobile traffic or a street, county road, or highway. A person holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with a disability using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this subdivision. An individual holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with a disability using an ORV to access public lands for purposes of hunting or fishing, may display a flag, the color of which the department shall determine, to identify himself or herself as a person with a disability or an individual holding a permit to hunt from a standing vehicle under part 401.

(j) Except as otherwise provided in section 40111, while transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(k) On or across a cemetery or burial ground, or land used as an airport.

(*l*) Within 100 feet of a slide, ski, or skating area, unless the vehicle is being used for the purpose of servicing the area or is being operated pursuant to section 81131(2), (3), (5), or (6).

(m) On an operating or nonabandoned railroad or railroad right-of-way, or public utility right-of-way, other than for the purpose of crossing at a clearly established site intended for vehicular traffic, except railroad, public utility, or law enforcement personnel while in performance of their duties, and except if the right-of-way is designated as provided for in section 81127.

(n) In or upon the waters of any stream, river, bog, wetland, swamp, marsh, or quagmire except over a bridge, culvert, or similar structure.

(o) To hunt, pursue, worry, kill, or attempt to hunt, pursue, worry, or kill an animal, whether wild or domesticated.

(p) In a manner so as to leave behind litter or other debris.

(q) On public land, in a manner contrary to operating regulations.

(r) While transporting or possessing, in or on the vehicle, alcoholic liquor in a container that is open or uncapped or upon which the seal is broken, except under either of the following circumstances:

(*i*) The container is in a trunk or compartment separate from the passenger compartment of the vehicle.

(*ii*) If the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is encased or enclosed.

(s) While transporting any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.

(t) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except under any of the following circumstances:

(*i*) On a forest road or forest trail if the forest road or forest trail is maintained by or under the jurisdiction

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of the department.

(*ii*) On a street, county road, or highway on which ORV use is authorized under section 81131(2), (3), (5), or (6).

(u) On a forest trail if the ORV is greater than 50 inches in width.

(2) An individual who is operating or is a passenger on an ORV shall wear a crash helmet and protective eyewear that are approved by the United States department of transportation. This subsection does not apply to any of the following:

(a) An individual who owns the property on which the ORV is operating, is a family member of the owner and resides at that property, or is an invited guest of an individual who owns the property. An exception under this subdivision does not apply to any of the following:

(*i*) An individual less than 16 years of age.

(*ii*) An individual 16 or 17 years of age, unless the individual has consent from his or her parent or guardian to ride without a crash helmet.

(*iii*) An individual participating in an organized ORV riding or racing event if an individual who owns the property receives consideration for use of the property for operating ORVs.

(b) An individual wearing a properly adjusted and fastened safety belt if the ORV is equipped with a roof that meets or exceeds United States department of transportation standards for a crash helmet.

(c) An ORV operated on a state-licensed game bird hunting preserve at a speed of not greater than 10 miles per hour.

(3) Each person who participates in the sport of ORV riding accepts the risks associated with that sport insofar as the dangers are inherent. Those risks include, but are not limited to, injuries to persons or property that can result from variations in terrain; defects in traffic lanes; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; and collisions with fill material, decks, bridges, signs, fences, trail maintenance equipment, or other ORVs. Those risks do not include injuries to persons or property that result from the use of an ORV by another person in a careless or negligent manner likely to endanger person or property. When an ORV is operated in the vicinity of a railroad right-of-way, each person who participates in the sport of ORV riding additionally assumes risks including, but not limited to, entanglement with railroad tracks, switches, and ties and collisions with trains and train-related equipment and facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998;—Am. 2008, Act 240, Imd. Eff. July 17, 2008;—Am. 2008, Act 365, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 246, Imd. Eff. July 2, 2012;—Am. 2012, Act 340, Imd. Eff. Oct. 16, 2012;—Am. 2013, Act 119, Imd. Eff. Sept. 25, 2013;—Am. 2013, Act 249, Imd. Eff. Dec. 26, 2013;—Am. 2014, Act 147, Imd. Eff. June 4, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81134 Operation of or authorizing operation of ORV while under influence of alcoholic liquor or controlled substance prohibited; visible impairment; violation; penalty; "serious impairment of a body function" defined; person less than 21 years of age; person less than 16 years of age occupying ORV; penalties; costs; screening, assessment, and rehabilitative services; duty of court before accepting guilty plea; record.

Sec. 81134. (1) A person shall not operate an ORV if any of the following apply:

(a) The person is under the influence of alcoholic liquor or a controlled substance, as defined by section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person has in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(2) The owner or person in charge or in control of an ORV shall not authorize or knowingly permit the ORV to be operated by a person if any of the following apply:

(a) The person is under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance.

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(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate an ORV is visibly impaired due to the consumption of an alcoholic liquor, a controlled substance, or a combination of an alcoholic liquor and a controlled substance.

(3) A person shall not operate an ORV if, due to the consumption of alcoholic liquor, a controlled substance, as defined by section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of alcoholic liquor and a controlled substance, the person's ability to operate an ORV is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty is permissible under this subsection.

(4) A person who operates an ORV in violation of subsection (1) or (3) and by the operation of that ORV causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(5) A person who operates an ORV within this state in violation of subsection (1) or (3) and by the operation of that ORV causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(6) A person who is less than 21 years of age, whether licensed or not, shall not operate an ORV if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2018, an alcohol content of 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(7) A person shall not operate an ORV in violation of subsection (1), (3), (4), (5), or (6) while another person who is less than 16 years of age is occupying the ORV.

(8) If a person is convicted of violating subsection (1)(a) or (b), all of the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(*i*) Community service for not more than 360 hours.

(*ii*) Imprisonment for not more than 93 days.

(*iii*) A fine of not less than $100.00 or more than $500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(*i*) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.

(*ii*) Community service for not less than 30 days or more than 90 days.

(c) If the violation occurs after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, the person is guilty of a felony and shall be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and to either of the following:

(*i*) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(*ii*) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of the imprisonment imposed under this subparagraph shall be served consecutively.

(d) A term of imprisonment imposed under subdivision (b) or (c) shall not be suspended.

(9) A person who is convicted of violating subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than $100.00 or more than $500.00, or both.

(10) If a person is convicted of violating subsection (3), all of the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(*i*) Community service for not more than 45 days.

(*ii*) Imprisonment for not more than 93 days.

(*iii*) A fine of not more than $300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:

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(*i*) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(*ii*) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:

(*i*) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(*ii*) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(11) If a person is convicted of violating subsection (6), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both of the following:

(*i*) Community service for not more than 360 hours.

(*ii*) A fine of not more than $250.00.

(b) If the violation occurs within 7 years of 1 or more prior convictions, the person may be sentenced to 1 or more of the following:

(*i*) Community service for not more than 60 days.

(*ii*) A fine of not more than $500.00.

(*iii*) Imprisonment for not more than 93 days.

(12) A person who violates subsection (7) is guilty of a crime as follows:

(a) A person who operates an ORV in violation of subsection (1), (3), (4), or (5) while another person who is less than 16 years of age is occupying the ORV is guilty of a crime as follows:

(*i*) Except as provided in subdivision (b), a person who violates this subdivision is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(*ii*) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates this subdivision is guilty of a felony and shall be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and to either of the following:

(A) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(B) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(b) A person who operates an ORV in violation of subsection (6) while another person who is less than 16 years of age is occupying the ORV is guilty of a misdemeanor punishable as follows:

(*i*) Except as provided in subparagraph (*ii*), a person who violates this subdivision may be sentenced to 1 or more of the following:

(A) Community service for not more than 60 days.

(B) A fine of not more than $500.00.

(C) Imprisonment for not more than 93 days.

(*ii*) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates this subdivision shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(13) For a conviction under subsection (4) or (5), the court shall order, without an expiration date, that the person not operate an ORV.

(14) As part of the sentence for a violation of subsection (1) or a local ordinance substantially corresponding to subsection (1), the court shall do the following:

(a) If the court finds that the person has no prior convictions within 7 years, the court shall order that the

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person not operate an ORV for a period of not less than 6 months or more than 2 years.

(b) If the court finds that the person has 1 or more prior convictions within 7 years, the court shall order that the person not operate an ORV for a period of not less than 1 year or more than 2 years.

(c) If the court finds that the person has 2 or more prior convictions within a period of 10 years, the court shall order that the person not operate an ORV for a period of not less than 1 year or more than 2 years.

(15) As part of the sentence for a violation of subsection (3) or a local ordinance substantially corresponding to subsection (3), the court shall do the following:

(a) If the court finds that the person has no prior convictions within 7 years, the court shall order that the person not operate an ORV for a period of not less than 90 days or more than 1 year.

(b) If the court finds that the person has 1 or more prior convictions within 7 years, the court shall order that the person not operate an ORV for a period of not less than 6 months or more than 18 months.

(c) If the court finds that the person has 2 or more prior convictions within a period of 10 years, the court shall order that the person not operate an ORV for a period of not less than 1 year or more than 2 years.

(16) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(17) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(18) Before imposing sentence for a violation of subsection (1), (3), (6), or (7) or a local ordinance substantially corresponding to subsection (1), (3), or (6), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(19) Before accepting a plea of guilty under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty in respect to suspension of the person's right to operate an ORV and the penalty imposed for violation of this section.

(20) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with a violation of this section. The municipal judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the court of record for each case charging a violation of this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 175, Imd. Eff. Apr. 18, 1996;—Am. 1998, Act 355, Eff. Oct. 1, 1999;—Am. 1999, Act 22, Eff. Oct. 1, 2000;—Am. 2001, Act 12, Eff. July 1, 2001;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81135 Repealed. 2014, Act 405, Eff. Mar. 31, 2015.

Compiler's note: The repealed section pertained to operation of ORV by visibly impaired person.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81136 Chemical analysis of operator's blood, urine, or breath; admissibility; request for results of test; taking sample of urine or breath; withdrawing blood; liability; administration of tests by person of arrested person's own choosing; refusal to take test; other evidence; jury instruction; admissibility of blood withdrawn after accident; sample of decedent's blood.

Sec. 81136. (1) In a criminal prosecution for violating section 81134 or a local ordinance substantially corresponding to section 81134(1), (3), or (6) or in a criminal prosecution for negligent homicide, manslaughter, or murder resulting from the operation of an ORV while the operator is alleged to have been impaired by or under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or to have had a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or to have had in his or her body any

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amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214, the amount of alcohol or controlled substance in the operator's blood at the time alleged as shown by chemical analysis of the operator's blood, urine, or breath is admissible into evidence.

(2) If a chemical test of an operator's blood, urine, or breath is given, the results of the test shall be made available to the person charged with an offense enumerated in subsection (1) or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the report at least 2 days before the day of the trial and the results shall be offered as evidence by the prosecution in a criminal proceeding. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(3) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the alcoholic content of the blood under this part. Liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures shall not attach to a qualified person who withdraws blood or assists in the withdrawal in accordance with this part unless the withdrawal is performed in a negligent manner.

(4) A person arrested for a crime enumerated in subsection (1) who takes a chemical test administered at the request of a peace officer as provided in this part shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this section within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the defendant's innocence or guilt of a crime enumerated in subsection (1). If the person arrested is administered a chemical test by a person of his or her own choosing, the person arrested shall be responsible for obtaining a chemical analysis of the test sample. The person shall be informed that he or she has the right to demand that a person of his or her choosing administer 1 of the chemical tests described in this section, that the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant, and that the person arrested shall be responsible for obtaining a chemical analysis of the test sample.

(5) A person arrested shall be advised that if the person refuses the request of a peace officer to take a test described in this section, a test shall not be given without a court order. The person arrested shall also be advised that the person's refusal of the request of a peace officer to take a test described in this section shall result in the suspension of the person's right to operate an ORV.

(6) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was impaired by or under the influence of alcoholic liquor or a controlled substance, or a combination of alcoholic liquor and a controlled substance, or whether the person had a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or had in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(7) If a jury instruction regarding a defendant's refusal to submit to a chemical test under this section is requested by the prosecution or the defendant, the jury instruction shall be given as follows:

"Evidence was admitted in this case which, if believed by the jury, could prove that the defendant had exercised his or her right to refuse a chemical test. You are instructed that such a refusal is within the statutory rights of the defendant and is not evidence of the defendant's guilt. You are not to consider such a refusal in determining the guilt or innocence of the defendant.".

(8) If after an accident the operator of an ORV involved in the accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall be admissible in a criminal prosecution for a crime described in subsection (1) to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(9) If after an accident the operator of an ORV involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of

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determining blood alcohol content or presence of a controlled substance, or both. The medical examiner shall give the results of the chemical analysis to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 175, Imd. Eff. Apr. 18, 1996;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81137 Implied consent to chemical tests of blood, breath, or urine; exception.

Sec. 81137. (1) Except as provided in subsection (2), a person who operates an ORV is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood, and may be requested by a peace officer to submit to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood if:

(a) The person is arrested for a violation of section 81134(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 81134(1), (3), or (6).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of an ORV, and the peace officer has reasonable grounds to believe that the person was operating the ORV in violation of section 81134.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81138 Chemical tests; advising of right to refuse; court order; report.

Sec. 81138. (1) A person who is requested pursuant to section 81137(1) to take a chemical test shall be advised of the right to refuse to submit to chemical tests; and if the person refuses the request of a peace officer to submit to chemical tests, a test shall not be given without a court order.

(2) If a person refuses the request of a peace officer under section 81137(1) to submit to a chemical test, a written report shall be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person committed a violation described in section 81137(1) and that the person refused to submit to a chemical test upon the request of the peace officer and was advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81139 Administrative hearing; notice.

Sec. 81139. (1) Upon receipt of a report made pursuant to section 81138, the secretary of state shall immediately notify the person in a writing, mailed to the person's last known address, that the report has been received and that within 14 days after the date of the notice the person may request an administrative hearing as provided in section 81140.

(2) The notice shall specifically state that failure to request a hearing within 14 days shall result in the suspension of the person's right to operate an ORV and that the person is not required to retain counsel for the hearing, although counsel will be permitted to represent the person at the hearing.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

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Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81140 Suspension of right to operate ORV; appointment of hearing officer; notice; powers of hearing officer; scope and conduct of hearing; final decision or order; petition; review; order; record of proceedings.

Sec. 81140. (1) If a person who refuses to submit to a chemical test under section 81138 does not request an administrative hearing within 14 days after the date of notice under section 81139, the secretary of state shall suspend the person's right to operate an ORV for a period of 1 year, or for a second or subsequent refusal within a period of 7 years, for 2 years.

(2) If an administrative hearing is requested, the secretary of state shall appoint a hearing officer to conduct the hearing. Not less than 10 days' notice of the hearing shall be provided by mail to the person submitting the request, to the peace officer who filed the report under section 81138, and, if a prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths and issue subpoenas for the attendance of necessary witnesses, and may grant a reasonable request for an adjournment. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person committed a crime described in section 81137(1).

(b) Whether the person was placed under arrest for a crime described in section 81137(1).

(c) Whether the person reasonably refused to submit to a chemical test upon request of the officer.

(d) Whether the person was advised of his or her rights under section 81136.

(3) An administrative hearing conducted under this section is not a contested case for the purposes of chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The hearing shall be conducted in an impartial manner. A final decision or order of a hearing officer shall be made in writing or stated in the record, and shall include findings of fact based exclusively on the evidence presented and matters officially noticed, and shall specify any sanction to be imposed against the person involved. A copy of the final decision or order shall be delivered or mailed immediately to the person and the peace officer.

(4) After the administrative hearing, if the person is found to have unreasonably refused to submit to a chemical test, the secretary of state shall suspend the person's right to operate an ORV for a period of 1 year, or for a second or subsequent refusal within a period of 7 years, for 2 years. Within 60 days after the final decision or order is issued by the hearing officer, the person may file a petition in the circuit court of the county in which the arrest was made to review the suspension. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 81138 may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 81140b. The scope of the court's review shall be limited to the issues provided in section 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.306.

