

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 100 (as introduced 2-4-97)  
Senate Bill 830 (as introduced 12-3-97)  
Sponsor: Senator Doug Carl (S.B. 100)  
Senator Walter H. North (S.B. 830)  
Committee: Transportation and Tourism

Date Completed: 2-3-98

### **CONTENT**

**Senate Bill 100** would amend the Natural Resources and Environmental Protection Act (NREPA) to:

- Require a person, except when traveling at slow--no wake speed, who operated a personal watercraft in a Great Lake to maintain a distance of 150 feet of the shoreline.
- Require a person operating a personal watercraft or a person being towed on water skis or similar equipment to remain at least 100 feet from any dock, raft, or buoyed or occupied bathing or swimming area, a person in a personal flotation device, or a moored or anchored vessel, unless the watercraft or the person being towed was proceeding at a slow--no wake speed or the operator was picking up or dropping off a water skier.
- Require personal watercraft dealers to offer each buyer a brief boating safety presentation; establish civil infraction fines for dealers; and prohibit dealers from issuing a title, registration, manufacturer's statement of origin, or temporary permit to a purchaser who refused to take the safety information.
- Require the Department of Natural Resources (DNR) to create and make available to dealers a summary of the marine safety laws pertaining to personal watercraft and a summary of the safety features of personal watercraft.
- Permit a court to impose on a person convicted of recklessly operating a personal watercraft a fine of up to \$100 and/or imprisonment for up to 90 days, and/or require the person to participate in and complete a nationally certified boating basics class or a State-approved personal watercraft safety course.
- Repeal, as of March 1, 2000, the bill's provisions concerning the required dealer personal watercraft safety presentation, the required DNR safety documents, and operating distances from a shoreline, dock, swimming area, etc.

**Senate Bill 830** would amend the NREPA to require boater safety training as a condition of renting, leasing, or hiring personal watercraft; specify that a person who rented, leased or hired a personal watercraft would be liable for injury resulting from the negligent operation of the craft, if it were being used with his or her expressed or implied consent; and, establish misdemeanor penalties for persons who violated the bill's boater safety training requirements for renting, leasing, or hiring a personal watercraft.

(The Act defines “personal watercraft” as a vessel that uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion; is designed without an open load carrying area that would retain water; and, is designed to be operated by one or more persons positioned on, rather than within, the confines of the hull.)

Senate Bill 830 is tie-barred to Senate Bill 100. Senate Bill 100 contains an April 1, 1997, effective date. A more detailed description of the bills follows.

### **Senate Bill 100**

#### **Operation**

Currently, a person may not operate a personal watercraft on the State’s waters “between the hours from sunset to sunrise”. The bill would revise this provision to specify that a person could not operate a personal watercraft during the period that began one-half hour before “sunset” and ended one-half hour after “sunrise”. The bill would define sunset and sunrise to mean those times as determined by the National Weather Service.

Under the Act, a person operating a personal watercraft must maintain a distance of 100 feet from a dock, raft, or buoyed or occupied bathing area. Under the bill, a person who operated a personal watercraft on the State’s waters or a person who was being towed on water skis, a water sled, kite, surfboard, parachute, tube, or similar equipment would have to maintain a distance of at least 100 feet from any dock, raft, or buoyed or occupied bathing or swimming area, a person in the water or on the water in a personal floatation device, and a vessel moored or anchored, unless the vessel being operated or the person being towed was proceeding at a slow--no wake speed or the vessel operator was picking up or dropping off a water skier.

The bill also provides that, except when traveling at slow--no wake speed, a person who operated a personal watercraft in a Great Lake would have to maintain a distance of 150 feet from the shoreline.

#### **Boating Safety Presentation**

The bill specifies that the following provisions would not apply to sales of personal watercraft between individuals.

A dealer of new or used personal watercraft would have to offer to each buyer of a personal watercraft a brief boating safety presentation consisting of the following: the owner’s liability under the Act; a summary of the marine safety laws that pertain exclusively to personal watercraft contained in a document that was prepared by the DNR; a summary of the safety features of the personal watercraft developed by the DNR; and, a summary of available boating safety education opportunities. This information could be presented in any of the following formats: video, written material, or computer program.

The dealer would have to prepare a form to be signed by the purchaser that indicated either that the purchaser received the required information or that he or she refused to receive this information. The dealer would have to keep a copy of this form for three years. Before signing a formal sales agreement, the potential purchaser would have to be notified that if he or she refused to receive the information offered by the dealer, the dealer could not issue to the purchaser a title, registration, manufacturer’s statement of origin, or 15-day temporary permit.

If a purchaser presented to the dealer a valid certificate of successful completion of the DNR introduction to personal watercraft education class or a Michigan basics class as certified by the National Association of State Boating Law Administrators, the dealer would be exempt from complying with these provisions.

The DNR would have to create and make available to personal watercraft dealers both of the following: a document that summarized the marine safety laws that pertain exclusively to personal watercraft, and a document that summarized the safety features of personal watercraft. The second document could be a generic document and would not have to represent the safety features of a particular style or brand of personal watercraft.

#### Liability/Violations

A personal watercraft dealer would not be liable in an action alleging damages that resulted from the use or misuse of a personal watercraft sold by the dealer unless the dealer had been negligent in complying or attempting to comply with the bill.

If a personal watercraft dealer failed to comply with the bill's boating safety information provisions, he or she would be responsible for a State civil infraction and could be fined up to \$250 for the first offense, \$500 for a second offense, and \$1,000 for each subsequent offense.

Upon conviction of a person for violation of provisions concerning the operation of a personal watercraft (MCL 324.80143), care in operating a vessel on State waters (MCL 324.80145), maximum motorboat speed limits (MCL 324.80146), or counter-clockwise operation of vessels (MCL 324.80149), the court could impose a maximum fine of \$100 and/or imprisonment for up to 90 days; require the offender to participate in and complete a Michigan boating basics class as certified by the National Association of State Boating Law Administrators; and/or require the offender to participate in and complete a State-approved personal watercraft safety course.

#### **Senate Bill 830**

The NREPA currently prohibits a boat livery from leasing, hiring, or renting a personal watercraft to a person who is under 16 years of age. 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", unless the person obtained training in the safe use of a personal watercraft from the boat livery prior to the lease, hire, or rent of the personal watercraft. A person who leased, hired, or rented a personal watercraft from a boat livery could not permit an individual to operate the watercraft if he or she had not obtained a boater safety certificate, as required under the Personal Watercraft Safety Act. A person who violated these provisions would be guilty of a misdemeanor, punishable by imprisonment for up to 90 days and/or a fine of up to \$100.

A person who leased, hired, or rented a personal watercraft from a boat livery would be liable for any injury resulting from the negligent operation of the watercraft, whether the negligence consisted of a violation of State statute, or the failure to observe ordinary care in the operation that the rules of the common law required. 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 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 his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the person's family.

MCL 324.80142 et al.(S.B. 100)  
324.44522 (S.B. 830)

Legislative Analyst: L. Arasim

#### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State government, depending on the number of violations and amount of fine revenue obtained.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.