

SENATE BILL No. 1403

September 28, 2000, Introduced by Senators HOFFMAN, BULLARD and GAST and referred to the Committee on Hunting, Fishing and Forestry.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 44501, 44502, 44503, 44504, 44507, 44508,
44509, 44511, 44512, 44513, 44517, 44520, 44521, 44522, and 44526
(MCL 324.44501, 324.44502, 324.44503, 324.44504, 324.44507,
324.44508, 324.44509, 324.44511, 324.44512, 324.44513, 324.44517,
324.44520, 324.44521, 324.44522, and 324.44526), sections 44501,
44502, 44503, 44504, 44507, 44508, 44509, 44511, 44512, 44513,
44517, 44520, 44521, and 44526 as added by 1995 PA 57 and
section 44522 as amended by 1998 PA 262.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 44501. As used in this part:
- 2 (a) "Boat livery" means either of the following:

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2

1 (i) A place of business or any location where a person rents
2 or leases any vessel to the general public for noncommercial use
3 on the waters of this state.

4 (ii) A place where a person offers cabins, cottages, motel
5 rooms, hotel rooms, or other similar rental or leased units where
6 a vessel is furnished for the use of the person renting or leas-
7 ing the unit, but does not include a single privately owned cabin
8 or cottage leased or rented to another where a vessel is fur-
9 nished for the use of the person renting or leasing the unit.

10 (b) "Carrying passengers for hire" or "carry passengers for
11 hire" means the transporting of any person on a vessel for con-
12 sideration regardless of whether the consideration is directly or
13 indirectly paid to the owner of the vessel, the owner's agent,
14 the operator of the vessel, or any other person who holds any
15 interest in the vessel.

16 (c) "Charter boat" means a vessel that is rented or leased
17 or offered for rent or lease to carry passengers for hire if the
18 owner or the owner's agent retains possession, command, and con-
19 trol of the vessel.

20 (D) "CERTIFIED MARINE SURVEYOR" MEANS AN INDIVIDUAL WHO MEETS
21 ALL OF THE FOLLOWING REQUIREMENTS:

22 (i) THE INDIVIDUAL IS A CERTIFIED OR ASSOCIATE MEMBER OF A
NATIONAL ASSOCIATION OR SOCIETY THAT CERTIFIES OR ACCREDITS MARINE
SURVEYORS.

(ii) THE INDIVIDUAL'S PRIMARY SOURCE OF INCOME IS DERIVED FROM
THE INSPECTION AND SURVEY OF VESSELS.

(iii) THE INDIVIDUAL'S NAME APPEARS ON A LIST OF APPROVED
MARINE SURVEYORS THAT IS PROVIDED BY THE DEPARTMENT.

23 (E) ~~(d)~~ "Class A vessel" means a vessel, except a sail-
24 boat, that carries for hire on navigable waters not more than 6
25 passengers.

1 (F) ~~-(e)-~~ "Class B vessel" means a vessel, except a
2 sailboat, that carries for hire on inland waters not more than 6
3 passengers.

4 (G) ~~-(f)-~~ "Class C vessel" means a vessel, except a sail-
5 boat, that carries for hire on inland waters more than 6
6 passengers.

7 (H) ~~-(g)-~~ "Class D vessel" means a vessel that is propelled
8 primarily by a sail or sails and carries for hire on navigable
9 waters not more than 6 passengers or carries passengers for hire
10 on inland waters.

11 (I) ~~-(h)-~~ "Class E vessel" means a vessel that carries not
12 more than 6 passengers for hire and meets either of the following
13 requirements:

14 (i) Is utilized primarily as a river-drift boat that is pro-
15 pelled primarily by hand.

16 (ii) Is a vessel that is 18 feet or less in length operated
17 primarily on a river or tributary to the Great Lakes, Lake
18 St. Clair, or their connecting waterways.

