

HOUSE BILL No. 4248

February 6, 1997, Introduced by Reps. Dalman, Middleton, Jellema, Bodem, McNutt, DeVuyst, Kukuk, Varga and Olshove and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 80101, 80140, 80141, 80143, and 80146 (MCL
324.80101, 324.80140, 324.80141, 324.80143, and 324.80146), as
added by 1995 PA 58, and by adding sections 80140a, 80140b,
80140c, 80140d, 80140e, 80140f, 80140g, 80140h, 80140i, 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:

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 OR
16 A BOATING SAFETY EQUIVALENCY EXAMINATION. A BOATING SAFETY CER-
17 TIFICATE IS VALID IF IT HAS BEEN VALIDATED PURSUANT TO
18 SECTION 307B OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
19 257.307B.

20 (F) "BOATING SAFETY COURSE" MEANS A COURSE APPROVED BY THE
21 DEPARTMENT THAT PROVIDES INSTRUCTION ON THE SAFE OPERATION OF A
22 VESSEL.

23 (G) "BOATING SAFETY IDENTIFICATION CARD" MEANS A DOCUMENT
24 ISSUED UNDER THIS PART THAT CERTIFIES THAT THE INDIVIDUAL NAMED
25 ON THE CARD HAS SUCCESSFULLY COMPLETED A BOATING SAFETY COURSE OR
26 A BOATING SAFETY EQUIVALENCY EXAMINATION.

1 (H) "BOATING SAFETY LICENSE STICKER" MEANS A STICKER ISSUED
2 BY THE SECRETARY OF STATE TO A PERSON WHO HAS SUCCESSFULLY
3 COMPLETED A BOATING SAFETY COURSE OR A BOATING SAFETY EQUIVALENCY
4 EXAMINATION.

5 (I) ~~(e)~~ "Controlled substance" means that term as defined
6 in section 7104 of the public health code, ~~Act No. 368 of the~~
7 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
8 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

9 (J) ~~(f)~~ "Conviction" means a final conviction, the payment
10 of a fine, a plea of guilty or nolo contendere if accepted by the
11 court, a finding of guilt, or a probate court disposition on a
12 violation of this part, regardless of whether the penalty is
13 rebated or suspended.

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

20 (2) The department shall ~~put into effect~~ ESTABLISH a pro-
21 gram to train ~~youthful~~ boat operators and shall issue a boating
22 safety certificate to those who satisfactorily complete the
23 program. For the purpose of ~~giving~~ PROVIDING the courses of
24 instruction and awarding boating safety certificates, the depart-
25 ment may designate as its agent any person it considers qualified
26 to act in this capacity. A ~~charge~~ FEE shall not be ~~made~~
27 CHARGED for any instruction given or for the award of boating

1 safety certificates TO INDIVIDUALS WHO ARE LESS THAN 17 YEARS OF
2 AGE.

3 SEC. 80140A. (1) EXCEPT AS PROVIDED IN THIS PART, AN INDI-
4 VIDUAL SHALL NOT OPERATE A VESSEL AS DEFINED IN SECTION 80104
5 UPON THE WATERS OF THIS STATE UNLESS THAT INDIVIDUAL HAS IN HIS
6 OR HER IMMEDIATE POSSESSION A BOATING SAFETY CERTIFICATE, IDENTI-
7 FICATION CARD, OR LICENSE STICKER ISSUED IN ACCORDANCE WITH THIS
8 PART.

9 (2) A PERSON SHALL NOT RECEIVE A BOATING SAFETY CERTIFICATE,
10 IDENTIFICATION CARD, OR LICENSE STICKER, UNLESS HE OR SHE HAS
11 SUCCESSFULLY COMPLETED A BOATING SAFETY COURSE OR A BOATING
12 SAFETY EQUIVALENCY EXAMINATION.

13 (3) A BOATING SAFETY CERTIFICATE, IDENTIFICATION CARD, OR
14 LICENSE STICKER IS VALID FOR THE LIFE OF THE PERSON WHO EARNED
15 THE CERTIFICATE, IDENTIFICATION CARD, OR LICENSE STICKER.

