

HOUSE BILL No. 5099

September 25, 2001, Introduced by Rep. Callahan and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 80186 (MCL 324.80186), as added by 1995 PA
58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80186. (1) Immediately upon acceptance by the court of
2 a plea of guilty or nolo contendere or upon entry of a verdict of
3 guilty for a violation of section 80176(1), (3), (4), or (5) or a
4 local ordinance substantially corresponding to section 80176(1)
5 or (3), whether or not the person is eligible to be sentenced as
6 a multiple offender, the court shall consider all prior convic-
7 tions currently entered upon the boating record of the person or
8 other evidence of prior convictions established under section
9 80179, except those convictions that, upon motion by the

1 defendant, are determined by the court to be constitutionally
2 invalid, and shall impose the following sanctions:

3 (a) For a conviction under section 80176(4) or (5), the
4 court shall order with no expiration date that the person not
5 operate a vessel on the waters of this state.

6 (b) For a conviction under section 80176(1) or a local ordi-
7 nance substantially corresponding to section 80176(1):

8 (i) If the court finds that the person has no prior convic-
9 tions within 7 years for a violation of section 80176(1), (3),
10 (4), or (5), former section 171(1), (3), (4), or (5) OF THE
11 MARINE SAFETY ACT, or another boating substance abuse offense, or
12 that the person has 1 prior conviction within 7 years for a vio-
13 lation of section 80176(3), ~~or~~ former section 171(3) of the
14 marine safety act, ~~or~~ former section 73b of the marine safety
15 act, ~~or~~ a local ordinance substantially corresponding to section
16 80176(3) or former section 73b of the marine safety act, ~~or~~ or a
17 law of another state substantially corresponding to section
18 80176(3) or former section 73b of the marine safety act, the
19 court may order that the person not operate a vessel on the
20 waters of this state for not less than 1 year or more than 2
21 years.

22 (ii) If the court finds that the person has 1 or more prior
23 convictions within 7 years for a violation of section 80176(1),
24 (3), (4), or (5); former section 73 of the marine safety act; a
25 local ordinance substantially corresponding to section 80176(1)
26 or former section 73 of the marine safety act; or a law of
27 another state substantially corresponding to section 80176(1),

1 (4), or (5) or former section 73 of the marine safety act, the
2 court shall order that the person not operate a vessel on the
3 waters of this state for not less than 2 years.

4 (iii) If the court finds that the person has 2 or more prior
5 convictions within 10 years for a violation of section 80176(1),
6 (3), (4), or (5) or former section 171(1), (3), (4), or (5) OF
7 THE MARINE SAFETY ACT or another boating substance abuse offense,
8 the court shall order with no expiration date that the person not
9 operate a vessel on the waters of this state.

10 (c) For a conviction under section 80176(3) or a local ordi-
11 nance substantially corresponding to section 80176(3):

12 (i) If the court finds that the convicted person has no
13 prior conviction within 7 years for a violation of section
14 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or
15 (5) OF THE MARINE SAFETY ACT or another boating substance abuse
16 offense, the court may order that the person not operate a vessel
17 on the waters of this state for not less than 6 months or more
18 than 1 year.

19 (ii) If the court finds that the person has 1 prior convic-
20 tion within 7 years for a violation of section 80176(1), (3),
21 (4), or (5) or former section 171(1), (3), (4), or (5) OF THE
22 MARINE SAFETY ACT or another boating substance abuse offense, the
23 court shall order that the person not operate a vessel on the
24 waters of this state for not less than 1 year or more than 2
25 years.

26 (iii) If the court finds that the person has 2 or more prior
27 convictions within 10 years for a violation of section 80176(1),

1 (3), (4), or (5) or former section 171(1), (3), (4), or (5) OF
2 THE MARINE SAFETY ACT or another boating substance abuse offense,
3 the court shall order with no expiration date that person not to
4 operate a vessel on the waters of this state.

5 (2) As used in this section, "another boating substance
6 abuse offense" means former section 73 or 73b of the marine
7 safety act, a local ordinance substantially corresponding to sec-
8 tion 80176(1) or (3) or former section 73 or 73b of the marine
9 safety act, or a law of another state substantially corresponding
10 to section 80176(1), (3), (4), or (5) or former section 73 or 73b
11 of the marine safety act.

12 (3) EACH MUNICIPAL JUDGE AND EACH CLERK OF A COURT OF RECORD
13 SHALL KEEP A FULL RECORD OF EVERY CASE IN WHICH A PERSON IS
14 CHARGED WITH A VIOLATION OF SECTION 80176(1) OR (3). THE MUNICI-
15 PAL JUDGE OR CLERK OF THE COURT OF RECORD SHALL PREPARE AND IMME-
16 DIATELY FORWARD TO THE SECRETARY OF STATE AN ABSTRACT OF THE
17 COURT OF RECORD FOR EACH CASE CHARGING A VIOLATION OF SECTION
18 80176(1) OR (3).

19 Enacting section 1. This amendatory act takes effect June
20 1, 2002.

21 Enacting section 2. This amendatory act does not take
22 effect unless Senate Bill No. _____ or House Bill No. 5097
23 (request no. 04632'01) of the 91st Legislature is enacted into
24 law.