19 (J) ~~-(i)-~~ "Equipment" means a system, part, or component of
20 a vessel as originally manufactured, or a system, part, or compo-
21 nent manufactured or sold for replacement, repair, or improvement
22 of a system, part, or component of a vessel; an accessory or
23 equipment for, or appurtenance to, a vessel; or a marine safety
24 article, accessory, or equipment intended for use by a person on
25 board a vessel; but does not include radio equipment.

26 (K) ~~-(j)-~~ "Inland waters" means all waters of this state,
27 except navigable waters.

1 (l) ~~-(k)-~~ "Livery boat" means a vessel ~~-which-~~ THAT is
2 offered for rent or lease by the boat livery or boat owner or his
3 or her agent or is rented or leased from a boat livery or a boat
4 owner or his or her agent and the boat livery or boat owner or
5 his or her agent relinquishes complete physical control of the
6 vessel to the renter or lessee, except the boat livery or owner
7 retains legal title to the vessel.

8 (M) ~~-(l)-~~ "Marine safety fund" means the marine safety fund
9 created in section 80115.

10 (N) ~~-(m)-~~ "Navigable waters" means those waters of the state
11 over which this state and the United States coast guard exercise
12 concurrent jurisdiction, including the Great Lakes and waters
13 connected to the Great Lakes, to the upstream limit of navigation
14 as determined by the United States department of the army corps
15 of engineers.

16 (O) ~~-(n)-~~ "Operate" means to start any propulsion engine or
17 to physically control the motion, direction, or speed of a
18 vessel.

19 (P) ~~-(o)-~~ "Owner" means a person who claims lawful posses-
20 sion of a vessel by virtue of legal title or an equitable inter-
21 est in a vessel that entitles that person to possession of the
22 vessel.

23 (Q) ~~-(p)-~~ "Passenger" means a person carried on board a
24 charter boat except either of the following:

25 (i) The owner of the vessel or the owner's agent.

1 (ii) The pilot and members of the crew of the vessel who
2 have not contributed consideration for their transportation
3 either before, during, or after the voyage.

4 (R) ~~-(q)-~~ "Peace officer" means every sheriff or sheriff's
5 deputy; village or township marshal; officer of the police
6 department of any city, village, or township; any officer of the
7 Michigan state police; or any other police officer or law
8 enforcement officer who is trained and certified pursuant to the
9 ~~Michigan law enforcement officers training council act of 1965,~~
10 ~~Act No. 203 of the Public Acts of 1965, being sections 28.601 to~~
11 ~~28.616 of the Michigan Compiled Laws~~ COMMISSION ON LAW ENFORCE-
12 MENT STANDARDS ACT, 1965 PA 203, MCL 28.601 TO 28.616, and
13 includes the director and conservation officers employed by the
14 department.

15 (S) ~~-(r)-~~ "Personal watercraft" means a vessel that meets
16 all of the following requirements:

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

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

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

24 (T) ~~-(s)-~~ "Pilot's license" means a vessel operator's
25 license issued by the United States coast guard or other federal
26 agency, or a license issued by the department to an operator of a
27 charter boat that is operated on inland waters.

1 (U) ~~-(t)-~~ "Training or instructional purposes" means the
2 teaching of any person in the handling and navigation of a vessel
3 or the techniques of waterskiing.

4 (V) ~~-(u)-~~ "Vessel" means every description of watercraft,
5 other than a seaplane, used or capable of being used as a means
6 of transportation on water irrespective of the method of opera-
7 tion or propulsion.

8 (W) ~~-(v)-~~ "Waters of the state" means any waters within the
9 territorial limits of this state and includes those waters of the
10 Great Lakes which are under the jurisdiction of this state.

11 Sec. 44502. (1) A person shall not rent or lease, or offer
12 to rent or lease, a charter boat, and a person shall not carry
13 passengers for hire on a vessel on the waters of this state
14 unless all of the following conditions are satisfied:

15 (a) The department has ~~inspected the vessel, if required by~~
16 ~~this part, and has~~ issued a ~~certificate of inspection~~ LICENSE
17 FOR THE VESSEL UNDER THIS PART that is valid and current for the
18 vessel.

