

SUBSTITUTE FOR
SENATE BILL NO. 865

A bill to promote the safe use of personal watercraft on the waters of this state; to provide for rules relative to the operation of personal watercraft; to impose certain safety requirements on operators of personal watercraft; to prescribe the duties and responsibilities of owners, operators, and dealers of personal watercraft; to prescribe the powers and duties of certain state departments; to provide for penalties; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "personal watercraft safety act".

3 Sec. 3. As used in this act:

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

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

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

10 (b) "Boat livery" means that term as defined in section
11 44501 of the natural resources and environmental protection act,
12 1994 PA 451, MCL 324.44501.

13 (c) "Boating safety certificate" means either of the
14 following:

15 (i) The document issued by the department under this act
16 that certifies that the individual named in the document has suc-
17 cessfully completed a boating safety course and passed an exami-
18 nation approved and administered as required under section 23.

19 (ii) A written rental agreement provided to an individual
20 named in the rental agreement entered into under section 44522 of
21 the natural resources and environmental protection act, 1994 PA
22 451, MCL 324.44522, only on the date or dates indicated on the
23 rental agreement while the named individual is operating a per-
24 sonal watercraft leased, hired, or rented from a boat livery.

25 (d) "Boating safety course" means a course that meets both
26 of the following requirements:

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1 (i) Provides instruction on the safe operation of a personal
2 watercraft that meets or exceeds the minimum course content for
3 boating or personal watercraft education established by the
4 national association of state boating law administrators educa-
5 tion committee (October 1996).

6 (ii) Is approved by the department.

7 (e) "Dealer" means a person or an authorized representative
8 of that person who annually purchases from a manufacturer, or who
9 is engaged in selling or manufacturing, 6 or more personal water-
10 craft that require certificates of number under part 801 of the
11 natural resources and environmental protection act, 1994 PA 451,
12 MCL 324.80101 to 324.80199.

13 (f) "Department" means the department of natural resources.

14 (g) "Director" means the director of the department of natu-
15 ral resources.

16 (h) "Manufacturer" means a person engaged in any of the
17 following:

18 (i) The manufacture, construction, or assembly of personal
19 watercraft or associated equipment.

20 (ii) The manufacture or construction of components for per-
21 sonal watercraft and associated equipment to be sold for subse-
22 quent assembly.

23 (iii) The importation of a personal watercraft or associated
24 equipment into the state for sale.

25 (i) "Marine safety fund" means the fund created under sec-
26 tion 80115 of the natural resources and environmental protection
27 act, 1994 PA 451, MCL 324.80115.

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1 (j) "Operate" means to be in control of a personal
2 watercraft while the personal watercraft is under way and is not
3 docked or at anchor or secured in another way.

4 (k) "Operator" means the person who is in control or in
5 charge of a personal watercraft while that vessel is under way.

6 (l) "Owner" means a person who claims or is entitled to
7 lawful possession of a personal watercraft by virtue of that
8 person's legal title or equitable interest in a personal
9 watercraft.

10 (m) "Peace officer" means 1 or both of the following:

11 (i) A law enforcement officer as that term is defined in
12 section 2 of the Michigan law enforcement officers training coun-
13 cil act, 1965 PA 203, MCL 28.602.

14 (ii) A deputy sheriff who is sworn to enforce water safety
15 laws, ordinances, or regulations in this state.

16 (n) "Person" means an individual, corporation, limited
17 liability company, partnership, association, governmental entity,
18 or other legal entity.

19 (o) "Personal watercraft" means a vessel that meets all of
20 the following requirements:

21 (i) Uses a motor-driven propeller or an internal combustion
22 engine powering a water jet pump as its primary source of
23 propulsion.

24 (ii) Is designed without an open load carrying area that
25 would retain water.

26 (iii) Is designed to be operated by 1 or more persons
27 positioned on, rather than within, the confines of the hull.

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1 (p) "Political subdivision" means a county, metropolitan
2 authority, municipality, or combination of those entities in this
3 state.

4 (q) "Slow--no wake speed" means the use of a vessel at a
5 very slow speed so that the resulting wake or wash is minimal.

6 (r) "Use" means operate, navigate, or employ.

7 (s) "Vessel" means every description of watercraft used or
8 capable of being used as a means of transportation on water.

9 (t) "Waters of this state" means any waters within the ter-
10 ritorial limits of this state, and includes those waters of the
11 Great Lakes that are under the jurisdiction of this state.

12 Sec. 5. (1) This act applies to personal watercraft and
13 associated equipment used on the waters of this state.

14 (2) Except where expressly indicated otherwise, this act
15 does not apply to a personal watercraft that is all of the
16 following:

17 (a) Owned by a state or political subdivision of a state
18 other than this state and its political subdivisions.