(5) The circuit court shall enter an order setting the cause for hearing for a date certain that is not more than 60 days after the date of the order. The order, a copy of the petition, which shall include the person's full name, current address, birth date, and driver's license number, and all supporting affidavits shall be served on the secretary of state's office in Lansing not less than 50 days before the date set for the hearing. The department shall cause a record to be made of the proceedings held under subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review, the department shall transmit to the court in which the petition was filed, not less than 10 days before the matter is set for review, the original or a certified copy of the official record of the proceedings.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81140a Suspension or revocation of operator's or chauffeur's license; operation of ORV prohibited; violation as misdemeanor; penalty.

Sec. 81140a. (1) If the operator's or chauffeur's license of a person who is a resident of this state is suspended or revoked by the secretary of state under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to

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257.923, or if the driver license of a person who is a nonresident is suspended or revoked under the law of the state in which he or she resides, that person shall not operate an ORV under this part for the same period.

(2) A person who violates this section is guilty of a misdemeanor punishable as follows:

(a) For a first conviction, imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent conviction, imprisonment for not more than 180 days or a fine of not more than $1,000.00, or both.

History: Add. 1999, Act 43, Eff. Oct. 1, 2000.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81140b Final determination of secretary of state; petition for review in circuit court; filing; order setting cause for hearing; service on secretary of state; review of the record.

Sec. 81140b. (1) A person who is aggrieved by a final determination of the secretary of state under this part may petition for a review of the determination in the circuit court in the county where the person was arrested. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 81140, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 81140 may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made.

(2) Except as otherwise provided in this section, the circuit court shall enter an order setting the cause for hearing for a day certain that is not more than 63 days after the date of the order. The order, a copy of the petition that includes the person's full name, current address, birth date, and driver license number, and all supporting affidavits shall be served on the secretary of state's office in Lansing not less than 20 days before the date set for the hearing. If the person is seeking a review of the record prepared under section 81140, the service upon the secretary of state shall be made not less than 50 days before the date set for the hearing.

(3) The court may take testimony and examine all the facts and circumstances incident to the order that the person not operate an ORV in this state. The court may affirm, modify, or set aside the order. The order of the court shall be duly entered, and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) Except as otherwise provided in this section, in reviewing a determination under section 81140, the court shall confine its consideration to a review of the record prepared under section 81140 to determine whether the hearing officer properly determined the issues enumerated in section 81140.

(5) In reviewing a determination resulting in issuance of an order under section 81134, the court shall confine its consideration to a review of the record prepared under section 81140. The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following:

(a) In violation of the constitution of the United States, the state constitution of 1963, or a statute.

(b) In excess of the secretary of state's statutory authority or jurisdiction.

(c) Made upon unlawful procedure resulting in material prejudice to the petitioner.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

History: Add. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81141 Preliminary chemical breath analysis; arrest; admissibility of results; requirements; civil infraction; fine.

Sec. 81141. (1) A peace officer who has reasonable cause to believe that a person was operating an ORV and that the person by the consumption of alcoholic liquor may have affected his or her ability to operate the

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ORV, may require the person to submit to a preliminary chemical breath analysis.

(2) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(3) The results of a preliminary chemical breath analysis shall be admissible in a criminal prosecution for a crime enumerated in section 81136(1) or in an administrative hearing held under section 81140, solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(4) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 81136, 81137, 81138, 81139, and 81140 for the purposes of chemical tests described in those sections.

(5) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 175, Imd. Eff. Apr. 18, 1996;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81142 Operation of ORV after right suspended as misdemeanor; penalty.

Sec. 81142. A person whose right to operate an ORV has been suspended pursuant to this part and who operates an ORV is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $1,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81143 Accident resulting in injury, death, or property damage; notice; report; report by medical facility; collection and evaluation of information; duties of operator.

Sec. 81143. (1) The operator of a vehicle involved in an accident resulting in injuries to, or the death of, a person, or resulting in property damage in an estimated amount of $100.00 or more, shall immediately, by the quickest available means of communication, notify a state police officer, or the sheriff's office of the county in which the accident occurred. The police agency receiving the notice shall complete a report of the accident on forms prescribed by the director of the department of state police and forward the report to the department of state police and the department.

(2) A medical facility to which a person injured in an accident involving an ORV is transported shall report the accident to the department of state police.

(3) The department of state police, in cooperation with the department, shall collect and evaluate information concerning accidents involving ORVs.

(4) The operator of a vehicle involved in an accident upon public or private property resulting in injury to or the death of a person shall immediately stop at the scene of an accident and shall render to any person injured in the accident reasonable assistance in securing medical aid or transportation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81144 Arrest without warrant of alleged operator of ORV.

Sec. 81144. If a peace officer has reasonable cause to believe that a person was, at the time of an accident, the operator of an ORV involved in the accident and was operating the ORV while under the influence of an alcoholic liquor, a controlled substance as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of alcoholic liquor and a controlled substance, or was operating the ORV while his or her ability to operate an ORV was impaired due to the consumption of alcoholic liquor, a

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controlled substance, or a combination of alcoholic liquor and a controlled substance, the peace officer may arrest the alleged operator of the ORV without a warrant.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 405, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81145 Violations; appearance tickets; prima facie evidence of operation by owner.

Sec. 81145. (1) Law enforcement officers may issue appearance tickets for violations of this part, pursuant to sections 9a to 9g of chapter 4 of Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

(2) In a proceeding for a violation of this part involving prohibited operation or conduct, the registration number or numbered decal or vehicle identification number displayed on an ORV shall constitute prima facie evidence that the owner of the vehicle was the person operating the vehicle at the time of the offense; unless the owner identifies the operator to law enforcement officials, the vehicle was reported as stolen at the time of the violation, or that the vehicle was stolen or not in use at the time of the violation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81146 Failure or refusal to obey signal or request to stop; misdemeanor.

Sec. 81146. (1) An operator of an ORV, who is given by hand, voice, emergency light, or siren a visual or audible signal by a law enforcement officer acting in the lawful performance of his or her duty, directing the operator to bring the vehicle to a stop, and who willfully fails to obey the signal by increasing speed, extinguishing lights, or otherwise attempting to flee or elude the officer, is guilty of a misdemeanor. The officer giving the signal shall be in uniform, and the officer's vehicle shall be easily identifiable as an official law enforcement vehicle.

(2) The operator of a vehicle on the private premises of another, when visibly hailed by the owner or the owner's authorized agent, shall bring the vehicle to an immediate stop and provide personal identification. Refusal to obey such a request to stop or subsequent escape or attempt to escape is a misdemeanor.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81147 Violation of part as misdemeanor or civil violation; penalties; restoration; impoundment; disposition of seized ORV or personal property.

Sec. 81147. (1) Except as otherwise provided in this part, a person who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $50.00 or more than $1,000.00, or both, for each violation.

(2) A person who violates section 81133(1)(d) by operating an ORV in such a manner as to create an erosive condition or who violates section 81133(1)(h) or (n) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $250.00 or more than $1,000.00, or both, for each violation.

(3) A person who violates section 81105, 81107, 81115, 81116, 81121, 81130, 81133(1)(b), (c), (e), (f), (g), (i), (k), or (*l*), or 81133(2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(4) A person shall not remove, deface, or destroy a sign or marker placed by the department indicating the boundaries of an ORV trail or area or that marks a route.

(5) In addition to the penalties otherwise provided under this part, a court of competent jurisdiction may order a person to restore, as nearly as possible, any land, water, stream bank, streambed, or other natural or geographic formation damaged by the violation of this part to the condition it was in before the violation occurred.

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(6) The department or any other peace officer may impound the ORV of a person who commits a violation of this part that is punishable as a misdemeanor or who causes damage to the particular area in which the ORV was used in the commission of the violation.

(7) Upon conviction of a person for violation described in subsection (6), a court of competent jurisdiction may order the ORV and any personal property on the ORV seized as a result of the violation returned to the owner or, upon recommendation of the local prosecuting attorney, turned over to the department. An ORV or any other property turned over to the department under this subsection shall be disposed of in the manner provided for condemnation of property in part 16. The proceeds realized by the department under this subsection shall first be used to restore areas damaged by ORV use, and any balance shall be deposited in the off-road vehicle account.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 175, Imd. Eff. Apr. 18, 1996;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2008, Act 240, Imd. Eff. July 17, 2008;—Am. 2013, Act 119, Imd. Eff. Sept. 25, 2013;—Am. 2014, Act 147, Imd. Eff. June 4, 2014.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81148 Condemnation of ORV unauthorized where trespass is result of emergency.

Sec. 81148. A person shall not have an ORV condemned pursuant to section 81147 if the trespass is the result of an emergency situation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81149 Survey to determine total unrefunded gasoline sales tax money; report; recommendations; budget requests.

Sec. 81149. The department shall conduct a survey to determine the total unrefunded gasoline sales tax money it estimates to have been collected from the sale of gasoline relating to the nonhighway use of ORVs, and shall submit a report to the legislature along with a recommendation as to the method by which the unrefunded gasoline sales tax money estimated to have been collected shall be appropriated to benefit ORV users. The first survey shall be submitted to the legislature prior to January 31, 1977 and every third year thereafter. The department shall include in its budget requests information detailing survey programs.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81150 Uniform interpretation.

Sec. 81150. The department shall disseminate information to its field officers and to state and local law enforcement agencies on a uniform interpretation of this part and each officer's duties and responsibilities in enforcing this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

324.81151 Abandonment of ORV prohibited; presumption; violation; civil infraction.

Sec. 81151. (1) A person shall not abandon an ORV in this state.

(2) The last titled owner of the ORV is presumed to be responsible for abandoning the ORV unless the

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person provides a record of the transfer of the ORV to another person. The record of transfer must be either a photocopy of the reassigned title or a form or document that includes the transferee's name, address, driver license number, and signature, the date of transfer of the ORV, and, if applicable, the sale price.

(3) Sections 80130f(2) to 80130p apply to an ORV in the same manner as those provisions apply to a vessel.

(4) A person who violates subsection (1) and who fails to redeem the ORV before disposition of the ORV under section 80130k is responsible for a state civil infraction as provided in section 8905a.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Off-Road Vehicle Act

Popular name: ORV

SNOWMOBILES

PART 821
SNOWMOBILES

324.82101 Definitions.

Sec. 82101. As used in this part:

(a) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(b) "Auction" means the sale or offer for sale by bidding of real or personal property at a public or private location.

(c) "Auctioneer" means a person that is engaged in the business of conducting auctions or that offers to conduct an auction for compensation.

(d) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

(e) "Dealer" means any person engaged in the sale, lease, or rental of snowmobiles as a regular business, other than an auctioneer.

(f) "Former section 15a" means section 15a of former 1968 PA 74, as constituted before May 1, 1994.

(g) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(h) "Highway or street" means the entire width between the boundary lines of every way publicly maintained if any part of it is open to public use for vehicular travel.

(i) "Historic snowmobile" means a snowmobile that is over 25 years old and that is owned solely as a collector's item and for occasional use and for participation in club activities, exhibitions, tours, parades, and similar uses, including mechanical testing.

(j) "In-kind contributions" means services and goods as approved by the department that are provided by a grant recipient toward completion of a department-approved local snowmobile program under section 82107.

(k) "Law of another state" means a law or ordinance enacted by any of the following:

(*i*) Another state.

(*ii*) A local unit of government in another state.

(*iii*) Canada or a province or territory of Canada.

(*iv*) A local unit of government in a province or territory of Canada.

(*l*) "Operate" means to ride in or on and be in actual physical control of the operation of a snowmobile.

(m) "Operator" means any individual who operates a snowmobile.

(n) "Owner" means any of the following:

(*i*) A person that holds the legal title to a snowmobile.

(*ii*) A vendee or lessee of a snowmobile that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

(*iii*) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

(o) "Peace officer" means any of the following:

(*i*) A sheriff.

(*ii*) A sheriff's deputy.

(*iii*) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at

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least 40 hours of law enforcement training, including training specific to this part.

(*iv*) A village or township marshal.

(*v*) An officer of the police department of any municipality.

(*vi*) An officer of the Michigan state police.

(*vii*) The director and conservation officers employed by the department.

(*viii*) A law enforcement officer who is certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, provided that officer is policing within his or her jurisdiction.

(p) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on snowmobile operation or equipment-related violations or civil infractions, operator or snowmobile registration status, accidents, or other behaviorally-related information.

(q) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(*i*) A violation or an attempted violation of section 82127(1), (3), (4), (5), (6), or (7), except that only 1 violation or attempted violation of section 82127(6), a local ordinance substantially corresponding to section 82127(6), or a law of another state substantially corresponding to section 82127(6), or a law of the United States substantially corresponding to section 82127(6) may be used as a prior conviction other than for enhancement purposes as provided in section 82129a(1)(b).

(*ii*) Negligent homicide, manslaughter, or murder resulting from the operation of a snowmobile or an attempt to commit any of those crimes.

(*iii*) Former section 15a(1), (3), (4), or (5) of 1968 PA 74.

(*iv*) Former section 15a.

(r) "Probate court or family division disposition" means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(s) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

(t) "Recreational snowmobile trail improvement subaccount" means the recreational snowmobile trail improvement subaccount of the snowmobile account created in section 82110.

(u) "Right-of-way" means that portion of a highway or street less the roadway and any shoulder.

(v) "Roadway" means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any roadway separately, but not to all of the roadways collectively.

(w) "Shoulder" means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(x) "Snowmobile" means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(y) "Snowmobile account" means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(z) "Snowmobile registration fee subaccount" means the snowmobile registration fee subaccount of the snowmobile account created in section 82111.

(aa) "Zone 1" means all of the Upper Peninsula.

(bb) "Zone 2" means all of that part of the Lower Peninsula north of a line beginning at and drawn from a point on the Michigan-Wisconsin boundary line due west of the westerly terminus of River road in Muskegon county; thence due east to the westerly terminus of River road; thence north and east along the center line of the River road to its intersection with highway M-120; thence northeasterly and easterly along the center line of highway M-120 to the junction of highway M-20; thence easterly along the center line of M-20 to its junction with US-10 at the Midland-Bay county line; thence easterly along the center line of the "business route" of highway US-10 to the intersection of Garfield road in Bay county; thence north along the center line of Garfield road to the intersection of the Pinconning road; thence east along the center line of Pinconning road to the intersection of the Seven Mile road; thence north along the center of the Seven Mile road to the Bay-Arenac county line; thence north along the center line of the Lincoln School road (county road 25) in Arenac county to the intersection of highway M-61; thence east along the center line of highway M-61 to the junction of highway US-23; thence northerly and easterly along the center line of highway US-23 to the center line of the Au Gres river; thence southerly along the center line of the river to its junction with Saginaw

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Bay of Lake Huron; thence north 78° east to the international boundary line between the United States and the Dominion of Canada.

(cc) "Zone 3" means all of that part of the Lower Peninsula south of the line described in subdivision (bb).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2003, Act 43, Imd. Eff. July 14, 2003;—Am. 2003, Act 230, Imd. Eff. Dec. 18, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2005, Act 175, Imd. Eff. Oct. 12, 2005;—Am. 2008, Act 145, Eff. July 1, 2009;—Am. 2010, Act 371, Imd. Eff. Dec. 22, 2010;—Am. 2014, Act 195, Imd. Eff. June 24, 2014;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82102 Snowmobiles; exemption from taxes and fees.

Sec. 82102. Snowmobiles are exempt from all taxes and fees imposed on vehicles under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, and the motor vehicle accident claims act, Act No. 198 of the Public Acts of 1965, being sections 257.1101 to 257.1133 of the Michigan Compiled Laws.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82102a Michigan snowmobile advisory committee.