19 (b) The operator of the vessel is a licensed pilot or is
20 under the direct supervision of a licensed pilot who is on board
21 the vessel.

22 (c) The person complies with the reporting requirements of
23 section 44508, IF APPLICABLE.

24 (D) THE CHARTER BOAT IS APPROPRIATELY EQUIPPED AND MAIN-
25 TAINED AS PROVIDED IN THIS PART AND THE RULES PROMULGATED UNDER
26 THIS PART GOVERNING VESSELS CARRYING PASSENGERS FOR HIRE.

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1 (2) The licensed pilot of a charter boat shall possess a
2 valid and current pilot's license issued in his or her name and
3 shall immediately display that license upon demand of any peace
4 officer.

5 (3) A person shall not operate a charter boat that carries 7
6 or more passengers on navigable waters without first obtaining a
7 current vessel inspection certificate and a pilot's license from
8 the United States coast guard or other federal agency.

9 Sec. 44503. A person shall not advertise or arrange for the
10 carrying of any passenger on a charter boat unless the charter
11 boat has been issued a valid and current ~~certificate of~~
12 ~~inspection~~ LICENSE provided for in section 44502 or operates
13 under a reciprocal agreement pursuant to section 44513.

14 Sec. 44504. (1) The department shall promulgate rules
15 to establish minimum safety standards for charter boats. The
16 safety standards shall be designed to ensure the safety and
17 well-being of persons utilizing a charter boat and shall
18 include all of the following:

19 (a) Methods for determining that a charter boat is of a
20 structure suitable for carrying passengers and crew and is in a
21 condition to enable it to be navigated safely.

22 (b) Necessary equipment and operating requirements.

23 (c) Minimum public liability insurance requirements.

24 (d) Methods for determination of maximum passenger
25 capacity.

26 (e) Suitable tests to determine the sufficiency of the
27 charter boat's structure, equipment, and stability.

1 (2) Except rules addressing vessel ventilation and rail
2 height, rules pertaining to safety standards promulgated under
3 the authority of former ~~Act No. 228 of the Public Acts of 1965~~
4 1965 PA 228 shall remain in effect as provided in section 44526.
5 Vessel ventilation and rail height shall be consistent with gen-
6 erally accepted and federally approved manufacturing processes.

7 Sec. 44507. (1) Except ~~for an inspection under section~~
8 ~~44511(2) and except~~ for a class E vessel, ~~that is a charter~~
9 ~~boat,~~ the ~~department~~ OWNER OF A VESSEL WHO IS APPLYING FOR A
10 CHARTER BOAT LICENSE shall ~~inspect or~~ arrange for the inspec-
11 tion of ~~every charter boat and its equipment once every 24~~
12 ~~months while the charter boat is at dockside and at least once~~
13 ~~every 72 months while the charter boat is in dry dock~~ THE VESSEL
14 BY A CERTIFIED MARINE SURVEYOR to determine if the charter boat
15 and its equipment comply with the rules promulgated under section
16 44504. In addition, the department may at any time inspect or
17 provide for the inspection of any charter boat if the department
18 has reasonable cause either to believe that a provision of this
19 part has been violated or that an inspection is necessary to
20 ensure the safety of life and property. This subsection ~~shall~~
21 DOES not apply to a class E vessel that is a charter boat; how-
22 ever, the department may inspect a class E vessel that is a
23 charter boat if necessary to ensure the safety of life and
24 property.

25 (2) If, after the inspection provided for in section 44502
26 and payment of the fees prescribed in section 44511, it is found
27 that the charter boat and its equipment complies with this part

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1 and the rules promulgated under this part, the department shall
2 issue to the owner of the charter boat a ~~certificate of inspec-~~
3 ~~tion to be furnished by the department~~ LICENSE AUTHORIZING THE
4 VESSEL TO OPERATE AS A CHARTER BOAT. The ~~certificate of~~
5 ~~inspection~~ LICENSE shall:

6 (a) Contain the maximum passenger, crew, and total person
7 capacity of the charter boat.

