

SENATE BILL NO. 865

February 5, 1998, Introduced by Senators CISKY and NORTH and referred to the Committee on Transportation and Tourism.

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:

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) "Boating safety certificate" means the document issued
11 by the department under this act that certifies that the individ-
12 ual named in the document has successfully completed a boating
13 safety course and passed an examination approved and administered
14 as required under section 23.

15 (c) "Boating safety course" means a course that meets both
16 of the following requirements:

17 (i) Provides instruction on the safe operation of a personal
18 watercraft that meets or exceeds the minimum course content for
19 boating or personal watercraft education established by the
20 national association of state boating law administrators educa-
21 tion committee (October 1996).

22 (ii) Is approved by the department.

23 (d) "Dealer" means a person or an authorized representative
24 of that person who annually purchases from a manufacturer, or who
25 is engaged in selling or manufacturing, 6 or more personal water-
26 craft that require certificates of number under part 801 of the

1 natural resources and environmental protection act, 1994 PA 451,
2 MCL 324.80101 to 324.80199.

3 (e) "Department" means the department of natural resources.

4 (f) "Director" means the director of the department of natu-
5 ral resources.

6 (g) "Manufacturer" means a person engaged in any of the
7 following:

8 (i) The manufacture, construction, or assembly of personal
9 watercraft or associated equipment.

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

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

15 (h) "Marine safety fund" means the fund created under sec-
16 tion 80115 of the natural resources and environmental protection
17 act, 1994 PA 451, MCL 324.80115.

18 (i) "Operate" means to be in control of a personal water-
19 craft while the personal watercraft is under way and is not
20 docked or at anchor or secured in another way.

21 (j) "Operator" means the person who is in control or in
22 charge of a personal watercraft while that vessel is under way.

23 (k) "Owner" means a person who claims or is entitled to
24 lawful possession of a personal watercraft by virtue of that
25 person's legal title or equitable interest in a personal
26 watercraft.

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

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

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

7 (m) "Person" means an individual, corporation, limited
8 liability company, partnership, association, governmental entity,
9 or other legal entity.

10 (n) "Personal watercraft" means a vessel that meets all of
11 the following requirements:

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

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

17 (iii) Is designed to be operated by 1 or more persons posi-
18 tioned on, rather than within, the confines of the hull.

19 (o) "Political subdivision" means a county, metropolitan
20 authority, municipality, or combination of those entities in this
21 state.

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

24 (q) "Use" means operate, navigate, or employ.

25 (r) "Vessel" means every description of watercraft used or
26 capable of being used as a means of transportation on water.

1 (s) "Waters of this state" means any waters within the
2 territorial limits of this state, and includes those waters of
3 the Great Lakes that are under the jurisdiction of this state.

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

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

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

11 (b) Used principally for governmental purposes.

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

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

16 Sec. 9. The department shall promulgate rules authorized by
17 this act under the administrative procedures act of 1969, 1969 PA
18 306, MCL 24.201 to 24.328. The department shall publish the
19 approved rules in a convenient form.

20 Sec. 11. (1) A person shall not operate a personal water-
21 craft on the waters of this state unless each person riding on or
22 being towed behind the personal watercraft is wearing a type I,
23 type 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 this 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 personal watercraft.

3 (3) A person shall not operate a personal watercraft on the
4 waters of this state during the period that begins 1/2 hour
5 before sunset and ends 1/2 hour after sunrise. As used in this
6 subsection, "sunset" and "sunrise" mean those times as determined
7 by the national weather service.

8 (4) A person shall operate a personal watercraft in a rea-
9 sonable and prudent manner. A maneuver that unreasonably or
10 unnecessarily endangers life, limb, or property, including but
11 not limited to all of the following, constitutes reckless opera-
12 tion of a personal watercraft under section 17:

13 (a) Weaving through congested vessel traffic.

14 (b) Jumping the wake of another vessel unreasonably or
15 unnecessarily close to the other vessel or when visibility around
16 the other vessel is obstructed.

17 (c) Swerving at the last possible moment to avoid a
18 collision.

19 (5) A person shall not operate a personal watercraft on the
20 waters of this state carrying more persons than the personal
21 watercraft is designed to carry.