Sec. 82102a. (1) The Michigan snowmobile advisory committee is created in the department. The committee shall consist of 7 individuals appointed by the director for 2-year terms. The members of the former snowmobile advisory board serving on April 29, 1994 shall serve on the committee until the expiration of their terms on the snowmobile advisory board. The director shall appoint 1 member of the committee as chairperson and that member shall serve as chairperson at the pleasure of the director. The membership of the committee shall consist of the following:

(a) Three persons representing the Michigan snowmobile association, 1 from each of the department's 3 regions. One of the 3 shall also have experience as an instructor in a snowmobile safety program.

(b) One person representing trail sponsors.

(c) One person representing the business community.

(d) Two persons representing at-large trail users.

(2) The committee shall meet twice each year and at the call of the committee chairperson as needed.

(3) The Michigan snowmobile advisory committee shall advise the department regarding all of the following:

(a) The development of criteria for safety education and training programs.

(b) The allocation of funds from the recreational snowmobile trail improvement subaccount.

(c) The promulgation of rules affecting snowmobile use in this state.

(d) The development of annual updates to the comprehensive plan for implementing a statewide recreational and snowmobile trails system.

(e) Implementation of the recommendations made by snowmobile users regarding trails that should be designated for snowmobile use.

(f) The development of a comprehensive plan for the use of snowmobiles in this state.

(4) As used in this section, "committee" means the Michigan snowmobile advisory committee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

For transfer of powers and duties of Michigan snowmobile advisory committee to the Michigan trails advisory council, and abolishment of the advisory committee, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

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324.82103 Certificate of registration and registration decal required; exceptions; violation; penalty.

Sec. 82103. (1) Except as otherwise provided, a snowmobile shall not be operated unless the owner first obtains a certificate of registration and a registration decal. The certificate of registration shall be secured at the time of purchase or transfer of ownership. A certificate of registration or a registration decal is not required for a snowmobile operated exclusively on lands owned or under the control of the snowmobile owner or for a snowmobile used entirely in a safety education and training program conducted by a certified snowmobile safety instructor and authorized pursuant to section 82108.

(2) A person who is convicted of a violation of this section shall be fined not more than $50.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82104 Special event; certificate of registration or registration decal not required.

Sec. 82104. A certificate of registration or a registration decal is not required for a snowmobile that is exclusively operated in a special event of limited duration conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82105 Application for registration; forms; signature; fee; recording application; issuance of certificate of registration and decal; contents, legibility, and inspection of certificate; surety bond; issuance, duration, and renewal of certificate and registration decal; display of decal; destroying record of certificate.

Sec. 82105. (1) Before operating a snowmobile requiring registration in this state, the owner shall apply for registration with the department of state on forms provided by the department of state. If the snowmobile was purchased from a retail dealer in this state, application for initial registration shall be made with the dealer at the point of sale. The dealer shall issue a temporary registration permit in a form received from and approved by the department of state that is valid for 15 days after the date of sale. Each retail dealer shall submit applications for registrations and fees to the department of state not less than once each week. The application shall include a certification. The new owner shall sign the application or, if the application is filed electronically, provide information requested by the department of state to verify the new owner's identity. The application shall also include the new owner's name and bona fide residence address and the names and addresses of holders of any security interest in the snowmobile and its accessories in the order of priority. The application shall be accompanied by a fee of $30.00. Upon receipt of the application in approved form, the department of state shall enter the application upon its records and issue to the applicant a certificate of registration and decal. The certificate of registration shall contain the number awarded to the snowmobile, the name and address of the owner, other information the department of state considers necessary, and, beginning July 1, 2009, the name and address of the holders of secured interests. A person shall not operate a snowmobile that is required to be registered in this state unless the person possesses the certificate of registration in legible form. The person shall make the certificate of registration available for inspection upon demand by a peace officer.

(2) If the secretary of state is not satisfied as to the ownership of a snowmobile that is worth more than $2,500.00, before registering the snowmobile and issuing a certificate of registration, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the snowmobile as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser of the snowmobile and their successors in interest against any expense, loss, or damage, including reasonable attorney fees, incurred as a result of the issuance of a certificate of registration for the snowmobile or any defect in the right, title, or interest of the applicant in the snowmobile. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the snowmobile is no longer registered in this state and the current valid certificate of

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registration is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a snowmobile that is worth $2,500.00 or less, the secretary of state shall require the applicant to certify that the applicant is the owner of the snowmobile and entitled to register the snowmobile.

(3) The certificate of registration and registration decal authorizes the operation of the snowmobile for a 3-year period that begins on October 1 and expires on September 30 of the third year. The certificate of registration and registration decal may be renewed beginning July 1 of the expiration year by payment of a fee of $30.00. The registration decal shall be displayed as prescribed by rule promulgated by the department of state.

(4) The department of state may destroy a record of a certificate of registration 7 years after expiration of the certificate.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 297, Eff. Mar. 23, 1999;—Am. 2005, Act 271, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 145, Eff. July 1, 2009;—Am. 2008, Act 399, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82105a Fees; delinquency; penalty; deposit and use of collected penalties.

Sec. 82105a. (1) If a check, draft, or electronic payment of a required fee is not paid on its first presentation, the fee is delinquent as of the date the check, draft, or electronic payment was tendered. The person tendering the check, draft, or electronic payment remains liable for the payment of each fee and any penalty.

(2) The department of state may suspend the operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, of the person tendering the check, draft, or electronic payment for a snowmobile registration if the department of state determines a fee prescribed in this section has not been paid and remains unpaid after reasonable notice or demand.

(3) If a fee is delinquent 15 days after the department of state has given notice to a person who tendered the check, draft, or electronic payment, a $25.00 penalty shall be assessed and collected in addition to the fee.

(4) Except as otherwise provided in this part, the penalties collected under this section shall be deposited in the general fund and used first to defray the administrative costs of the department of state required by the registration provisions of this part. Any money not required for administration of the registration provisions of this part shall be credited each year to the recreational snowmobile trail improvement fund.

History: Add. 2008, Act 145, Eff. July 1, 2009.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82105b Cancellation, suspension, revocation, or refusal to issue snowmobile registration; conditions.

Sec. 82105b. The department of state may cancel, suspend, revoke, or refuse to issue a snowmobile registration if any of the following occur:

(a) The applicant has failed to furnish all required information or reasonable additional information requested by the department of state.

(b) The required fees have not been paid.

(c) The applicant is not entitled to a snowmobile registration under this part.

(d) The department of state issued the registration in error.

(e) The application contains a false or fraudulent statement.

(f) The department of state has reasonable grounds to believe that the snowmobile was stolen or embezzled.

History: Add. 2008, Act 145, Eff. July 1, 2009.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82105c Historic snowmobile registration decal; issuance; placement; fee; validity; revocation; exemption from registration; rules.

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Sec. 82105c. (1) The secretary of state may issue to the owner of a historic snowmobile a historic snowmobile registration decal which shall bear the inscription "historic snowmobile - Michigan" and the registration number. The registration decal shall be affixed above or below the headlight or, if the historic snowmobile was not originally equipped with a headlight, on the forward half of the cowl above the footwell of the historic snowmobile.

(2) The owner of a historic snowmobile applying for a historic snowmobile registration decal under this section shall pay a fee of $50.00 and shall certify that the snowmobile for which the registration is requested is owned and operated solely as a historic snowmobile.

(3) A registration issued under this section is valid for the period the historic snowmobile is owned by the owner and is nontransferable.

(4) The secretary of state may revoke a registration decal issued under this section, for cause shown and after a hearing, for failure of the applicant to comply with this section or for use of the snowmobile for which the registration was issued for purposes other than those enumerated in section 82101(f).

(5) A historic snowmobile registered under this section is exempt from registration under section 82105.

(6) The secretary of state may promulgate rules to implement this section.

History: Add. 2010, Act 371, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82106 Disposition of revenue; designation of state recreational trail coordinator; plan for statewide recreational and snowmobile trails system; expenditures; construction of recreational trail facilities or major improvements on private land; interconnecting network of statewide snowmobile trails and use areas; alternative nonconflicting off-season recreational trail uses.

Sec. 82106. (1) Except as otherwise provided in this part, revenue received from the registration fees under this part shall be deposited as follows:

(a) Twenty-two dollars of each registration fee for a snowmobile and $8.00 of each registration fee for a historic snowmobile shall be deposited into the snowmobile registration fee subaccount. However, if the balance of the snowmobile registration fee subaccount exceeds $1,600,000.00 at any time, the state treasurer shall transfer all amounts in excess of $1,600,000.00 to the recreational snowmobile trail improvement subaccount. From the revenue deposited in the snowmobile registration fee subaccount under this part, the legislature shall make an annual appropriation as follows:

(*i*) Not more than $3.00 of each registration fee for a snowmobile and not more than $3.00 for each registration fee for a historic snowmobile collected during each fiscal year shall be appropriated to the department of state for administration of the registration provisions of this part. At the close of each state fiscal year, any money appropriated under this subparagraph but not expended shall be credited to the recreational snowmobile trail improvement subaccount. Additionally, if less than $3.00 of each registration fee is appropriated to the department of state, the state treasurer shall transfer the difference between $3.00 and the amount appropriated from each registration fee to the recreational snowmobile trail improvement subaccount.

(*ii*) Fourteen dollars of each fee for a registration for a snowmobile paid before July 1, 2009, or $19.00 of each fee for a registration for a snowmobile paid on or after July 1, 2009, and $5.00 of each fee for a registration for a historic snowmobile shall be appropriated to the department for purposes set forth in section 82107, including financial assistance to county sheriff departments and local law enforcement agencies for local snowmobile programs. Any money appropriated but not expended under this subparagraph shall be credited each year to the snowmobile registration fee subaccount.

(b) Five dollars of each fee for a registration for a snowmobile paid before July 1, 2009, and $42.00 of each fee for registration of a historic snowmobile shall be deposited in the recreational snowmobile trail improvement subaccount and shall be administered by the department for the purposes of planning, construction, maintenance, and acquisition of trails and areas for the use of snowmobiles, or access to those trails and areas, and basic snowmobile facilities.

(c) From each fee for a registration for a snowmobile other than a historic snowmobile paid on or after July 1, 2009, $8.00 shall be deposited into the permanent snowmobile trail easement subaccount under section 82110a. This money is intended to supplement other money expended for snowmobile-related activities of the department and not as a replacement for those expenditures.

(2) The department shall designate a state recreational trail coordinator and shall maintain a comprehensive

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plan for implementing a statewide recreational and snowmobile trails system. The comprehensive plan shall be reviewed and updated each year by the department.

(3) The money appropriated under this section to the department for snowmobile trails and areas, for access to those trails or areas, and for basic snowmobile facilities may be expended for the acquisition, development, and maintenance on any land in the state. This money may be used to purchase lands or secure easements, leases, permits, or other appropriate agreements permitting use of private property for snowmobile trails, basic facilities, and areas which may be used by bicyclists, hikers, equestrians, and other nonconflicting off-season recreational trail users, if the easements, leases, permits, or other agreements provide public access to the trail, use areas, and support facilities.

(4) Recreational trail facilities or major improvements shall not be constructed on private land unless a written agreement in the form of an easement, lease, or permit for a public trail right-of-way having a term of not less than 5 years is made between the owner of the land and the department.

(5) The money appropriated under this section shall be expended in a manner and as part of the overall plan of the department for an interconnecting network of statewide snowmobile trails and use areas giving consideration to expected snowfall and availability for use with adequate snow cover. Consideration shall be given in the plan for alternative nonconflicting off-season recreational uses of snowmobile trails.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 297, Eff. Mar. 23, 1999;—Am. 2003, Act 230, Imd. Eff. Dec. 18, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2008, Act 399, Imd. Eff. Jan. 6, 2009;—Am. 2010, Act 371, Imd. Eff. Dec. 22, 2010.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82107 Annual budget request to include amounts for department enforcement of part and local snowmobile programs; financial assistance to counties; cooperation in conduct of program; records; reports; rules.

Sec. 82107. (1) The annual budget request of the department shall include an amount for department enforcement of this part, for department administration of the programs provided for in this part, and for local snowmobile programs provided for under this section. In preparing its annual budget for snowmobile registration fee funds, the department shall do both of the following:

(a) Seek input from the snowmobile advisory committee created under section 82102a.

(b) To the degree feasible, give priority to use of the funds for enforcement efforts under local snowmobile programs.

(2) The department shall provide for an annual program of financial assistance to county sheriff departments and local law enforcement agencies for local snowmobile programs that shall include enforcement of this part and may also include, at the discretion of the department, a snowmobile safety education and training program based on the criteria set forth in section 82108. A county sheriff department or local law enforcement agency desiring to conduct a local snowmobile program shall submit to the department by November 1 of each year an estimate of authorized expenditures for the following calendar year, in a form and containing the information which the department requires. The department shall review the entire request and may approve a request for financial assistance in part or in whole.

(3) The amount of financial assistance to be allocated to a county sheriff department or local law enforcement agency pursuant to this section shall be determined by the department. In determining the amount of financial assistance provided to each county sheriff or local law enforcement agency, the department shall give priority to law enforcement activities and may give priority to locations where, in the determination of the department, a greater need for a local snowmobile program exists.

(4) Upon approval by the department, a county sheriff department or local law enforcement agency may use in-kind contributions in calculating its authorized expenditures not to exceed 15% of the total authorized expenditures.

(5) The department shall not provide financial assistance to a county sheriff department or local law enforcement agency in excess of 85% of the authorized expenditure documented by the county or local agency and approved by the department.

(6) Financial assistance allocated to a county sheriff department or local law enforcement agency under this section shall be used exclusively for the conduct of a local snowmobile program as provided by this part and the rules promulgated under this part.

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(7) County sheriff departments and local law enforcement agencies that receive financial assistance under this section shall maintain records of activities, expenditures, and in-kind contributions and shall submit documentation and reports to the department by deadlines, in form, and containing information as the department requires.

(8) The department shall cooperate with county sheriff departments and local law enforcement departments that are operating local snowmobile programs that are funded under this section.

(9) The department may promulgate rules to implement this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 230, Imd. Eff. Dec. 18, 2003.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82108 Snowmobile safety education and training program.

Sec. 82108. (1) The department shall design by May 1, 1995 the minimum content of a comprehensive snowmobile safety education and training program, which shall include the preparation and dissemination of snowmobile information and safety advice to the public and training of operators. The content of the program shall include provision for the training of youthful operators at least 12 but less than 17 years of age and for the issuance of snowmobile safety certificates to those who successfully complete the training provided under the program. A person less than 17 years of age who successfully completes a training program shall carry the safety certificate on his or her person whenever operating a snowmobile in this state. The department and the counties shall encourage persons 17 years of age or over to take the program.

(2) The minimum content of a snowmobile safety education and training program shall include the following:

(a) Description of the snowmobile and its main parts.

(b) Description of machine controls, safety and operating procedures, and loading and towing procedures.

(c) General content of snowmobile and highway laws and rules.

(d) Safety hazards of operation, including possible hearing damage, and environmental consequences of snowmobile use.

(e) Performance and written tests.

(f) Familiarization with the snowmobile trail system in this state.

(3) The fee charged by a county for a training program shall be not more than $5.00.

(4) In implementing a program that is established pursuant to this section, the department shall cooperate with private organizations and associations, private and public corporations, schools, and local governmental units. The department shall consult with the department of state police and county sheriffs in regard to subject matter of a training program and performance testing that leads to certification of snowmobile operators. However, a county may expand the course content beyond the minimum requirements established by subsection (2).

(5) The department may designate any person it considers qualified to provide course instruction and to award snowmobile safety certificates.

(6) A person less than 17 years of age who fails to have a safety certificate on his or her person is subject to a fine of not more than $25.00.

