

# HOUSE BILL No. 4846

June 30, 2011, Introduced by Reps. Wayne Schmidt and LaFontaine and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 80104 and 80152 (MCL 324.80104 and 324.80152), section 80104 as amended by 2004 PA 587 and section 80152 as amended by 1999 PA 19, and by adding section 80143.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 80104. As used in this part:

2           (a) "Highly restricted personal information" means an  
3 individual's photograph or image, social security number, digitized  
4 signature, and medical and disability information.

5           (b) "Passenger" means a person carried on board, **ATTACHED TO,**  
6 **OR TOWED BY** a vessel, other than any of the following:

7           ~~(i) The owner or his or her representative.~~

1 ~~——~~ (ii) The ~~THE~~ operator.

2 (c) "Peace officer" means any of the following:

3 (i) A sheriff.

4 (ii) A sheriff's deputy.

5 (iii) A deputy who is authorized by a sheriff to enforce this  
6 part and who has satisfactorily completed at least 40 hours of law  
7 enforcement training, including training specific to this part.

8 (iv) A village or township marshal.

9 (v) An officer of the police department of any municipality.

10 (vi) An officer of the Michigan state police.

11 (vii) The director and conservation officers employed by the  
12 department.

13 (d) "Personal information" means information that identifies  
14 an individual, including an individual's driver identification  
15 number, name, address not including zip code, and telephone number,  
16 but does not include information on watercraft operation and  
17 equipment-related violations or civil infractions, operator or  
18 vehicle registration status, accidents, or other behaviorally-  
19 related information.

20 (e) "Personal watercraft" means a vessel that meets all of the  
21 following requirements:

22 (i) Uses a motor-driven propeller or an internal combustion  
23 engine powering a water jet pump as its primary source of  
24 propulsion.

25 (ii) Is designed without an open load carrying area that would  
26 retain water.

27 (iii) Is designed to be operated by 1 or more persons positioned

1 on, rather than within, the confines of the hull.

2 (f) "Political subdivision" means any county, metropolitan  
3 authority, municipality, or combination of those entities in this  
4 state. ~~Whenever~~ **IF** a body of water is located in more than 1  
5 political subdivision, all of the subdivisions shall act  
6 individually in order to comply with this part, except that if the  
7 problem is confined to a specific area of the body of water, only  
8 the political subdivision in which the problem waters lie shall  
9 act.

10 (g) "Port" means left, and reference is to the port side of a  
11 vessel or to the left side of the vessel.

12 (h) "Probate court or family division disposition" means the  
13 entry of a probate court order of disposition or family division  
14 order of disposition for a child found to be within the provisions  
15 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL  
16 712A.1 to 712A.32.

17 (i) "Prosecuting attorney", except as the context requires  
18 otherwise, means the attorney general, the prosecuting attorney of  
19 a county, or the attorney representing a political subdivision of  
20 government.

21 (j) "Regatta", "boat race", "marine parade", "tournament", or  
22 "exhibition" means an organized water event of limited duration  
23 that is conducted according to a prearranged schedule.

24 (k) "Slow-no wake speed" means a very slow speed whereby the  
25 wake or wash created by the vessel would be minimal.

26 (l) "Starboard" means right, and reference is to the starboard  
27 side of a vessel or to the right side of the vessel.

1 (m) "State aid" means payment made by the state to a county  
2 for the conduct of a marine safety program.

3 (n) "Undocumented vessel" means a vessel that does not have,  
4 and is not required to have, a valid marine document issued by the  
5 United States coast guard or federal agency successor to the United  
6 States coast guard.

7 (o) "Uniform inspection decal" means an adhesive-backed  
8 sticker created by the department that is color-coded to indicate  
9 the year that it expires and is attached to a vessel in the manner  
10 prescribed for decals in section 80122 when a peace officer  
11 inspects and determines that the vessel complies with this part.

12 (p) "Use" means operate, navigate, or employ.

13 (q) "Vessel" means every description of watercraft used or  
14 capable of being used as a means of transportation on water.

15 (r) "Waters of this state" means any waters within the  
16 territorial limits of this state, and includes those waters of the  
17 Great Lakes that are under the jurisdiction of this state.

18 (s) "Waterways account" means the waterways account ~~of the~~  
19 ~~Michigan conservation and recreation legacy fund provided for~~  
20 **ESTABLISHED** in section 2035.

21 **SEC. 80143. A PERSON WHO OPERATES A VESSEL, OR THE OWNER OF A**  
22 **VESSEL WHO OPERATES OR CAUSES OR PERMITS THE VESSEL TO BE OPERATED,**  
23 **ON THE WATERS OF THIS STATE SHALL CARRY, STORE, MAINTAIN, AND USE**  
24 **MARINE SAFETY EQUIPMENT ONBOARD THE VESSEL AS REQUIRED BY THE**  
25 **DEPARTMENT.**

26 Sec. 80152. (1) Except as otherwise provided in this section,  
27 a person shall not operate a vessel on the waters of this state if

1 ~~he or she is~~ **WHILE** towing or otherwise assisting a person ~~on water~~  
2 ~~skis or on a water sled, aquaplane, surfboard, or other similar~~  
3 ~~contrivance~~ **BEING TOWED** unless ~~a~~ **BOTH OF THE FOLLOWING CONDITIONS**  
4 **ARE MET:**

5 (A) A person capable of communicating to the vessel operator  
6 the condition and needs of the person being towed or assisted is on  
7 board the vessel and positioned to observe the person being towed  
8 or assisted.

