

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

**Introduced by Reps. Pettalia, Bumstead, Hughes, Lyons, Foster, Johnson, Damrow, Huuki, Genetski,
Rendon, Potvin, Heise, Poleski, Haugh and Franz**

ENROLLED HOUSE BILL No. 5164

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, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 1301, 2035, 44501, 44511, 44516, 44518, 44520, 44520a, and 44524 (MCL 324.1301, 324.2035, 324.44501, 324.44511, 324.44516, 324.44518, 324.44520, 324.44520a, and 324.44524), section 1301 as amended by 2011 PA 218, section 2035 as added and sections 44501, 44511, and 44518 as amended by 2004 PA 587, sections 44516, 44520, and 44524 as added by 1995 PA 57, and section 44520a as added by 2006 PA 183, and by adding section 44522a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1301. As used in this part:

(a) “Application period” means the period beginning when an application for a permit is received by the state and ending when the application is considered to be administratively complete under section 1305 and any applicable fee has been paid.

(b) “Department” means the department, agency, or officer authorized by this act to approve or deny an application for a particular permit.

(c) “Director” means the director of the state department authorized under this act to approve or deny an application for a particular permit or the director’s designee.

(d) “Permit” means a permit or operating license required by any of the following sections or by rules promulgated thereunder; or, in the case of section 9112, by an ordinance adopted thereunder:

- (i) Section 3104, floodplain alteration permit.
- (ii) Section 3503, permit for use of water in mining iron ore.
- (iii) Section 4105, sewerage system construction permit.
- (iv) Section 6516, vehicle testing license.
- (v) Section 6521, motor vehicle fleet testing permit.
- (vi) Section 8310, restricted use pesticide dealer license.
- (vii) Section 8310a, agricultural pesticide dealer license.
- (viii) Section 8504, license to manufacture or distribute fertilizer.

- (ix) Section 9112, local soil erosion and sedimentation control permit.
- (x) Section 11509, solid waste disposal area construction permit.
- (xi) Section 11512, solid waste disposal area operating license.
- (xii) Section 11542, municipal solid waste incinerator ash landfill operating license amendment.
- (xiii) Section 11702, septage waste servicing license or septage waste vehicle license.
- (xiv) Section 11709, septage waste site permit.
- (xv) Section 30104, inland lakes and streams project permit.
- (xvi) Section 30304, state permit for dredging, filling, or other activity in wetland. Permit includes an authorization for a specific project to proceed under a general permit issued under section 30312.
- (xvii) Section 31509, dam construction, repair, or removal permit.
- (xviii) Section 32312, flood risk, high risk, or environmental area permit.
- (xix) Section 32503, permit for dredging and filling bottomland.
- (xx) Section 32603, permit for submerged log removal from Great Lakes bottomlands.
- (xxi) Section 35304, department permit for critical dune area use.
- (xxii) Section 36505, endangered species permit.
- (xxiii) Section 41702, game bird hunting preserve license.
- (xxiv) Section 42101, dog training area permit.
- (xxv) Section 42501, fur dealer's license.
- (xxvi) Section 42702, game dealer's license.
- (xxvii) Section 44513, charter boat operating permit under reciprocal agreement.
- (xxviii) Section 44516, boat livery operating permit.
- (xxix) Section 45503, permit to take frogs for scientific use.
- (xxx) Section 45902, game fish propagation license.
- (xxxi) Section 45906, game fish import license.
- (xxxii) Section 61525, oil or gas well drilling permit.
- (xxxiii) Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.
- (xxxiv) Section 63103a, ferrous mineral mining permit.
- (xxxv) Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit, respectively.
- (xxxvi) Section 63704, sand dune mining permit.
- (xxxvii) Section 72108, use permits for Michigan trailway.
- (xxxviii) Section 76109, sunken aircraft or watercraft abandoned property recovery permit.
- (xxxix) Section 76504, Mackinac Island motor vehicle and land use permits.
- (xxxx) Section 80159, buoy or beacon permit.
- (e) "Processing deadline" means the last day of the processing period.
- (f) "Processing period" means the following time period after the close of the application period, for the following permit, as applicable:
 - (i) Twenty days for a permit under section 61525 or 62509.
 - (ii) Thirty days for a permit under section 9112 or 44516.
 - (iii) Thirty days after the department consults with the underwater salvage and preserve committee created under section 76103, for a permit under section 76109.
 - (iv) Sixty days, for a permit under section 30104 for a minor project as established by rule under section 30105(7) or for a permit under section 32312.
 - (v) Sixty days or, if a hearing is held, 90 days for a permit under section 35304.
 - (vi) Sixty days or, if a hearing is held, 120 days for a permit under section 30104, other than a permit for a minor project as established by rule under section 30105(7), or for a permit under section 31509.
 - (vii) Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation permit under section 63525, or a permit under section 72108.
 - (viii) Ninety days or, if a hearing is held, 150 days for a permit under section 3104, 30304, or 32503 or an authorization for a specific project to proceed under a general permit issued under section 30312.

