

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 865

A bill to amend 1998 PA 116, entitled
"Personal watercraft safety act,"
(MCL 281.1401 to 281.1445) by adding sections 5, 15, 17, 27, 35,
37, 39, 41, and 43; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5. (1) THIS ACT APPLIES TO PERSONAL WATERCRAFT AND
2 ASSOCIATED EQUIPMENT USED ON THE WATERS OF THIS STATE.

3 (2) EXCEPT WHERE EXPRESSLY INDICATED OTHERWISE, THIS ACT
4 DOES NOT APPLY TO A PERSONAL WATERCRAFT THAT IS ALL OF THE
5 FOLLOWING:

6 (A) OWNED BY A STATE OR POLITICAL SUBDIVISION OF A STATE
7 OTHER THAN THIS STATE AND ITS POLITICAL SUBDIVISIONS.

8 (B) USED PRINCIPALLY FOR GOVERNMENTAL PURPOSES.

9 (C) CLEARLY MARKED AND IDENTIFIABLE AS PERSONAL WATERCRAFT
10 THAT IS USED PRINCIPALLY FOR GOVERNMENTAL PURPOSES.

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1 SEC. 15. THE OWNER OF A PERSONAL WATERCRAFT IS LIABLE FOR
2 ANY INJURY OCCASIONED BY THE NEGLIGENT OPERATION OF THE PERSONAL
3 WATERCRAFT, WHETHER THE NEGLIGENCE CONSISTS OF A VIOLATION OF THE
4 STATUTES OF THIS STATE, OR IN THE FAILURE TO OBSERVE THE ORDINARY
5 CARE IN THE OPERATION THAT THE RULES OF THE COMMON LAW REQUIRE.
6 THE OWNER IS NOT LIABLE UNLESS THE PERSONAL WATERCRAFT IS BEING
7 USED WITH HIS OR HER EXPRESSED OR IMPLIED CONSENT. IT SHALL BE
8 REBUTTABLY PRESUMED THAT THE PERSONAL WATERCRAFT IS BEING OPER-
9 ATED WITH THE KNOWLEDGE AND CONSENT OF THE OWNER IF IT IS DRIVEN
10 AT THE TIME OF THE INJURY BY HIS OR HER SON, DAUGHTER, SPOUSE,
11 FATHER, MOTHER, BROTHER, SISTER, OR OTHER IMMEDIATE MEMBER OF THE
12 OWNER'S FAMILY.

13 SEC. 17. (1) IF A PERSON CARELESSLY AND HEEDLESSLY OPERATES
14 A PERSONAL WATERCRAFT UPON THE WATERS OF THIS STATE IN DISREGARD
15 OF THE RIGHTS OR SAFETY OF OTHERS, WITHOUT DUE CAUTION AND CIR-
16 CUMSPECTION, OR AT A RATE OF SPEED OR IN A MANNER THAT ENDANGERS
17 OR IS LIKELY TO ENDANGER A PERSON OR PROPERTY, THAT PERSON IS
18 GUILTY OF RECKLESS OPERATION OF A PERSONAL WATERCRAFT AND IS
19 SUBJECT TO THE PENALTIES DESCRIBED IN SUBSECTION (2) OR (3), OR
20 BOTH, AS APPLICABLE.

21 (2) UPON A PERSON'S CONVICTION UNDER THIS SECTION, THE COURT
22 MAY ISSUE AN ORDER PROHIBITING THE PERSON FROM OPERATING A PER-
23 SONAL WATERCRAFT ON THE WATERS OF THIS STATE FOR A PERIOD OF NOT
24 MORE THAN 2 YEARS AND SHALL ORDER THE PERSON TO PARTICIPATE IN
25 AND COMPLETE A BOATING SAFETY COURSE. AN ORDER ISSUED PURSUANT
26 TO THIS SUBSECTION IS IN ADDITION TO ANY OTHER PENALTY AUTHORIZED
27 UNDER SECTION 39 OR SUBSECTION (3).

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1 (3) A PERSON WHO VIOLATES THIS SECTION TWICE WITHIN A 3-YEAR
2 PERIOD IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
3 NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$1,000.00, OR
4 BOTH. A PERSON WHO VIOLATES THIS SECTION 3 OR MORE TIMES WITHIN
5 A 5-YEAR PERIOD IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRIS-
6 ONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN
7 \$2,000.00, OR BOTH. UPON A PERSON'S SECOND OR SUBSEQUENT CONVIC-
8 TION UNDER THIS SECTION, THE COURT MAY ISSUE AN ORDER IMPOUNDING
9 THE PERSONAL WATERCRAFT THAT THE PERSON WAS OPERATING AT THE TIME
10 THE PERSON VIOLATED SUBSECTION (1) FOR A PERIOD OF NOT MORE THAN
11 1 YEAR, IF EITHER OF THE FOLLOWING CONDITIONS EXISTS:

12 (A) THE PERSON IS AN OWNER OF THE PERSONAL WATERCRAFT.

13 (B) THE PERSON IS THE MINOR CHILD OF AN OWNER OF THE PER-
14 SONAL WATERCRAFT.

15 (4) THE COST OF STORAGE FOR AN IMPOUNDMENT ORDERED UNDER
16 SUBSECTION (3) SHALL BE PAID BY THE OWNER OF THE PERSONAL
17 WATERCRAFT.