9 (B) **THE PERSON BEING TOWED IS WEARING THE PROPER TYPE I, TYPE**  
10 **II, OR TYPE III PERSONAL FLOTATION DEVICE, AS APPLICABLE. THE**  
11 **WEARING OF AN INFLATABLE PERSONAL FLOTATION DEVICE DOES NOT SATISFY**  
12 **THIS REQUIREMENT.**

13 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS RESPONSIBLE FOR A  
14 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF  
15 NOT MORE THAN \$500.00.

16 (3) A PERSON SHALL NOT PERMIT HIMSELF OR HERSELF TO BE TOWED  
17 OR OTHERWISE ASSISTED BY A VESSEL ON THE WATERS OF THIS STATE  
18 UNLESS HE OR SHE COMPLIES WITH THE CONDITIONS LISTED IN SUBSECTION  
19 (1).

20 (4) A PERSON WHO VIOLATES SUBSECTION (3) WHO IS 16 YEARS OF  
21 AGE OR OLDER IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE  
22 ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00.

23 (5) ~~(2) Subsection (1) does not apply to vessels used by duly~~  
24 ~~constituted ski schools~~ **SUBSECTIONS (1) AND (3) DO NOT APPLY TO ANY**  
25 **OF THE FOLLOWING:**

26 (A) A PERSON WHO OPERATES OR WHO IS TOWED BY A VESSEL USED BY  
27 A SKI SCHOOL in the giving of instructions or ~~to vessels~~ **A VESSEL**

1 used in sanctioned ski tournaments, competitions, expositions, or  
 2 trials . ~~Vessels described in this subsection shall be~~ **IF THE**  
 3 **VESSEL IS** equipped with a 170-degree wide-angle rearview mirror  
 4 affixed in a manner that will permit the operator to observe the  
 5 progress of the person being towed.

6 (B) ~~(3) This section does not apply to motorboats~~ **A PERSON**  
 7 **BEING TOWED BY A MOTORBOAT** less than 16 feet in length **THAT IS**  
 8 actually operated by the person being towed ~~and so~~ **IF THE VESSEL IS**  
 9 constructed ~~as~~ to be incapable of carrying the operator in or on  
 10 the motorboat.

11 (C) ~~(4) Subsection (1) does not apply to a~~ **A** vessel operator  
 12 ~~who~~ **OR THE PERSON BEING TOWED IF THE VESSEL OPERATOR** is towing a  
 13 person preparing for a specific water ski tournament **AND** if all of  
 14 the following conditions are met:

15 (i) ~~(a)~~ The vessel operator is certified as provided in  
 16 subsection ~~(5)~~ **(6)** .

17 (ii) ~~(b)~~ The person being towed is certified as provided in  
 18 subsection ~~(6)~~ **(7)** .

19 (iii) ~~(c)~~ Towing is conducted so that, on average, not more than  
 20 1 vessel approaches within 300 feet of the towing vessel during any  
 21 5-minute period.

22 (iv) ~~(d)~~ The vessel is equipped with all of the following:

23 (A) ~~(i)~~ A center-mounted tow pylon.

24 (B) ~~(ii)~~ A large clear rearview mirror capable of allowing the  
 25 vessel operator to distinguish hand signals at a distance of 75  
 26 feet.

27 (C) ~~(iii)~~ Markings that identify the vessel as a vessel that is

1 being operated in conformance with this ~~subsection~~-**SUBDIVISION**.

2       (6) ~~(5)~~—The department shall adopt standards for water ski  
3 tournament boat operation established by U.S.A. water ski in  
4 "Trained Boat Driver Program", April 1997, and by the American  
5 water ski association in "Drivers' Policy Manual". However, the  
6 department may promulgate rules providing for alternative standards  
7 under the administrative procedures act of 1969, 1969 PA 306, MCL  
8 24.201 to 24.328. The department shall certify each individual who  
9 satisfies the standards described in this subsection as a  
10 tournament water ski vessel operator and issue proof of that  
11 certification to the individual.

12       (7) ~~(6)~~—The department shall adopt standards for tournament  
13 water skiers established by the Michigan water ski association in  
14 "Guidelines for Training Permit Eligibility", proposed revision 125  
15 of 1996. However, the department may promulgate rules providing for  
16 alternative standards under the administrative procedures act of  
17 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall  
18 certify each individual who satisfies the standards described in  
19 this subsection as a tournament water skier and issue proof of that  
20 certification to the individual.

21       (8) ~~(7)~~—The Michigan water ski association shall provide  
22 annually to the department and the Michigan sheriffs association  
23 both of the following:

24       (a) A list of the individuals whom the organization considers  
25 qualified for tournament water skiing.

26       (b) The names of not more than 3 bodies of water on which each  
27 of those individuals may be authorized to practice for tournament

1 water skiing.

2           (9) ~~(8)~~—The department shall specify the body or bodies of  
3 water upon which a water skier may practice upon each certificate  
4 issued under subsection ~~(6)~~-(7).