16 SEC. 80140B. THE FOLLOWING PERSONS AND VESSELS ARE EXEMPT
17 FROM THE REQUIREMENTS OF SECTION 80140A:

18 (A) A PERSON IN THE SERVICE OF THE ARMY, NAVY, OR MARINE
19 CORPS OF THE UNITED STATES WHO IS OPERATING AN OFFICIAL VESSEL OF
20 THE UNITED STATES. A PERSON WHO IS A CIVILIAN AND IN THE EMPLOY
21 OF THE ARMY, NAVY, OR MARINE CORPS OF THE UNITED STATES SHALL NOT
22 BE EXEMPT FROM THE REQUIREMENTS OF THIS PART.

23 (B) A PERSON WHO IS NOT A RESIDENT OF THIS STATE.

24 (C) A PERSON WHO HOLDS A VALID LICENSE TO OPERATE A CHARTER
25 BOAT UNDER PART 445.

1 (D) A RESIDENT OF THIS STATE WHO HOLDS A MICHIGAN BOATING
2 SAFETY CERTIFICATE ISSUED BY THE UNITED STATES COAST GUARD OR
3 POWER SQUADRON OR A COUNTY SHERIFF DEPARTMENT.

4 (E) A VESSEL THAT IS EXEMPT FROM REGISTRATION UNDER THIS
5 PART PURSUANT TO SECTION 80123.

6 SEC. 80140C. (1) ANY PERSON MAY OFFER A BOATING SAFETY
7 COURSE THAT IS APPROVED BY THE DEPARTMENT AND THAT COMPLIES WITH
8 THE RULES PROMULGATED BY THE DEPARTMENT.

9 (2) TO BE APPROVED BY THE DEPARTMENT, A BOATING SAFETY
10 COURSE SHALL MEET OR EXCEED THE GUIDELINES ESTABLISHED BY THE
11 NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS.

12 (3) AN INDIVIDUAL WHO IS 17 YEARS OF AGE OR OLDER SHALL BE
13 CHARGED THE PRICE OF THE MATERIALS FOR THE BOATING SAFETY COURSE
14 OR BOATING SAFETY EQUIVALENCY EXAMINATION.

15 (4) AN INDIVIDUAL WHO IS 17 YEARS OF AGE OR OLDER MAY BE
16 CHARGED FOR THE INSTRUCTION TIME RECEIVED DURING THE BOATING
17 SAFETY COURSE.

18 (5) AS USED IN THIS SECTION, "PERSON" MEANS AN INDIVIDUAL,
19 PARTNERSHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR
20 OTHER LEGAL ENTITY.

21 SEC. 80140D. (1) THE DEPARTMENT MAY OFFER A VIDEO OR HOME
22 STUDY BOATING SAFETY COURSE. AN INDIVIDUAL IS NOT CONSIDERED TO
23 HAVE SUCCESSFULLY COMPLETED A VIDEO OR HOME STUDY BOATING SAFETY
24 COURSE UNLESS HE OR SHE HAS ALSO SUCCESSFULLY COMPLETED A BOATING
25 SAFETY EQUIVALENCY EXAMINATION.

26 (2) THE DEPARTMENT MAY OFFER A BOATING SAFETY EQUIVALENCY
27 EXAMINATION THAT CAN BE TAKEN IN LIEU OF A BOATING SAFETY

1 COURSE. IF AN INDIVIDUAL SUCCESSFULLY COMPLETES A BOATING SAFETY
2 EQUIVALENCY EXAMINATION, HE OR SHE IS ENTITLED TO A BOATING
3 SAFETY CERTIFICATE OR IDENTIFICATION CARD.

4 SEC. 80140E. UPON SUCCESSFUL COMPLETION OF A DEPARTMENT
5 APPROVED BOATING SAFETY COURSE OR A BOATING SAFETY EQUIVALENCY
6 EXAMINATION, AN INDIVIDUAL SHALL RECEIVE FROM THE PERSON WHO
7 OFFERED THE COURSE OR EXAMINATION EITHER A BOATING SAFETY CERTIF-
8 ICATE OR IDENTIFICATION CARD.

