

Act No. 229  
Public Acts of 2000  
Approved by the Governor  
June 26, 2000  
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June 27, 2000  
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**STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 2000**

**Introduced by Reps. Middaugh, Ruth Johnson, Toy, Pappageorge, Van Woerkom, Mortimer, Birkholz,  
Scranton, Tabor and Callahan**

# **ENROLLED HOUSE BILL No. 5526**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 802; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

## **PART 802 PERSONAL WATERCRAFT**

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 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.

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.

Sec. 80203. Except as otherwise provided in this part, the department is responsible for the administration of this part.

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.

Sec. 80205. (1) Except as otherwise provided in this section, a person shall not operate a personal watercraft on the waters of this state unless each person 12 years of age or older 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 or being towed by the personal watercraft who is less than 12 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.

(3) 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.

(4) 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.

(5) 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.

(6) A person shall not operate a personal watercraft on the waters of this state during the period that begins 1 hour before sunset and ends at 8 a.m. As used in this subsection, "sunset" means that time as determined by the national weather service.

(7) 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.

(8) 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.

(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 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.

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.

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.

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 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.

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.

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.

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.

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. The examination shall be administered in person and proctored by the department or an agent of the department.

(2) The department shall consider the number of examinations that are administered or proctored 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.

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.

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.

Sec. 80215. (1) Except as provided in subsections (2) and (3), a person under the age of 14 shall not use a personal watercraft on the waters of this state.

(2) A person who is 12 or more and less than 14 years of age before January 1, 1999 may use a personal watercraft on the waters of this state if before January 1, 1999 he or she obtained a boating safety certificate.

(3) A person who is 12 or more and less than 14 years of age may use 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.

(4) 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.

(5) Not later than March 23, 2004, the graduated age provisions of this section shall be reviewed by the appropriate committee of both houses of the legislature to ascertain the effect, if any, these provisions have had upon the safe operation of personal watercraft upon the waters of this state.

(6) 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.

(7) 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.

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.

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.

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.

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.

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.

Sec. 80222. Except as otherwise provided in this part, a personal watercraft operator shall comply with part 801.

Enacting section 1. (1) The personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, is repealed.

(2) Part 802 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80201 to 324.80221, is repealed effective March 23, 2004.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved .....

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Governor.