19 (b) Used principally for governmental purposes.

20 (c) Clearly marked and identifiable as personal watercraft
21 that is used principally for governmental purposes.

22 Sec. 7. Except as otherwise provided in this act, the
23 department is responsible for the administration of this act.

24 Sec. 9. The department shall promulgate rules authorized by
25 this act under the administrative procedures act of 1969, 1969 PA
26 306, MCL 24.201 to 24.328. The department shall publish the
27 approved rules in a convenient form.

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1 Sec. 11. (1) A person shall not operate a personal
2 watercraft on the waters of this state unless each person riding
3 on or being towed behind the personal watercraft is wearing a
4 type I, type II, or type III personal flotation device as
5 described in R 281.1234 of the Michigan administrative code.

6 (2) While operating a personal watercraft equipped by the
7 manufacturer with a lanyard-type engine cutoff switch on the
8 waters of this state, a person shall have the lanyard attached to
9 his or her person, clothing, or personal flotation device as is
10 appropriate for the personal watercraft.

11 (3) A person shall not operate a personal watercraft on the
12 waters of this state during the period that begins 1 hour before
13 sunset and ends 1 hour after sunrise. As used in this subsec-
14 tion, "sunset" and "sunrise" mean those times as determined by
15 the national weather service.

16 (4) A person operating a personal watercraft on the waters
17 of this state shall not cross within 150 feet behind another
18 vessel, unless the person is operating the personal watercraft at
19 slow--no wake speed.

20 (5) A person shall operate a personal watercraft in a rea-
21 sonable and prudent manner. A maneuver that unreasonably or
22 unnecessarily endangers life, limb, or property, including but
23 not limited to all of the following, constitutes reckless opera-
24 tion of a personal watercraft under section 15:

25 (a) Weaving through congested vessel traffic.

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1 (b) Jumping the wake of another vessel unreasonably or
2 unnecessarily close to the other vessel or when visibility around
3 the other vessel is obstructed.

4 (c) Swerving at the last possible moment to avoid a
5 collision.

6 (6) A person shall not operate a personal watercraft on the
7 waters of this state carrying more persons than the personal
8 watercraft is designed to carry.

9 (7) A violation of subsection (6) is prima facie evidence of
10 reckless operation of a watercraft under section 15.

11 (8) A person operating a personal watercraft in excess of
12 the speeds established under part 801 of the natural resources
13 and environmental protection act, 1994 PA 451, MCL 324.80101 to
14 324.80199, is guilty of reckless operation of a personal water-
15 craft under section 15.

16 (9) This section does not apply to a performer engaged in a
17 professional exhibition or a person preparing to participate or
18 participating in a regatta, race, marine parade, tournament, or
19 exhibition held in compliance with section 80164 of the natural
20 resources and environmental protection act, 1994 PA 451, MCL
21 324.80164, under a permit issued by the department and at the
22 time and place specified in the permit.

23 Sec. 13. The owner of a personal watercraft is liable for
24 any injury occasioned by the negligent operation of the personal
25 watercraft, whether the negligence consists of a violation of the
26 statutes of this state, or in the failure to observe the ordinary
27 care in the operation that the rules of the common law require.

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1 The owner is not liable unless the personal watercraft is being
2 used with his or her expressed or implied consent. It shall be
3 rebuttably presumed that the personal watercraft is being oper-
4 ated with the knowledge and consent of the owner if it is driven
5 at the time of the injury by his or her son, daughter, spouse,
6 father, mother, brother, sister, or other immediate member of the
7 owner's family.

8 Sec. 15. (1) If a person carelessly and heedlessly operates
9 a personal watercraft upon the waters of this state in disregard
10 of the rights or safety of others, without due caution and cir-
11 cumspection, or at a rate of speed or in a manner that endangers
12 or is likely to endanger a person or property, that person is
13 guilty of reckless operation of a personal watercraft and is
14 subject to the penalties described in subsection (2) or (3), or
15 both, as applicable.

16 (2) Upon a person's conviction under this section, the court
17 may issue an order prohibiting the person from operating a per-
18 sonal watercraft on the waters of this state for a period of not
19 more than 2 years and shall order the person to participate in
20 and complete a boating safety course. An order issued pursuant
21 to this subsection is in addition to any other penalty authorized
22 under section 37 or subsection (3).

23 (3) A person who violates this section twice within a 3-year
24 period is guilty of a misdemeanor punishable by imprisonment for
25 not more than 90 days or a fine of not more than \$1,000.00, or
26 both. A person who violates this section 3 or more times within
27 a 5-year period is guilty of a misdemeanor punishable by

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1 imprisonment for not more than 90 days or a fine of not more than
2 \$2,000.00, or both. Upon a person's second or subsequent conviction
under this section, the court may issue an order impounding the
personal watercraft that the person was operating at the time the
person violated subsection (1) for a period of not more than 1 year,
if either of the following conditions exists:

(a) The person is an owner of the personal watercraft.

