

SENATE BILL No. 915

January 14, 2004, Introduced by Senators BARCIA, ALLEN, SANBORN, BIRKHOLZ, GILBERT, KUIPERS, BISHOP, VAN WOERKOM, TOY, BROWN, GOSCHKA, HAMMERSTROM, CASSIS, STAMAS, OLSHOVE, PRUSI and BRATER and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
 "Natural resources and environmental protection act,"
 by amending sections 44501, 44511, 44518, 71101, 71108, 78101, 78102, 78103, 78104, 78105, 78109, 78110, 78111, 78115, 78503, 79101, 79114, 79117, 80115, 80118, and 80119 (MCL 324.44501, 324.44511, 324.44518, 324.71101, 324.71108, 324.78101, 324.78102, 324.78103, 324.78104, 324.78105, 324.78109, 324.78110, 324.78111, 324.78115, 324.78503, 324.79101, 324.79114, 324.79117, 324.80115, 324.80118, and 324.80119), sections 44501, 44511, and 44518 as added by 1995 PA 57, sections 71101, 71108, 78102, 78103, 78104, 78105, 78109, 78111, 78503, 79101, 79114, 79117, 80115, 80118, and 80119 as added by 1995 PA 58, section 78101 as amended by 1998 PA 210, and sections 78110 and 78115 as amended by 2003 PA 19.

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:

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

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

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

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

22 (d) "Class A vessel" means a vessel, except a sailboat, that
23 carries for hire on navigable waters not more than 6 passengers.

24 (e) "Class B vessel" means a vessel, except a sailboat, that
25 carries for hire on inland waters not more than 6 passengers.

26 (f) "Class C vessel" means a vessel, except a sailboat, that
27 carries for hire on inland waters more than 6 passengers.

1 (g) "Class D vessel" means a vessel that is propelled
2 primarily by a sail or sails and carries for hire on navigable
3 waters not more than 6 passengers or carries passengers for hire
4 on inland waters.

5 (h) "Class E vessel" means a vessel that carries not more
6 than 6 passengers for hire and meets either of the following
7 requirements:

8 (i) Is utilized primarily as a river-drift boat that is
9 propelled primarily by hand.

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

13 (i) "Equipment" means a system, part, or component of a
14 vessel as originally manufactured, or a system, part, or
15 component manufactured or sold for replacement, repair, or
16 improvement of a system, part, or component of a vessel; an
17 accessory or equipment for, or appurtenance to, a vessel; or a
18 marine safety article, accessory, or equipment intended for use
19 by a person on board a vessel; but does not include radio
20 equipment.

21 (j) "Inland waters" means all waters of this state, except
22 navigable waters.

23 (k) "Livery boat" means a vessel which is offered for rent or
24 lease by the boat livery or boat owner or his or her agent or is
25 rented or leased from a boat livery or a boat owner or his or her
26 agent and the boat livery or boat owner or his or her agent
27 relinquishes complete physical control of the vessel to the

1 renter or lessee, except the boat livery or owner retains legal
2 title to the vessel.

3 ~~(l) "Marine safety fund" means the marine safety fund~~
4 ~~created in section 80115.~~

5 (l) ~~(m)~~ "Navigable waters" means those waters of the state
6 over which this state and the United States coast guard exercise
7 concurrent jurisdiction, including the Great Lakes and waters
8 connected to the Great Lakes, to the upstream limit of navigation
9 as determined by the United States department of the army corps
10 of engineers.

11 (m) ~~(n)~~ "Operate" means to start any propulsion engine or
12 to physically control the motion, direction, or speed of a
13 vessel.

14 (n) ~~(o)~~ "Owner" means a person who claims lawful possession
15 of a vessel by virtue of legal title or an equitable interest in
16 a vessel that entitles that person to possession of the vessel.

17 (o) ~~(p)~~ "Passenger" means a person carried on board a
18 charter boat except either of the following:

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

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

23 (p) ~~(q)~~ "Peace officer" means every sheriff or sheriff's
24 deputy; village or township marshal; officer of the police
25 department of any city, village, or township; any officer of the
26 Michigan state police; or any other police officer or law
27 enforcement officer who is trained and certified pursuant to the

1 ~~Michigan law enforcement officers training council act of 1965,~~
 2 ~~Act No. 203 of the Public Acts of 1965, being sections 28.601 to~~
 3 ~~28.616 of the Michigan Compiled Laws~~ **commission on law**
 4 **enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616,** and
 5 includes the director and conservation officers employed by the
 6 department.

7 **(q)** ~~(r)~~ "Personal watercraft" means a vessel that meets all
 8 of the following requirements:

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

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

14 (iii) Is designed to be operated by 1 or more persons
 15 positioned on, rather than within, the confines of the hull.