9 SEC. 80140F. (1) AN INDIVIDUAL WHO OPERATES A VESSEL ON THE
10 WATERS OF THIS STATE SHALL DISPLAY HIS OR HER BOATING SAFETY CER-
11 TIFICATE OR IDENTIFICATION CARD OR LICENSE STICKER UPON THE
12 DEMAND OF ANY PEACE OFFICER WHO IDENTIFIES HIMSELF OR HERSELF AS
13 A PEACE OFFICER.

14 (2) A PEACE OFFICER SHALL NOT STOP A VESSEL SOLELY FOR THE
15 PURPOSE OF DETERMINING WHETHER THE OPERATOR HAS IN HIS OR HER
16 POSSESSION A BOATING SAFETY CERTIFICATE, IDENTIFICATION CARD, OR
17 LICENSE STICKER.

18 SEC. 80140G. THE PARENT OF A MINOR IS RESPONSIBLE FOR A
19 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF
20 NOT MORE THAN \$100.00 IF ALL OF THE FOLLOWING APPLY:

21 (A) THE PARENT HAS CUSTODY OF THE MINOR.

22 (B) THE MINOR VIOLATES THIS PART.

23 (C) THE PARENT KNEW THAT THE MINOR WOULD VIOLATE THIS PART
24 OR THE PARENT ACTS TO FURTHER THE VIOLATION.

25 SEC. 80140H. (1) THE DEPARTMENT SHALL PROMULGATE RULES PUR-
26 SUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
27 MCL 24.201 TO 24.328, FOR THE EXAMINATION OF AN APPLICANT'S

1 PHYSICAL AND MENTAL QUALIFICATIONS TO OPERATE A VESSEL IN A
2 MANNER THAT DOES NOT JEOPARDIZE THE SAFETY OF PERSONS OR PROPER-
3 TY, AND SHALL ASCERTAIN WHETHER FACTS EXIST THAT WOULD BAR THE
4 ISSUANCE OF A BOATING SAFETY CERTIFICATE, IDENTIFICATION CARD, OR
5 LICENSE STICKER.

6 (2) AN EXAMINER WHO CONDUCTS AN EXAMINATION UNDER THIS PART
7 SHALL NOT INVESTIGATE FACTS OTHER THAN THOSE FACTS DIRECTLY PER-
8 TAINING TO THE ABILITY OF THE APPLICANT TO SAFELY OPERATE A
9 VESSEL OR FACTS DECLARED BY THE DEPARTMENT TO BE PREREQUISITE TO
10 THE ISSUANCE OF A BOATING SAFETY CERTIFICATE, IDENTIFICATION
11 CARD, OR LICENSE STICKER UNDER THIS PART.

12 SEC. 80140I. (1) AN INDIVIDUAL WHO VIOLATES THIS PART SHALL
13 PARTICIPATE IN A BOATING SAFETY EDUCATION PROGRAM.

14 (2) PARTICIPATION IN A BOATING SAFETY EDUCATION PROGRAM IS
15 IN ADDITION TO ANY OTHER PENALTIES IMPOSED BY THIS PART.

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

20 (A) HE OR SHE IS IN POSSESSION OF A BOATING SAFETY CERTIFI-
21 CATE OR IDENTIFICATION CARD ISSUED IN ACCORDANCE WITH SECTION
22 80140E.

23 (B) ~~(a)~~ He or she is under the direct supervision of a
24 person on board the motorboat who is ~~16~~ 17 years of age or
25 older.

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

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

9 (3) A person ~~12~~ 14 through ~~15~~ 16 years of age operating
10 a motorboat pursuant to subsection ~~(2)(b)~~ (2) shall present the
11 boating safety certificate OR IDENTIFICATION CARD issued to him
12 or her upon the demand of any peace officer.

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

16 SEC. 80142A. A PERSON SHALL NOT OPERATE A VESSEL ON THE
17 WATERS OF THIS STATE UNLESS THE VESSEL IS EQUIPPED WITH 3 PYRO-
18 TECHNIC VISUAL DISTRESS SIGNALS THAT ARE SUITABLE FOR BOTH DAY
19 AND NIGHT USE.