22 (6) A violation of subsection (5) is prima facie evidence of
23 reckless operation of a watercraft under section 17.

24 (7) A person operating a personal watercraft on the waters
25 of this state shall not cross within 150 feet behind another
26 vessel, unless the person is operating the personal watercraft at
27 slow--no wake speed.

1 (8) This section does not apply to a performer engaged in a
2 professional exhibition or a person preparing to participate or
3 participating in a regatta, race, marine parade, tournament, or
4 exhibition held in compliance with section 80164 of part 801 of
5 the natural resources and environmental protection act, 1994 PA
6 451, MCL 324.80164, under a permit issued by the department and
7 at the time and place specified in the permit.

8 Sec. 13. A person operating a personal watercraft in excess
9 of the speeds established under part 801 of the natural resources
10 and environmental protection act, 1994 PA 451, MCL 324.80101 to
11 324.80199, is guilty of reckless operation of a personal water-
12 craft under section 17.

13 Sec. 15. The owner of a personal watercraft is liable for
14 any injury occasioned by the negligent operation of the personal
15 watercraft, whether the negligence consists of a violation of the
16 statutes of this state, or in the failure to observe the ordinary
17 care in the operation that the rules of the common law require.
18 The owner is not liable unless the personal watercraft is being
19 used with his or her expressed or implied consent. It shall be
20 presumed that the personal watercraft is being operated with the
21 knowledge and consent of the owner if it is driven at the time of
22 the injury by his or her son, daughter, spouse, father, mother,
23 brother, sister, or other immediate member of the owner's
24 family.

25 Sec. 17. (1) If a person carelessly and heedlessly operates
26 a personal watercraft upon the waters of this state in disregard
27 of the rights or safety of others, without due caution and

1 circumspection, or at a rate of speed or in a manner that
2 endangers or is likely to endanger a person or property, that
3 person is guilty of reckless operation of a personal watercraft
4 and is subject to the penalties described in subsection (2) or
5 (3), or both, as applicable.

6 (2) Upon a person's conviction under this section, the court
7 may issue an order prohibiting the person from operating a per-
8 sonal watercraft on the waters of this state for a period of not
9 more than 2 years. Upon a person's conviction under this sec-
10 tion, the court shall order the person to participate in and com-
11 plete a boating safety course. An order issued pursuant to this
12 subsection is in addition to any other penalty authorized under
13 section 39 or subsection (3).

14 (3) A person who violates this section twice within a 3-year
15 period is guilty of a misdemeanor punishable by imprisonment for
16 not more than 180 days or a fine of \$500.00, or both. A person
17 who violates this section 3 or more times within a 5-year period
18 is guilty of a misdemeanor punishable by imprisonment for not
19 more than 1 year or a fine of \$1,000.00, or both.

20 Sec. 19. (1) Except when traveling at slow--no wake speed,
21 a person who operates a personal watercraft on 1 of the Great
22 Lakes that is under the jurisdiction of this state shall maintain
23 a distance of 150 feet from the shoreline.

24 (2) A person who operates a personal watercraft on the
25 waters of this state or a person who is being towed on a water
26 sled, kite, surfboard, parachute, tube, water ski, or similar
27 equipment shall maintain a distance of not less than 100 feet

1 from a diver, dock, raft, or buoyed or occupied bathing or
2 swimming area, a person in the water or on the water in a per-
3 sonal flotation device, or a vessel moored or anchored, unless
4 the vessel being operated or the person being towed is proceeding
5 at a slow--no wake speed or the operator of the vessel is picking
6 up or dropping off a water skier.

7 Sec. 21. Except as provided in section 29, an individual
8 who is required to complete a boating safety course under this
9 act shall not operate a personal watercraft upon the waters of
10 this state unless that individual has in his or her immediate
11 possession a boating safety certificate.

12 Sec. 23. (1) In order to protect the public interest in the
13 prudent and equitable use of the waters of this state and to
14 enhance the enjoyment of pleasure boating and other recreational
15 water sports on the waters of this state, the department shall
16 establish and pursue comprehensive educational programs designed
17 to advance boating safety.