(b) The person is the minor child of an owner of the personal
watercraft.

(4) The cost of storage for an impoundment ordered under
subsection (3) shall be paid by the owner of the personal
watercraft.

3 Sec. 17. (1) Except when traveling at slow--no wake speed,
4 a person who operates a personal watercraft on 1 of the Great
5 Lakes that is under the jurisdiction of this state shall maintain
6 a distance of 150 feet from the shoreline.

7 (2) Except as provided in subsection (4), a person who oper-
8 ates a personal watercraft or a person who is being towed by a
9 personal watercraft on a water sled, kite, surfboard, parachute,
10 tube, water ski, or similar equipment on the waters of this state
11 shall maintain a distance of not less than 100 feet from a dock,
12 raft, or buoyed or occupied bathing or swimming area, a person in
13 the water or on the water in a personal flotation device, or a
14 vessel moored, anchored, drifting, or sitting in dead water.

15 (3) Except as provided in subsection (4), a person who oper-
16 ates a personal watercraft or a person who is being towed by a
17 personal watercraft on a water sled, kite, surfboard, parachute,
18 tube, water ski, or similar equipment on the waters of this state
19 shall maintain a distance of not less than 200 feet from a sub-
20 merged diver, vessel engaged in underwater diving activities, or
21 a flotation device displaying the international diving insignia.

22 (4) Subsections (2) and (3) do not apply under either of the
23 following conditions:

24 (a) The personal watercraft being operated or the person
25 being towed is proceeding at a slow--no wake speed or the opera-
26 tor of the personal watercraft is picking up or dropping off a
27 water skier.

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1 (b) The personal watercraft being operated or the person
2 being towed is in navigable channels not otherwise posted.

3 Sec. 19. An individual who is required to complete a boat-
4 ing safety course under this act shall not operate a personal
5 watercraft upon the waters of this state unless that individual
6 has in his or her immediate possession a boating safety
7 certificate.

8 Sec. 21. (1) In order to protect the public interest in the
9 prudent and equitable use of the waters of this state and to
10 enhance the enjoyment of pleasure boating and other recreational
11 water sports on the waters of this state, the department shall
12 establish and pursue comprehensive educational programs designed
13 to advance boating safety.

14 (2) The department shall put into effect a program to train
15 boat operators and shall issue a boating safety certificate to
16 those who satisfactorily complete the program. For the purpose
17 of giving the courses of instruction and awarding boating safety
18 certificates, the department may designate as its agent any
19 person it considers qualified to act in this capacity. A charge
20 shall not be made for any instruction given or for the award of
21 boating safety certificates.

22 Sec. 23. (1) The department shall issue a boating safety
23 certificate to each individual who successfully completes a boat-
24 ing safety course as described in section 21 and passes an
25 examination. The examination shall be administered in person and
26 proctored by the department or an agent of the department.

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1 (2) The department shall not issue a boating safety
2 certificate to an individual unless the individual has
3 successfully completed a boating safety course and passed an
4 examination as described in subsection (1). A boating safety
5 certificate issued under this section is valid, unless revoked,
6 for the life of the person who earned the certificate.

7 (3) Beginning on the effective date of this act, the depart-
8 ment shall consider the number of examinations that are adminis-
9 tered or proctored under this section when calculating the state
10 aid to counties under section 80117 of the natural resources and
11 environmental protection act, 1994 PA 451, MCL 324.80117.

12 Sec. 25. (1) An individual who is required to complete a
13 boating safety course under this act and who operates a personal
14 watercraft on the waters of this state shall display his or her
15 boating safety certificate upon the demand of a peace officer who
16 identifies himself or herself as a peace officer.

17 (2) A person shall display only his or her own boating
18 safety certificate upon the demand of a peace officer under sub-
19 section (1).

20 (3) A person shall not display a fraudulent boating safety
21 certificate to a peace officer under subsection (1).

22 (4) A peace officer shall not stop a personal watercraft
23 solely for the purpose of determining whether the operator has in
24 his or her possession a boating safety certificate.

25 Sec. 27. The director may by written authorization modify
26 or suspend the boating safety certificate requirements under this
27 act if the modification or suspension of those certificate

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1 requirements is for individuals engaged in a marine event
2 authorized by the director or for which the director receives a
3 copy of a United States coast guard authorization.

4 Sec. 29. (1) Except as provided in subsection (2), a person
5 under the age of 16 shall not use a personal watercraft on the
6 waters of this state.