16 **(r)** ~~(s)~~ "Pilot's license" means a vessel operator's license
 17 issued by the United States coast guard or other federal agency,
 18 or a license issued by the department to an operator of a charter
 19 boat that is operated on inland waters.

20 **(s)** ~~(t)~~ "Training or instructional purposes" means the
 21 teaching of any person in the handling and navigation of a vessel
 22 or the techniques of waterskiing.

23 **(t)** ~~(u)~~ "Vessel" means every description of watercraft,
 24 other than a seaplane, used or capable of being used as a means
 25 of transportation on water irrespective of the method of
 26 operation or propulsion.

27 **(u)** ~~(v)~~ "Waters of the state" means any waters within the

1 territorial limits of this state and includes those waters of the
2 Great Lakes which are under the jurisdiction of this state.

3 (v) "Waterways trust fund" means the waterways trust fund
4 established in section 40 of article IX of the state constitution
5 of 1963 and provided for in section 78110.

6 Sec. 44511. (1) The owner of a charter boat required to be
7 inspected under this part and a person required to be licensed as
8 a state pilot under this part shall file an application with the
9 required fee for the charter boat inspection or the state pilot's
10 examination with the department on a form prescribed and
11 furnished by the department. Persons applying for a certificate
12 of inspection or a state pilot's license shall furnish
13 information reasonably required by the department. A person
14 shall not file an application for charter boat inspection or
15 state pilot's examination that contains false information. A
16 person filing an application shall certify by the person's
17 signature that the information furnished on the application is
18 true and correct.

19 (2) The owner of a charter boat, or livery boat as provided
20 for under section 44517, which has never been inspected shall pay
21 to the department an inspection fee for dry dock and dockside
22 inspection according to the following schedule:

23	(a) Class A and D vessels.....	\$250.00
24	(b) Class B vessels.....	\$120.00
25	(c) Class C vessels.....	\$350.00

26 (3) ~~Beginning on April 1, 1987, for~~ For each required dry
27 dock or dockside inspection of a charter boat, or livery boat as

1 provided for under section 44517, other than an inspection under
 2 subsection (2), the owner shall pay the department a fee
 3 according to the following schedule:

4 (a) Class A and D vessels

5 (i) Dockside inspection..... \$100.00

6 (ii) Dry dock inspection..... \$150.00

7 (b) Class B vessels

8 (i) Dockside inspection..... \$ 60.00

9 (ii) Dry dock inspection..... \$ 60.00

10 (c) Class C vessels

11 (i) Dockside inspection..... \$150.00

12 (ii) Dry dock inspection..... \$200.00

13 (4) When the department inspects any charter boat, or livery
 14 boat as provided for under section 44517, at an interval other
 15 than as required by this part, the inspection shall be conducted
 16 without an inspection fee for a dockside inspection and for a
 17 reduced fee to be determined by the department for a dry dock
 18 inspection. When a 24-month dockside inspection and a 72-month
 19 dry dock inspection are required in the same year, the owner
 20 shall only pay the fee for the dry dock inspection, as provided
 21 in subsection (3).

22 (5) For each examination of a person for a state pilot's
 23 license, the applicant shall pay a fee of \$30.00 to the
 24 department.

25 (6) The charter boat inspection fee or state pilot's license
 26 examination fee shall be forfeited to the department and credited
 27 to the ~~marine safety~~ **waterways trust** fund if the owner of the

1 charter boat or the applicant for a state pilot's license fails
2 to keep an appointment, which has been mutually agreed upon
3 between the owner or the applicant and the department, for an
4 inspection or reinspection of the charter boat or a state pilot's
5 license examination, without first notifying the inspecting
6 officer or the department's marine safety section within the
7 department's law enforcement division at least 24 hours prior to
8 the scheduled appointment. Upon the forfeiture of an application
9 fee, the owner of the charter boat or the applicant for a state
10 pilot's license must submit a new application and the required
11 fee before the department shall conduct any inspection of the
12 charter boat or conduct any examination of the applicant for a
13 state pilot's license.

14 (7) Except as otherwise provided in section 44517, the
15 revenue received for inspection fees under this section shall be
16 deposited in the state treasury to the credit of the ~~marine~~
17 ~~safety~~ **waterways trust** fund. ~~and shall only be used to pay for~~
18 ~~inspections required by this part, and to maintain the education~~
19 ~~and enforcement program provided for in section 44513(2).~~ The
20 revenue division of the department of treasury shall annually
21 provide to the department an accurate total of revenue collected
22 and shall annually credit that amount to the ~~marine safety~~
23 **waterways trust** fund.