8 (b) Be prominently displayed on the charter boat while the
9 charter boat is operated upon waters of the state.

10 (c) Expire on May **DECEMBER** 31 of the ~~second~~ THIRD year
11 following the year in which the charter boat was ~~dockside~~ inspected,
12 except that the department may extend the expiration date if con-
13 ditions exist that prevent the launching or the inspection of the
14 charter boat before the expiration of the certificate of
15 inspection.

16 (3) The department may determine the number of crew neces-
17 sary for the safe operation of a charter boat.

18 (4) If it is determined by the department that a charter
19 boat or its equipment does not comply with this part, or the
20 rules promulgated under this part, or applicable federal law or
21 regulations, a ~~certificate of inspection~~ LICENSE shall not be
22 issued and any current ~~certificate of inspection~~ LICENSE may be
23 revoked by the department pursuant to chapter 5 of the adminis-
24 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~
25 ~~of 1969, being sections 24.291 to 24.292 of the Michigan Compiled~~
26 ~~Laws~~ 1969 PA 306, MCL 24.291 TO 24.292.

1 (5) A CHARTER BOAT THAT HAS BEEN ISSUED A CERTIFICATE OF
2 INSPECTION THAT IS VALID ON THE EFFECTIVE DATE OF THE AMENDATORY
3 ACT THAT ADDED THIS SUBSECTION IS NOT REQUIRED TO ARRANGE FOR AN
4 INSPECTION BY A CERTIFIED MARINE SURVEYOR UNTIL THE CERTIFICATE
5 OF INSPECTION EXPIRES.

6 Sec. 44508. (1) The department may research the availabil-
7 ity of fish in the waters of this state that are utilized by
8 charter boats.

9 (2) The department shall form a catch activity committee
10 that is composed of 2 individuals from the department and 2 rep-
11 resentatives from the Michigan charter boat association. The
12 catch activity committee shall do all of the following:

13 (a) Develop a monthly catch activity report form that per-
14 tains to the number, type, and location of fish taken from
15 charter boats in this state.

16 (b) Plan and prioritize research concerning the information
17 gathered pursuant to this section.

18 (3) The department shall distribute to each charter boat
19 operator in this state the monthly catch activity report form
20 developed under subsection (2), and each charter boat operator
21 engaged in fishing shall complete and maintain that form in the
22 manner prescribed in subsection (5).

23 (4) The department shall compile an annual report based upon
24 information contained in those monthly catch activity report
25 forms submitted to the department pursuant to subsection (5).
26 The annual report shall not disclose the identity of a charter

1 boat operator who provides information pursuant to
2 subsection (5).

3 (5) A charter boat operator engaged in fishing shall do each
4 of the following:

5 (a) Maintain on board each charter boat under his or her
6 control a daily record of all catch activity of that charter boat
7 for the current calendar month.

8 (b) Make available for inspection the daily catch activity
9 records required to be maintained under this subsection upon the
10 request of a peace officer.

11 (c) Complete a monthly catch activity report form provided
12 by the department for each charter boat under his or her
13 control.

14 (d) Sign, date, and submit to the department, on or before
15 the tenth day of each month, a monthly catch activity report form
16 completed by that charter boat operator for each charter boat
17 under his or her control that was engaged in fishing during the
18 previous month.

19 (e) The operator of a charter boat that is used for fishing
20 on 2 or more bodies of water within a calendar month shall com-
21 plete for that charter boat a separate monthly catch activity
22 report form for each body of water fished, and shall sign, date,
23 and submit each form to the department in the manner prescribed
24 by this section.

25 (f) If a charter boat operator engaged in fishing does not
26 submit to the department a completed monthly catch activity
27 report form within 30 days after that form is required to be

1 delivered to the department, the department shall notify that
2 charter boat operator of his or her noncompliance with this
3 section. If a charter boat operator engaged in fishing fails to
4 return a completed monthly catch activity report form for a
5 vessel within 60 days after that form is required to be delivered
6 to the department, the ~~department may revoke the state certifi-~~
7 ~~cate of inspection issued for that vessel~~ CHARTER BOAT OPERATOR
8 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND IS SUBJECT TO A
9 CIVIL FINE OF NOT MORE THAN \$250.00.

