

HOUSE BILL No. 5192

October 21, 2003, Introduced by Rep. Nitz and referred to the Committee on Criminal Justice.

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
7 convictions currently entered upon the boating record of the
8 person or other evidence of prior convictions established under
9 section 80179, except those convictions that, upon motion by the
10 defendant, are determined by the court to be constitutionally

1 invalid, and shall impose the following sanctions:

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

5 (b) For a conviction under section 80176(1) or a local
6 ordinance substantially corresponding to section 80176(1):

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

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

1 court shall order that the person not operate a vessel on the
2 waters of this state for not less than 2 years.

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

9 (c) For a conviction under section 80176(3) or a local
10 ordinance substantially corresponding to section 80176(3):

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

18 (ii) If the court finds that the person has 1 prior
19 conviction within 7 years for a violation of section 80176(1),
20 (3), (4), or (5) or former section 171(1), (3), (4), or (5) **of**
21 **the marine safety act** or another boating substance abuse offense,
22 the court shall order that the person not operate a vessel on the
23 waters of this state for not less than 1 year or more than 2
24 years.

25 (iii) If the court finds that the person has 2 or more prior
26 convictions within 10 years for a violation of section 80176(1),
27 (3), (4), or (5) or former section 171(1), (3), (4), or (5) **of**

1 **the marine safety act** or another boating substance abuse offense,
2 the court shall order with no expiration date that person not to
3 operate a vessel on the waters of this state.

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

11 (3) **Each municipal judge and each clerk of a court of record**
12 **shall keep a full record of every case in which a person is**
13 **charged with a violation of section 80176(1) or (3). The**
14 **municipal judge or clerk of the court of record shall prepare and**
15 **immediately forward to the secretary of state an abstract of the**
16 **court record for each case charging a violation of section**
17 **80176(1) or (3).**

18 Enacting section 1. This amendatory act does not take
19 effect unless Senate Bill No. _____ or House Bill No. 5191
20 (request no. 04464'03) of the 92nd Legislature is enacted into
21 law.