

WATERCRAFT SAFETY

Senate Bill 830 (Substitute H-2) First Analysis (5-26-98)

Sponsor: Senator Walter H. North
**House Committee: Conservation,
Environment and Recreation**
**Senate Committee: Transportation
and Tourism**

THE APPARENT PROBLEM:

"Personal watercraft," or "jet skis," are small vessels powered by inboard engines and jet pump mechanisms. Some are designed to be ridden while sitting; others are ridden by operators who are either kneeling or standing. They are easy to maneuver, and provide an experience that is similar to a combination of boating and waterskiing. Reportedly, they have been the fastest growing segment of the recreational boating industry. However, these vessels can also travel at speeds of more than 50 miles per hour, and, as their popularity has grown, so have the number of watercraft-related accidents. Accordingly, legislation has been introduced that would establish safety standards for this type of recreational boat and impose penalties upon those who violate these standards. (For additional information, see HLAS analyses of House Bills 4248 and 5426 and of Senate Bills 865 and 897). In addition, legislation has been proposed that would extend those standards to persons who rent watercraft from boat liveryes.

THE CONTENT OF THE BILL:

Part 445 of the Natural Resources and Environmental Protection Act (NREPA), which regulates charter and livery boat safety, currently prohibits a boat livery from leasing, hiring, or renting a personal watercraft to a person who is under 16 years of age. Among other provisions, the bill would add that a livery could not lease, hire, or rent a personal watercraft to a person who did not display a boater safety certificate, as required under the "Personal Watercraft Safety Act."

Prohibited Actions. The bill would specify that a livery could not lease, hire, or rent a personal watercraft to a person who did not display a boater safety certificate, unless the person obtained training in the safe use of one from the boat livery prior to

leasing, hiring, or renting. The prohibition would apply whether or not the person was *required* to obtain a safety certificate under the Personal Watercraft Safety Act. The bill would require that the Department of Natural Resources (DNR) provide boat liveryes with guidelines for the required training. In addition, the bill would specify that a person who leased, hired, or rented a personal watercraft from a boat livery could not permit an individual who hadn't obtained a boater safety certificate, or other certificate required under the Personal Watercraft Safety Act, to operate the watercraft.

Penalties. A person who violated the provisions of the bill would be guilty of a misdemeanor punishable by imprisonment for up to 90 days, a fine of between \$100 and \$500, or both. A person who violated these provisions twice within a three-year period would be guilty of a misdemeanor punishable by imprisonment for up to 90 days, a fine of up to \$1,000, or both. A person who violated these provisions three or more times within a five-year period would be guilty of a misdemeanor punishable by imprisonment for up to 90 days, a fine of up to \$2,000, or both. Upon a second or subsequent violation, a court could -- in addition to the penalties provided under the bill -- issue an order impounding the personal watercraft for up to one year.

Rental Agreement/Safety Certificate. A boat livery would have to provide a copy of the written rental agreement to each individual who leased, hired, or rented a personal watercraft from the boat livery and who had obtained the required training. The rental agreement would have to include all of the following information: the name of the person who leased, hired, or rented a personal watercraft from the boat livery, and the date(s) of the lease, hire, or rental. The agreement would be a valid boating safety

certificate, under the provisions of the Personal Watercraft Safety Act, only for the person named in the certificate on the date(s) of the lease, hire, or rental of the personal watercraft.

Liability. A person who leased, hired, or rented a personal watercraft from a boat livery would be liable for any injury resulting from its negligent operation, whether the negligence consisted of a violation of state statute or a failure to observe ordinary care in the operation that the rules of the common law require. The person would not be liable unless the personal watercraft were being used with his or her expressed or implied consent. The bill specifies that it would be rebuttably presumed that the personal watercraft was being operated with the knowledge and consent of the person if it were driven at the time of the injury by that person's son, daughter, spouse, father, mother, brother, sister, or other immediate member of the person's family.

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FISCAL IMPLICATIONS:

The bill would require that the Department of Natural Resources (DNR) provide boat liveries with safety guidelines that would be used to train persons who rented watercraft. The House Fiscal Agency reports that this provision would result in a nominal cost to the Department of Natural Resources (DNR), depending on the size of the proposed guidelines, and how many were required. (5-21-98)

ARGUMENTS:

For:

The bill would extend to boat liveries the personal watercraft (PWC) safety and enforcement standards imposed under the provisions of House Bills 4248 and 5426 and Senate Bills 865 and 897. These bills were introduced in response to concern over the rising number of accidents involving jet skis, complaints of noise from lakeside property owners, and the general belief that these problems are due to the inexperience or inadequate education of jet ski operators. Among other provisions, this package of bills would:

** Specify that watercraft operators born after December 31, 1978 must obtain boating safety certificates.

** Require that the DNR establish educational programs in boating safety to train operators.

** Restrict the operation of watercraft to the hours between 9 a.m. and one hour before sunset.

** Establish minimum distances between PWCs and the shoreline and other boats.

** Require that a child under age 7 be accompanied by an adult.

** Establish misdemeanor penalties for violations of the act.

POSITIONS:

The Department of Natural Resources supports the bill. (5-21-98)

The Michigan Boating Industries Association supports the bill. (5-21-98)

The Michigan Sheriffs' Association supports the bill. (5-21-98)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.