

HOUSE BILL No. 5164

November 10, 2011, Introduced by Reps. Pettalia, Bumstead, Hughes, Lyons, Foster, Johnson, Damrow, Huuki, Genetski, Rendon, Potvin, Heise, Poleski, Haugh and Franz 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 44514, 44516, 44517, 44518, 44520a, and
80124 (MCL 324.44514, 324.44516, 324.44517, 324.44518,
324.44520a, and 324.80124), sections 44514 and 44516 as added by
1995 PA 57, section 44517 as amended by 2004 PA 325, section
44518 as amended by 2004 PA 587, section 44520a as added by 2006
PA 183, and section 80124 as amended by 2007 PA 8, and by adding
section 44515a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 44514. (1) A person shall not operate a boat livery
2 within this state unless the **LIVERY** boats and equipment of the
3 boat livery are inspected and a permit to operate a boat livery
4 is issued ~~pursuant to~~ **UNDER** this part.

(2) A LIVERY BOAT AND ITS EQUIPMENT SHALL BE INSPECTED ONCE ANNUALLY. HOWEVER, A LIVERY BOAT THAT IS A NONMOTORIZED CANOE, KAYAK, OR RAFT AND ANY EQUIPMENT USED WITH THE LIVERY BOAT SHALL BE INSPECTED ONCE EVERY 3 YEARS.

SEC. 44515A. IF A LIVERY BOAT IS A NONMOTORIZED CANOE, KAYAK, OR RAFT, THE LIVERY BOAT SHALL DISPLAY THE MAXIMUM NUMBER OF PERSONS AND MAXIMUM WEIGHT PERMITTED TO BE CARRIED ABOARD THE LIVERY BOAT. THE INFORMATION MAY BE DISPLAYED ON A MANUFACTURER'S DECAL, PLATE, OR TAB OR BY OTHER MEANS.

Sec. 44516. ~~The~~ IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 44514(2), THE owner of a boat livery shall ~~make an application~~ APPLY to the sheriff of the county in which the livery is located for inspection of its livery boats and equipment. The application shall be made on a form provided by the department and shall include:

(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.

Sec. 44517. (1) ~~Any~~ THE OWNER OF A livery boat, OTHER THAN A CLASS E VESSEL, THAT IS more than 20 feet in length, ~~except for a class E vessel that is a livery boat, that~~ AND is used or to be used on navigable waters without the owner being either on board or operating the vessel shall pay the inspection fees FEE established pursuant to UNDER section 44511 for each SUCH livery

boat to be inspected. Fees collected ~~pursuant to~~ **UNDER** this section shall be forwarded to the department. The department shall utilize the fees to develop and maintain the education and enforcement program provided for in section 44513(2).

(2) Upon receipt of the required fee and an application for an inspection and a permit, the department shall inspect, or provide for ~~inspection of by~~ the county sheriff or sheriff's deputy **TO INSPECT**, all livery boats and ~~their~~ **LIVERY BOAT** equipment of the boat livery, **SUBJECT TO SECTION 44514(2)**. Upon completion of the inspection, the department, county sheriff, or the sheriff's deputy shall, pursuant to part 13, approve the issuance of a permit to operate a boat livery, ~~provided IF~~ the requirements of this part **WITHIN THE SCOPE OF THE INSPECTION** are met. A permit furnished by the department shall be prominently displayed on the site of the boat livery. ~~and shall expire~~ **THE PERMIT EXPIRES** on ~~December~~ **MAY** 31 of each ~~THE~~ year **FOLLOWING THE YEAR** in which a ~~THE~~ permit is issued. **HOWEVER, IF ALL THE LIVERY BOATS ARE NONMOTORIZED CANOES, KAYAKS, OR RAFTS, THE PERMIT EXPIRES ON MAY 31 OF THE THIRD YEAR FOLLOWING THE YEAR IN WHICH THE PERMIT IS ISSUED.**

Sec. 44518. (1) An inspecting officer ~~—~~ designated by the department ~~—~~ shall affix or cause to be affixed **AN INSPECTION PLATE, DECAL, OR TAB** to each ~~and every~~ **INSPECTED** livery boat, **OTHER THAN A NONMOTORIZED CANOE, KAYAK, OR RAFT**, that meets the minimum safety standards established under rules promulgated under this part. ~~an inspection decal, plate, or tab furnished by the department which bears~~ **THE INSPECTION DECAL, PLATE, OR TAB**

1 **SHALL BEAR** all of the following information:

2 (a) The maximum number of persons permitted to be carried
3 aboard the vessel.

4 (b) The maximum horsepower of a motor permitted to be used
5 on the vessel.