(7) A person who has a valid safety certificate from another state or province shall not be required to complete the safety education and training program in this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82109 Appropriation; uses; allocation; grants; contract payments; financial assistance; conditions; application; grant agreement or contract; payment; term; request for information; report.

Sec. 82109. (1) Money appropriated to the department from the recreational snowmobile trail improvement subaccount shall be used for 1 or more of the following:

(a) Planning, constructing, maintaining, and acquiring trails and areas for the use of snowmobiles, or access to those trails and areas, and basic snowmobile facilities.

(b) Financial assistance to local units of government and nonprofit incorporated snowmobile clubs or organizations considered eligible by the department.

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(c) The department's administration of subdivisions (a) and (b).

(2) In preparing its annual budget for recreational snowmobile trail improvement funds and determining the allocation of funds as provided for in subsection (1), the department shall do both of the following:

(a) Seek input from the snowmobile advisory committee created under section 82102a.

(b) To the degree feasible, give priority to use of the funds for financial assistance to local units of government and nonprofit incorporated snowmobile clubs or organizations.

(3) A portion of the funds appropriated to the department each year shall be used to provide financial assistance to local units of government and nonprofit incorporated snowmobile clubs or organizations in the form of grants or contract payments for annual snowmobile trail maintenance costs, including signage and liability insurance. The department may also issue grants or enter into contracts for 1 or more of the following additional activities:

(a) Maintenance equipment.

(b) Repair or new development of snowmobile trails or related facilities, including the costs of designing and engineering for grant-funded improvements.

(c) Acquisition of land or rights in lands for snowmobile trails or related facilities, costs of leases, permits, easements, or other agreements that allow for use of private lands for public access to snowmobile trails and related facilities, or development of new snowmobile trails and related facilities.

(4) Financial assistance shall not be made under this section unless the costs are for a trail that is available for public snowmobile use and is approved by the department.

(5) Financial assistance shall be allocated as follows:

(a) Assistance for snowmobile trail maintenance costs, excluding signage and liability insurance, shall be according to a formula promulgated by the state recreational trail coordinator, which shall provide an amount up to 100% of the actual, eligible expense of maintaining the trail per year incurred and documented by the grant recipient or contractor and approved by the department.

(b) Assistance for the cost of land acquisition, leasing, permits, or other agreements may equal 100% of the actual, eligible expenses incurred and documented by the grant recipient or contractor and approved by the department.

(c) Assistance for signage may equal 100% of the actual, eligible costs incurred and documented by the grant recipient or contractor and approved by the department. In lieu of financial assistance for signage, the department may choose to use recreational snowmobile trail improvement funds to purchase signs and provide them to grant recipients or contractors. Financial assistance for signs shall not be provided under this section unless the snowmobile trails meet minimum state snowmobile trail construction standards and are funded for snowmobile season maintenance.

(d) Assistance for trail insurance may equal 100% of the actual, eligible costs incurred and documented by the grant recipient or contractor and approved by the department.

(e) Assistance for repair or the development of new trails or trail facilities shall equal 100% of the actual, eligible costs incurred and documented by the grant recipient or contractor and approved by the department.

(f) The department may also assist in a portion of the costs of acquiring grooming equipment. The department shall determine the available grant or contract percentage for eligible grooming equipment costs on an annual basis and publish the percentage prior to the application deadline. Assistance for acquiring grooming equipment shall be based on actual, eligible costs incurred and documented by the grant recipient or contractor and approved by the department.

(6) To be considered for financial assistance, a local unit of government or nonprofit incorporated snowmobile club or organization must submit an application on a form provided by the department and by a deadline established by the department. An application shall include a proposed budget and the amount of financial assistance requested for each of the activities for which assistance is requested.

(7) To receive financial assistance under this section, a local unit of government or nonprofit incorporated snowmobile club or organization must enter into a grant agreement or contract with the department that specifies the obligations of the grant recipient or contractor. The grant agreement or contract shall include provisions as determined by the department, including, but not limited to, requirements that the grant recipient or contractor maintain records and submit documentation and reports to the department to verify expenditure of money received. The grant agreement or contract shall also require a grant recipient or contractor to adhere to trail specifications prescribed by the department.

(8) Upon execution of a grant agreement or contract, the department may, at its discretion, provide an advanced payment for a portion of the projected cost for 1 or more of the approved activities. The department shall make final payment upon completion of the project as determined by the department and department approval of cost documentation submitted by the grant recipient or contractor.

(9) A grant agreement or contract shall include a specified term for which the grant agreement or contract

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is valid. Grant or contract funds shall be encumbered upon execution of the grant agreement or contract and remain available for the specified term. Grant or contract funds not expended by a grant recipient or contractor within the specified term may, at the department's discretion, be reallocated to the grant recipient or contractor as part of a new grant agreement or contract.

(10) The department of state and the department shall include in their annual budget requests information detailing their snowmobile programs.

(11) Beginning March 31, 2004, the department shall provide a biannual report to the commission of its expenditures under this section for the prior 2 fiscal years.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 230, Imd. Eff. Dec. 18, 2003;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82110 Recreational snowmobile trail improvement subaccount; use; deposits; rules; projects open to public.

Sec. 82110. (1) The recreational snowmobile trail improvement subaccount is created as a subaccount of the snowmobile account. Money in the subaccount shall be used upon appropriation solely for the improvement of snowmobile trails and other nonconflicting recreational purposes.

(2) Five dollars of each fee collected under section 82105, a portion of each trail permit fee collected as provided under section 82118, and not less than 80% of the revenue from the fees collected under sections 82114 and 82115 shall be deposited in the recreational snowmobile trail improvement subaccount.

(3) The department shall promulgate rules for the administration of the recreational snowmobile trail improvement subaccount.

(4) All funds allocated under this part shall be for projects that are open to the public.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 16, Imd. Eff. June 12, 2001;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82110a Permanent snowmobile trail easement subaccount.

Sec. 82110a. (1) The permanent snowmobile trail easement subaccount is created as a subaccount of the snowmobile account.

(2) The state treasurer may receive money or other assets from any source for deposit into the permanent snowmobile trail easement subaccount. The state treasurer shall direct the investment of the subaccount. The state treasurer shall credit to the subaccount interest and earnings from subaccount investments. Money in the subaccount at the close of the fiscal year shall remain in the subaccount and shall not lapse to the snowmobile account or the general fund. The department shall be the administrator of the subaccount for auditing purposes.

(3) The department shall expend money from the permanent snowmobile trail easement subaccount, upon appropriation, only to purchase lands, or secure easements or other appropriate agreements allowing use of private property, for permanent snowmobile trails that are open to the public in this state or to make grants for those purposes. To be eligible for a grant, an entity shall be a local unit of government or be organized for educational and charitable purposes within the meaning of 26 USC 501(c)(3) that includes promoting and facilitating the expansion and improvement of the existing snowmobile trail system in this state with permanent snowmobile trails.

(4) If a recipient of a grant under subsection (3) ceases to exist, any interest allowing the use of private property to establish permanent snowmobile trails that was obtained by that grant recipient with grant money under subsection (3) shall vest in this state, subject to the terms of the instrument creating the interest, including, but not limited to, terms concerning the scope of the easement.

(5) The department of attorney general shall review grants and other instruments proposed to be utilized

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for the purposes of subsections (3) and (4).

(6) The department in consultation with the snowmobile advisory committee shall promulgate rules for the administration of the permanent snowmobile trail easement subaccount.

(7) Any proceeds from the sale of lands purchased under subsection (3) or the termination of easements or other agreements secured under subsection (3) shall be deposited into the permanent snowmobile trail easement subaccount.

(8) If, at any time after July 1, 2010, the Michigan snowmobile advisory committee, by the affirmative vote of at least 5 members, determines that the public snowmobile trail system in this state is fully developed and not capable of expansion by adding further permanent snowmobile trail easements, the advisory committee shall report its determination to the department. The department shall, within 60 days, submit to the senate and house appropriations committees and standing committees with primary responsibility for outdoor recreation issues a report setting forth the department's recommendations concerning dissolution of the permanent snowmobile trail easement subaccount, the disposition of revenue in that subaccount, and other relevant issues under this part.

History: Add. 2008, Act 400, Imd. Eff. Jan. 6, 2009.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82111 Snowmobile registration fee subaccount; creation.

Sec. 82111. The snowmobile registration fee subaccount is created as a subaccount of the snowmobile account.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82112 Operation of snowmobile program; review of effectiveness; report.

Sec. 82112. (1) The department, in consultation with the snowmobile advisory board, shall conduct a review of the effectiveness of operation of the snowmobile program by the forestry division of the department and submit a written report to the house and senate committees that consider natural resources and conservation legislation by July 1, 1996.

(2) The review shall include, but not be limited to, consideration of the following:

(a) The manner in which trail improvement funds and snowmobile registration fee funds are spent and whether the spending is in accordance with this part.

(b) The manner in which the grant process has been implemented and to whom grants have been awarded during the time of the review.

(c) Establishment and maintenance of the snowmobile trails system.

(d) Long-term planning pertaining to the trails system.

(e) Contract grooming of snowmobile trails versus grooming of trails by employees of the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82113 Registration decal; display; issuance; expiration of certificate of registration; awarding certificate of number.

Sec. 82113. (1) The owner of a snowmobile having been issued a certificate of registration for the snowmobile shall affix to each side of the forward half of the cowl above the footwell of the snowmobile the registration decal assigned to that snowmobile. The registration decal shall be as prescribed by the department. Beginning July 1, 1999, the registration decal shall include the registration expiration date and the registration number and shall contain 2 letters and 4 numbers. The numbers shall contrast so as to be distinctly visible and legible. A number other than the number awarded to the snowmobile on the registration certificate, or granted reciprocity under this part, shall not be attached or otherwise displayed on the

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snowmobile.

(2) Not earlier than 90 days before the expiration date of a certificate, a registration decal or other device may be issued indicating that the certificate of registration is in full force and effect.

(3) A certificate of registration shall expire pursuant to section 82105.

(4) The department of state may award a certificate of number directly or may authorize a person to act as its agent for the awarding of a certificate of number.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 92, Imd. Eff. Aug. 1, 1997;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 1998, Act 297, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82114 Destruction, abandonment, sale, or transfer of snowmobile; change of address; notice; surrender of certificate; cancellation of certificate; destruction of record; recording new address; return of certificate to owner; application by transferee for new certificate; fee; operation without certificate prohibited; duplicate certificate; replacement registration decal.

Sec. 82114. (1) The owner of a snowmobile shall notify the department of state within 15 days if the snowmobile is destroyed or abandoned, or is sold, or an interest in the snowmobile is transferred either wholly or in part to another person, or if the owner's address no longer conforms to the address appearing on the certificate of registration. The notice shall consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided. If the certificate of registration is surrendered because the snowmobile was destroyed or abandoned, the department of state shall cancel the certificate of registration and enter that fact in the records of the department of state, and the number may be then reassigned. The department of state may destroy the record of a surrendered certificate of registration 10 years after its surrender.

(2) If the certificate of registration is surrendered because of the owner's change of address, the new address shall be recorded by the department of state and a certificate of registration bearing that information shall be returned to the owner.

(3) The transferee of a snowmobile registered under this part, within 15 days after acquiring the snowmobile, shall apply to the department of state for issuance of a new certificate of registration for the snowmobile, giving the previous registration number of the snowmobile and proof of payment or satisfaction of any security interest shown on the previous owner's certificate of registration or department of state's records. The application shall include a certification. The new owner shall sign the application or, if the application is filed electronically, provide information requested by the department of state to verify the owner's identity. The application shall also include the new owner's name and bona fide residence address and the names and addresses of the holders of security interests in the snowmobile and its accessories in the order of their priority. The application shall be accompanied by the fee prescribed in section 82105. Upon receipt of the application and fee, the department of state shall issue a new certificate of registration for the snowmobile to the new owner. Unless the application is made and the fee paid within 15 days of transfer of ownership, the snowmobile is without certificate of registration, and a person shall not operate the snowmobile until a valid certificate of registration is issued.

(4) If a certificate of registration is lost, mutilated, or illegible, the owner of the snowmobile shall obtain a duplicate of the certificate of registration upon application and payment of a fee of $5.00.

(5) If a valid registration decal is lost, mutilated, or illegible, the owner of the snowmobile may obtain a replacement registration decal upon submission of proof of registration and payment of a fee of $5.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2008, Act 145, Eff. July 1, 2009;—Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82115 Certificates of registration for dealers and manufacturers; use; fee; placement of registration decal.

Sec. 82115. A dealer or manufacturer, upon application to the department of state upon forms provided by it, may obtain certificates of registration for use in the testing or demonstrating of snowmobiles upon payment of $10.00 for each of the first 2 registration certificates. Additional certificates as the dealer may require may

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be issued at a cost of $5.00 each and used by the applicant only in the testing or demonstrating of snowmobiles by temporary placement of the registration decal on the snowmobile being tested or demonstrated. Any 1 certificate issued pursuant to this section may be used on only 1 snowmobile at any given time. The temporary placement of registration decals shall be as prescribed by this part or rules promulgated under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Snowmobiles

Popular name: NREPA

324.82116 Snowmobile numbers; stamping on frame or plate; location of number; possession of snowmobile with altered, defaced, or obliterated number.

Sec. 82116. (1) A snowmobile that is manufactured after December 1, 1972 for sale in this state shall have an identifying number that is stamped into the frame of the snowmobile or into a plate affixed to the frame and is unique from an identifying number on any other snowmobile. The number shall be stamped in a place where it is easily visible with a minimum of physical effort and it shall be termed the vehicle number. A manufacturer shall furnish to a requesting police agency, to the department of state, and to the department information as to the location of vehicle numbers on snowmobiles it produces. The vehicle number shall be printed on the certificate of registration issued by the department of state to the owner.

(2) Possession of a snowmobile with an altered, defaced, or obliterated vehicle number is a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $1,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82116a Alteration, removal, or defacement of vehicle number; application for special identifying number; missing vehicle number; replacement; fee.

Sec. 82116a. (1) The owner of a snowmobile whose vehicle number has been altered, removed, or defaced, including the owner of a snowmobile who intends to register the snowmobile as an assembled snowmobile, shall apply, in a form prescribed by the department of state, to the department of state for a special identifying number accompanied by an application for a certificate of registration and the required fees. The owner shall furnish information satisfying the department of state that he or she is the owner, upon receipt of which the department of state shall assign a special identifying number for the snowmobile, preceded by a symbol indicating this state. The department of state shall maintain a record of assigned special identifying numbers. The special identifying number shall be applied to the snowmobile as directed by the department of state. The special number shall be regarded as the identifying number of the snowmobile.

(2) The owner of a snowmobile whose vehicle number is missing shall apply, in a form prescribed by the department of state, to the department of state for a replacement vehicle number accompanied by a $10.00 fee. The owner shall furnish information satisfying the department of state that he or she is the owner of the snowmobile upon receipt of which the department of state shall assign a replacement vehicle number that shall be applied to the snowmobile as directed by the department of state. The department of state shall note on the registration record for that snowmobile that a replacement vehicle number was issued for that snowmobile.

History: Add. 2008, Act 145, Eff. July 1, 2009.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82117 Dealers; duties; liability insurance.

Sec. 82117. (1) A dealer shall maintain in safe operating condition all snowmobiles rented, leased, or furnished by him or her. The dealer or the dealer's agents or employees shall explain the operation of the snowmobile being rented, leased, or furnished and, if the dealer or the dealer's agent or employee believes the person to whom the snowmobile is to be rented, leased, or furnished is not competent to operate the snowmobile with competency to himself or herself and to the safety of others, the dealer shall refuse to rent, lease, or furnish the snowmobile. By October 15, 1994, the department shall furnish each dealer with a safety education checklist of not more than 1 page in length that the dealer shall distribute to each person who

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purchases, rents, or leases a snowmobile from that dealer.