(ix) Ninety days after the close of the review or comment period under section 32604, or if a public hearing is held, 90 days after the date of the public hearing for a permit under section 32603.

(x) One hundred twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.

(xi) One hundred fifty days for a permit under section 36505. However, if a site inspection or federal approval is required, the 150-day period is tolled pending completion of the inspection or receipt of the federal approval.

(xii) For any other permit, 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.

Sec. 2035. (1) The waterways account is established as an account within the legacy fund.

(2) The waterways account shall consist of both of the following:

(a) All money in the Michigan state waterways fund, formerly created in section 78110, the Michigan harbor development fund, formerly created in section 78110, and the marine safety fund, formerly created in section 80115, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the waterways account.

(b) Revenue from the following sources:

(i) All revenue generated from watercraft registration fees assessed on the ownership or operation of watercraft in the state, of which not less than 49% shall be provided for law enforcement and education.

(ii) All revenues derived from fees charged for the moorage of watercraft at state-operated mooring facilities.

(iii) All revenues derived from fees charged for the use of state-operated public access sites.

(iv) Transfers from the recreation improvement account.

(v) All tax revenue derived from the sale of diesel fuel in this state that is used to generate power for the operation or propulsion of vessels on the waterways of this state.

(vi) Other revenues as authorized by law.

(3) Money in the waterways account shall be expended, upon appropriation, only as provided in parts 445, 781, 791, and 801 and for the administration of the waterways account, which may include payments in lieu of taxes on state owned lands purchased through the waterways account or through the former Michigan state waterways fund.

Sec. 44501. As used in this part:

(a) "Boat livery" means a place of business or any location where a person rents or offers for rent any vessel other than a nonmotorized raft to the general public for noncommercial use on the waters of this state. Boat livery does not include a place where a person offers cabins, cottages, motel rooms, hotel rooms, or other similar rental units if vessels are furnished only for the use of persons occupying the units.

(b) "Carrying passengers for hire" or "carry passengers for hire" means the transporting of any individual on a vessel other than a nonmotorized raft for consideration directly or indirectly paid to the owner of the vessel, the owner's agent, the operator of the vessel, or any other person who holds any interest in the vessel.

(c) "Charter boat" means a vessel other than a nonmotorized raft that is rented or offered for rent to carry passengers for hire if the owner or the owner's agent retains possession, command, and control of the vessel.

(d) "Class A vessel" means a vessel, except a sailboat, that carries for hire on navigable waters not more than 6 passengers.

(e) "Class B vessel" means a vessel, except a sailboat, that carries for hire on inland waters not more than 6 passengers.

(f) "Class C vessel" means a vessel, except a sailboat, that carries for hire on inland waters more than 6 passengers.

(g) "Class D vessel" means a vessel that is propelled primarily by a sail or sails and carries for hire on navigable waters not more than 6 passengers or carries passengers for hire on inland waters.

(h) "Class E vessel" means a vessel that carries not more than 6 passengers for hire and meets either of the following requirements:

(i) Is utilized primarily as a river-drift boat that is propelled primarily by hand.

(ii) Is a vessel that is 18 feet or less in length operated primarily on a river or tributary to the Great Lakes, Lake St. Clair, or their connecting waterways.

(i) "Equipment" means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to, a vessel; or a marine safety article, accessory, or equipment intended for use by an individual on board a vessel; but does not include radio equipment.

(j) "Inland waters" means all waters of this state, except navigable waters.