10 Sec. 44509. (1) A person shall not operate a charter boat
11 in violation of the terms of a ~~certificate of inspection~~
12 LICENSE ISSUED UNDER THIS PART.

13 (2) Subsection (1) does not apply when the charter boat is
14 being utilized by the owner of the charter boat exclusively for
15 noncommercial purposes.

16 Sec. 44511. (1) The owner of a charter boat required to be
17 ~~inspected~~ LICENSED under this part and a person required to be
18 licensed as a state pilot under this part shall file an applica-
19 tion with the required fee for the charter boat ~~inspection~~
20 LICENSE or the state pilot's examination with the department on a
21 form prescribed and furnished by the department. Persons apply-
22 ing for a ~~certificate of inspection~~ CHARTER BOAT LICENSE or a
23 state pilot's license shall furnish information reasonably
24 required by the department. A person shall not file an applica-
25 tion for A charter boat ~~inspection~~ LICENSE or state pilot's
26 examination that contains false information. A person filing an

1 application shall certify by the person's signature that the
2 information furnished on the application is true and correct.

3 (2) The owner of a charter boat, or livery boat as provided
4 for under section 44517, ~~which has never been inspected~~ shall
5 pay to the department an ~~inspection~~ APPLICATION fee OF \$100.00
6 for EACH CHARTER BOAT OR LIVERY BOAT. ~~dry dock and dockside~~
7 ~~inspection according to the following schedule:~~

8 ~~(a) Class A and D vessels..... \$250.00~~

9 ~~(b) Class B vessels..... \$120.00~~

10 ~~(c) Class C vessels..... \$350.00~~

11 ~~(3) Beginning on April 1, 1987, for each required dry dock~~
12 ~~or dockside inspection of a charter boat, or livery boat as pro-~~
13 ~~vided for under section 44517, other than an inspection under~~
14 ~~subsection (2), the owner shall pay the department a fee accord-~~
15 ~~ing to the following schedule:~~

16 ~~(a) Class A and D vessels~~

17 ~~(i) Dockside inspection..... \$100.00~~

18 ~~(ii) Dry dock inspection..... \$150.00~~

19 ~~(b) Class B vessels~~

20 ~~(i) Dockside inspection..... \$ 60.00~~

1 ~~(ii) Dry dock inspection..... \$ 60.00~~

2 ~~(c) Class C vessels~~

3 ~~(i) Dockside inspection..... \$150.00~~

4 ~~(ii) Dry dock inspection..... \$200.00~~

5 ~~(4) When the department inspects any charter boat, or livery~~
6 ~~boat as provided for under section 44517, at an interval other~~
7 ~~than as required by this part, the inspection shall be conducted~~
8 ~~without an inspection fee for a dockside inspection and for a~~
9 ~~reduced fee to be determined by the department for a dry dock~~
10 ~~inspection. When a 24-month dockside inspection and a 72-month~~
11 ~~dry dock inspection are required in the same year, the owner~~
12 ~~shall only pay the fee for the dry dock inspection, as provided~~
13 ~~in subsection (3).—~~

14 ~~(3) —(5) For each examination of a person for a state~~
15 ~~pilot's license, the applicant shall pay a fee of —\$30.00— \$50.00~~
16 ~~to the department.~~

17 ~~(4) —(6) The —charter boat inspection fee or— state pilot's~~
18 ~~license examination fee shall be forfeited to the department and~~
19 ~~credited to the marine safety fund if the —owner of the charter~~
20 ~~boat or the— applicant for a state pilot's license fails to keep~~
21 ~~an appointment, which has been mutually agreed upon between the~~
22 ~~—owner or the— applicant and the department, for —an inspection~~
23 ~~or reinspection of the charter boat or— a state pilot's license~~
24 ~~examination, without first notifying the —inspecting officer or~~
25 ~~the— department's marine safety section within the department's~~

1 law enforcement division at least 24 hours prior to the scheduled
2 appointment. Upon the forfeiture of an application fee, the
3 ~~owner of the charter boat or the~~ applicant for a state pilot's
4 license must submit a new application and the required fee before
5 the department shall conduct ~~any inspection of the charter boat~~
6 ~~or conduct any~~ AN examination of the applicant for a state
7 pilot's license.

