

Act No. 262
Public Acts of 1998
Approved by the Governor
July 16, 1998
Filed with the Secretary of State
July 17, 1998

EFFECTIVE DATE: 91st day after final adjournment of the 1998 Regular Session

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators North, McManus, Cisky, Shugars, Young and Gougeon

ENROLLED SENATE BILL No. 830

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 44522 (MCL 324.44522), as added by 1995 PA 57.

The People of the State of Michigan enact:

Sec. 44522. (1) A boat livery shall not lease, hire, or rent a personal watercraft to any of the following:

- (a) A person who is under 14 years of age.
- (b) A person who does not display a boater safety certificate that is issued by the department as required under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445.
- (c) A person who is not required to obtain a boater safety certificate issued by the department under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, before operating a personal watercraft, unless the person obtains training in the safe use of a personal watercraft from the boat livery prior to the lease, hire, or rent of the personal watercraft. The department shall provide to boat liveries guidelines for the training required under this subdivision.

(2) A person who leases, hires, or rents a personal watercraft from a boat livery shall not permit an individual to operate the personal watercraft if the individual has not obtained a boating safety certificate or other certification as required under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445.

(3) A boat livery shall provide a copy of the written rental agreement to each individual who leases, hires, or rents a personal watercraft from the boat livery and who has obtained the training required under subsection (1). The written rental agreement shall include all of the following information:

- (a) The name of the person who leases, hires, or rents a personal watercraft from the boat livery.
- (b) The date or dates of the lease, hire, or rental.
- (4) The written rental agreement described under subsection (3) is a valid boating safety certificate under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, only for the person named in the certificate on the date or dates of the lease, hire, or rental of the personal watercraft.
- (5) A person who leases, hires, or rents a personal watercraft from a boat livery is liable for any injury occasioned by the negligent operation of the personal watercraft, whether the negligence consists of a violation of the statutes of this state, or in the failure to observe the ordinary care in the operation that the rules of the common law require. The

person is not liable unless the personal watercraft is being used with his or her expressed or implied consent. It shall be rebuttably presumed that the personal watercraft is being operated with the knowledge and consent of the person if it is driven at the time of the injury by his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the person's family.

(6) A person who violates subsection (1) or (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both. A person who violates subsection (1) or (2) twice within a 3-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both. A person who violates subsection (1) or (2) 3 or more times within a 5-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$2,000.00, or both.

(7) In addition to any penalty imposed under subsection (6), upon a person's second or subsequent violation of subsection (1), the court may issue an order impounding the personal watercraft that was leased, hired, or rented in violation of subsection (1) for a period of not more than 1 year. The cost of storage for an impoundment ordered under this subsection shall be paid by the owner of the personal watercraft.

Carol Morey Viventi

Secretary of the Senate.

Thomas R. Swartz

Clerk of the House of Representatives.

Approved -----

Governor.