(k) "Livery boat" means a vessel, other than a nonmotorized raft, that is rented or offered for rent by a boat livery or a boat owner or his or her agent if the boat livery or boat owner or his or her agent relinquishes or offers to relinquish complete physical control of the vessel to the renter while retaining legal title to the vessel.

(l) "Navigable waters" means those waters of the state over which this state and the United States coast guard exercise concurrent jurisdiction, including the Great Lakes and waters connected to the Great Lakes, to the upstream limit of navigation as determined by the United States army corps of engineers.

(m) "Navigable waters livery boat" means a livery boat that is more than 20 feet in length and is rented or offered for rent for use on navigable waters.

(n) "Operate", when used with reference to a vessel, means to start any propulsion engine or to physically control the motion, direction, or speed of the vessel.

(o) "Owner", when used in reference to a vessel, means a person who claims lawful possession of the vessel by virtue of legal title or an equitable interest in a vessel that entitles that person to possession of the vessel.

(p) "Passenger" means an individual carried on board a charter boat except either of the following:

(i) The owner of the vessel or the owner's agent.

(ii) The pilot and members of the crew of the vessel who have not contributed consideration for their transportation either before, during, or after the voyage.

(q) "Peace officer" means a sheriff or sheriff's deputy; village or township marshal; officer of the police department of any city, village, or township; officer of the Michigan state police; or other police officer or law enforcement officer who is trained and certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, and includes the director and conservation officers employed by the department.

(r) "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 individuals positioned on, rather than within, the confines of the hull.

(s) "Pilot's license" means a vessel operator's license issued by the United States coast guard or other federal agency, or a license issued by the department to an operator of a charter boat that is operated on inland waters.

(t) "Training or instructional purposes" means the teaching of any individual in the handling and navigation of a vessel or the techniques of waterskiing.

(u) "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water irrespective of the method of operation or propulsion.

(v) "Waters of the state" means any waters within the territorial limits of this state and includes those waters of the Great Lakes which are under the jurisdiction of this state.

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

Sec. 44511. (1) The owner of a charter boat required to be inspected under this part and a person required to be licensed as a state pilot under this part shall file an application with the required fee for the charter boat inspection or the state pilot's examination with the department on a form prescribed and furnished by the department. Persons applying for a certificate of inspection or a state pilot's license shall furnish information reasonably required by the department. A person shall not file an application for charter boat inspection or state pilot's examination that contains false information. A person filing an application shall certify by the person's signature that the information furnished on the application is true and correct.

(2) If a charter boat has never been inspected, the owner shall pay the department an inspection fee for dry dock and dockside inspection according to the following schedule:

(a) Class A and D vessels.....	\$250.00
(b) Class B vessels.....	\$120.00
(c) Class C vessels	\$350.00

(3) For each required dry dock or dockside inspection of a charter boat other than an inspection under subsection (2), the owner shall pay the department a fee according to the following schedule:

(a) Class A and D vessels	
(i) Dockside inspection.....	\$100.00
(ii) Dry dock inspection.....	\$150.00

(b) Class B vessels

(i) Dockside inspection..... \$ 60.00

(ii) Dry dock inspection..... \$ 60.00

(c) Class C vessels

(i) Dockside inspection..... \$150.00

(ii) Dry dock inspection..... \$200.00

(4) If the department inspects any charter boat at an interval other than as required by this part, the inspection shall be conducted without an inspection fee for a dockside inspection and for a reduced fee to be determined by the department for a dry dock inspection. If a 24-month dockside inspection and a 72-month dry dock inspection are required in the same year, the owner shall only pay the fee for the dry dock inspection, as provided in subsection (3).

(5) For each examination of a person for a state pilot's license, the applicant shall pay a fee of \$30.00 to the department.

(6) The charter boat inspection fee or state pilot's license examination fee shall be forfeited to the department and credited to the marine safety subaccount of the waterways account if the owner of the charter boat or the applicant for a state pilot's license fails to keep an appointment, which has been mutually agreed upon between the owner or the applicant and the department, for an inspection or reinspection of the charter boat or a state pilot's license examination, without notifying the inspecting officer or the department's marine safety section within the department's law enforcement division at least 24 hours prior to the scheduled appointment. Upon the forfeiture of an application fee, the owner of the charter boat or the applicant for a state pilot's license shall submit a new application and the required fee before the department conducts any inspection of the charter boat or conducts any examination of the applicant for a state pilot's license.