7 (2) A person who is 12 or more and less than 16 years of age
8 may use a personal watercraft on the waters on this state if
9 before the effective date of this act he or she obtained a boat-
10 ing safety certificate.

11 (3) A person who was born after December 31, 1978 shall not
12 operate a personal watercraft upon the waters of this state
13 unless he or she first obtains a boating safety certificate.

14 (4) Not more than 5 years after this act takes effect, the
15 graduated age provisions of this section shall be reviewed by the
16 appropriate committee of both houses of the legislature to ascer-
17 tain the effect, if any, these provisions have had upon the safe
18 operation of personal watercraft upon the waters of this state.

19 (5) The owner of a personal watercraft or a person having
20 charge over or control of a personal watercraft shall not autho-
21 rize or knowingly permit the personal watercraft to be operated
22 in violation of this section.

23 (6) This section does not apply to a performer engaged in a
24 professional exhibition or a person preparing to participate or
25 participating in a regatta, race, marine parade, tournament, or
26 exhibition held in compliance with section 80164 of the natural
27 resources and environmental protection act, 1994 PA 451, MCL

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1 324.80164, under a permit issued by the department and at the
2 time and place specified in the permit.

3 Sec. 31. (1) Except as provided in subsection (2), the cer-
4 tification requirements prescribed in sections 19 and 29 do not
5 apply to a person who is not a resident of this state.

6 (2) Beginning 1 year after the effective date of this act, a
7 person who is not a resident of this state shall operate a per-
8 sonal watercraft on the waters of this state only if he or she
9 has 1 of the following in his or her possession:

10 (a) A boating safety certificate.

11 (b) A certificate issued by his or her state of residence
12 that reflects education and training that is substantially simi-
13 lar to the education and training required to obtain a boating
14 safety certificate under this act.

15 (c) A certificate showing that he or she has successfully
16 completed a course that meets the requirement prescribed in sec-
17 tion 3(d)(i).

18 Sec. 33. (1) A dealer of a new or used personal watercraft
19 shall advise each person who buys a personal watercraft from the
20 dealer of the sources of boating safety courses in the area.

21 (2) A dealer who violates this section is responsible for a
22 state civil infraction and is liable for a civil fine in the
23 amount of \$100.00.

24 Sec. 35. (1) The department shall create and make available
25 to dealers of personal watercraft both of the following:

26 (a) A document that summarizes the laws that pertain
27 exclusively to personal watercraft.

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1 (b) A document that summarizes the safety features of
2 personal watercraft. This document may be a generic document and
3 shall not represent the safety features of a particular style or
4 brand of personal watercraft.

5 (2) A dealer shall provide a copy of each of the documents
6 described in subsection (1) to each person who buys a personal
7 watercraft from the dealer. A dealer who violates this subsec-
8 tion is responsible for a state civil infraction and is liable
9 for a civil fine in the amount of \$100.00.

10 Sec. 37. Unless otherwise specified in this act, a person
11 who violates this act is guilty of a misdemeanor, punishable by
12 imprisonment for not more than 90 days or a fine of not more than
13 \$100.00, or both. In addition, a person who violates this act
14 may be required to participate in and complete a boating safety
15 course.

16 Sec. 39. (1) Not later than April 30, 2000, the secretary
17 of state shall begin tracking individual offenses of this act.

18 (2) In order to accomplish the tracking requirement
19 described in subsection (1), the secretary of state shall do both
20 of the following:

21 (a) Pursue and implement a comprehensive technology system.

22 (b) Work cooperatively with the appropriate departments of
23 this state.

24 Sec. 41. Peace officers shall enforce this act. If a
25 person has received a citation for a violation of a certification
26 requirement prescribed in section 19, 25, 29, or 31, the court
27 shall waive any fine and costs upon receipt, not more than 10

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1 days after the citation is issued, of proof of certification by a
2 law enforcement agency that the person, before the appearance
3 date on the citation, produced a valid boating safety certificate
4 or other certification described in section 31, as applicable,
5 that was valid on the date the violation occurred.

6 Sec. 43. Except as otherwise provided in this act, a per-
7 sonal watercraft operator shall comply with part 801 of the natu-
8 ral resources and environmental protection act, 1994 PA 451, MCL
9 324.80101 to 324.80199.

10 Enacting section 1. This act takes effect April 1, 1998.

11 Enacting section 2. Section 80143 of the natural resources
12 and environmental protection act, 1994 PA 451, MCL 324.80143, is
13 repealed.

14 Enacting section 3. This act does not take effect unless
15 both of the following bills of the 89th Legislature are enacted
16 into law:

17 (a) Senate Bill No. 830.

18 (b) Senate Bill No. 897.