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

8 (2) ~~Each~~ **A** boat livery owner shall pay ~~a fee of \$2.00~~ to the
9 inspecting officer **A FEE OF \$2.00** for each **OF THE FOLLOWING:**

10 **(A) EACH** decal, plate, or tab affixed to ~~the A~~ livery boats
11 **BOAT UNDER SUBSECTION (1).**

12 **(B) EACH NONMOTORIZED CANOE, KAYAK, OR RAFT INSPECTED.**

13 (3) The inspecting officer shall forward all fees collected
14 under ~~this~~ subsection **(2)** to the treasurer of the county in which
15 the fee is collected to be credited for the purpose of
16 reimbursing the sheriff's department for expenses incurred
17 ~~pursuant to~~ **UNDER** this part. If the inspecting officer is a
18 conservation officer, fees collected under this section shall be
19 forwarded to the department of treasury to be credited to the
20 waterways account.

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

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

1 operation of a nonmotorized livery boat.

2 (3) As used in this section:

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

7 (b) "Risk inherent in the use or operation of a nonmotorized
8 livery boat" means a danger or condition that is an integral part
9 of the use or operation of a nonmotorized livery boat ~~that~~ **AND** is
10 limited to 1 or more of the following:

11 (i) Wave or other water motion.

12 (ii) Weather conditions.

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

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

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

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

25 (vii) The actions of a vessel operator, except if the owner
26 of a nonmotorized livery boat leased or rented the livery boat to
27 an operator who the owner knew or in the exercise of reasonable

1 care should have known was disqualified by law ~~or regulation~~ from
2 operating the livery boat.

3 (viii) Having a number of persons in excess of the maximum
4 number approved for the livery boat on board, except if the owner
5 of a nonmotorized livery boat knowingly allowed the livery boat
6 to leave the boat livery's premises with ~~a number of~~ persons in
7 excess of the maximum weight or number approved for the livery
8 boat on board or did not properly inform the user of the maximum
9 weight or number of persons approved for the livery boat.

10 (c) "User of the nonmotorized livery boat" means a person
11 who participates in the use or operation of the nonmotorized
12 livery boat regardless of whether the person rented or leased the
13 nonmotorized livery boat.

14 Sec. 80124. (1) Except as otherwise provided in this
15 section, the owner of a vessel required, **PURSUANT TO SECTIONS**
16 **80122 AND 80123**, to be numbered and to display a decal shall file
17 an application for a certificate of number with the secretary of
18 state. The secretary of state shall prescribe and furnish
19 certificate of title application forms. If a vessel requiring a
20 certificate of title under part 803 is sold by a dealer, that
21 dealer shall combine the application for a certificate of number
22 that is signed by the vessel owner with the application for a
23 certificate of title. The dealer shall obtain the certificate of
24 number in the name of the owner. The owner of the vessel shall
25 sign the application. A person shall not file an application for
26 a certificate of number that contains false information. A dealer
27 who fails to submit an application as required by this section is

1 guilty of a misdemeanor, punishable by imprisonment for not more
2 than 90 days, or a fine of not more than \$100.00, or both.

3 (2) A dealer who submits an application for a certificate of
4 number as provided in subsection (1) may issue to the owner of
5 the vessel a 15-day ~~temporary~~ permit, on forms prescribed by the
6 secretary of state, for the use of the vessel while the
7 certificate of number is being issued.

8 (3) A dealer may issue a 15-day permit, on a form prescribed
9 by the secretary of state, for the use of a vessel purchased in
10 this state and delivered to the purchaser for removal to a place
11 outside of this state, if the purchaser certifies by his or her
12 signature that the vessel will be registered and primarily used
13 and stored outside of this state and will not be returned to this
14 state by the purchaser for use or storage. A certificate of
15 number shall not be issued for a vessel holding a permit under
16 this subsection.

17 (4) A 15-day ~~temporary~~ permit issued under subsection (2) or
18 (3) shall not be renewed or extended.

19 (5) A person shall operate or permit the operation of a
20 vessel for which a 15-day ~~temporary~~ permit has been issued under
21 this section only if the ~~temporary~~ permit is valid and displayed
22 on the vessel as prescribed by rule promulgated by the department
23 under this part.