(7) The revenue received for inspection fees under this section shall be deposited in the state treasury to the credit of the marine safety subaccount of the waterways account and shall only be used to pay for inspections required by this part, and to maintain the education and enforcement program provided for in section 44513(2). The revenue division of the department of treasury shall annually provide to the department an accurate total of revenue collected and shall annually credit that amount to the marine safety subaccount of the waterways account.

Sec. 44516. (1) A boat livery shall not rent a motorized livery boat unless the livery boat has a current annual inspection decal, plate, or tab as provided under section 44518.

(2) Regardless of whether the livery boats are motorized or nonmotorized, a person shall not operate a boat livery except as authorized by a permit issued pursuant to part 13. Subject to subsection (7), the owner of a boat livery shall submit an application for a boat livery permit to the sheriff's department of the county where the boat livery is located. The application for a boat livery permit shall include all of the following:

(a) The boat livery name.

(b) The mailing address of the boat livery.

(c) The location of the boat livery.

(d) The waters of the state on which the boat livery rents vessels.

(e) The number and types of livery boats available for rent, including whether the boats are motorized.

(3) An application for a boat livery permit shall be accompanied by an inspection fee of \$100.00 for each navigable waters livery boat that the boat livery rents or offers to rent. A fee collected under this subsection shall be forwarded to the department of treasury to be credited to the marine safety subaccount of the waterways account. An inspection of a navigable waters livery boat shall be a comprehensive dockside inspection.

(4) After a sheriff's department receives an application for a boat livery permit, if the boat livery rents or offers for rent 1 or more motorized livery boats, the county sheriff or a deputy sheriff shall inspect the motorized livery boats and associated equipment to determine if they meet the minimum safety standards established under rules promulgated under this part.

(5) A boat livery permit shall be issued if any of the following apply:

(a) One or more motorized livery boats and their associated equipment pass inspection under subsection (4).

(b) The boat livery rents or offers for rent 1 or more nonmotorized livery boats.

(6) A boat livery owner shall ensure that a boat livery permit issued under subsection (5) is prominently displayed on the site of the boat livery. The permit expires on May 31 of the year following the year in which the permit is issued.

(7) The department and a conservation officer shall exercise the powers and perform the duties of the county sheriff's department and a sheriff or deputy sheriff under this section and section 44518 under any of the following circumstances:

(a) If the county does not receive state aid under section 80117 to conduct a marine safety program.

(b) If the boat livery rents or offers to rent a navigable waters livery boat.

(8) The department of natural resources shall furnish boat livery permit application forms, blank boat livery permits, registration decals, and inspection decals, plates, or tabs to the sheriff's department.

Sec. 44518. (1) The sheriff of the county where a boat livery is located or a deputy sheriff shall affix or cause to be affixed an inspection decal, plate, or tab to each motorized livery boat that passes the inspection under section 44516.

(2) An inspection decal, plate, or tab under subsection (1) expires on May 31 of the year following the year in which the decal, plate, or tab is issued. The inspection decal, plate, or tab shall bear all of the following information:

(a) The maximum number of persons permitted to be carried aboard the motorized livery boat.

(b) The maximum horsepower of a motor permitted to be used on the motorized livery boat.

(c) Other information as the department may reasonably require.

(3) A boat livery owner shall pay to the sheriff or deputy sheriff a fee of \$2.00 for each decal, plate, or tab affixed under subsection (1) to a motorized livery boat other than a navigable waters livery boat. Fees collected under this subsection shall be forwarded as follows:

(a) Except as provided in subdivision (b), to the treasurer of the county in which the fee is collected to be credited for the purpose of reimbursing the sheriff's department for expenses incurred under this part.

(b) If, pursuant to section 44516(7), a conservation officer performs the inspection, to the department of treasury to be credited to the marine safety subaccount of the waterways account.

Sec. 44520. (1) The owner of a boat livery shall not rent a livery boat more than 20 feet in length to be used on navigable water except pursuant to a written rental contract between the boat livery owner and the renter.

(2) A boat livery owner or agent of the owner shall not relinquish physical control of any livery boat to the person renting the livery boat or someone in that person's party if any of the following apply:

(a) The equipment required pursuant to rules promulgated under this part is not aboard the livery boat.