20 Sec. 80143. (1) A person shall not operate a personal
21 watercraft on the waters of the state unless each person riding
22 on or being towed behind the vessel is wearing a ~~type I, type~~
23 ~~II, or~~ type III personal flotation device as described in
24 R 281.1234 of the Michigan administrative code.

25 (2) While operating a personal watercraft equipped by the
26 manufacturer with a lanyard-type engine cutoff switch on the
27 waters of the state, a person shall have the lanyard attached to

1 his or her person, clothing, or personal flotation device as is
2 appropriate for the specific vessel.

3 (3) A person shall not operate a personal watercraft on the
4 waters of the state between the hours from sunset to sunrise.

5 (4) A personal watercraft shall at all times be operated in
6 a reasonable and prudent manner. Maneuvers that unreasonably or
7 unnecessarily endanger life, limb, or property, including, but
8 not limited to, weaving through congested vessel traffic, jumping
9 the wake of another vessel unreasonably or unnecessarily close to
10 the other vessel or when visibility around the other vessel is
11 obstructed, and swerving at the last possible moment to avoid a
12 collision, constitute reckless operation of a vessel, as provided
13 in section 80147.

14 (5) A person shall not operate a personal watercraft on the
15 waters of the state carrying more persons than the vessel is
16 designed to carry. Carrying more persons than the vessel is
17 designed to carry is prima facie evidence of reckless operation
18 of a watercraft under section 80147.

19 (6) A person operating a personal watercraft on the waters
20 of ~~the~~ THIS state shall maintain a distance of 100 feet from
21 any dock, raft or buoyed or occupied bathing area or shall not
22 cross within 150 feet behind another vessel, other than a per-
23 sonal watercraft, that is traveling at a speed greater than
24 slow--no wake speed.

25 (7) A person ~~under the age of 12~~ LESS THAN 14 YEARS OF AGE
26 shall not operate a personal watercraft on the waters of the
27 state. A person ~~12~~ 14 through ~~15~~ 16 years of age may operate

1 a personal watercraft on the waters of the state only when
2 ~~accompanied by a person 16 years of age or older or without~~
3 ~~adult supervision when~~ in possession of a VALID boating safety
4 certificate OR IDENTIFICATION CARD in compliance with section
5 80141.

6 (8) The owner of a personal watercraft or a person having
7 charge over or control of a personal watercraft shall not autho-
8 rize or knowingly permit the personal watercraft to be operated
9 in violation of subsection (7).

10 (9) This section does not apply to a performer engaged in a
11 professional exhibition or a person preparing to participate or
12 participating in a regatta, race, marine parade, tournament, or
13 exhibition held in compliance with this part.

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 when
24 engaged in official duties. The maximum speed limit of 55 miles
25 per hour shall not apply to the Great Lakes and Lake St. Clair,
26 except for an area within 1 mile of the shoreline measured at a
27 right angle from the shoreline. Upon receipt of a resolution by

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

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

12 (4) A PERSON SHALL NOT OPERATE A MOTORBOAT ON THE WATERS OF
13 THIS STATE AT A SPEED GREATER THAN SLOW--NO WAKE SPEED OR THE
14 MINIMUM SPEED NECESSARY FOR THE MOTORBOAT TO MAINTAIN FORWARD
15 MOVEMENT WHEN WITHIN 100 FEET OF ANOTHER MOTORBOAT.

16 (5) ~~-(4)-~~ A person operating a motorboat in violation of
17 this section is guilty of reckless operation of a motorboat pun-
18 ishable as provided in section 80171.

19 (6) ~~-(5)-~~ The department may waive this section and section
20 80156 for marine events authorized by the department under sec-
21 tion 80164.

22 Enacting section 1. This amendatory act does not take
23 effect unless Senate Bill No. _____ or House Bill No. _____
24 (request no. 00063'97 a) of the 89th Legislature is enacted into
25 law.