24 (6) Except as otherwise provided in this section, an
25 applicant shall pay the following fee at the time of application:

26 (a) A 15-day ~~temporary~~ permit issued under

1	subsection (3).....	\$ 10.00
2	(b) Nonpowered vessels, other than nonmotorized	
3	canoes or kayaks except as provided in section 80123.	9.00
4	(c) Nonmotorized canoes or kayaks except as	
5	provided in section 80123.....	5.00
6		6.00
7	(d) Motorboats less than 12 feet in length.....	14.00
8	(e) Motorboats 12 feet or over but less than	
9	16 feet in length.....	17.00
10	(f) Motorboats 16 feet or over but less than	
11	21 feet in length.....	42.00
12	(g) Motorboats 21 feet or over but less than	
13	28 feet in length.....	115.00
14	(h) Motorboats 28 feet or over but less than	
15	35 feet in length.....	168.00
16	(i) Motorboats 35 feet or over but less than	
17	42 feet in length.....	244.00
18	(j) Motorboats 42 feet or over but less than	
19	50 feet in length.....	280.00
20	(k) Motorboats 50 feet in length or over.....	448.00
21	(l) Pontoon vessels regardless of size.....	23.00
22	(m) Motorized canoes regardless of size.....	14.00
23	(n) Vessels licensed under part 473.....	15.00
24	(o) Vessels carrying passengers for hire that	
25	are in compliance with part 445, or under federal law;	
26	and vessels carrying passengers and freight or freight	
27	only and owned within this state or hailing from a	
28	port within this state.....	45.00
29	(7) As used in this section, "the length of a vessel" means	
30	the distance from end to end over the deck, excluding the	

1 longitudinal upward or downward curve of the deck, fore and aft.
2 A pontoon boat shall be measured by the length of its deck, fore
3 and aft.

4 (8) Payment of the fee specified in this section exempts the
5 vessel from the tax imposed under the general property tax act,
6 1893 PA 206, MCL 211.1 to 211.155.

7 (9) Upon receipt of an initial application for a certificate
8 of number in approved form and payment of the required fee, the
9 secretary of state shall enter the information upon the official
10 records and issue to the applicant a certificate of number
11 containing the number awarded to the vessel, the name and address
12 of the owner, and other information that the secretary of state
13 determines necessary. The secretary of state shall issue a
14 certificate of number that is pocket size and legible. Except as
15 provided in subsection (13), a person operating a vessel shall
16 present that vessel's certificate of number to a peace officer
17 upon the peace officer's request.

18 (10) If a check or draft payable to the secretary of state
19 under this part is not paid on its first presentation, the fee or
20 tax is delinquent as of the date the draft or check was tendered.
21 The person tendering the check or draft remains liable for the
22 payment of each fee or tax and a penalty.

23 (11) Upon determining that a fee or tax required by this
24 part has not been paid and remains unpaid after reasonable notice
25 and demand, the secretary of state may suspend a certificate of
26 number.

27 (12) If a person who tenders a check or draft described in

1 subsection (10) fails to pay ~~a~~**THE** fee or tax **FOR WHICH THE CHECK**
2 **OR DRAFT WAS TENDERED** within 15 days after the secretary of state
3 gives him or her notice that the check or draft described in
4 subsection (10) was not paid on its first presentation, the
5 secretary of state shall assess and collect a penalty of \$5.00 or
6 20% of the check or draft, whichever is larger, in addition to
7 the fee or tax.

8 (13) The owner or authorized agent of the owner of a vessel
9 less than 26 feet in length that is leased or rented to a person
10 for noncommercial use for not more than 24 hours may retain, at
11 the place from which the vessel departs or returns to the
12 possession of the owner or the owner's representative, the
13 certificate of number for that vessel if a copy of the lease or
14 rental agreement is on the vessel. Upon the demand of a peace
15 officer, the operator shall produce for inspection either the
16 certificate of number or a copy of the lease or rental agreement
17 for that vessel. The lease or rental agreement shall contain each
18 of the following:

19 (a) The vessel number that appears on the certificate of
20 number.

21 (b) The period of time for which the vessel is leased or
22 rented.

23 (c) The signature of the vessel's owner or that person's
24 authorized agent.

25 (d) The signature of the person leasing or renting the
26 vessel.

27 (14) Upon receipt of a certificate of number for a vessel,

1 the owner of that vessel shall paint on or attach in a permanent
2 manner to each side of the forward half of the vessel the number
3 identified in the certificate of number, in the manner prescribed
4 by rules promulgated by the department. The secretary of state
5 shall assign to the owner of vessels for rent or lease a block of
6 numbers sufficient to number consecutively all of that owner's
7 rental or lease vessels. The owner shall maintain the numbers in
8 a legible condition. A vessel documented by the United States
9 coast guard or a federal agency that is the successor to the
10 United States coast guard is not required to display numbers
11 under this part but shall display a decal indicating payment of
12 the fee prescribed in subsection (6), and shall otherwise be in
13 compliance with this part. This subsection does not apply to a
14 nonpowered vessel 12 feet or less in length.