18 SEC. 27. (1) AN INDIVIDUAL WHO IS REQUIRED TO COMPLETE A
19 BOATING SAFETY COURSE UNDER THIS ACT AND WHO OPERATES A PERSONAL
20 WATERCRAFT ON THE WATERS OF THIS STATE SHALL DISPLAY HIS OR HER
21 BOATING SAFETY CERTIFICATE UPON THE DEMAND OF A PEACE OFFICER WHO
22 IDENTIFIES HIMSELF OR HERSELF AS A PEACE OFFICER.

23 (2) A PERSON SHALL DISPLAY ONLY HIS OR HER OWN BOATING
24 SAFETY CERTIFICATE UPON THE DEMAND OF A PEACE OFFICER UNDER SUB-
25 SECTION (1).

26 (3) A PERSON SHALL NOT DISPLAY A FRAUDULENT BOATING SAFETY
27 CERTIFICATE TO A PEACE OFFICER UNDER SUBSECTION (1).

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Sub. S.B. 865 (H-2) as amended June 24, 1998

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1 (4) A PEACE OFFICER SHALL NOT STOP A PERSONAL WATERCRAFT
2 SOLELY FOR THE PURPOSE OF DETERMINING WHETHER THE OPERATOR HAS IN
3 HIS OR HER POSSESSION A BOATING SAFETY CERTIFICATE.

4 SEC. 35. (1) A DEALER OF A NEW OR USED PERSONAL WATERCRAFT
5 SHALL ADVISE EACH PERSON WHO BUYS A PERSONAL WATERCRAFT FROM THE
6 DEALER OF THE SOURCES OF BOATING SAFETY COURSES IN THE AREA.

7 (2) A DEALER WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
8 STATE CIVIL INFRACTION AND [SHALL BE ORDERED TO PAY] A CIVIL FINE IN
THE
9 AMOUNT OF \$100.00.

10 SEC. 37. (1) THE DEPARTMENT SHALL CREATE AND MAKE AVAILABLE
11 TO DEALERS OF PERSONAL WATERCRAFT BOTH OF THE FOLLOWING:

12 (A) A DOCUMENT THAT SUMMARIZES THE LAWS THAT PERTAIN EXCLU-
13 SIVELY TO PERSONAL WATERCRAFT.

14 (B) A DOCUMENT THAT SUMMARIZES THE SAFETY FEATURES OF PER-
15 SONAL WATERCRAFT. THIS DOCUMENT MAY BE A GENERIC DOCUMENT AND
16 SHALL NOT REPRESENT THE SAFETY FEATURES OF A PARTICULAR STYLE OR
17 BRAND OF PERSONAL WATERCRAFT.

18 (2) A DEALER SHALL PROVIDE A COPY OF EACH OF THE DOCUMENTS
19 DESCRIBED IN SUBSECTION (1) TO EACH PERSON WHO BUYS A PERSONAL
20 WATERCRAFT FROM THE DEALER. A DEALER WHO VIOLATES THIS SUBSEC-
21 TION IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND [SHALL BE
22 ORDERED TO PAY] A CIVIL FINE IN THE AMOUNT OF \$100.00.

23 SEC. 39. UNLESS OTHERWISE SPECIFIED IN THIS ACT, A PERSON
24 WHO VIOLATES THIS ACT IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY
25 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN
26 \$100.00, OR BOTH. IN ADDITION, A PERSON WHO VIOLATES THIS ACT

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1 MAY BE REQUIRED TO PARTICIPATE IN AND COMPLETE A BOATING SAFETY
2 COURSE.

3 SEC. 41. (1) NOT LATER THAN APRIL 30, 2000, THE SECRETARY
4 OF STATE SHALL BEGIN TRACKING INDIVIDUAL OFFENSES OF THIS ACT.

5 (2) IN ORDER TO ACCOMPLISH THE TRACKING REQUIREMENT
6 DESCRIBED IN SUBSECTION (1), THE SECRETARY OF STATE SHALL DO BOTH
7 OF THE FOLLOWING:

8 (A) PURSUE AND IMPLEMENT A COMPREHENSIVE TECHNOLOGY SYSTEM.

9 (B) WORK COOPERATIVELY WITH THE APPROPRIATE DEPARTMENTS OF
10 THIS STATE.

11 SEC. 43. PEACE OFFICERS SHALL ENFORCE THIS ACT. IF A
12 PERSON HAS RECEIVED A CITATION FOR A VIOLATION OF A CERTIFICATION
13 REQUIREMENT PRESCRIBED IN SECTION 21, 27, 31, OR 33, THE COURT
14 SHALL WAIVE ANY FINE AND COSTS UPON RECEIPT, NOT MORE THAN 10
15 DAYS AFTER THE CITATION IS ISSUED, OF PROOF OF CERTIFICATION BY A
16 LAW ENFORCEMENT AGENCY THAT THE PERSON, BEFORE THE APPEARANCE
17 DATE ON THE CITATION, PRODUCED A VALID BOATING SAFETY CERTIFICATE
18 OR OTHER CERTIFICATION DESCRIBED IN SECTION 33, AS APPLICABLE,
19 THAT WAS VALID ON THE DATE THE VIOLATION OCCURRED.

20 Enacting section 1. Section 80143 of the natural resources
21 and environmental protection act, 1994 PA 451, MCL 324.80143, is
22 repealed.

23 Enacting section 2. This act does not take effect unless
24 Senate Bill No. 897 of the 89th Legislature is enacted into law.