

Act No. 270
Public Acts of 1993
Approved by the Governor
December 22, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Dunaskiss, DiNello, Hart, O'Brien and Pridnia

ENROLLED SENATE BILL No. 685

AN ACT to amend sections 36, 74, 78, and 114 of Act No. 303 of the Public Acts of 1967, entitled as amended "An act to promote the safe use of the waters of this state; to provide for the taxation and numbering of motorboats and vessels; to provide for rules relative to the operation of vessels and motorboats; the carrying of equipment on such waters and to the use of waters of this state for boating; to promote uniformity of laws relating thereto; to prescribe the duties and responsibilities of owners and operators of vessels and motorboats; to prescribe the powers and duties of certain state departments; to provide for the disposition of revenue; and to provide for penalties," section 36 as amended by Act No. 56 of the Public Acts of 1988 and section 114 as amended by Act No. 289 of the Public Acts of 1990, being sections 281.1036, 281.1074, 281.1078, and 281.1114 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 36, 74, 78, and 114 of Act No. 303 of the Public Acts of 1967, section 36 as amended by Act No. 56 of the Public Acts of 1988 and section 114 as amended by Act No. 289 of the Public Acts of 1990, being sections 281.1036, 281.1074, 281.1078, and 281.1114 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 36. (1) A dealer shall apply for and obtain from the secretary of state dealer certificates of number and dealer decals for each vessel of the dealer that is tested, demonstrated, or otherwise operated. Upon receipt of an application in a form approved by the secretary of state and payment of \$30.00 for each set of dealer certificates of number and dealer decals, the secretary of state shall issue to the applicant the dealer certificates of number and dealer decals. A single dealer certificate of number and dealer decal issued pursuant to this section may be used on only 1 vessel at a time.

(2) The operator of a vessel governed by this section shall do each of the following:

(a) Maintain the dealer certificate of number on board the vessel.

(b) Upon demand of a peace officer display the dealer certificate of number.

(c) Permanently or temporarily display the identifying number and dealer decal on the vessel in accordance with rules promulgated by the department.

(3) A person shall not operate a vessel numbered under this section unless the dealer is on board the vessel or the operator has the written authorization of the dealer to operate the vessel. A person shall not use a vessel numbered under this section for commercial purposes that include the rental of the vessel or the carrying of passengers for hire on the vessel.

Sec. 74. (1) If a person carelessly and heedlessly operates a vessel upon the waters of this state in disregard of the rights or safety of others, or 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 vessel and is subject to the penalties described in subsection (3).

(2) If a person who, while being towed on water skis, water sled, surfboard, or a similar contrivance upon the waters of this state, carelessly and heedlessly navigates, steers, or controls himself or herself in disregard of the rights or safety of others, or without due caution and circumspection and in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of the contrivance that he or she controls, and is subject to the penalties described in subsection (3).

(3) Upon a person's conviction under this section, the court may issue an order prohibiting that person from operating a vessel on the waters of this state for a period of not more than 2 years. Upon a person's subsequent conviction under this section, the court shall order that person to participate in and complete a marine safety educational program approved by the department. An order issued pursuant to this subsection is in addition to any other penalty authorized under this act.

Sec. 78. (1) A person shall not operate a vessel on the waters of this state if he or she is towing or otherwise assisting a person on water skis, water sled, aquaplane, surfboard, or other similar contrivance unless a person capable of communicating to the vessel operator the condition and needs of the person being towed or assisted is on board the vessel and positioned to observe the person being towed or assisted.

(2) Subsection (1) does not apply to vessels used by duly constituted ski schools in the giving of instructions, or to vessels used in sanctioned ski tournaments, competitions, expositions, or trials. Vessels described in this subsection shall be equipped with a 170-degree wide-angle rearview mirror affixed in a manner that will permit the operator to observe the progress of the person being towed.

(3) This section does not apply to motorboats less than 16 feet in length actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.

Sec. 114. (1) Subject to subsection (2), a person shall not operate a motorboat on the waters of this state unless the motorboat is equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005 or a sound level in excess of 75 dB(A) when subjected to a shoreline sound level measurement procedure as described by SAE J1970. The operator of a motorboat shall present the motorboat for a sound level test as prescribed by SAE J2005 upon the request of a peace officer. If a motorboat is equipped with more than 1 motor or engine, the test shall be performed with all motors or engines operating. To determine whether a person is violating this subsection, a peace officer may measure sound levels pursuant to procedures prescribed in SAE J1970, issued 1991-92.

(2) The department may by rule establish a motorboat sound level test and set a maximum decibel level or levels permitted for motorboat operation that replace the tests and maximum decibel levels permitted under subsection (1). If a test and maximum decibel level or levels are established pursuant to this subsection, all of the following apply:

(a) A person shall not operate a motorboat on the waters of this state if the motorboat produces sound levels that exceed the maximum decibel level or levels established under this subsection.

(b) The operator of a motorboat shall present the motorboat for the sound level test established pursuant to this subsection upon the request of a peace officer.

(c) A motorboat equipped with more than 1 motor or engine shall be tested with all motors or engines operating.

(3) A person shall not manufacture, or sell, or offer for sale, a new motorboat for use on the waters of this state if that motorboat cannot be operated in a manner that complies with the applicable sound levels permitted under subsection (1) or (2).

(4) Subsections (1) and (2) do not apply to any of the following:

(a) A motorboat tuning up, testing for or participating in official trials for speed records or a sanctioned race conducted pursuant to a permit issued by an appropriate unit of government.

(b) A motorboat being operated by a boat or marine engine manufacturer for the purpose of testing or development.

(c) A motorboat that qualifies as an historic vessel.

(5) A person shall not operate on the waters of this state a motorboat that is equipped with a cut-out, bypass, amplifier, or other similar device.

(6) As used in this section, "dB(A)" means decibels on the "A" scale on a sound meter having characteristics of a general purpose sound meter as defined by American national standards institute S1.4-1983.

(7) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days and a fine of not less than \$100.00 or more than \$500.00. Additionally, before putting the motorboat back in use, a person who violates this section shall be required to install an effective muffler or underwater exhaust system that meets the requirements of this section on the motorboat in violation at his or her expense.

Section 2. This amendatory act shall take effect April 1, 1994.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 683.
- (b) Senate Bill No. 684.
- (c) Senate Bill No. 686.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.