

**SUBSTITUTE FOR
HOUSE BILL NO. 4248**

A bill to amend 1994 PA 451, entitled

"Natural resources and environmental protection act,"

by amending sections 80101, 80102, 80140, 80141, 80142, and 80146 (MCL 324.80101, 324.80102, 324.80140, 324.80141, 324.80142, and 324.80146), sections 80101, 80102, 80140, 80141, and 80146

as added by 1995 PA 58 and section 80142 as amended by 1996 PA 174, and by adding sections 80109a, 80140a, 80140b, 80140c, 80140d, 80140e, 80140f, 80140g, 80140h, and 80142a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80101. As used in this part:

2 (a) "Anchored rafts" means all types of nonpowered rafts
3 used for recreational purposes that are anchored seasonally on
4 waters of this state.

5 (b) "Associated equipment" means any of the following that
6 are not radio equipment:

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1 (i) An original system, part, or component of a boat at the
2 time that boat was manufactured, or a similar part or component
3 manufactured or sold for replacement.

4 (ii) Repair or improvement of an original or replacement
5 system, part, or component.

6 (iii) An accessory or equipment for, or appurtenance to, a
7 boat.

8 (iv) A marine safety article, accessory, or equipment
9 intended for use by a person on board a boat.

10 (c) "Boat" means a vessel.

11 (d) "Boat livery" means a business that holds a vessel for
12 renting, leasing, or chartering.

13 (E) "BOATING SAFETY CERTIFICATE" MEANS A DOCUMENT ISSUED
14 UNDER THIS PART THAT CERTIFIES THAT THE INDIVIDUAL NAMED IN THE
15 CERTIFICATE HAS SUCCESSFULLY COMPLETED A BOATING SAFETY COURSE.

16 (F) "BOATING SAFETY COURSE" MEANS A COURSE APPROVED BY THE
17 DEPARTMENT THAT PROVIDES INSTRUCTION ON THE SAFE OPERATION OF A
18 VESSEL AND THAT MEETS OR EXCEEDS THE GUIDELINES ESTABLISHED BY
19 THE NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS
20 (OCTOBER, 1996).

21 (G) ~~(e)~~ "Controlled substance" means that term as defined
22 in section 7104 of the public health code, ~~Act No. 368 of the~~
23 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
24 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

25 (H) ~~(f)~~ "Conviction" means a final conviction, the payment
26 of a fine, a plea of guilty or nolo contendere if accepted by the
27 court, a finding of guilt, or a [probate FAMILY DIVISION OF CIRCUIT]
court disposition on a

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1 violation of this part, regardless of whether the penalty is
2 rebated or suspended.

3 Sec. 80102. As used in this part:

4 (a) "Dealer" means a person and an authorized representative
5 of that person who annually purchases from a manufacturer, or who
6 is engaged in selling or manufacturing, 6 or more vessels that
7 require certificates of number under this part.

8 (b) "Identification document" means any of the following:

9 (i) A valid Michigan operator's or chauffeur's license.

10 (ii) A valid driver's or chauffeur's license issued by an
11 agency, department, or bureau of the United States or another
12 state.

13 (iii) An official identification card issued by an agency,
14 department, or bureau of the United States, this state, or
15 another state.

16 (iv) An official identification card issued by a political
17 subdivision of this state or another state.

18 (c) "Issuing authority" means the United States coast guard
19 or a state that has a numbering system approved by the United
20 States coast guard.

21 (d) "Law of another state" means a law or ordinance enacted
22 by another state or by a local unit of government in another
23 state.

24 (e) "Lifeboat" means a small boat designated and used solely
25 for lifesaving purposes, and does not include a dinghy, tender,
26 speedboat, or other type of craft that is not carried aboard a
27 vessel for lifesaving purposes.

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1 (f) "Long-term incapacitating injury" means an injury that
2 causes serious impairment of a body function.

3 (G) "RESIDENCY" MEANS AN INDIVIDUAL HAS A SETTLED OR PER-
4 MANENT HOME OR DOMICILE WITHIN THIS STATE AND INTENDS TO REMAIN
5 IN THIS STATE.