15 (15) Upon receipt of an application for a certificate of
16 number in an approved form and payment of the fee required by
17 this part, the secretary of state shall issue a decal. ~~that is~~
18 **SUBJECT TO SUBSECTION (16), THE DECAL SHALL BE** color-coded and
19 dated to identify the year of its expiration ~~, and that indicates~~
20 **INDICATE** that the vessel is numbered in compliance with this
21 part. The department shall promulgate a rule or rules to
22 establish the manner in which the decal is to be displayed. A
23 person who operates a vessel in violation of a rule promulgated
24 to implement this subsection is responsible for a state civil
25 infraction and may be ordered to pay a civil fine of not more
26 than \$500.00.

27 (16) A decal is valid for a 3-year period that begins on

1 April 1 and expires on March 31 of the third year. An original
2 certificate of number may be issued up to 90 days before April 1.
3 A numbering renewal decal or other renewal device may be issued
4 up to 90 days before the expiration of a certificate. **HOWEVER, A**
5 **DECAL FOR A NONMOTORIZED CANOE OR KAYAK USED FOR RENTAL OR OTHER**
6 **COMMERCIAL PURPOSES IS VALID UPON ISSUANCE AND DOES NOT EXPIRE.**
7 **AN ORIGINAL CERTIFICATE OF NUMBER FOR SUCH A VESSEL MAY BE ISSUED**
8 **AT ANY TIME.**

9 (17) Upon receipt of a request for renewal of a decal and
10 payment of the fee prescribed in subsection (6), the secretary of
11 state shall issue to the applicant a decal as provided in
12 subsection (15). A person who operates a vessel for which no
13 decal was issued as required under this section or for which a
14 decal has expired is responsible for a state civil infraction and
15 may be ordered to pay a civil fine of not more than \$500.00.

16 (18) The numbering system adopted under this part shall be
17 in accordance with the standard system of numbering established
18 by the secretary of the department in which the United States
19 coast guard operates.

20 (19) An agency of this state, a political subdivision of
21 this state, or a state supported college or university of this
22 state that owns a vessel that is required to be numbered under
23 this part shall register that vessel and upon payment of either
24 of the following shall receive from the secretary of state a
25 certificate of number for that vessel:

26 (a) A fee of \$3.00 for a vessel that is not used for
27 recreational, commercial, or rental purposes.

1 (b) The fee required under subsection (6) for a vessel that
2 is used for recreational, commercial, or rental purposes.

3 (20) The secretary of state shall, upon receipt of payment
4 of the fee required under subsection (19), issue a certificate of
5 number for ~~each~~ **A** vessel subject to subsection (19).

6 (21) A vessel that is 30 years of age or older and not used
7 other than in club activities, exhibitions, tours, parades, and
8 other similar activities is a historic vessel. The secretary of
9 state shall make available to the public application forms for
10 certificates of number for historic vessels and, upon receipt of
11 a completed application form and fee, shall number a historic
12 vessel as a historic vessel. The fee for the numbering of a
13 historic vessel is 1/3 of the otherwise applicable fee specified
14 in subsection (6).

15 ~~—— (22) Upon application to the secretary of state, the owner~~
16 ~~of a nonmotorized canoe or kayak who registered that vessel under~~
17 ~~former 1967 PA 303 between January 1, 1989 and April 17, 1990~~
18 ~~shall receive a refund of a portion of the registration fee equal~~
19 ~~to the difference in the amount that owner paid and the fee~~
20 ~~amount provided in subsection (6)(c).~~

21 **(22)** ~~(23)~~ The secretary of state shall refund to the owner
22 of a vessel registered under this part ~~or former 1967 PA 303~~ all
23 of the registration fee paid for that vessel under this section
24 ~~or section 33 of former 1967 PA 303~~ if all of the following
25 conditions are met during the period for which the registration
26 fee was paid:

27 (a) The owner transfers or assigns title or interest in the

1 registered vessel before placing the decal issued under
2 subsection (15) on the vessel.

3 (b) The owner surrenders the unused decal to the secretary
4 of state within 30 days after the date of transfer or assignment.

5 (23) ~~(24)~~—The secretary of state shall refund to the
6 surviving spouse of a deceased vessel owner the registration fee
7 paid under this part, prorated on a monthly basis, upon receipt
8 of the decal issued under subsection (15) or evidence
9 satisfactory to the secretary of state that the decal issued
10 under subsection (15) has been destroyed or voided.

11 (24) ~~(25)~~—If the secretary of state computes a fee under
12 this part that results in a figure other than a whole dollar
13 amount, the secretary of state shall round the figure to the
14 nearest whole dollar.