(2) Any dealer renting, leasing, or furnishing any snowmobile shall carry a policy of liability insurance subject to limits exclusive of interests and costs, with respect to such snowmobile, as follows: $20,000.00 because of bodily injury to or death of 1 person in any 1 accident and subject to that limit for 1 person, $40,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident, and $10,000.00 because of injury to or destruction of property of others in any 1 accident; or, in the alternative, any dealer renting, leasing, or furnishing any snowmobile shall demand and be shown proof that the person renting, leasing, or being furnished a snowmobile carries liability policy of at least the type and coverage as specified in this subsection.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82118 Michigan snowmobile trail permit.

Sec. 82118. (1) In addition to registration of a snowmobile under section 82105 or registration in another state or province, except as otherwise provided in this section, a person who desires to operate a snowmobile in this state shall purchase a Michigan snowmobile trail permit sticker. The Michigan snowmobile trail permit issued under this section shall be valid for a period of 1 year which begins on October 1 and ends on the following September 30. The fee for the permit shall be as follows:

(a) For permits valid for the 1-year period beginning October 1, 2009 or October 1, 2010, $35.00.

(b) For permits valid for the 1-year period beginning October 1, 2011, 2012, 2013, 2014, or 2015, $45.00.

(c) For permits valid for the 1-year period beginning October 1, 2016 and every fifth year thereafter, the state treasurer shall adjust the current permit fee by an amount determined by the state treasurer to reflect the cumulative percentage change in the consumer price index during the most recent 5-year period for which consumer price index statistics are available, rounded to the nearest dollar. A fee adjusted by the state treasurer under this subdivision shall remain in effect for 5 years. As used in this subdivision, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.

(2) Revenue from the trail permit fee shall be allocated as follows:

(a) 50 cents shall be retained by the department for administrative costs.

(b) $1.00 shall be retained by the agent selling the permit.

(c) The balance shall be deposited in the recreational snowmobile trail improvement subaccount.

(3) The department shall make the sale of trail permits available on its website. For each trail permit sold through the website, the amount otherwise credited to an agent under subsection (2) shall instead be credited to the recreational snowmobile trail improvement subaccount.

(4) The trail permit sticker shall be permanently affixed to the snowmobile directly above or below the headlight of the snowmobile.

(5) The department may contract with a person to act as an agent for the purpose of issuing Michigan snowmobile trail permits. The department shall sell the permits to agents in bulk. An agent may obtain a refund from the department for any permits that are not sold.

(6) An agent who uses or allows the use of a permit by anyone except the snowmobile user to whom the permit is sold is guilty of a misdemeanor, punishable by a fine of $50.00 for each instance of such use or allowed use.

(7) The department of state may suspend a certificate of registration if the department of state determines that the required fee has not been paid and remains unpaid after reasonable notice or demand. In addition to the required fee, a $10.00 penalty shall be assessed and collected against any person who tenders an insufficient check or draft in payment of the fee.

(8) A snowmobile used solely for transportation on the frozen surface of public waters for the purpose of ice fishing is exempt from the requirement of purchasing and displaying a snowmobile trail permit sticker under this section.

(9) A person shall not charge a fee for a snowmobile trail permit in an amount that is greater than the fee printed on the face of the permit.

(10) To obtain a snowmobile trail permit, an applicant shall provide all information required on the permit application.

(11) A person who fails to secure a permit under this section or who violates subsection (4) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

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(12) The department shall, by June 1 of each year, report to the members of the appropriate standing committees and appropriations subcommittees of the house and senate, a detailed expenditure plan pertaining to the additional funds generated by this act. The plan shall include information as to how funds were expended in the prior year.

(13) This section does not apply to a historic snowmobile registered under section 82105c.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 114, Eff. Mar. 21, 1996;—Am. 1996, Act 139, Imd. Eff. Mar. 21, 1996;—Am. 1996, Act 183, Imd. Eff. May 3, 1996;—Am. 2001, Act 15, Imd. Eff. June 12, 2001;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2008, Act 400, Imd. Eff. Jan. 6, 2009;—Am. 2010, Act 371, Imd. Eff. Dec. 22, 2010.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82119 Operation of snowmobiles prohibited; exceptions; permanent prohibition; requirements; rules.

Sec. 82119. (1) A person shall not operate a snowmobile upon a public highway, land used as an airport or street, or on a public or private parking lot not specifically designated for the use of snowmobiles except under the following conditions and circumstances:

(a) Subject to subsection (2), a snowmobile may be operated on the right-of-way of a public highway, except a limited access highway, if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. However, a snowmobile may be operated on the right-of-way of a public highway against the flow of traffic if the right-of-way is a snowmobile trail that is designated by the department in the plan developed pursuant to section 82106(2) and that is approved by the state transportation department. Snowmobiles operated on the right-of-way of a public highway, as provided in this subdivision, shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall not exceed the speed limit posted on the public highway.

(b) Subject to subsection (2), a snowmobile may be operated on the right-of-way of a limited access public highway if it is operated on a snowmobile trail that is designated by the department in the plan developed pursuant to section 82106(2) and that is approved by the state transportation department. A snowmobile shall only be operated on that right-of-way in the manner provided in that plan. In addition, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall not exceed the speed limit posted on the public highway.

(c) A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to an approaching vehicle on the highway.

(d) In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, collided with a snowmobile on a roadway, the driver of the snowmobile involved in the collision shall be considered prima facie negligent.

(e) A snowmobile may be operated across a public highway other than a limited access highway, at right angles to the highway, for the purpose of getting from 1 area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public highway and shall yield the right-of-way to all oncoming traffic.

(f) Snowmobiles may be operated on a highway in a county road system that is not normally snowplowed for vehicular traffic and on the plowed right-of-way or shoulder when no right-of-way exists on a snowplowed highway in the county road system, outside the corporate limits of a city or village, that is designated and marked for snowmobile use by the county road commission having jurisdiction. Upon the request of a county road commission that has designated all county roads outside the corporate limits of a city or village for snowmobile use, the state transportation department shall erect at county road commission expense and shall maintain, in accordance with the Michigan manual of uniform traffic control devices standards, the basic snowmobile sign unit together with a supplemental panel stating "permitted on

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right-of-way or shoulder of all ..... (county name) roads — MCL 324.82119" at the county line on all state trunk line highways and county roads. A sign erected before the effective date of the 2005 amendatory act that amended this section may cite 1968 PA 74 instead of citing this section.

(g) A law enforcement officer of a local unit of government or the state may authorize use of a snowmobile on a public highway or street within his or her jurisdiction when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(h) A snowmobile may be operated on a highway or street for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department.

(i) A city or village by ordinance may designate 1 or more specific public highways or streets within its jurisdiction as egress and ingress routes for the use of snowmobiles. A city or village acting under the authority of this subdivision shall erect and maintain, in accordance with the Michigan manual of uniform traffic control devices standards, a sign unit giving proper notice of the designation.

(2) The state transportation department and the department of natural resources may permanently prohibit snowmobile use as described in subsection (1)(a) or (b) in a highway right-of-way if, within 10 years after the effective date of the amendatory act that added this subsection, all of the following requirements are met:

(a) The right-of-way is designated in a closure plan developed by the state transportation department and the department of natural resources and approved by the state transportation commission and the commission of natural resources.

(b) The state transportation department and the department of natural resources have held a public hearing on the proposed prohibition in the county where the prohibition is to apply. The state transportation department and the department of natural resources shall give notice of the hearing by publication in a newspaper of general circulation in the county not more than 21 or less than 7 days before the hearing.

(c) The state transportation department and the department have consulted on the proposed prohibition with the snowmobile advisory committee created under section 82102a.

(d) Snowmobile use in that right-of-way poses a particular and demonstrable threat to public safety.

(e) The department has designated and, if required under subsection (1)(a) or (b), the state transportation department has approved an alternative snowmobile trail that meets all of the following requirements:

(*i*) Is open for use and functional during snowmobile season.

(*ii*) Bypasses the highway right-of-way on which snowmobile use is to be prohibited.

(*iii*) Provides access to any qualified business that, when the alternative snowmobile trail is designated, is located along the highway right-of-way on which snowmobile use is to be prohibited. As used in this subparagraph, "qualified business" means a gas station, restaurant, hotel, motel, convenience store, or grocery store or any other business that relies on snowmobile-based commerce.

(3) The state transportation department and the department of natural resources may promulgate rules to implement subsections (1)(b) and (2).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 307, Imd. Eff. Dec. 27, 2005.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82120 Supervision of child less than 12 years of age; exception; conditions for operation of snowmobile by person 12 but less than 17 years of age; snowmobile safety certificate; crossing highway or street; duty of snowmobile owner; report of violation; suspension of certificate.

Sec. 82120. (1) A parent or legal guardian shall not permit his or her child who is less than 12 years of age to operate a snowmobile without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.

(2) A person who is at least 12 but less than 17 years of age may operate a snowmobile if 1 of the following conditions exist:

(a) The person is under the direct supervision of a person who is 21 years of age or older.

(b) The person has in his or her immediate possession a snowmobile safety certificate issued pursuant to a program conducted under section 82107.

(c) The person is on land owned or under the control of his or her parent or legal guardian.

(d) The person possesses a snowmobile safety certificate issued to the person under the authority of a law of another state or province of Canada.

(3) A person who is operating a snowmobile pursuant to subsection (2)(b) shall present the snowmobile

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safety certificate to any peace officer upon demand.

(4) Notwithstanding section 82119, an operator who is less than 12 years of age shall not cross a highway or street. An operator who is at least 12 years of age but less than 17 years of age may cross a highway or street only if he or she has a valid snowmobile safety certificate in his or her immediate possession.

(5) The owner of a snowmobile shall not permit the snowmobile to be operated contrary to this section.

(6) When the judge of a juvenile court determines that a person who is less than 17 years of age has violated this part, the judge shall immediately report the determination to the department. The department upon receiving a notice of a determination pursuant to this subsection may suspend the snowmobile safety certificate without a hearing.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82121 Use of snowmobile to hunt wild bird or animal.

Sec. 82121. A snowmobile shall not be used to hunt, pursue, worry, or kill a wild bird or animal.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82122 Lights and brakes; minimum safety standards; certification as proof of compliance.

Sec. 82122. (1) A snowmobile shall not be operated unless it has at least 1 headlight, 1 taillight, and adequate brakes capable, while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more, of stopping the snowmobile in not more than 40 feet from an initial steady speed of 20 miles per hour or of locking the snowmobile's traction belt or belts.

(2) A person shall not sell or offer to sell in this state a snowmobile manufactured after July 1, 1978, unless it meets the minimum safety standards for snowmobile product certification of the snowmobile safety and certification committee's November 23, 1976, volume 3, safety standards for snowmobiles for product certification, including detailed standard supplement and test specifications and procedures, covering machine sound levels, seats, controls, brake systems, fuel systems, shields and guards, electrical systems and lighting, reflectors, handgrips, and general hazard requirements. Proof of compliance with this section shall be in the form of certification by a qualified independent testing company that is not affiliated with the manufacturer and is approved by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82123 Crash helmet required.

Sec. 82123. A person operating or riding on a snowmobile shall wear a crash helmet on his or her head. Crash helmets shall be approved by the United States department of transportation. This section does not apply to a person riding on or operating a snowmobile on his or her own private property.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82124 Ordinances; duty to maintain highway; immunity from liability; “gross negligence” defined.

Sec. 82124. (1) Any municipality may pass an ordinance regulating the operation of snowmobiles if the ordinance meets substantially the minimum requirements of this part. A local unit of government may not adopt an ordinance that:

(a) Imposes a fee for a license.

(b) Specifies accessory equipment to be carried on the snowmobile.

(c) Requires a snowmobile operator to possess a motor vehicle driver license.

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(d) Restricts operation of a snowmobile on the frozen surface of public waters or on lands owned by or under the control of the state except pursuant to section 82125.

(2) A board of county road commissioners, a county board of commissioners, and a county have no duty to maintain any highway under their jurisdiction in a condition reasonably safe and convenient for the operation of snowmobiles.

(3) Beginning on October 19, 1993, a board of county road commissioners, a county board of commissioners, and a county are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of a snowmobile on maintained or unmaintained highways, shoulders, and rights-of-way over which the board of county road commissioners, the county board of commissioners, or the county has jurisdiction. The immunity provided by this subsection does not apply to actions which constitute gross negligence. Gross negligence is defined as conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82125 Rules governing operation and conduct of snowmobiles; special rules; hearing; notice; corresponding ordinances; suspension, amendment, or repeal; enforcement.

Sec. 82125. (1) The department may promulgate rules to govern the operation and conduct of snowmobiles, speed limits, and the times when a snowmobile may be used and to establish and designate areas where snowmobiles may be used in a manner that will ensure compatible use and best protection of the safety and general welfare of the public on the frozen surface of public waters.

(2) The department, on its own initiative or upon receipt of a certified resolution of the governing body of a political subdivision, may initiate investigations into the need for special rules to govern the operation of snowmobiles on the frozen surface of public waters. If controls for an activity are considered necessary, or amendment or repeal of an existing rule is required, the department shall prepare a rule for consideration at a public hearing. Notice of the public hearing shall be published in a newspaper of general circulation in the area where the rules are to be imposed, amended, or repealed, at least 10 days before the hearing.

(3) After a hearing is held pursuant to subsection (2), the proposed rule shall be submitted to the governing body of the political subdivision in which the affected frozen waters lie. The governing body shall inform the department that it approves or disapproves of the proposed rule within 30 days after receiving the rule from the department. If the governing body disapproves the proposed rule, further action shall not be taken. If the governing body approves the proposed rule, it may enact an ordinance that is identical to the proposed rule and the department shall promulgate the rule. An ordinance enacted pursuant to this subsection is not effective until the proposed rule is promulgated and effective.

(4) An ordinance that is the same as a rule that is suspended by the legislature or amended or repealed by the department shall likewise be suspended, amended, or repealed. The governing body, by majority vote, may repeal the ordinance at any time.

(5) Local law enforcement officers may enforce ordinances enacted pursuant to this section, and state and county enforcement officers shall enforce rules that are promulgated pursuant to this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82126 Operation of snowmobile; prohibitions; exemption; construction, operation, and maintenance of snowmobile trail; conditions; demarcation of trail by signing; "operate" defined; prohibited conduct; assumption of risk; violation of subsection (2) as civil infraction; fine.

Sec. 82126. (1) A person shall not operate a snowmobile under any of the following circumstances:

(a) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing.

(b) In a forest nursery, planting area, or on public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area that is in zone 2 or zone 3.

(c) On the frozen surface of public waters as follows:

(*i*) Within 100 feet of a person, including a skater, who is not in or upon a snowmobile.

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(*ii*) Within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile.

(*iii*) On an area that has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

(d) Within 100 feet of a dwelling between 12 midnight and 6 a.m., at a speed greater than the minimum required to maintain forward movement of the snowmobile.

(e) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except under 1 or more of the following circumstances:

(*i*) During an emergency.

(*ii*) For law enforcement purposes.

(*iii*) To go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle.

(*iv*) For the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, or timber harvest operations.

(*v*) On the person's own property or property under the person's control or as an invited guest.

(f) While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased.

(g) On or across a cemetery or burial ground.

(h) Within 100 feet of a slide, ski, or skating area except when traveling on a county road right-of-way pursuant to section 82119 or a snowmobile trail that is designated and funded by the department. A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies.

(i) On a railroad or railroad right-of-way. This prohibition does not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties, or persons using a snowmobile trail located on or along a railroad right-of-way, or an at-grade snowmobile trail crossing of a railroad right-of-way, that has been expressly approved in writing by the owner of the right-of-way and each railroad company using the tracks and that meets the conditions imposed in subsections (4) and (5). A snowmobile trail or an at-grade snowmobile trail crossing shall not be constructed on a right-of-way designated by the federal government as a high-speed rail corridor.