24 Sec. 44518. (1) An inspecting officer, designated by the
25 department, shall affix or cause to be affixed to each and every
26 livery boat that meets the minimum safety standards established
27 under rules promulgated under this part an inspection decal,

1 plate, or tab furnished by the department which bears all of the
2 following information:

3 (a) The maximum number of persons permitted to be carried
4 aboard the vessel.

5 (b) The maximum horsepower of a motor permitted to be used on
6 the vessel.

7 (c) Other information as the department may reasonably
8 require.

9 (2) Each boat livery owner shall pay a fee of \$2.00 to the
10 inspecting officer for each decal, plate, or tab affixed to the
11 livery boats. The inspecting officer shall forward all fees
12 collected under this subsection to the treasurer of the county in
13 which the fee is collected to be credited for the purpose of
14 reimbursing the sheriff's department for expenses incurred
15 pursuant to this part. If the inspecting officer is a
16 conservation officer, fees collected under this section shall be
17 forwarded to the department of treasury to be credited to the
18 ~~marine safety~~ **waterways trust** fund.

19 Sec. 71101. As used in this part:

20 (a) "Associated facilities" means restrooms, shelters,
21 campgrounds, and parking lots directly related to trails or
22 waterways projects.

23 (b) "Fund" means the recreation improvement fund created in
24 section 71104.

25 ~~(c) "Michigan state waterways fund" means the Michigan state~~
26 ~~waterways fund created in section 78110.~~

27 (c) ~~(d)~~ "Off-road vehicle" means ORV as it is defined in

1 part 811, which is required to be registered under part 811.

2 (d) ~~—(e)—~~ "Recreational projects" means, in addition to the
3 activities provided for in this part, the construction,
4 maintenance, and operation of trails and associated facilities
5 that may be used by off-road vehicles, cross-country skiers,
6 horseback riders, and hikers, and inland lake cleanup grants as
7 provided by part 309.

8 (e) ~~—(f)—~~ "Recreational snowmobile trail improvement fund"
9 means the recreational snowmobile trail improvement fund created
10 in section 82110.

11 (f) ~~—(g)—~~ "Vessel" means all watercraft except the
12 following:

13 (i) Watercraft used for commercial fishing.

14 (ii) Watercraft used by the sea scout department of the boy
15 scouts of America chiefly for training scouts in seamanship.

16 (iii) Watercraft owned by this state, any political
17 subdivision of this state, or the federal government.

18 (iv) Watercraft when used in interstate or foreign commerce
19 and watercraft used or owned by any railroad company or railroad
20 car ferry company.

21 (v) Watercraft when used in trade, including watercraft when
22 used in connection with an activity that constitutes a person's
23 chief business or means of livelihood.

24 (g) ~~—(h)—~~ "Watercraft" means any contrivance now known or
25 invented in the future that is used or designed for navigation on
26 water, including, but not limited to, any vessel, ship, boat,
27 motor vessel, steam vessel, vessel operated by machinery,

1 motorboat, sailboat, barge, scow, tugboat, and rowboat, but does
2 not include watercraft used or owned by the United States.

3 (h) **"Waterways trust fund" means the waterways trust fund**
4 **established in section 40 of article IX of the state constitution**
5 **of 1963 and provided for in section 78110.**

6 Sec. 71108. (1) The department shall annually review and
7 make recommendations to the legislature for distributions of the
8 fund, including recreational projects and geographic locations.

9 (2) Of the total fund, not less than 80% shall be credited to
10 the ~~Michigan state~~ waterways **trust** fund, not less than 14% to
11 the recreational snowmobile trail improvement fund, and the
12 remaining balance, if any, shall be distributed to recreational
13 projects. Of the remaining balance credited to recreational
14 projects in a fiscal year, not less than 25% of any funds
15 designated for projects intended for off-road vehicles shall be
16 expended on projects to repair damages as a result of pollution,
17 impairment, or destruction of air, water, or other natural
18 resources, or the public trust in air, water, or other natural
19 resources, as a result of the use of off-road vehicles.

20 Sec. 78101. As used in this part:

21 (a) "Advisory committee" means the public boating access site
22 advisory committee established pursuant to section 78113.

23 ~~(b) "Commission" means the Michigan state waterways~~
24 ~~commission.~~

25 (b) ~~(e)~~ "Department" means the department of natural
26 resources.

27 (c) ~~(d)~~ "Director" means the administrative director of the

1 **waterways** commission.

2 (d) ~~—(e)—~~ "Diesel motor fuel" means any liquid fuel used in
3 the operation of engines of the diesel type in motor vehicles or
4 watercraft.

5 (e) ~~—(f)—~~ "Gasoline" means gasoline, casing head or natural
6 gasoline, benzole, benzine, and naphtha; also, any liquid
7 prepared, advertised, offered for sale, sold for use as, or used
8 for, the generation of power for the propulsion of motor vehicles
9 or watercraft, including any product obtained by blending
10 together any 1 or more products of petroleum, with or without
11 other products, and regardless of the original character of the
12 petroleum products blended, if the resultant product obtained is
13 capable of use for the generation of power for the propulsion of
14 motor vehicles or watercraft, it being the intention that the
15 blending of the products, regardless of name or characteristics,
16 shall conclusively be presumed to produce motor fuel, unless the
17 resultant product is entirely incapable for use as motor fuel.
18 Gasoline does not include diesel fuel, liquefied petroleum gas,
19 or commercial or industrial naphthas or solvents manufactured,
20 imported, received, stored, distributed, sold, or used
21 exclusively for purposes other than as a fuel for motor vehicles
22 or watercraft.

23 (f) ~~—(g)—~~ "Harbor" means a portion of a lake or other body of
24 water either naturally or artificially protected so as to be a
25 place of safety for watercraft, including contrivances used or
26 designed for navigation on water and used or owned by the United
27 States.

1 (g) ~~-(h)-~~ "Harbor facilities" means the structures at a
2 harbor constructed to protect the lake or body of water and the
3 facilities provided within the harbor and ashore for the mooring
4 and servicing of watercraft and the servicing of crews and
5 passengers.

6 (h) ~~-(i)-~~ "Liquefied petroleum gas" means gases derived from
7 petroleum or natural gases which are in the gaseous state at
8 normal atmospheric temperature and pressure, but which may be
9 maintained in the liquid state at normal atmospheric temperature
10 by suitable pressure. Liquefied petroleum gas includes those
11 products predominately composed of propane, propylene, butylene,
12 butane, and similar products ~~which~~ **that** are not ~~covered in~~
13 ~~chapters 1 and 2 of 1927 PA 150, MCL 207.101 to 207.134~~ **diesel**
14 **fuel as defined in section 2 of the motor fuel tax act, 2000 PA**
15 **403, MCL 207.1002, or gasoline as defined in section 3 of the**
16 **motor fuel tax act, 2000 PA 403, MCL 207.1003.**

17 (i) ~~-(j)-~~ "Marina" means a site which contains harbor
18 facilities.

19 (j) ~~-(k)-~~ "Navigable water" means any waterway navigable by
20 vessels, or capable of being made navigable by vessels through
21 artificial improvements, and includes the structures and
22 facilities created to facilitate navigation.

23 (k) ~~-(l)-~~ "Person" includes any individual, partnership,
24 corporation, association, or body politic, except the United
25 States and this state, and includes any trustee, receiver,
26 assignee, or other similar representative of those entities.

27 (l) ~~-(m)-~~ "Public boating access site" means a publicly owned

1 site for the launching of recreational watercraft.

2 **(m)** ~~—(n)—~~ "Retail fuel dealer" includes any person or
3 persons, both private and municipal, who engage in the business
4 of selling or distributing fuel within the state.

5 **(n)** ~~—(o)—~~ "Secretary of state" means the secretary of state
6 of this state, acting directly or through a duly authorized
7 deputy, investigators, agents, and employees.

8 **(o)** ~~—(p)—~~ "Vessel" means all watercraft except the
9 following:

10 (i) Watercraft used for commercial fishing.

11 (ii) Watercraft used by the sea scout department of the boy
12 scouts of America chiefly for training scouts in seamanship.

13 (iii) Watercraft owned by this state, any political
14 subdivision of this state, or the federal government.

15 (iv) Watercraft when used in interstate or foreign commerce
16 and watercraft used or owned by any railroad company or railroad
17 car ferry company.

18 (v) Watercraft when used in trade, including watercraft when
19 used in connection with an activity that constitutes a person's
20 chief business or means of livelihood.

21 **(p)** ~~—(q)—~~ "Watercraft" means any contrivance used or designed
22 for navigation on water, including, but not limited to, any
23 vessel, ship, boat, motor vessel, steam vessel, vessel operated
24 by machinery, motorboat, sailboat, barge, scow, tugboat, and
25 rowboat, but does not include contrivances used or owned by the
26 United States.

27 **(q)** ~~—(r)—~~ "Waterway" means any body of water.

1 (r) "Waterways commission" means the Michigan state waterways
2 commission established in section 40 of article IX of the state
3 constitution of 1963 and provided for in section 78102.

4 (s) "Waterways trust fund" means the waterways trust fund
5 established in section 40 of article IX of the state constitution
6 of 1963 and provided for in section 78110.

7 Sec. 78102. (1) ~~There is created a state commission to be~~
8 ~~known and designated as~~ Pursuant to section 40 of article IX of
9 the state constitution of 1963, the Michigan state waterways
10 commission is established. The waterways commission shall
11 consist of 7 members ~~—, who shall be—~~ appointed by the governor
12 ~~—,~~ with the advice and consent of the senate. The term of
13 office of each member shall be 3 years, except that, of members
14 first appointed, 2 shall be appointed for 1 year, 2 shall be
15 appointed for 2 years, and 1 shall be appointed for 3 years. Not
16 ~~less~~ fewer than 2 members shall reside north of townline 16, 1
17 of whom shall reside in the ~~upper peninsula~~ Upper Peninsula and
18 1 of whom shall reside in the ~~lower peninsula~~ Lower Peninsula.
19 One of the members shall be an individual who owns or operates a
20 harbor or marina in this state at the time of his or her
21 appointment and during his or her membership on the commission.
22 One member shall be a representative of the marine-trades
23 industry who does not own or operate a harbor or marina. ~~The~~
24 ~~first term of the individual who owns or operates a harbor or~~
25 ~~marina shall expire on September 18, 1989. The first term of the~~
26 ~~marine trade representative who does not own or operate a harbor~~
27 ~~or marina shall expire on September 18, 1988.~~

1 (2) A member appointed to fill a vacancy occurring other than
2 by expiration of a term shall be appointed for the unexpired
3 term. Members shall qualify by taking and filing the
4 constitutional oath of office. A member of the **waterways**
5 commission shall not receive a salary for his or her services as
6 a commissioner, but may be reimbursed for actual and necessary
7 expenses incurred in performance of official duties. The members
8 of the **waterways** commission may be removed by the governor for
9 inefficiency, neglect of duty, misuse of office, or malfeasance
10 in office, in the manner provided by law for the removal of other
11 public officers for similar causes. Vacancies shall be filled
12 for the unexpired term in the same manner as original
13 appointments.

14 (3) The **waterways** commission shall, immediately upon its
15 appointment, organize, adopt a seal, and make, amend, and revise
16 the rules necessary for the administration of the **waterways**
17 commission's duties under this part. The **waterways** commission at
18 the organization meeting shall elect from its members a
19 chairperson and vice-chairperson to serve for 1 year and annually
20 thereafter shall elect such officers, each to serve until his or
21 her successor is appointed and qualified. Action shall not be
22 taken by the **waterways** commission with less than a majority
23 assent of its members.

24 (4) The department of management and budget shall provide
25 suitable offices and equipment for the use of the **waterways**
26 commission.

27 (5) The department, with the approval of the **waterways**

1 commission, shall appoint an individual to serve as the liaison
2 between the department and the waterways commission.

3 Sec. 78103. (1) The business ~~which~~ **that** the ~~Michigan~~
4 ~~state~~ waterways commission may perform shall be conducted at a
5 public meeting of the commission held in compliance with the open
6 meetings act, ~~Act No. 267 of the Public Acts of 1976, being~~
7 ~~sections 15.261 to 15.275 of the Michigan Compiled Laws~~ **1976 PA**
8 **267, MCL 15.261 to 15.275.** Public notice of the time, date, and
9 place of the meeting shall be given in the manner required by
10 ~~Act No. 267 of the Public Acts of 1976~~ **the open meetings act,**
11 **1976 PA 267, MCL 15.261 to 15.275.**

12 (2) A writing prepared, owned, used, in the possession of, or
13 retained by the **waterways** commission in the performance of an
14 official function shall be made available to the public in
15 compliance with the freedom of information act, ~~Act No. 442 of~~
16 ~~the Public Acts of 1976, being sections 15.231 to 15.246 of the~~
17 ~~Michigan Compiled Laws~~ **1976 PA 442, MCL 15.231 to 15.246.**

18 Sec. 78104. There is established the office of
19 administrative director of the **waterways** commission. The
20 director **shall be appointed** ~~qualified~~ **by the waterways**
21 **commission. To be eligible for appointment as director, a person**
22 **shall have** a record of experience in connection with boating.
23 **The director** shall ~~be appointed by the commission to~~ serve for
24 an indefinite term, during his or her efficient, honest, and
25 businesslike execution of his or her duties. ~~He or she~~ **The**
26 **director** shall receive such compensation as the commission may
27 determine, not in excess of \$8,400.00, and shall be reimbursed

1 for all traveling and other expenses incurred ~~by him or her~~ in
2 the discharge of his or her official duties. The director shall
3 be charged with the administration of this part in accordance
4 with the policies established by the **waterways** commission. The
5 department, upon recommendation of the director ~~—~~ **and** subject
6 to the approval of the **waterways** commission, may employ ~~such~~
7 assistants ~~—~~ and make ~~such~~ expenditures ~~as may be~~ necessary
8 in implementing this part related to the powers and duties of the
9 **waterways** commission. The salaries of all employees, and the
10 necessary expenses while traveling in performing any of their
11 duties, shall be paid in the same manner as the salaries and
12 expenses of other state employees are paid.

13 Sec. 78105. The department shall have the following powers
14 and duties:

15 (a) To acquire, construct, and maintain harbors, channels,
16 and facilities for vessels in the navigable waters lying within
17 the boundaries of the state of Michigan.

18 (b) To acquire, by purchase, lease, gift, or condemnation the
19 lands, rights of way, and easements necessary for harbors and
20 channels. The department shall be considered a state agency
21 under the provisions of ~~Act No. 149 of the Public Acts of 1911,~~
22 ~~being sections 213.21 to 213.25 of the Michigan Compiled Laws~~
23 **1911 PA 149, MCL 213.21 to 213.25**, relative to condemnation by
24 state agencies.

25 (c) To acquire, by purchase, lease, gift, or condemnation
26 suitable areas on shore for disposal of the material from
27 dredging.

1 (d) To enter into any contracts or agreements that may be
2 necessary in carrying out this part, including agreements to hold
3 and save the United States free from damages due to the
4 construction and maintenance by the United States of those works
5 that the United States undertakes.

6 (e) To provide for the granting of concessions within the
7 boundaries of harbors, so as to furnish the public gas, oil,
8 food, and other facilities.

9 (f) To represent the state ~~of Michigan~~ and the governor ~~of~~
10 ~~Michigan~~ in dealings with the chief of engineers of the United
11 States army and his or her authorized agents for the purposes set
12 forth in this part.

13 (g) To charge fees for both seasonal and daily moorage at
14 state-operated small craft mooring facilities. All revenues
15 derived from this source shall be deposited in the ~~Michigan~~
16 ~~state~~ waterways **trust** fund.

17 (h) To charge fees for both daily and seasonal use of
18 state-operated public access sites, if the cost of collecting the
19 fees will not exceed the revenue derived from the fees for daily
20 and seasonal passes. All revenues derived from this source shall
21 be deposited in the ~~Michigan state~~ waterways **trust** fund. A
22 seasonal pass shall grant the permittee the right to enter any
23 state-operated public access site without payment of an
24 additional fee.

25 (i) To collect the proceeds from the sale of marine fuel at
26 harbors operated by the department. The proceeds from the sales
27 shall be credited to the ~~Michigan state~~ waterways **trust** fund

1 and used for the purchase of marine fuel supplies as may be
2 needed. Any remaining revenue from this source not needed for
3 the purchase of marine fuel supplies may be expended in the same
4 manner as other funds within the ~~Michigan state~~ waterways **trust**
5 fund.

6 Sec. 78109. The **waterways** commission shall advise the
7 department on the administration of this part.

8 Sec. 78110. (1) The ~~Michigan state~~ waterways **trust** fund
9 is created in the state treasury. ~~The fund shall be~~
10 ~~administered by the state treasurer and shall be used by the~~
11 ~~department solely for the construction, operation, and~~
12 ~~maintenance of recreational boating facilities, the acquisition~~
13 ~~of property for the purposes of this part, for grants to local~~
14 ~~units of government and public colleges or universities to~~
15 ~~acquire and develop harbors of refuge and public boating access~~
16 ~~sites under section 78115, and for the administration of this~~
17 ~~part. The fund shall receive such revenues as the legislature~~
18 ~~may provide.~~

19 ~~—— (2) The Michigan harbor development fund is created in the~~
20 ~~state treasury. The fund shall be administered by the state~~
21 ~~treasurer and shall be used by the department solely for the~~
22 ~~purposes provided in part 791 and for the administration of that~~
23 ~~part. The fund shall receive revenues as provided in part 791~~
24 ~~and such other revenues as the legislature may provide.~~

25 (2) The state treasurer may receive money or other assets
26 from any source for deposit into the waterways trust fund. The
27 state treasurer shall direct the investment of the waterways

1 trust fund. The state treasurer shall credit to the waterways
2 trust fund interest and earnings from waterways trust fund
3 investments.

4 (3) Money in the waterways trust fund at the close of the
5 fiscal year shall remain in the waterways trust fund and shall
6 not lapse to the general fund.

7 (4) Money in the waterways trust fund shall be expended, upon
8 appropriation, only for the following purposes:

9 (a) Forty-nine percent of the revenues deriving from
10 watercraft registration fees assessed on the ownership or
11 operation of watercraft in the state shall be used for water
12 safety programs and for the enforcement of laws related to the
13 operation of watercraft on the waters of the state.

14 (b) Money not allocated under subdivision (a) shall be used
15 for the following purposes, with not less than 70% of this money
16 used for capital improvement projects:

17 (i) For the construction, operation, and maintenance of
18 recreational boating facilities, including the acquisition of
19 land or rights in land for these purposes.

20 (ii) For grants to local units of government to acquire and
21 develop harbors of refuge and public boating access sites.

22 (iii) For the administration of programs funded by the
23 waterways trust fund.

24 (5) The waterways commission shall annually approve the
25 expenditures from the waterways trust fund.

26 (6) If money from the waterways trust fund will be used to
27 employ private contractors, the waterways commission shall

1 **approve those contractors.**

2 Sec. 78111. It is the purpose of this part, in providing
3 for harbors and channels, that the appropriation made by the
4 state be considered an advancement — and that the fees, taxes,
5 and other revenues received under this part, to be credited to
6 the ~~Michigan state~~ waterways **trust** fund, shall be applied
7 against the advancement, until all advancements have been fully
8 paid. Thereafter, all such fees, taxes, and revenues shall be
9 available for continued expansion and development of harbors and
10 connecting waterways. However, subject to the approval of the
11 state administrative board, the necessary expense of
12 administration of this part — and any expense necessary to the
13 protection of the harbors — and connecting waterways —
14 constructed or established under the provisions of this part, or
15 any improvement to the harbors and connecting waterways necessary
16 for the proper and adequate protecting of vessels, shall be paid
17 from the fees, taxes, and revenues before being credited to the
18 advancements. The state administrative board shall from time to
19 time provide for the transfer of credits to advancements from the
20 ~~Michigan state~~ waterways **trust** fund to the general fund, until
21 the advancements have been fully paid.

22 Sec. 78115. (1) The department shall establish a public
23 boating access sites grant program. The grant program shall
24 provide funding with money in the ~~Michigan state~~ waterways
25 **trust** fund to local units of government and public colleges or
26 universities for all or a portion of the cost of either or both
27 of the following:

1 (a) The acquisition of land for the establishment of a public
2 boating access site.

3 (b) The cost of developing a public boating access site.

4 (2) A grant under subsection (1)(a) may be used as the
5 required match by a local unit of government or a public college
6 or university under part 19 or another state or federal program.

7 (3) A local unit of government or a public college or
8 university receiving a grant under subsection (1)(b) must agree
9 to operate the public boating access site in accordance with the
10 department's operational requirements. The operational
11 requirements shall be included within a grant agreement that is
12 entered into by the grant recipient and the department. The
13 grant agreement may contain, but need not be limited to, 1 or
14 more of the following provisions as required by the department:

15 (a) Any net revenues accruing from the operation of the
16 public boating access site shall be separately accounted for and
17 reserved in a restricted fund by the grantee for the future
18 maintenance or expansion of the public boating access site or,
19 with the approval of the department, the construction of other
20 recreational boating facilities. Unless otherwise provided in
21 the grant agreement or otherwise authorized in writing by the
22 department, if a fee is charged for the use of the public boating
23 access site, the fee shall be the same as the fee rates set by
24 the department.

25 (b) Unless otherwise provided in the grant agreement or
26 otherwise authorized in writing by the department, the public
27 boating access site and any facilities constructed for use in

1 conjunction with the public boating access site shall be reserved
2 by the grantee exclusively for the use or rental, on a daily
3 basis, of recreational watercraft.

4 (c) Unless otherwise provided in the grant agreement or
5 otherwise authorized in writing by the department, commercial
6 operations of any type shall not be permitted to regularly use
7 the public boating access site or any of the facilities
8 constructed for use in conjunction with the public boating access
9 site.

10 (d) The public boating access site and any facilities
11 constructed for use in conjunction with that public boating
12 access site shall be open to the public at all times on equal and
13 reasonable terms.

14 (4) A local unit of government or a public college or
15 university that wishes to be considered for a grant under this
16 section shall submit an application to the department in a manner
17 prescribed by the department and containing the information
18 required by the department.

19 Sec. 78503. Revenues received by the department under this
20 part shall be deposited in the state treasury to the credit of
21 the ~~Michigan state~~ waterways **trust** fund **created in section 40**
22 **of article IX of the state constitution of 1963 and provided for**
23 **in section 78110** and shall be spent only pursuant to
24 appropriations by the legislature.

25 Sec. 79101. As used in this part:

26 ~~(a) "Commission" means the Michigan state waterways~~
27 ~~commission created in part 781.~~

1 **(a)** ~~—(b)—~~ "Harbor" means a portion of a lake or other body of
2 water either naturally or artificially protected in order to be a
3 place of safety for watercraft.

4 **(b)** ~~—(c)—~~ "Harbor facilities" means the structures of a
5 harbor constructed to protect the lake or body of water and the
6 facilities provided within the harbor and on shore for the
7 mooring and servicing of watercraft and the servicing of crews
8 and passengers.

9 **(c)** ~~—(d)—~~ "Marina" means a site which contains harbor
10 facilities.

11 **(d)** ~~—(e)—~~ "Nonrevenue-producing harbor facilities" means any
12 portion of harbor facilities that would not normally produce
13 revenue and includes, but is not limited to, jetties,
14 breakwaters, dredging, and shore protection.

15 **(e)** ~~—(f)—~~ "Revenue-producing harbor facilities" means any
16 portion of harbor facilities that normally produce revenue and
17 includes, but is not limited to, watercraft slips, watercraft
18 launching facilities, watercraft storage, lodging, access roads,
19 watercraft repair facilities, parking lots, mechanical haul-out
20 devices, and facilities for fuel, food, and other services.

21 **(f)** ~~—(g)—~~ "Watercraft" means any contrivance used or designed
22 for navigation on water, including, but not limited to, any
23 vessel, ship, boat, motor vessel, steam vessel, vessel operated
24 by machinery, motorboat, sailboat, barge, scow, tugboat, and
25 rowboat.

26 **(g)** "Waterways commission" means the Michigan state waterways
27 commission established in section 40 of article IX of the state

1 constitution of 1963 and provided for in section 78102.

2 Sec. 79114. All revenue from lease contracts entered into
3 under this part shall be deposited in the state treasury and
4 credited to the ~~harbor development~~ **waterways trust** fund.
5 ~~created in section 78110.~~

6 Sec. 79117. The ~~Michigan state~~ waterways commission
7 ~~created in part 781~~ shall advise the department on the
8 administration of this part.

9 Sec. 80115. ~~(1)~~ The revenue received under this part
10 shall be deposited in the state treasury. The revenue division,
11 department of treasury, shall annually present to the department
12 an accurate total of all the revenues collected ~~—~~ and shall
13 then credit the revenues collected to the ~~following funds:~~
14 **waterways trust fund.**

15 ~~(a) 17.5% to the Michigan state waterways fund created in~~
16 ~~section 78110.~~

17 ~~—— (b) 33.5% to the Michigan harbor development fund created in~~
18 ~~section 78110.~~

19 ~~—— (c) 49% to the marine safety fund created in subsection (2).~~

20 ~~(2) The marine safety fund is created as a separate fund in~~
21 ~~the state treasury. The legislature shall appropriate from the~~
22 ~~marine safety fund for water safety education programs and for~~
23 ~~the administration and enforcement of this part, including state~~
24 ~~aid to counties, and for no other purpose, but not in excess of~~
25 ~~revenues credited to the marine safety fund. No portion of the~~
26 ~~fees provided for in section 80124 shall be appropriated for the~~
27 ~~inspection of vessels that carry passengers for hire and are~~

1 ~~regulated under part 445.~~

2 Sec. 80118. The amount of state aid to be allocated to a
3 county pursuant to this part shall be determined by the
4 department in the manner the department determines is
5 appropriate. The department shall review the county's statement
6 of authorized expenditures actually incurred and if satisfied
7 shall provide state aid in an amount not to exceed 3/4 of the
8 county's estimated authorized expenditures for the past calendar
9 year. If the county's authorized expenditures actually incurred
10 for the past calendar year exceed the county's estimated
11 authorized expenditures for that calendar year, the department,
12 if it considers it to be in the best interests of the state and
13 adequate funds have been appropriated by the legislature for
14 state aid to counties, may provide state aid in excess of 3/4 of
15 the county's estimated authorized expenditures for that calendar
16 year, but not in excess of 3/4 of the county's authorized
17 expenditures actually incurred. If the amount appropriated by
18 the legislature for state aid to counties is insufficient to pay
19 the full amount to which the counties are entitled, the
20 department shall reduce the allocations proportionate to the
21 shortfall of revenue among all state and local programs for which
22 ~~marine safety~~ **waterways trust** fund resources were
23 appropriated.

24 Sec. 80119. Annually the department of the treasury shall
25 audit the county records pertaining to the marine safety program
26 to assure the proper disposition of this money in accordance with
27 this part and rules promulgated under this part. If the audit

1 reveals that a refund of state aid money is due to the state, the
2 county treasurer, within 30 days of the completion of the audit,
3 shall send to the department the amount of the refund due to the
4 state, which the department shall return to the ~~marine safety~~
5 **waterways trust** fund.

6 Enacting section 1. This amendatory act does not take
7 effect unless Senate Joint Resolution F
8 of the 92nd Legislature
9 becomes a part of the state constitution of 1963 as provided in
10 section 1 of article XII of the state constitution of 1963.