8 (5) ~~(7)~~ Except as otherwise provided in section 44517, the
9 revenue received for ~~inspection~~ fees under this section shall
10 be deposited in the state treasury to the credit of the marine
11 safety fund and shall only be used to ~~pay for inspections~~
12 ~~required by this part, and to~~ maintain the education and
13 enforcement program provided for in section 44513(2). The reve-
14 nue division of the department of treasury shall annually provide
15 to the department an accurate total of revenue collected and
16 shall annually credit that amount to the marine safety fund.

17 Sec. 44512. (1) A person denied a state pilot's license or
18 the owner of a charter boat for which a ~~certificate of~~
19 ~~inspection~~ LICENSE has been denied or revoked may petition the
20 department for an evidentiary hearing pursuant to the administra-
21 tive procedures act of 1969, ~~Act No. 306 of the Public Acts of~~
22 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
23 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

24 (2) A person who owns a charter boat may petition the
25 department for an evidentiary hearing pursuant to the administra-
26 tive procedures act of 1969, ~~Act No. 306 of the Public Acts of~~
27 ~~1969~~ 1969 PA 306, MCL 24.201 TO 24.328, regarding the

1 determination of the maximum passenger, crew, or total person
2 capacity of the charter boat.

3 (3) A person who is aggrieved by the decision of the depart-
4 ment under subsection (1) or (2) may appeal the action of the
5 department in the manner provided in chapter 6 of the administra-
6 tive procedures act of 1969, ~~Act No. 306 of the Public Acts of~~
7 ~~1969, being sections 24.301 to 24.306 of the Michigan Compiled~~
8 ~~Laws~~ 1969 PA 306, MCL 24.301 TO 24.306.

9 Sec. 44513. (1) The department may enter into reciprocal
10 agreements with other states and countries concerning the opera-
11 tion ~~and inspection~~ of charter boats from those states and
12 countries that operate on the waters of this state. Reciprocity
13 shall be granted only if a state or country can establish to the
14 satisfaction of the department that their laws and standards con-
15 cerning charter boats meet or exceed the laws and rules of this
16 state. A charter boat that operates on the waters of this state
17 under a reciprocal agreement pursuant to this section shall
18 obtain an annual operating permit from the department for a fee
19 of \$100.00 for each year the charter boat does business on the
20 waters of this state. The department shall utilize the fees for
21 annual operating permits issued pursuant to this section to pro-
22 vide funds for the education and enforcement program provided for
23 in subsection (2).

24 (2) The department shall develop an education and enforce-
25 ment program designed to eliminate the operation of charter and
26 livery boats that have not been inspected as required by this
27 part and to prepare printed materials to provide the public with

1 information regarding the safety features and requirements
2 necessary for the lawful operation of charter and livery boats.

3 Sec. 44517. (1) Any livery boat more than 20 feet in length
4 ~~, except for a class E vessel that is a livery boat,~~ that is
5 used or IS to be used on navigable waters without the owner being
6 either on board or operating the vessel shall pay the ~~inspection~~
7 ~~fees~~ APPLICATION FEE established pursuant to section 44511 for
8 each livery boat to be ~~inspected~~ LICENSED. Fees collected pur-
9 suant to this section shall be forwarded to the department. The
10 department shall utilize the fees to develop and maintain the
11 education and enforcement program provided for in section
12 44513(2).