(2) Except as provided under subsection (3), a person shall not operate a snowmobile unless the snowmobile is equipped with a muffler in good working order and in constant operation from which noise emission does not exceed either of the following:

(a) For a snowmobile manufactured after July 1, 1977 and sold or offered for sale in this state, 78 decibels at 50 feet, as measured using the 2003 society of automotive engineers standard J192.

(b) For a stationary snowmobile manufactured after July 1, 1980 and sold or offered for sale in this state, 88 decibels, as measured using the 2004 society of automotive engineers standard J2567.

(3) A person is exempt from the requirement of subsection (2) under either of the following circumstances:

(a) While operating a snowmobile during an organized race on a course that is used solely for racing.

(b) While operating a snowmobile on private property, with the permission of the private property owner, in preparation for an organized race, if the operation of the snowmobile is in compliance with applicable local noise ordinances.

(4) A snowmobile trail located on or along a railroad right-of-way shall be constructed, operated, and maintained by a person other than the person owning the railroad right-of-way and the person operating the railroad, except that an at-grade snowmobile trail crossing of a railroad right-of-way shall be constructed and maintained by the person operating the railroad at the sole cost and expense of the person operating the trail connected by the crossing, pursuant to terms of a lease agreement under which the person operating the trail agrees to do all of the following:

(a) Indemnify the person owning the railroad right-of-way and the person operating the railroad against any claims associated with, arising from, or incidental to the construction, maintenance, operation, and use of the trail or at-grade snowmobile trail crossing.

(b) Provide liability insurance in the amount of $2,000,000.00 naming the person owning the railroad right-of-way and the person operating the railroad as named insureds.

(c) Meet any other obligations or provisions considered appropriate by the person owning the railroad right-of-way or the person operating the railroad including, but not limited to, the payment of rent that the person owning the railroad right-of-way or the person operating the railroad is authorized to charge under this part and the meeting of all construction, operating, and maintenance conditions imposed by the person owning the railroad right-of-way and the person operating the railroad regarding the snowmobile trail.

(5) A snowmobile trail shall be clearly demarcated by signing constructed and maintained at the sole cost and expense of the grant program sponsor. The signing shall be placed at the outer edge of the railroad

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right-of-way, as far from the edge of the railroad tracks as possible, and not closer than 20 feet from the edge of the railroad tracks unless topography or other natural or manmade features require the trail to lie within 20 feet of the edge of the railroad tracks. The at-grade snowmobile trail crossing of a railroad right-of-way shall be aligned at 90 degrees or as close to 90 degrees as possible to the railroad track being crossed, and shall be located where approach grades to the crossing are minimal and where the vision of a person operating a snowmobile will be unobstructed as he or she approaches the railroad tracks. The design of the snowmobile trail, including the location of signing, shall be included upon plan sheets by the person constructing, operating, and maintaining the trail, and shall be approved in writing by the person owning the right-of-way and the person operating the railroad. Signing shall conform to specifications issued by the department to its snowmobile trail grant program sponsors.

(6) Notwithstanding section 82101, as used in this section, "operate" means to cause to function, run, or manage.

(7) A person shall not alter, deface, damage, or remove a snowmobile trail sign or control device.

(8) Each person who participates in the sport of snowmobiling accepts the risks associated with that sport insofar as the dangers are obvious and inherent. Those risks include, but are not limited to, injuries to persons or property that can result from variations in terrain; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; and collisions with signs, fences, or other snowmobiles or snow-grooming equipment. Those risks do not include injuries to persons or property that can result from the use of a snowmobile by another person in a careless or negligent manner likely to endanger person or property. When a snowmobile is operated in the vicinity of a railroad right-of-way, each person who participates in the sport of snowmobiling additionally assumes risks including, but not limited to, entanglement with tracks, switches, and ties and collisions with trains and other equipment and facilities.

(9) A person who violates subsection (2) is responsible for a state civil infraction and shall be ordered to pay a civil fine of not less than $100.00 or more than $250.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1995, Act 201, Imd. Eff. Nov. 29, 1995;—Am. 1996, Act 500, Imd. Eff. Jan. 9, 1997;—Am. 1998, Act 30, Imd. Eff. Mar. 18, 1998;—Am. 2003, Act 2, Imd. Eff. Apr. 22, 2003;—Am. 2008, Act 27, Imd. Eff. Mar. 13, 2008;—Am. 2008, Act 399, Imd. Eff. Jan. 6, 2009.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82126a Operation of snowmobile; prohibited conduct; violation as civil infraction.

Sec. 82126a. (1) A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a public lake, stream, river, pond, or another public place, including but not limited to an area designated for the parking of snowmobiles or other motor vehicles, in a careless or negligent manner likely to endanger any person or property.

(2) A person who violates subsection (1) is responsible for a state civil infraction.

History: Add. 1998, Act 461, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82126b Operation of snowmobile; prohibited conduct; violation as misdemeanor; penalty.

Sec. 82126b. (1) A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a public lake, stream, river, pond, or another public place, including, but not limited to, an area designated for the parking of snowmobiles or other motor vehicles, in willful or wanton disregard for the safety of persons or property.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than $250.00.

History: Add. 1998, Act 461, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82126c Operation of snowmobile; conduct causing death or serious impairment of bodily function; violation as misdemeanor or felony; penalty; definition; order prohibiting

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operation of snowmobile.

Sec. 82126c. (1) A person who operates a snowmobile in a careless or negligent manner causing the death or serious impairment of bodily function of another is guilty of a misdemeanor and shall be imprisoned for not more than 2 years or fined not more than $2,000.00, or both.

(2) A person who, by the operation of a snowmobile in a careless and heedless manner in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, causes the serious impairment of bodily function, but does not cause the death of another, is guilty of the offense of felonious operation, and shall be imprisoned for not more than 2 years or fined not more than $2,000.00, or both.

(3) As used in this section, "serious impairment of bodily function" includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

(c) Loss of an eye or ear or use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(4) Upon a person's conviction of a violation under this section, the court may issue an order prohibiting the person from operating a snowmobile in this state for a period of 2 or more years in the discretion of the court. An order issued under this section is in addition to any other penalty authorized under this part.

History: Add. 1998, Act 461, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82127 Operation of or authorizing operation of snowmobile while under influence of alcoholic liquor or controlled substance prohibited; visible impairment; violation; penalty; "serious impairment of a body function" defined; operation by person less than 21 years of age; "any bodily alcoholic content" defined; person less than 16 years of age occupying snowmobile.

Sec. 82127. (1) A person shall not operate a snowmobile in this state if any of the following apply:

(a) The person is under the influence of alcoholic liquor or a controlled substance, or both.

(b) The person has a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person has in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(2) The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person if any of the following apply:

(a) The person is under the influence of alcoholic liquor or a controlled substance, or both.

(b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate a snowmobile is visibly impaired due to the consumption of an alcoholic liquor, a controlled substance, or a combination of an alcoholic liquor and a controlled substance.

(3) A person shall not operate a snowmobile when, due to the consumption of an alcoholic liquor or a controlled substance, or both, the person's ability to operate the snowmobile is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person who operates a snowmobile in violation of subsection (1) or (3) and by the operation of that snowmobile causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(5) A person who operates a snowmobile in violation of subsection (1) or (3) and by the operation of that snowmobile causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or

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both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(6) A person who is less than 21 years of age, whether licensed or not, shall not operate a snowmobile if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2018, an alcohol content of 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(7) A person is subject to the following requirements:

(a) He or she shall not operate a snowmobile in violation of subsection (1), (3), (4), or (5) while another person who is less than 16 years of age is occupying the snowmobile.

(b) He or she shall not operate a snowmobile in violation of subsection (6) while another person who is less than 16 years of age is occupying the snowmobile.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 183, Imd. Eff. May 3, 1996;—Am. 2001, Act 12, Eff. July 1, 2001;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82128 Violations; sanctions.

Sec. 82128. (1) If a person is convicted of violating section 82127(1), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor and may be punished by 1 or more of the following:

(*i*) Community service for not more than 45 days.

(*ii*) Imprisonment for not more than 93 days.

(*iii*) A fine of not less than $100.00 or more than $500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00 and either of the following:

(*i*) Community service for not less than 10 days or more than 90 days, and may be imprisoned for not more than 1 year.

(*ii*) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person is guilty of a felony and shall be sentenced to imprisonment for not less than 1 year or more than 5 years, or a fine of not less than $500.00 or more than $5,000.00, or both.

(2) A term of imprisonment imposed under subsection (1)(b)(*ii*) shall not be suspended.

(3) A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service if ordered by the court.

(4) In addition to the sanctions prescribed under subsection (1) and section 82127(4) and (5), the court may, under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under section 82142.

(5) A person who is convicted of violating section 82127(2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than $100.00 or more than $500.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1999, Act 22, Eff. Oct. 1, 2000;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82129 Violations; sanctions.

Sec. 82129. (1) If a person is convicted of violating section 82127(3), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor

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punishable by 1 or more of the following:

(*i*) Community service for not more than 45 days.

(*ii*) Imprisonment for not more than 93 days.

(*iii*) A fine of not more than $300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:

(*i*) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(*ii*) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person shall be sentenced to both a fine of not less than $200.00 or more than $1,000.00, and either of the following:

(*i*) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(*ii*) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(2) In addition to the sanctions prescribed in subsection (1), the court may, under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under section 82142.

(3) A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service as ordered by the court.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1999, Act 22, Eff. Oct. 1, 2000;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82129a Violation of MCL 324.82127(6); sanctions; community service.

Sec. 82129a. (1) If a person is convicted of violating section 82127(6), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both of the following:

(*i*) Community service for not more than 360 hours.

(*ii*) A fine of not more than $250.00.

(b) If the violation occurs within 7 years of 1 or more prior convictions, including a prior conviction for section 82127(6), the person may be sentenced to 1 or more of the following:

(*i*) Community service for not more than 60 days.

(*ii*) A fine of not more than $500.00.

(*iii*) Imprisonment for not more than 93 days.

(2) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(3) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82129b Violation of MCL 324.82127(7)(a) or (b); sanctions; community service.

Sec. 82129b. (1) A person who violates section 82127(7)(a) is guilty of a crime punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 82127(7)(a) is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(*i*) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

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(*ii*) Community service for not less than 30 days or more than 90 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 82127(7)(a) is guilty of a felony and shall be sentenced to pay a fine of not less than $500.00 or more than $5,000.00 and to either of the following:

(*i*) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(*ii*) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(2) A person who violates section 82127(7)(b) is guilty of a misdemeanor punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 82127(7)(b) may be sentenced to 1 or more of the following:

(*i*) Community service for not more than 60 days.

(*ii*) A fine of not more than $500.00.

(*iii*) Imprisonment for not more than 93 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 82127(7)(b) shall be sentenced to pay a fine of not less than $200.00 or more than $1,000.00 and to 1 or more of the following:

(*i*) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(*ii*) Community service for not less than 30 days or more than 90 days.

(3) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(4) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82130 Enhanced sentence; listing of prior convictions; attempted violation.

Sec. 82130. (1) If the prosecuting attorney intends to seek an enhanced sentence under section 82128, 82129, 82129a, or 82129b based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

(2) A prior conviction shall be established at sentencing by 1 or more of the following:

(a) An abstract of conviction.

(b) An admission by the defendant.

(3) A person who is convicted of an attempted violation of section 82127(1) or (3) or a local ordinance substantially corresponding to section 82127(1) or (3) shall be punished as if the offense had been completed.

(4) When issuing an order under this part, the secretary of state and the court shall treat a conviction of an attempted violation of section 82127(1) or (3), former section 15a(1) or (3) of 1968 PA 74, a local ordinance substantially corresponding to section 82127(1) or (3), a law of another state substantially corresponding to section 82127(1) or (3), or a law of the United States substantially corresponding to section 82127(1) or (3) the same as if the offense had been completed.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82131 Display of lighted headlight and taillight required; applicability of section to snowmobile 25 years or older.

Sec. 82131. (1) A person shall not operate a snowmobile without displaying a lighted headlight and a lighted taillight. However, the headlight shall not be covered with a lens cap of any color.

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(2) This section does not apply to a snowmobile of a model year 25 years old or older.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 29, Imd. Eff. Mar. 22, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82132 Accidents; notice; reports.

Sec. 82132. The operator of a snowmobile involved in an accident resulting in injuries to or the death of any person or property damage in an estimated amount of $100.00 or more shall immediately by the quickest means of communication notify a state police officer or officers, the sheriff's office of the county in which the accident occurred, or the office of the police department of the local unit of government in which the accident occurred. The police agency receiving the notice shall complete a report of the accident on forms prescribed by the director of the department of state police and forward the report to the department of state police within 14 days after the date of the accident. The department of state police shall forward a copy of all snowmobile accident reports to the department within 14 days after receipt of the accident report.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82133 Violation of part; misdemeanor.

Sec. 82133. Except as otherwise provided in this part, a person who violates this part is guilty of a misdemeanor.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82134 Violations; appearance tickets; presumption.

Sec. 82134. (1) A peace or police officer may issue appearance tickets for violations of this part pursuant to sections 9a to 9e of chapter 4 of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9e of the Michigan Compiled Laws.

(2) In a proceeding for a violation of this part involving prohibited operation or conduct, the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile at the time of the offense.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82135 Failure to stop on signal of uniformed officer; penalty; identification of official vehicle.

Sec. 82135. An operator of a snowmobile who is given by hand, voice, emergency light, or siren a visual or audible signal by a peace, police, or conservation officer acting in the lawful performance of his or her duty, directing the operator to bring his or her snowmobile to a stop, and who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights, or who otherwise attempts to flee or elude the officer, is guilty of a misdemeanor. The officer giving the signal shall be in uniform. A vehicle or snowmobile which is used by an officer at night for purposes of enforcing this part shall be identified as an official law enforcement vehicle or snowmobile.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82136 Arrest without warrant; preliminary chemical breath analysis.

Sec. 82136. (1) A peace officer, without a warrant, may arrest a person if the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a snowmobile involved in the

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accident in this state while in violation of section 82127(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 82127(1), (3), or (6).

(2) A peace officer who has reasonable cause to believe that a person was operating a snowmobile and that, by the consumption of alcoholic liquor, the person may have affected his or her ability to operate a snowmobile may require the person to submit to a preliminary chemical breath analysis. The following apply with respect to a preliminary chemical breath analysis:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 82143(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 82143 to 82146 for the purposes of chemical tests described in those sections.

(d) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82137 Chemical tests and analysis of person's blood, urine, or breath; provisions.

Sec. 82137. (1) The following apply with respect to a chemical test and analysis of a person's blood, urine, or breath, other than a preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance, or both, in an operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 82143(1) shall be advised of all of the following:

(*i*) That if the person takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, the person has the right to demand that someone of the person's own choosing administer 1 of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this part and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that the person is responsible for obtaining a chemical analysis of a test sample obtained pursuant to the person's own request.

(*ii*) That if the person refuses the request of a peace officer to take a test described in subparagraph (*i*), the test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

(*iii*) That the person's refusal of the request of a peace officer to take a test described in subparagraph (*i*) will result in issuance of an order that the person not operate a snowmobile.

(2) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician, qualified to withdraw blood and acting in a medical environment, may withdraw blood at the request of a peace officer for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in a person's blood, as provided in this subsection. A qualified person who withdraws or analyzes blood, or assists in the withdrawal or analysis, in accordance with this part is not liable for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures unless the withdrawal or analysis is performed in a negligent manner.