6 SEC. 80109A. NOTWITHSTANDING ANY RULE PROMULGATED UNDER
7 THIS ACT, A VESSEL LESS THAN 40 FEET IN LENGTH IS NOT REQUIRED TO
8 BE EQUIPPED WITH A FOG BELL.

9 Sec. 80140. (1) In order to protect the public interest in
10 the prudent and equitable use of the waters of this state and to
11 enhance the enjoyment of pleasure boating and other recreational
12 water sports on the waters of the state, the department shall
13 establish and pursue comprehensive educational programs designed
14 to advance boating and general water safety.

15 (2) The department shall ~~put into effect~~ ESTABLISH a pro-
16 gram to train ~~youthful~~ CERTAIN boat operators and shall issue a
17 boating safety certificate to those who satisfactorily complete
18 the program. For the purpose of ~~giving~~ PROVIDING the courses
19 of instruction and awarding boating safety certificates, the
20 department may designate as its agent any person it considers
21 qualified to act in this capacity. A ~~charge~~ FEE shall not be
22 ~~made~~ CHARGED for any instruction given or for the award of
23 boating safety certificates TO INDIVIDUALS WHO ARE LESS THAN 17
24 YEARS OF AGE.

25 (3) AS USED IN THIS SECTION AND SECTIONS 80140C AND 80140D,
26 "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
27 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

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1 SEC. 80140A. (1) EXCEPT AS PROVIDED IN SECTIONS 80140F AND
2 80141, BEGINNING JANUARY 1, 1999, AN INDIVIDUAL BORN ON OR AFTER
3 JANUARY 1, 1979 SHALL NOT OPERATE A VESSEL UPON THE WATERS OF
4 THIS STATE UNLESS THAT INDIVIDUAL HAS IN HIS OR HER IMMEDIATE
5 POSSESSION A BOATING SAFETY CERTIFICATE ISSUED IN ACCORDANCE WITH
6 THIS PART.

7 (2) THE DEPARTMENT SHALL ISSUE A BOATING SAFETY CERTIFICATE
8 TO AN INDIVIDUAL AFTER THE INDIVIDUAL HAS DONE 1 OF THE
9 FOLLOWING:

10 (A) SUCCESSFULLY COMPLETES A DEPARTMENT APPROVED BOATING
11 SAFETY COURSE AND PASSES AN EXAMINATION THAT IS ADMINISTERED IN
12 PERSON AND PROCTORED BY THE DEPARTMENT OR AN AGENT OF THE
13 DEPARTMENT.

14 (B) UNTIL DECEMBER 31, 2001, ESTABLISHES RESIDENCY IN THIS
15 STATE AND PRESENTS TO THE DEPARTMENT A VALID BOAT OPERATOR'S
16 LICENSE OR CERTIFICATE FROM ANOTHER STATE.

17 (3) A BOATING SAFETY CERTIFICATE ISSUED UNDER THIS PART IS
18 VALID FOR THE LIFE OF THE INDIVIDUAL WHO EARNED THE CERTIFICATE.

19 (4) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
20 THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER THE
21 NUMBER OF EXAMINATIONS THAT ARE ADMINISTERED OR PROCTORED UNDER
22 THIS SECTION WHEN CALCULATING THE STATE AID TO COUNTIES UNDER
23 SECTION 80117.

24 SEC. 80140B. (1) A PERSON APPROVED BY THE DEPARTMENT UNDER
25 SECTION 80140(2) MAY OFFER A BOATING SAFETY COURSE THAT IS
26 APPROVED BY THE DEPARTMENT. SUBJECT TO SECTION 80140C, THE
27 COURSE MAY BE A HOME STUDY COURSE.

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1 (2) AN INDIVIDUAL WHO IS 17 YEARS OF AGE OR OLDER MAY BE
2 CHARGED A FEE FOR THE INSTRUCTION OR MATERIALS RECEIVED DURING A
3 BOATING SAFETY COURSE.