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

26 Sec. 25. (1) The department shall issue a boating safety
27 certificate to each individual who successfully completes a

1 boating safety course as described in section 23 and passes an
2 examination. The examination shall be administered in person and
3 proctored by the department or an agent of the department.

4 (2) If an agent of the department who administers and proc-
5 tors an examination under this section is eligible for educa-
6 tional funds under the marine safety fund on the date this act
7 takes effect, the department shall reimburse the agent for the
8 actual and reasonable expenses incurred by the agent in the
9 administering and proctoring of the examination.

10 (3) The department shall not issue a boating safety certifi-
11 cate to an individual unless the individual has successfully com-
12 pleted a boating safety course and passed an examination as
13 described in subsection (1). A boating safety certificate issued
14 under this section is valid, unless revoked, for the life of the
15 person who earned the certificate.

16 Sec. 27. (1) Except as provided under section 31, an indi-
17 vidual who is required to complete a boating safety course under
18 this act and who operates a personal watercraft on the waters of
19 this state shall display his or her boating safety certificate
20 upon the demand of a peace officer who identifies himself or her-
21 self as a peace officer.

22 (2) A person shall display only his or her own boating
23 safety certificate under subsection (1).

24 (3) A person shall not display a fraudulent boating safety
25 certificate under subsection (1).

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. 29. The director may by written authorization modify
5 or suspend the boating safety certificate requirements under this
6 act if the modification or suspension of those certificate
7 requirements is for individuals engaged in a marine event autho-
8 rized by the director or for which the director receives a copy
9 of a United States coast guard authorization.

10 Sec. 31. (1) Except as provided in subsection (2), a person
11 under the age of 16 shall not use a personal watercraft on the
12 waters of this state.

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

17 (3) A person who is 16 or more but less than 19 years of age
18 may use a personal watercraft upon the waters of this state if he
19 or she obtains a boating safety certificate.

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

24 (5) This section does not apply to a performer engaged in a
25 professional exhibition or a person preparing to participate or
26 participating in a regatta, race, marine parade, tournament, or
27 exhibition held in compliance with section 80164 of part 801 of

1 the natural resources and environmental protection act, 1994 PA
2 451, MCL 324.80164, under a permit issued by the department and
3 at the time and place specified in the permit.

4 Sec. 33. A person who was born after December 31, 1978
5 shall not operate a personal watercraft upon the waters of this
6 state unless he or she first obtains a boating safety
7 certificate.

8 Sec. 35. (1) A dealer of a new or used personal watercraft
9 shall advise each person who buys a personal watercraft from the
10 dealer of the sources of boating safety courses in the area.

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

14 Sec. 37. (1) The department shall create and make available
15 to dealers of personal watercraft both of the following:

16 (a) A document that summarizes the marine safety laws that
17 pertain exclusively to personal watercraft.

18 (b) A document that summarizes the safety features of per-
19 sonal watercraft. This document may be a generic document and
20 shall not represent the safety features of a particular style or
21 brand of personal watercraft.

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

1 Sec. 39. Unless otherwise specified in this act, a person
2 who violates this act is guilty of a misdemeanor, punishable by
3 imprisonment for not more than 90 days or a fine of not more than
4 \$100.00, or both. In addition, a person who violates this act
5 may be required to participate in and complete a boating safety
6 course.

7 Sec. 41. Not later than April 30, 2000, the secretary of
8 state shall begin tracking individual offenses of this act.

9 Sec. 43. Law enforcement officers shall enforce this act.

10 Sec. 45. Except as otherwise provided in this act, a per-
11 sonal watercraft operator shall comply with part 801 of the natu-
12 ral resources and environmental protection act, 1994 PA 451, MCL
13 324.80101 to 324.80199.

14 Enacting section 1. This act takes effect March 1, 1998.

15 Enacting section 2. Section 80143 of part 801 of the natu-
16 ral resources and environmental protection act, 1994 PA 451, MCL
17 324.80143, is repealed.

18 Enacting section 3. This act does not take effect unless
19 Senate Bill No. 830 of the 89th Legislature is enacted into law.