(3) A rule relating to a chemical test for alcohol or a controlled substance promulgated under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, applies to a chemical test administered under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82138 Chemical test and analysis of person's blood, urine, or breath; additional provisions.

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Sec. 82138. (1) A chemical test described in section 82137 shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 82143(1). A person who takes a chemical test administered at the request of a peace officer, as provided in section 82137, shall be given a reasonable opportunity to have someone of the person's own choosing administer 1 of the chemical tests described in section 82137 within a reasonable time after the person's detention, and the results of the test are admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by someone of the person's own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(2) If, after an accident, the operator of a snowmobile involved in an accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(3) If, after an accident, the operator of a snowmobile involved in an accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82139 Introduction of other evidence not limited by MCL 324.82137 and 324.82138; availability of chemical test results.

Sec. 82139. (1) The provisions of sections 82137 and 82138 relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was impaired by, or under the influence of, alcoholic liquor or a controlled substance, or both, or whether the person had a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or had in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(2) If a chemical test described in sections 82137 and 82138 is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 183, Imd. Eff. May 3, 1996;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82140 Refusal to submit to chemical test; admissibility.

Sec. 82140.

A person's refusal to submit to a chemical test as provided in sections 82137 and 82138 is admissible in a criminal prosecution for a crime described in section 82143(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 183, Imd. Eff. May 3, 1996;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

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Popular name: NREPA

Popular name: Snowmobiles

324.82141 Acceptance of guilty plea or nolo contendere; advisement by court of maximum imprisonment and fine; screening, assessment, and rehabilitative services; record.

Sec. 82141. (1) Before accepting a plea of guilty or nolo contendere under section 82127 or a local ordinance substantially corresponding to section 82127(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation.

(2) Before imposing sentence, other than court-ordered operating sanctions, for a violation of section 82127(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 82127(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(3) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with a violation of section 82127(1) or (3). The municipal judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the court of record for each case charging a violation of section 82127(1) or (3).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1999, Act 22, Eff. Oct. 1, 2000.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82142 Consideration of prior convictions; sanctions.

Sec. 82142. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 82127(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 82127(1), (3), or (6) whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions established under section 82130, except those convictions that, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following sanctions:

(a) For a conviction under section 82127(4) or (5), the court shall order, without an expiration date, that the person not operate a snowmobile.

(b) For a conviction under section 82127(1) or a local ordinance substantially corresponding to section 82127(1):

(*i*) If the court finds that the person has no prior convictions within 7 years, the court shall order that the person not operate a snowmobile for not less than 6 months or more than 2 years and shall require that the person take and successfully complete the snowmobile safety education and training program before operating a snowmobile.

(*ii*) If the court finds that the person has 1 or more prior convictions within 7 years, the court shall order that the person not operate a snowmobile for a period of not less than 1 year or more than 2 years and shall require the person to take and successfully complete the snowmobile safety education and training program before operating a snowmobile.

(*iii*) If the court finds that the person has 2 or more prior convictions within 10 years, the court shall order, without an expiration date, that the person not operate a snowmobile.

(c) For a conviction under section 82127(3) or a local ordinance substantially corresponding to section 82127(3):

(*i*) If the court finds that the convicted person has no prior conviction within 7 years, the court shall order that the person not operate a snowmobile for not less than 90 days or more than 1 year.

(*ii*) If the court finds that the person has 1 prior conviction within 7 years, the court shall order that the person not operate a snowmobile for not less than 6 months or more than 2 years.

(*iii*) If the court finds that the person has 2 or more prior convictions within 10 years, the court shall order, without an expiration date, the person not to operate a snowmobile.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

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Popular name: Snowmobiles

324.82143 Implied consent to chemical tests; circumstances; exception; administration of chemical test.

Sec. 82143. (1) A person who operates a snowmobile is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his or her blood in all of the following circumstances:

(a) The person is arrested for a violation of section 82127(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 82127(1), (3), or (6).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a snowmobile, and the peace officer had reasonable grounds to believe that the person was operating the snowmobile in violation of section 82127.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) A chemical test described in subsection (1) shall be administered as provided in sections 82137 and 82138.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 183, Imd. Eff. May 3, 1996;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82144 Refusal to submit to chemical test; court order; report to secretary of state.

Sec. 82144. (1) If a person refuses the request of a peace officer to submit to a chemical test offered under section 82137 or 82138, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) If a person refuses a chemical test offered under section 82137 or 82138, or submits to the chemical test and the test reveals a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the peace officer who requested the person to submit to the test shall immediately forward a written report to the secretary of state. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 82143(1), and either that the person has refused to submit to the test upon the request of the peace officer and has been advised of the consequences of the refusal or that the test revealed a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine. The form of the report shall be prescribed and furnished by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 183, Imd. Eff. May 3, 1996;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82145 Refusal to submit to chemical test; notice of right to hearing.

Sec. 82145. (1) If a person refuses to submit to a chemical test pursuant to section 82144, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 82146. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in issuance of an order that the person not operate a snowmobile. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel is permitted to represent the person at the hearing.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82146 Refusal to submit to chemical test; failure to request hearing; order; hearing procedures.

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Sec. 82146. (1) If a person who refuses to submit to a chemical test under section 82144 does not request a hearing within 14 days of the date of notice under section 82145, the secretary of state shall issue an order that the person not operate a snowmobile for 1 year or, for a second or subsequent refusal within 7 years, for 2 years.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, 1949 PA 300, MCL 257.322. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) to (d). Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 82144, and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and, except for delay attributable to the unavailability of the defendant, a witness, or material evidence or to an interlocutory appeal or exceptional circumstances, but not for delay attributable to docket congestion, shall be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 82143(1).

(b) Whether the person was placed under arrest for a crime described in section 82143(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of his or her rights under section 82137.

(3) The hearing officer shall make a record of proceedings held under subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review under section 82150 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall order that the person not operate a snowmobile for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. The person may file a petition in the circuit court of the county in which the arrest was made to review the order as provided in section 82150. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 82144 may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 82150.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82147 Issuance of order by secretary of state; operation of snowmobile prohibited; imposition of suspension for more than 1 conviction or probate court dispositions from same incident.

Sec. 82147. (1) Notwithstanding a court order issued under section 82127(1), (3), (4), or (5), section 15a(1), (3), (4), or (5) of former 1968 PA 74, sections 82141 to 82142, or a local ordinance substantially corresponding to section 82127(1) or (3), or sections 82141 to 82142, if a court has not ordered a person not to operate a snowmobile as authorized by this part, the secretary of state shall issue an order that the person not operate a snowmobile as follows:

(a) For 90 days, upon receiving a record of the conviction of the person for a violation of section 82127(3), section 15a(3) of former 1968 PA 74, a local ordinance substantially corresponding to section 82127(3), or a law of another state substantially corresponding to section 82127(3), if the person has no prior convictions within 7 years for a violation of section 82127(1), (3), (4), or (5), section 15a(1), (3), (4), or (5) of former 1968 PA 74, or section 15a of former 1968 PA 74, a local ordinance substantially corresponding to section 82127(1) or (3) or section 15a of former 1968 PA 74, or a law of another state substantially corresponding to

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section 82127(1), (3), (4), or (5) or section 15a of former 1968 PA 74.

(b) For 1 year for a violation of section 324, 413, or 414 of the Michigan penal code, 1931 PA 328, MCL 750.324, 750.413, and 750.414; or a violation of section 626(3) or (4) of the Michigan vehicle code, 1949 PA 300, MCL 257.626.

(c) For 6 months, if the person has the following convictions within a 7-year period, whether under the law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(*i*) One conviction under section 82127(1), section 15a(1) of former 1968 PA 74, or section 15a of former 1968 PA 74.

(*ii*) Two convictions under section 82127(3), section 15a(3) of former 1968 PA 74, or section 15a of former 1968 PA 74.

(*iii*) One conviction under section 82127(1) or section 15a(1) of former 1968 PA 74 and 1 conviction under section 82127(3), section 15a(3) of former 1968 PA 74, or section 15a of former 1968 PA 74.

(*iv*) One conviction under section 82127(4) or (5) or section 15a(4) or (5) of former 1968 PA 74 followed by 1 conviction under section 82127(3) or section 15a(3) of former 1968 PA 74.

(2) If the secretary of state receives records of more than 1 conviction or probate court or family division of circuit court disposition of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 148, Eff. Feb. 1, 2002;—Am. 2008, Act 465, Imd. Eff. Jan. 9, 2009.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82147a Suspension or revocation of operator's or chauffeur's license; operation of snowmobile prohibited; violation as misdemeanor; penalty.

Sec. 82147a. (1) If the operator's or chauffeur's license of a person who is a resident of this state is suspended or revoked by the secretary of state under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or if the driver license of a person who is a nonresident is suspended or revoked under the law of the state in which he or she resides, that person shall not operate a snowmobile under this part for the same period.

(2) A person who violates this section is guilty of a misdemeanor punishable as follows:

(a) For a first conviction, imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent conviction, imprisonment for not more than 180 days or a fine of not more than $1,000.00, or both.

History: Add. 1999, Act 43, Eff. Oct. 1, 2000.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82148 Convictions prohibiting operation of snowmobile; order; sharing conviction records; termination of indefinite order; multiple convictions or probate court dispositions resulting from same incident; hearing; record; judicial review.

Sec. 82148. (1) Upon receipt of the appropriate records of conviction, the secretary of state shall issue an order with no expiration date that the person not operate a snowmobile to a person having any of the following convictions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Two convictions of a felony involving the use of a snowmobile within 7 years.

(b) Any combination of 2 convictions within 7 years for a violation of section 82127(1), section 15a(1) of former 1968 PA 74, or section 15a of former 1968 PA 74, as added by 1980 PA 402.

(c) One conviction under section 82127(4) or (5) or section 15a(4) or (5) of former 1968 PA 74.

(d) Any combination of 3 convictions within 10 years for a violation of section 82127(1) or (3), section 15a(1) or (3) of former 1968 PA 74, or section 15a of former 1968 PA 74, as added by 1980 PA 402.

(2) The department shall seek to enter agreements with the appropriate agencies of other states, Canada, and provinces and territories of Canada for the sharing of records of convictions described in subsection (1).

(3) The secretary of state shall issue an order with no expiration date that a person not operate a

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snowmobile notwithstanding a court order issued under section 82142, or a local ordinance substantially corresponding to section 82142. The secretary of state shall not terminate an indefinite order issued under this part until both of the following occur:

(a) The later of the following:

(*i*) The expiration of not less than 1 year after the order was issued.

(*ii*) The expiration of not less than 5 years after the date of a subsequent issuance of an indefinite order occurring within 7 years after the date of a prior order.

(b) The person meets the requirements of the department of state.

(4) Multiple convictions or probate court dispositions resulting from the same incident shall be treated as a single violation for purposes of issuance of an order under this section.

(5) A person who is aggrieved by the issuance of an order by the secretary of state under this section may request a hearing with the secretary of state. The hearing shall be requested within 14 days after issuance of an order under this section by the secretary of state. If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, 1949 PA 300, MCL 257.322.

(6) The hearing officer shall make a record of proceedings held under subsection (5). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review under section 82150 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) Judicial review of an administrative sanction under this section is governed by the law in effect at the time the offense was committed or attempted.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2005, Act 175, Imd. Eff. Oct. 12, 2005;—Am. 2014, Act 404, Eff. Mar. 31, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82149 Operation of snowmobile prohibited; issuance of order without expiration date; notice; expiration of order; conditions.

Sec. 82149. (1) If a person is charged with, or convicted of, a violation of section 82127(1), (2), (3), (4), or (5), former section 15a(1), (2), (3), (4), or (5) of Act No. 74 of the Public Acts of 1968, or a local ordinance substantially corresponding to section 82127(1), (2), or (3), and the person fails to answer a citation or a notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim's rights assessments, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim's rights assessments, within 14 days after the notice is issued, the secretary of state will issue an order with no expiration date that the person not operate a snowmobile. If the person fails to appear within the 7-day period or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately issue the order and send a copy to the person by personal service or first-class mail sent to the person's last known address.

(2) An order imposed under subsection (1) remains in effect until both of the following occur:

(a) The court informs the secretary of state that the person has appeared before the court and that all matters relating to the violation are resolved.

(b) The person has paid to the court a $25.00 administrative order processing fee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82150 Final determination by secretary of state; petition for review in circuit court;

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consideration of record by court; authority of court to affirm, modify, or set aside order; applicability of section.

Sec. 82150. (1) A person who is aggrieved by a final determination of the secretary of state under this part may petition for a review of the determination in the circuit court in the county where the person was arrested. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 82146, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 82146 may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made.

(2) The circuit court shall enter an order setting the cause for hearing for a day certain that is not more than 63 days after the date of the order. The order, a copy of the petition, which shall include the person's full name, current address, and birth date, and all supporting affidavits shall be served on the secretary of state's office in Lansing not less than 20 days before the date set for the hearing. If the person is seeking a review of the record prepared pursuant to section 82146, the service upon the secretary of state shall be made not less than 50 days before the date set for the hearing.

(3) Except as provided in subsections (4) and (6), the court may take testimony and examine all the facts and circumstances incident to the order that the person not operate a snowmobile. The court may affirm, modify, or set aside the order. The order of the court shall be duly entered, and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) In reviewing a determination under section 82146, the court shall confine its consideration to a review of the record prepared pursuant to section 82146 to determine whether the hearing officer properly determined the issues enumerated in section 82146.

(5) In reviewing a determination resulting in issuance of an order under section 82148(1)(b), (c), or (d), the court shall confine its consideration to a review of the record prepared pursuant to section 82148. The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following:

(a) In violation of the constitution of the United States, the state constitution of 1963, or a statute.

(b) In excess of the statutory authority or jurisdiction of the secretary of state.

(c) Made upon unlawful procedure resulting in material prejudice to the petitioner.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

(6) This section does not apply to an order issued by the secretary of state pursuant to a court order issued as part of the sentence for a conviction under section 82127, sections 82141 to 82142 or a local ordinance substantially corresponding to section 82127(1), (2), or (3).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82151 Ex parte order to stay pending order.

Sec. 82151. (1) Within 63 days after the determination, a person who is aggrieved by a final determination of the secretary of state under this part may petition the circuit court for the county in which the conviction or determination resulting in issuance of the order that the person not operate a snowmobile for an order staying the order. Except as provided in subsection (2), the court may enter an ex parte order staying the order subject to terms and conditions prescribed by the court until the determination of an appeal to the secretary of state or of an appeal or a review by the circuit court, or for a lesser time that the court considers proper.

(2) The court shall not enter an ex parte order staying the order if the order is based upon a claim of undue hardship.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82152 Operation of snowmobile prohibited; knowingly permitting operation by person

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subject to order prohibited; violation of subsection (1) as misdemeanor; extension of length of order; cancellation of certificate of registration.

Sec. 82152. (1) A person who is ordered not to operate a snowmobile and who has been notified of the order by personal service or first-class mail shall not operate a snowmobile. A person shall not knowingly permit a snowmobile owned by the person to be operated by a person who is subject to such an order. A person who violates this subsection is guilty of a misdemeanor punishable as follows:

(a) By imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

(b) For a second or subsequent violation punishable under this subsection, by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(2) Upon receiving a record of the conviction or probate court disposition of a person upon a charge of unlawful operation of a snowmobile while the person is subject to an order not to operate a snowmobile, the secretary of state shall immediately extend the length of the order for an additional like period.

(3) If the secretary of state receives records of more than 1 conviction or probate court disposition resulting from the same incident, all of the convictions or probate court dispositions shall be treated as a single violation for purposes of extending the length of an order under subsection (2).

(4) If a person is convicted of violating subsection (1), the court shall order cancellation of the certificate of registration for the snowmobile, unless the snowmobile was stolen or permission to use the snowmobile was not knowingly given. The secretary of state shall not issue a certificate of registration for a snowmobile whose registration is canceled until after the expiration of 90 days after the cancellation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82153 Impoundment of snowmobile.

