

Act No. 263
Public Acts of 1998
Approved by the Governor
July 16, 1998

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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

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

ENROLLED SENATE BILL No. 865

AN ACT to amend 1998 PA 116, entitled "An act 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," (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:

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

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

- (a) Owned by a state or political subdivision of a state other than this state and its political subdivisions.
- (b) Used principally for governmental purposes.
- (c) Clearly marked and identifiable as personal watercraft that is used principally for governmental purposes.

Sec. 15. The owner of a personal watercraft 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 owner 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 owner 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 owner's family.

Sec. 17. (1) If a person carelessly and heedlessly operates a personal watercraft upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a personal watercraft and is subject to the penalties described in subsection (2) or (3), or both, as applicable.

(2) Upon a person's conviction under this section, the court may issue an order prohibiting the person from operating a personal watercraft on the waters of this state for a period of not more than 2 years and shall order the person to

participate in and complete a boating safety course. An order issued pursuant to this subsection is in addition to any other penalty authorized under section 39 or subsection (3).

(3) A person who violates this section 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 this section 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. 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.

Sec. 27. (1) An individual who is required to complete a boating safety course under this act and who operates a personal watercraft on the waters of this state shall display his or her boating safety certificate upon the demand of a peace officer who identifies himself or herself as a peace officer.

(2) A person shall display only his or her own boating safety certificate upon the demand of a peace officer under subsection (1).

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

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

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

(2) A dealer who violates this section is responsible for a state civil infraction and shall be ordered to pay a civil fine in the amount of \$100.00.

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

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

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

(2) A dealer shall provide a copy of each of the documents described in subsection (1) to each person who buys a personal watercraft from the dealer. A dealer who violates this subsection is responsible for a state civil infraction and shall be ordered to pay a civil fine in the amount of \$100.00.

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

Sec. 41. (1) Not later than April 30, 2000, the secretary of state shall begin tracking individual offenses of this act.

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

(a) Pursue and implement a comprehensive technology system.

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

Sec. 43. Peace officers shall enforce this act. If a person has received a citation for a violation of a certification requirement prescribed in section 21, 27, 31, or 33, the court shall waive any fine and costs upon receipt, not more than 10 days after the citation is issued, of proof of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid boating safety certificate or other certification described in section 33, as applicable, that was valid on the date the violation occurred.

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

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

Carol Morey Viventi

Secretary of the Senate.

Mary Ann Bell

Clerk of the House of Representatives.

Approved -----

Governor.