4 (3) A PERSON SHALL NOT ISSUE A BOATING SAFETY CERTIFICATE
5 BASED ON THE COMPLETION OF A HOME STUDY COURSE TO AN INDIVIDUAL
6 WHO IS LESS THAN 17 YEARS OF AGE.

7 SEC. 80140C. A PERSON WHO IS APPROVED BY THE DEPARTMENT
8 UNDER SECTION 80140(2) MAY OFFER A VIDEO OR HOME STUDY BOATING
9 SAFETY COURSE THAT IS APPROVED BY THE DEPARTMENT.

10 SEC. 80140D. (1) EXCEPT AS PROVIDED IN SECTION 80140B(3), A
11 PERSON WHO OFFERS A BOATING SAFETY COURSE UNDER THIS PART SHALL
12 PROVIDE A BOATING SAFETY CERTIFICATE TO EACH INDIVIDUAL WHO SUC-
13 CESSFULLY COMPLETES THE COURSE.

14 (2) UNTIL DECEMBER 31, 2001, THE DEPARTMENT SHALL ISSUE A
15 BOATING SAFETY CERTIFICATE TO A PERSON WHO ESTABLISHES RESIDENCY
16 IN THIS STATE AND WHO PRESENTS TO THE DEPARTMENT A VALID BOAT
17 OPERATOR'S LICENSE OR CERTIFICATE FROM ANOTHER STATE.

18 SEC. 80140E. (1) EXCEPT AS PROVIDED IN SECTIONS 80140F AND
19 80141, BEGINNING JANUARY 1, 1999, AN INDIVIDUAL BORN ON OR AFTER
20 JANUARY 1, 1979 WHO OPERATES A VESSEL ON THE WATERS OF THIS STATE
21 SHALL DISPLAY HIS OR HER BOATING SAFETY CERTIFICATE UPON THE
22 DEMAND OF ANY PEACE OFFICER WHO IDENTIFIES HIMSELF OR HERSELF AS
23 A PEACE OFFICER.

24 (2) A PEACE OFFICER SHALL NOT STOP A VESSEL SOLELY FOR THE
25 PURPOSE OF DETERMINING WHETHER THE OPERATOR HAS IN HIS OR HER
26 POSSESSION A BOATING SAFETY CERTIFICATE.

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1 Sec. 80141. (1) Except as otherwise provided in
2 ~~subsection (4)~~ THIS PART, a person less than ~~12~~ 14 years of
3 age shall not operate a motorboat on the waters of this state
4 unless all of the following conditions are met:

5 (A) HE OR SHE IS IN POSSESSION OF A BOATING SAFETY CERTIFI-
6 CATE ISSUED IN ACCORDANCE WITH SECTION 80140D.

7 (B) ~~(a)~~ He or she is under the direct supervision of a
8 person on board the motorboat who is 16 years of age or older AND
9 WHO IS IN POSSESSION OF A BOATING SAFETY CERTIFICATE ISSUED IN
10 ACCORDANCE WITH SECTION 80140D.

11 (C) ~~(b)~~ The motorboat he or she operates is powered by a
12 motor or motors totaling no more than 35 horsepower.

13 (2) Except as otherwise provided in subsection (4), a person
14 ~~12~~ 14 through ~~15~~ 17 years of age may operate a motorboat on
15 the waters of this state only if that person ~~complies with~~
16 ~~either of the following: (a) He or she is accompanied by at~~
17 ~~least 1 person 16 years of age or older. (b) He or she is in~~
18 possession of a boating safety certificate issued after he or she
19 has satisfactorily completed a department approved ~~course in~~
20 boating safety COURSE.

21 (3) A person ~~12~~ 14 through ~~15~~ 17 years of age operating
22 a motorboat pursuant to subsection ~~(2)(b)~~ (2) shall present the
23 boating safety certificate issued to him or her upon the demand
24 of any peace officer.

25 (4) This section does not apply to the operation of a motor-
26 boat that is powered by a motor or motors totaling no more than 6
27 horsepower.