13 (2) Upon receipt of the required fee and an application for
14 ~~an inspection and a permit~~ A LICENSE, the department shall
15 inspect, or provide for inspection of by the county sheriff or
16 sheriff's deputy, all livery boats and their equipment of the
17 boat livery. Upon completion of the inspection, the department,
18 county sheriff, or the sheriff's deputy shall approve the issu-
19 ance of a permit to operate a boat livery, provided the require-
20 ments of this part are met. A permit furnished by the department
21 shall be prominently displayed on the site of the boat livery and
22 shall expire on December 31 of each year in which a permit is
23 issued.

24 Sec. 44520. (1) The owner of a boat livery shall not rent
25 or lease a livery boat more than 20 feet in length to be used on
26 navigable water until a written rental contract or lease

1 agreement has been made between the boat livery owner and the
2 renter or lessee.

3 (2) A boat livery owner or his or her designated representa-
4 tive shall not permit a livery boat to depart the premises of the
5 boat livery if ANY OF THE FOLLOWING OCCUR:

6 (a) The equipment required pursuant to rules promulgated
7 under this part is not aboard the livery boat.

8 (b) The livery boat contains a number of persons in excess
9 of the maximum number approved for the livery boat and indicated
10 on the inspection decal, plate, or tab affixed to the livery
11 boat.

12 (c) The livery boat is equipped with a motor with a horse-
13 power rating in excess of the maximum horsepower approved for the
14 livery boat and indicated on the inspection decal, plate, or tab
15 affixed to the livery boat.

16 (D) THE BOAT LIVERY OWNER OR HIS OR HER DESIGNATED REPRESEN-
17 TATIVE HAS GOOD CAUSE TO BELIEVE THAT THE PERSON OR PERSONS WHO
18 ARE INTENDING TO OPERATE THE LIVERY BOAT ARE INCAPABLE OF SUCH
19 OPERATION DUE TO ANY OF THE FOLLOWING:

20 (i) THE CONSUMPTION OF ALCOHOL.

21 (ii) THE PERSON APPEARS TO BE UNDER THE INFLUENCE OF A CON-
22 TROLLED SUBSTANCE.

23 Sec. 44521. (1) Any person renting, leasing, or operating a
24 livery boat on navigable waters that is more than 20 feet in
25 length shall present for examination, upon demand of any peace
26 officer, a copy of the rental contract or lease agreement.

1 (2) A person renting, leasing, or operating a livery boat on
2 waters of the state shall not do any of the following:

3 (a) Permit the operation of the livery boat without the
4 equipment required by rules promulgated under this part.

5 (b) Permit the operation of the livery boat if it contains a
6 number of persons in excess of the maximum number approved for
7 the livery boat and indicated on the inspection decal, plate, or
8 tab affixed to the livery boat.

9 (c) Permit the operation of the livery boat, if it is
10 equipped with a motor with a horsepower rating in excess of the
11 maximum horsepower approved for the livery boat and indicated on
12 the inspection decal, plate, or tab affixed to the livery boat.

13 (D) KNOWINGLY PERMIT THE OPERATION OF THE LIVERY BOAT BY A
14 PERSON WHO IS ANY OF THE FOLLOWING:

15 (i) UNDER THE INFLUENCE OR IMPAIRED DUE TO THE USE OF
16 ALCOHOL.

17 (ii) UNDER THE INFLUENCE OF OR IMPAIRED BY THE USE OF A CON-
18 TROLLED SUBSTANCE.

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

21 (a) A person who is under 14 years of age.

22 (b) A person who does not display a ~~boater~~ BOATING safety
23 certificate that is issued by the department as required under
24 the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to
25 281.1445.

26 (c) A person who is not required to obtain a ~~boater~~
27 BOATING safety certificate issued by the department under the

1 personal watercraft safety act, 1998 PA 116, MCL 281.1401 to
2 281.1445, before operating a personal watercraft, unless the
3 person obtains training in the safe use of a personal watercraft
4 from the boat livery prior to the lease, hire, or rent of the
5 personal watercraft. The department shall provide to boat liv-
6 eries guidelines for the training required under this
7 subdivision.