Sec. 82153. (1) When a person is convicted under section 82152(1), the snowmobile, if it is owned by that person, shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment.

(2) An order of impoundment issued pursuant to subsection (1) is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the snowmobile to the storage for insurance coverage purposes.

(3) The owner of a snowmobile impounded pursuant to this section is liable for expenses incurred in the removal and storage of the snowmobile whether or not the snowmobile is returned to him or her. The snowmobile shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the snowmobile is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the snowmobile, the snowmobile shall be considered abandoned.

(4) Nothing in this section affects the rights of a conditional vendor, chattel mortgagee, or lessor of a snowmobile registered in the name of another person as owner who becomes subject to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82154 Conviction based on plea of nolo contendere.

Sec. 82154. A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty or a finding of guilt for all purposes under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82155 Expiration of order not to operate snowmobile; administrative order processing fee.

Sec. 82155. Whether of definite or indefinite length, an order not to operate a snowmobile does not expire until the person subject to the order pays an administrative order processing fee of $125.00 to the secretary of state. The state treasurer shall deposit $10.00 of the fee in the drunk driving prevention equipment and training fund created under section 625h(1) of the Michigan vehicle code, Act No. 300 of the Public Acts of

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1949, being section 257.625h of the Michigan Compiled Laws, and $30.00 in the drunk driving caseflow assistance fund created under section 625h(5) of Act No. 300 of the Public Acts of 1949, being section 257.625h of the Michigan Compiled Laws. The state treasurer shall allocate the balance of the fee to the department of state for the administration of orders issued under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82156 Availability of records to public; commercial lookup service of snowmobile operation, title, and registration; disposition of fees; computerized central file; providing records to nongovernmental person or entity; payment; admissibility in evidence.

Sec. 82156. (1) The secretary of state shall make available to the public records maintained under this part, other than those declared to be confidential by law or that are restricted by law from disclosure to the public, under procedures prescribed in this part and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of snowmobile operation, title, and registration records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state shall credit fees collected under this subsection on and after October 1, 2005 to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b, through October 1, 2019.

(3) To provide an individual, historical snowmobiling record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part or former 1968 PA 74. The computerized central file shall be interfaced with the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(4) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(5) A certified copy of an order, record, or paper maintained in this record is admissible in evidence in like manner as the original and is prima facie proof of the facts stated in the original.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2005, Act 174, Imd. Eff. Oct. 12, 2005;—Am. 2009, Act 100, Imd. Eff. Sept. 30, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2015, Act 77, Eff. Oct. 1, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82156a Disclosure of personal information; uses.

Sec. 82156a. (1) Except as provided in this section and in section 82156c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity deemed satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 82156c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, “specified federal law” means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this part may be disclosed as follows:

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(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of snowmobile and operator safety or ORV theft; snowmobile emissions; snowmobile product alterations, recalls, or advisories; performance monitoring of snowmobiles; snowmobiles research activities, including survey research; and the removal of nonowner records from the original records of snowmobile manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded snowmobile.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by an ORV rental business or its employees, agents, contractors, or service firms for the purpose of making rental decisions.

(j) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. “News medium” includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(k) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82156b Resale or redisclosure of information; maintenance of records; duration; availability for inspection.

Sec. 82156b. (1) An authorized recipient of personal information disclosed under section 82156a may resell or redisclose the information for any use permitted under section 82156a.

(2) Any authorized recipient, except a recipient of an individual record or records under subsection (4)(b), who resells or redisclosures personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82156c Furnishing list of information to federal, state, or local governmental agency; contract for sale of lists of records; surveys, marketing, and solicitations; insertion of safeguards in agreement or contract; duties of recipient of personal information; disclosure of list based on snowmobile operation or sanctions.

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Sec. 82156c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds $25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 82156a(3). The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the permissible purposes described in section 82156a(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on snowmobile operation or sanctions to a nongovernmental agency, including an individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82157 Abstract or record to be kept by court clerk of record.

Sec. 82157. (1) Each district judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this part or former Act No. 74 of the Public Acts of 1968 or of a local ordinance corresponding to this part or former Act No. 74 of the Public Acts of 1968 regulating the operation of snowmobiles.

(2) Within 14 days after a conviction, forfeiture of bail, entry of a civil infraction determination, or default judgment upon a charge of, or citation for, violating this part or a local ordinance corresponding to this part regulating the operation of snowmobiles, except as provided in subsection (11), the district judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the record of the court for the case. The abstract shall be certified to be true and correct by signature, stamp, or facsimile signature by the person required to prepare the abstract. If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this part, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state and shall include all of the following:

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(a) The name, address, and date of birth of the person charged or cited.
(b) The date and nature of the violation.
(c) The type of snowmobile operated at the time of the violation.
(d) The date of the conviction, finding, forfeiture, judgment, or determination.
(e) Whether bail was forfeited.
(f) Any order issued by the court pursuant to this part.
(g) Other information considered necessary to the secretary of state.

(4) As used in subsections (5) to (7), "felony in which a snowmobile was used" means a felony during the commission of which the person operated a snowmobile and while operating the snowmobile presented real or potential harm to persons or property and 1 or more of the following circumstances existed:
(a) The snowmobile was used as an instrument of the felony.
(b) The snowmobile was used to transport a victim of the felony.
(c) The snowmobile was used to flee the scene of the felony.
(d) The snowmobile was necessary for the commission of the felony.

(5) If a person is charged with a felony in which a snowmobile was used, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court: "You are charged with the commission of a felony in which a snowmobile was used. If you are convicted and the judge finds that the conviction is for a felony in which a snowmobile was used, as defined in section 82157 of the natural resources and environmental protection act, the secretary of state will order you not to operate a snowmobile in this state.".

(6) If a child is accused of an act the nature of which constitutes a felony in which a snowmobile was used, the prosecuting attorney or juvenile court shall include the following statement on the petition filed in the probate court: "You are accused of an act the nature of which constitutes a felony in which a snowmobile was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a snowmobile was used, as defined in section 82157 of the natural resources and environmental protection act, the secretary of state will order you not to operate a snowmobile in this state.".

(7) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (5) or (6) is a felony in which a snowmobile was used, the clerk of the court shall forward an abstract of the court record of that conviction or adjudication to the secretary of state.

(8) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:
(a) The name and title of the person required to forward abstracts.
(b) The court for which the certification is filed.
(c) The time period covered by the certification.
(d) The following statement: "I certify that all abstracts required by section 82157 of the natural resources and environmental protection act, for the period _____ through _____ have been forwarded to the secretary of state.".
(e) Other information the secretary of state considers necessary.
(f) The signature of the person required to forward abstracts.

(9) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(10) Except as provided in subsection (11), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office, and the abstracts shall be open for public inspection during the office's usual business hours. The secretary of state shall enter each abstract upon the snowmobiling record of the person to whom it pertains and shall record the information in a manner that makes the information available to peace officers through the law enforcement information network.

(11) The court shall not submit, and the secretary of state shall discard and not enter on the snowmobiling record, an abstract for a conviction or civil infraction determination for a violation of this part that could not be the basis for the secretary of state's issuance of an order not to operate a snowmobile in this state. The secretary of state shall discard and not enter on the snowmobiling record an abstract for a bond forfeiture that occurred outside this state.

(12) The secretary of state shall inform the court of the violations of this part that are used by the secretary of state as the basis for issuance of an order not to operate a snowmobile in this state.

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(13) If a conviction or civil infraction determination is reversed upon appeal, the court shall transmit a copy of the order of reversal to the secretary of state, and the secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(14) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appeal, authorized in section 82134, the form of the written notice and report shall be as prescribed by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82158 Operator of snowmobile detained by officer; conduct of operator as misdemeanor; arrest without warrant.

Sec. 82158. (1) The operator or person in charge of a snowmobile being used or operated in this state, who is by hand, voice, emergency light or siren, or a visual or audible signal directed to bring his or her snowmobile to a stop by any peace, police, or conservation officer who is in uniform and empowered to enforce this part or the provisions of a local ordinance or rules established under this part, shall immediately bring the snowmobile to a stop or maneuver it in a manner that permits the officer to come alongside. A vehicle or snowmobile that is used by an officer at night for purposes of enforcing this part shall be identified as an official law enforcement vehicle or snowmobile. The operator or person in charge of the snowmobile and any other person on board shall give his or her correct name and address, exhibit the certificate of registration awarded for the snowmobile, and submit to a reasonable inspection of the snowmobile and to a reasonable inspection and test of the equipment of the snowmobile.

(2) A person who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights, or who otherwise attempts to flee or elude the officer, is guilty of a misdemeanor.

(3) A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who furnishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.

(4) A peace officer who observes a violation by a person of this part or of a local ordinance or rule established under this part may arrest the person without a warrant.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82159 Person arrested without warrant to be taken before magistrate or judge.

Sec. 82159. If a person is arrested without a warrant for any of the following, the arrested person shall be taken, without unreasonable delay, before a magistrate or judge who is within the county in which the offense charged is alleged to have been committed, who has jurisdiction of the offense, and who is nearest or most accessible with reference to the place where the arrest is made:

(a) The person is arrested upon a charge of negligent homicide.

(b) The person is arrested under section 82127 or a local ordinance substantially corresponding to section 82127. If in the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 82134.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82160 Prohibited conduct; violations as felony; penalties.

Sec. 82160. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 82156a or 82156c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by

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imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

324.82161 Abandonment of snowmobile prohibited; presumption; violation; civil infraction.

Sec. 82161. (1) A person shall not abandon a snowmobile in this state.

(2) The last registered owner of the snowmobile is presumed to be responsible for abandoning the snowmobile unless the person provides a record of the transfer of the snowmobile to another person. The record of transfer must be a form or document that includes the transferee's name, address, driver license number, and signature, date of transfer of the snowmobile, and, if applicable, the sale price.

(3) Sections 80130f(2) to 80130p apply to a snowmobile in the same manner as those provisions apply to a vessel, except that section 80130k(3)(b)(*ii*) does not apply to a snowmobile.

(4) A person who violates subsection (1) and who fails to redeem the snowmobile before disposition of the snowmobile under section 80130k is responsible for a state civil infraction as provided in section 8905a.

History: Add. 2014, Act 549, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: NREPA

Popular name: Snowmobiles

SUBCHAPTER 7
FOREST RECREATION

PART 831
STATE FOREST RECREATION

324.83101 Definitions.

Sec. 83101. As used in this part:

(a) "Concession" means an agreement between the department and a person under terms and conditions as specified by the department to provide services or recreational opportunities for public use.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Forest recreation account" means the forest recreation account of the Michigan conservation and recreation legacy fund provided for in section 2005.

(e) "Lease" means a conveyance by the department to a person of a portion of the state's interest in land under specific terms and for valuable consideration, thereby granting to the lessee the possession of that portion conveyed during the period stipulated.

(f) "State forest" means those lands designated as state forests by the department.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.83102 Recreation within state forest; scope.

Sec. 83102. The department shall develop, operate, maintain, and promote an integrated recreation system that provides opportunities for hunting, fishing, camping, hiking, snowmobiling, off-road vehicle trail riding, boating, trail related activities, and other forms of recreation within each state forest. In developing, operating, maintaining, and promoting this recreation system, the department shall focus on maintaining the integrity of the forest while supporting recreation activities and experiences for which a large land base, rustic nature, and the forest and forest values are critical to the activity.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998.

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Popular name: Act 451

Popular name: NREPA

324.83103 Implementation of MCL 324.83102; powers of department; disposition of money collected; grant and award of concessions; notice to legislature; report.

Sec. 83103. (1) In implementing section 83102, the department may do any of the following:

(a) Enter into contracts or agreements with a person as may be necessary to implement this part.

(b) Grant concessions within the boundaries of a state forest to a person. In granting a concession, the department shall provide for all of the following:

(*i*) That the concession or any related structure, facility, equipment, or service is compatible with the natural resource values of the surrounding forest area and is appropriate for the forest recreation system.

(*ii*) That each concession is awarded at least every 7 years based on extension, renegotiation, or competitive bidding. However, if the department determines that a concession requires a capital investment in which a reasonable financing or amortization necessitates a longer term, the department may grant a concession for up to a 15-year term.

(*iii*) That a concession requiring a capital expenditure of more than $100,000.00 for a building or structure be provided for in the state forest management plan for the state forest in which the concession is proposed to be located.

(*iv*) That all buildings and equipment shall be removed from the state forest property at the end of the concession term, unless the department authorizes otherwise.

(*v*) That no concession or concession operator is granted the authority to charge a fee for access to public land or a public recreation resource.

(*vi*) That all prices, rates, and charges and all services or items offered in the operation of the concession shall be approved by the department.

(c) Lease property to a person.

(d) Accept gifts, grants, or bequests from any public or private source or from the federal government or a local unit of government for furthering the purposes of this part.

(2) Unless otherwise provided by state or federal law, all money collected under this section shall be deposited into the forest recreation account.

(3) Not less than 3 months before granting a concession for more than $500,000.00 or that will require a capital expenditure of more than $500,000.00, the department shall notify each member of the house of representatives and senate with primary responsibility for natural resources issues of its intention to grant the concession and of specific details on the nature of the concession.

(4) By December 31 of each year, the department shall submit to the legislature a report that provides details on all concessions awarded during the previous year under subsection (1).

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.83104 Forest recreation account; use.

Sec. 83104. Money in the forest recreation account shall be used by the department to develop, maintain, operate, and promote forest recreation activities and to implement this part.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.83105 Forest recreation activities; volunteers.

Sec. 83105. (1) The department may appoint persons to function as volunteers for the purpose of facilitating forest recreation activities. While a volunteer is serving in such a capacity, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of 1964 PA 170, MCL 691.1408.

(2) A volunteer under subsection (1) shall not carry a firearm when functioning as a volunteer.

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History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998.

Popular name: Act 451

Popular name: NREPA

324.83106 Camping permit; fee; permit to use lands and facilities; exception; deposit of money into account.

Sec. 83106. (1) The department may require a person to obtain a permit for camping in designated state forest campgrounds and may establish and collect a fee for the camping permit. However, at least 6 months before increasing a camping permit fee, the department shall provide written notice of its intent to do so to the standing committees of the senate and the house of representatives that have primary jurisdiction over legislation pertaining to natural resources and the environment.

(2) The department may require a person to obtain a permit, except as otherwise provided by law, for the use of lands and facilities within the state forest as designated by the department for recreation use. The department shall not require a permit or payment of a fee for use of a state forest nonmotorized trail or pathway or state forest campground facility except as provided in subsection (1) or otherwise provided in this act.

(3) Money collected under this section shall be deposited into the forest recreation account.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2010, Act 34, Eff. Oct. 1, 2010.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.83107 Rules; enforcement by state forest officers.

Sec. 83107. To ensure compliance with this part, rules promulgated under this part and this act, including the state land use rules provided in R 299.331 to R 299.335 of the Michigan administrative code, and any orders of the director, the director may commission state forest officers to enforce upon properties administered by the department these rules and any laws of this state specified in those rules as enforceable by commissioned state forest officers. In performing those enforcement activities, commissioned state forest officers are vested with the powers, privileges, prerogatives, and immunities conferred upon peace officers under the laws of this state.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998.

Popular name: Act 451

Popular name: NREPA

324.83108 Rules.

Sec. 83108. The department may promulgate rules to implement this part.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998.

Popular name: Act 451

Popular name: NREPA

324.83109 Violation as state civil infraction; fine.

Sec. 83109. A person who violates this part or a rule promulgated under this part is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 1998, Act 418, Imd. Eff. Dec. 29, 1998.

Popular name: Act 451

Popular name: NREPA

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