[Sec. 80142. (1) Except as provided in subsection (3), a
person shall not operate a vessel on the waters of this state unless
each person in an open deck area on board the vessel who is less than
6- 12 years of age is wearing a type I or type II personal flotation
device as described in R 281.1234 of the Michigan administrative code.

(2) A parent or guardian of a child less than ~~6~~ 12 years of
age who accompanies that child on board a vessel that is not a charter
boat described in subsection (3) shall ensure that the child is wearing
a personal flotation device that complies with this section.

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(3) This section does not apply to a charter boat bearing

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either of the following:

(a) A valid certificate of inspection issued by the United States coast guard that verifies the charter boat's compliance with subchapter H or subchapter T of the code of federal regulations, 46 C.F.R. 70.01-1 to 80.40 and 175.01-1 to 185.30-30.

(b) A valid certificate of inspection issued by the department for a class C vessel that is greater than 45 feet in length.

(4) As used in this section, "charter boat" and "class C vessel" mean those terms as defined in section 44501.

(5) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.]

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1 SEC. 80142A. (1) AN INDIVIDUAL SHALL NOT USE A VESSEL THAT
2 IS OF A TYPE OR CONFIGURATION NOT DEFINED UNDER R 281.1240 TO
3 R 281.1252 OF THE MICHIGAN ADMINISTRATIVE CODE ON THE WATERS OF
4 THIS STATE UNLESS AT LEAST 1 TYPE I, TYPE II, TYPE III, OR TYPE
5 IV PERSONAL FLOTATION DEVISE AS DESCRIBED IN R 281.1234 OF THE
6 MICHIGAN ADMINISTRATIVE CODE IS ON BOARD THE VESSEL FOR EACH
7 PERSON WHO IS USING THE VESSEL.

8 (2) AN INDIVIDUAL WHO IS OPERATING A VESSEL SHALL NOT PERMIT
9 AN INDIVIDUAL WHO IS LESS THAN 12 YEARS OF AGE TO TRAVEL ON BOARD
10 A VESSEL DESCRIBED IN SUBSECTION (1) ON THE WATERS OF THIS STATE
11 UNLESS THE INDIVIDUAL WHO IS LESS THAN 12 YEARS OF AGE IS WEARING
12 A TYPE I OR TYPE II FLOTATION DEVICE AS DESCRIBED IN R 281.1234
13 OF THE MICHIGAN ADMINISTRATIVE CODE.

14 Sec. 80146. (1) The department may promulgate rules to
15 establish maximum motorboat speed limits or to allow unlimited
16 motorboat speed on the waters of this state.

17 (2) On waters of this state for which a motorboat speed
18 limit is not established under subsection (1), on any waters for
19 which the department has not established an unlimited motorboat
20 speed limit, or on any waters for which stricter speed restric-
21 tions are not established pursuant to an act, a maximum speed
22 limit of 55 miles per hour is established, except in an emergency
23 and except for ~~authorized~~ peace ~~and conservation~~ officers
24 when engaged in official duties. The maximum speed limit of 55
25 miles per hour shall not apply to the Great Lakes and Lake
26 St. Clair, except for an area within 1 mile of the shoreline
27 measured at a right angle from the shoreline. Upon receipt of a

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1 resolution by the governing body of a local unit of government
2 having jurisdiction over waters of this state requesting a reduc-
3 tion in the maximum speed limit on those waters, the department,
4 pursuant to sections 80108 to 80113, may establish a maximum
5 speed limit not to exceed 40 miles per hour on those waters.

6 (3) ~~A person~~ AN INDIVIDUAL shall not operate a motorboat
7 on the waters of this state at a speed greater than slow--no wake
8 speed or the minimum speed necessary for the motorboat to main-
9 tain forward movement when within 100 feet of the shoreline where
10 the water depth is less than 3 feet, as determined by vertical
11 measurement, except in navigable channels not otherwise posted.

12 (4) A person operating a motorboat in violation of this sec-
13 tion is guilty of reckless operation of a motorboat punishable as
14 provided in section 80171.

15 (5) The department may waive this section and section 80156
16 for marine events authorized by the department under section
17 80164.