8 (2) A person who leases, hires, or rents a personal water-
9 craft from a boat livery shall not permit an individual to oper-
10 ate the personal watercraft if the individual has not obtained a
11 boating safety certificate or other certification as required
12 under the personal watercraft safety act, 1998 PA 116, MCL
13 281.1401 to 281.1445.

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

19 (a) The name of the person who leases, hires, or rents a
20 personal watercraft from the boat livery.

21 (b) The date or dates of the lease, hire, or rental.

22 (4) The written rental agreement described under subsection
23 (3) is a valid boating safety certificate under the personal
24 watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445,
25 only for the person named in the certificate on the date or dates
26 of the lease, hire, or rental of the personal watercraft.

1 (5) A BOAT LIVERY SHALL NOT LEASE, HIRE, OR RENT A PERSONAL
2 WATERCRAFT UNLESS BOTH OF THE FOLLOWING CONDITIONS ARE MET:

3 (A) THE PERSONAL WATERCRAFT IS IN GOOD, SEAWORTHY
4 CONDITION.

5 (B) THE BOAT LIVERY PROVIDES EACH PERSON WHO WILL BE OPERAT-
6 ING OR RIDING ON THE PERSONAL WATERCRAFT WITH A TYPE I, TYPE II,
7 OR TYPE III PERSONAL FLOTATION DEVICE AS DESCRIBED IN R 281.1234
8 OF THE MICHIGAN ADMINISTRATIVE CODE, AT NO EXTRA CHARGE.

9 (6) ~~-(5)-~~ A person who leases, hires, or rents a personal
10 watercraft from a boat livery is liable for any injury occasioned
11 by the negligent operation of the personal watercraft, whether
12 the negligence consists of a violation of the statutes of this
13 state, or in the failure to observe the ordinary care in the
14 operation that the rules of the common law require. The person
15 is not liable unless the personal watercraft is being used with
16 his or her expressed or implied consent. It shall be rebuttably
17 presumed that the personal watercraft is being operated with the
18 knowledge and consent of the person if it is driven at the time
19 of the injury by his or her son, daughter, spouse, father,
20 mother, brother, sister, or other immediate member of the
21 person's family.

22 (7) ~~-(6)-~~ A person who violates subsection (1) or (2) is
23 guilty of a misdemeanor, punishable by imprisonment for not more
24 than 90 days or a fine of not less than \$100.00 or more than
25 \$500.00, or both. A person who violates subsection (1) or (2)
26 twice within a 3-year period is guilty of a misdemeanor
27 punishable by imprisonment for not more than 90 days or a fine of

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

5 (8) ~~-(7)-~~ In addition to any penalty imposed under subsec-
6 tion ~~-(6)-~~ (7), upon a person's second or subsequent violation of
7 subsection (1), the court may issue an order impounding the per-
8 sonal watercraft that was leased, hired, or rented in violation
9 of subsection (1) for a period of not more than 1 year. The cost
10 of storage for an impoundment ordered under this subsection shall
11 be paid by the owner of the personal watercraft.

12 Sec. 44526. (1) Except as otherwise provided in section
13 44504, rules promulgated pursuant to former ~~Act No. 244 of the~~
14 ~~Public Acts of 1986~~ 1986 PA 244 or an act repealed by that
15 former public act remain in effect until replaced by rules
16 promulgated pursuant to former ~~Act No. 244 of the Public Acts of~~
17 ~~1986~~ 1986 PA 244 or this part.

18 (2) IN THE ADMINISTRATIVE RULES GOVERNING VESSELS CARRYING
19 PASSENGERS FOR HIRE, BEING R 281.3101 THROUGH R 281.3506 OF THE
20 MICHIGAN ADMINISTRATIVE CODE, ANY REFERENCE TO MARINE INSPECTOR
21 SHALL BE CONSIDERED A REFERENCE TO A CERTIFIED MARINE SURVEYOR.