(b) The livery boat contains a number of individuals in excess of the maximum number approved for the livery boat and required to be displayed under subsection (4).

(c) The livery boat is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

(3) The individual renting a livery boat, or an individual in the renter's party, is not responsible for a violation of a rule described in subsection (2)(a) if the livery boat or equipment was in violation when the owner relinquished possession of the livery boat to the renter or the individual in the renter's party.

(4) A livery boat shall display the maximum number of persons and maximum weight of persons, gear, and other items the livery boat is capable of safely carrying under normal conditions. The information may be displayed on the inspection decal, plate, or tab required for a motorized livery boat; on a manufacturer's plate, decal, plate, or tab; or by other means.

Sec. 44520a. (1) An owner of a nonmotorized livery boat is not liable for an injury to or the death of a user of the nonmotorized livery boat resulting from a risk inherent in the use or operation of a nonmotorized livery boat.

(2) An owner of a nonmotorized livery boat shall post in conspicuous locations a notice specifying that a user of the nonmotorized livery boat accepts the risk inherent in the use or operation of a nonmotorized livery boat.

(3) As used in this section:

(a) "Owner of a nonmotorized livery boat" means the person who owns the nonmotorized livery boat, the boat livery that rents or furnishes the nonmotorized livery boat for use, or an employee or agent of the owner or boat livery.

(b) "Risk inherent in the use or operation of a nonmotorized livery boat" means a danger or condition that is an integral part of the use or operation of a nonmotorized livery boat and is limited to 1 or more of the following:

(i) Wave or other water motion.

(ii) Weather conditions.

(iii) Contact or maneuvers necessary to avoid contact with another vessel or a manmade object in or near the water.

(iv) Contact or maneuvers necessary to avoid contact with rock, sand, vegetation, or other natural objects in or near the water.

(v) Malfunction of equipment, except for equipment owned by the owner of a nonmotorized livery boat.

(vi) Failure to use or wear a personal flotation device or to have lifesaving equipment available, except if the owner of a nonmotorized livery boat failed to provide the personal flotation device or lifesaving equipment when required by law to do so.

(vii) The actions of a vessel operator, except if the owner of a nonmotorized livery boat rented the livery boat to an operator who the owner knew or in the exercise of reasonable care should have known was disqualified by law from operating the livery boat.

(viii) Having on board a number of persons or weight of persons, gear, and other items that exceeds the maximum approved for the livery boat, except in any of the following circumstances:

(A) If the owner of a nonmotorized livery boat knowingly allowed the livery boat to leave the boat livery's premises with a number of persons or weight of persons, gear, and other items on board that exceeds the maximum approved for the livery boat or did not properly inform the user of the maximum weight or number of persons approved for the livery boat.

(B) If a nonmotorized livery boat did not display the maximum number of persons or maximum weight of persons, gear, or other items permitted to be carried on board as required under section 44520 when the boat livery owner relinquished physical control of the livery boat to the renter or an individual in the renter's party.

(c) "User of the nonmotorized livery boat" means an individual who participates in the use or operation of the nonmotorized livery boat regardless of whether the individual rented the nonmotorized livery boat.

Sec. 44522a. In addition to inspections conducted for purposes of section 44516 or under section 80166, a peace officer may inspect any livery boat at a boat livery. The peace officer shall give the owner of the boat livery at least 72 hours' advance notice of an inspection under this section and shall conduct the inspection at a reasonable time.

Sec. 44524. (1) A person who violates this part or a rule promulgated under this part 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.

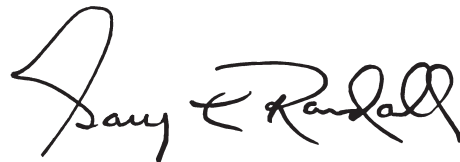
(2) When a vessel is operated in violation of section 44502, 44509, or 44516(1) or (2), the vessel may be seized as evidence, and upon conviction of the owner, the vessel may be condemned and confiscated in the same manner as provided for under part 16.

(3) A peace officer may issue an appearance ticket to any person violating this part or a rule promulgated under this part.

Enacting section 1. Sections 44514 and 44517 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.44514 and 324.44517, are repealed.

Enacting section 2. This amendatory act takes effect June 1, 2012.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor