



**House
Legislative
Analysis
Section**

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MOVE JET SKI LAW TO NREPA

**House Bill 5526 as enrolled
Public Act 229 of 2000
Second Analysis (6-26-00)**

**Sponsor: Rep. Mary Ann Middaugh
House Committee: Conservation and
Outdoor Recreation
Senate Committee: Natural Resources and
Environmental Affairs**

THE APPARENT PROBLEM:

Public Act 116 of 1998, the Personal Watercraft Safety Act, provided new regulations for the operation of personal watercraft, or "jet skis". The act took effect March 23, 1999, and is scheduled to be repealed five years later, on March 23, 2004. Public Act 263 of 1998 amended the Personal Watercraft Safety Act, adding additional and related amendments. The two acts were part of a package of legislation, which also included amendments to the Natural Resources and Environmental Protection Act and the Code of Criminal Procedure, to regulate the operation of personal watercraft.

As the House Legislative Analysis Section analysis of enrolled House Bill 5426 (which was enacted as Public Act 116 of 1998) pointed out in 1998, personal watercraft already were regulated under the marine safety provisions of Part 801 of the Natural Resources and Environmental Protection Act (NREPA). Enrolled Senate Bill 865 (Public Act 263), however, repealed many of the provisions specifically governing personal watercraft, as well as other provisions applying to all vessels such as the provision making vessel owners liable for injuries resulting from his or her vessel's negligent operation. At the time the Personal Watercraft Safety Act was being proposed, some people expressed concern about splitting the provisions on personal watercraft from the NREPA in order to create a separate act.

Legislation has been introduced to re-include the statutory provisions governing personal watercraft under the NREPA.

THE CONTENT OF THE BILL:

The bill would repeal the Personal Watercraft Safety Act (Public Act 116 of 1998 and amendments made later that year, Public Act 263 of 1998) and add a new

part, Part 802 - Personal Watercraft, to the Natural Resources and Environmental Protection Act. The bill would place all of the language of Public Acts 116 and 263 of 1998 into the NREPA. The bill also would strike a provision that exempts, until March 23, 2000, nonresidents from the act's safety certification requirements, and would add additional conditions under which children between 12 and 14 would be allowed to use personal watercraft.

Among the requirements of the Personal Watercraft Safety Act are the following:

- People operating or riding on personal watercraft are required to wear personal flotation devices. Children younger than 7 years old riding on a personal watercraft must be accompanied by a parent or guardian or a designee.
- Generally, youth under the age of 14 cannot operate personal watercraft (though the 1998 legislation "grandfathered in" certain 12- to 14-year-olds). People born after December 31, 1978 must obtain a boating safety certificate (by completing a class and taking an examination) in order to operate a personal watercraft. Non-Michigan residents are also subject to certain educational requirements to legally operate a personal watercraft in Michigan.
- Personal watercraft may not be operated at night, may not cross within 150 feet behind another vessel, may not be operated in water less than two feet deep, and must be operated in a "reasonable and prudent manner." Personal watercraft are subject to speed limitations set for vessels in the Natural Resources and Environmental Protection Act.
- People operating personal watercraft must maintain a distance of at least 100 feet from docks, rafts, buoys,

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and swimming areas, and from moored vessels. They must maintain a distance of at least 200 feet from submerged divers, and from the shoreline when operating on one of the Great Lakes.

- A person who is required to complete a boating safety course must display his or her boating safety certificate upon the demand of a peace officer.

- The owner of a personal watercraft is liable for any injury caused by the negligent operation of the vessel, whether the negligence constitutes a violation of a state statute, or is caused by the failure to observe ordinary care in the vessel's operation as required by common law. However, the owner is not liable unless the vessel was used with his or her expressed or implied consent. Operation of a personal watercraft by the owner's son, daughter, spouse, parent, brother, sister, or other immediate family member constitutes a rebuttable presumption of consent.

- Reckless operation of a personal watercraft is defined as carelessly and heedlessly operating a personal watercraft 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 a person or property. Upon conviction of this offense, which is a misdemeanor punishable by up to 90 days imprisonment, a fine of up to \$100, or both, the court may issue an order prohibiting a violator from operating a personal watercraft in the state for up to two years, and may order the person to complete a boating safety course. A second conviction within a three-year period is a misdemeanor punishable by up to 90 days imprisonment, a fine of up to \$1,000, or both. A third conviction within a five-year period is a misdemeanor punishable by up to 90 days imprisonment, a fine of up to \$2,000, or both. The watercraft may be impounded for up to one year upon a second or subsequent conviction, with the cost of storage paid by the owner.

- Generally, unless another penalty is specified, a violation of the personal watercraft provisions is a misdemeanor, punishable by up to 90 days imprisonment, a fine of up to \$100 or both. Further, a violator may be ordered to complete a boating safety course.

- Dealers of personal watercraft are required to advise purchasers of the sources of boating safety courses in the area. A violation of this provision is a state civil infraction, punishable by a \$100 civil fine.

- The Department of Natural Resources is required to make available to dealers a document summarizing the laws pertaining to personal watercraft, and a document summarizing the safety features of personal watercraft generally (though not features specific to particular styles or brands). Dealers are required to provide copies of these documents to purchasers. A violation of this provision is a state civil infraction, punishable by a \$100 civil fine.

- The 1998 legislation requires the secretary of state to begin tracking individual violations of the personal watercraft provisions by April 30, 2000. It requires the secretary of state to pursue and implement a comprehensive technology system, and to work cooperatively with other state departments to accomplish the tracking requirements.

- The act requires peace officers to enforce the personal watercraft provisions. For violations involving failure to show or display a required boating safety certificate, the court is required to waive any fine and costs if the person submits, within 10 days of receiving the citation, proof of having had a valid certificate at the time of the violation.

New provisions. The bill would allow children between the ages of 12 and 14 to operate personal watercraft (in addition to the current provisions that "grandfather" in 12- to 14-year olds) if all of the following circumstances existed:

- (1) The child were accompanied solely by his or her parent or legal guardian;
- (2) Both the child and his or her parent or legal guardian had obtained boating safety certificates;
- (3) The personal watercraft were equipped by the manufacturer with a "lanyard-type" engine cutoff switch, and the parent or legal guardian had the lanyard attached to his or her person, clothing, or personal flotation device; and
- (4) The personal watercraft were designed to carry at least two people.

Nonresidents. Currently, the act exempts nonresidents from its safety certification requirements until March 23, 2000, and instead requires a nonresident operating a personal watercraft in state waters to have in his or her possession either (1) a boating safety certificate, or (2) "a certificate issued by his or her state of residence that reflects education and training that is substantially

similar to the education and training required to obtain a boating safety certificate under this part.”

The bill would repeal this subsection, effectively requiring nonresidents who operated personal watercraft in state waters to meet the same safety certification requirements that state residents must meet.

Sunset. The proposed Part 802 would be repealed on March 23, 2004.

MCL 324.80201 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications. (4-25-00)

ARGUMENTS:

For:

In order to avoid confusion and conflict, the particular kind of vessels known as “personal watercraft” should be regulated under the NREPA, as other watercraft are, instead of under a stand-alone act. In 1998, when the Personal Watercraft Safety Act was enacted, then-existing provisions concerning personal watercraft in the NREPA were removed and added to new public act separate from the NREPA. Since, however, laws governing other outdoor recreational activities fall under the NREPA, it makes sense to include the law governing personal watercraft under the NREPA as well. Including the personal watercraft law in NREPA should make it easier to find by people who wanted to find the relevant statute governing watercraft.

For:

The act “grandfathered in” only a limited number of 12- to 14-year-old children, allowing them to use personal watercraft only if they had obtained a boating safety certificate before January 1, 1999, and were at least 12 years old but less than 14 years old on that date. By January 1, 2001, however, there will be no one fitting these criteria, so as of that date, there will be no 12- to 14-year-old children who will be able to use personal watercraft, whether or not they had a boating safety certificate. This seems unfair. The bill would open up to all 12- to 14-year-olds the ability to legally operate personal watercraft provided that they met certain conditions which actually could be seen as more stringent than the current “grandfathered” provisions. For, under the bill, not only would the child have to have a boating safety certificate, he or she would have

to be accompanied by his or her parent or legal guardian, who also would have to have a boating safety certificate.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.