

SENATE BILL No. 1278

June 2, 2004, Introduced by Senator BIRKHOLZ 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 the part heading to part 802 and sections 80201, 80202, 80205, 80206, and 80222 (MCL 324.80201, 324.80202, 324.80205, 324.80206, and 324.80222), as added by 2000 PA 229.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 802 PERSONAL WATERCRAFT **AND AIRBOATS**

2 Sec. 80201. As used in this part:

3 (a) "Airboat" means a flat-bottomed vessel powered by an
4 aircraft engine with a propellor projecting above the stern.

5 (b) ~~—(a)—~~ "Associated equipment" means any of the following
6 that are not radio equipment:

7 (i) An original system, part, or component of a personal
8 watercraft at the time that boat was manufactured, or a similar
9 part or component manufactured or sold for replacement.

1 (ii) Repair or improvement of an original or replacement
2 system, part, or component.

3 (iii) An accessory or equipment for, or appurtenance to, a
4 personal watercraft.

5 (iv) A marine safety article, accessory, or equipment
6 intended for use by a person on board a boat.

7 (c) ~~—(b)—~~ "Boat livery" means that term as defined in section
8 44501.

9 (d) ~~—(e)—~~ "Boating safety certificate" means either of the
10 following:

11 (i) The document issued by the department under this part
12 that certifies that the individual named in the document has
13 successfully completed a boating safety course and passed an
14 examination approved and administered as required under ~~—section~~
15 **sections 80211 and 80212.**

16 (ii) A document issued by the United States coast guard
17 auxiliary that certifies that the individual named in the
18 document has successfully completed a United States coast guard
19 auxiliary course concerning boating safety.

20 (iii) A written rental agreement provided to an individual
21 named in the rental agreement entered into under section 44522
22 only on the date or dates indicated on the rental agreement while
23 the named individual is operating a personal watercraft leased,
24 hired, or rented from a boat livery.

25 (e) ~~—(d)—~~ "Boating safety course" means a course that meets
26 both of the following requirements:

27 (i) Provides instruction on the safe operation of a personal

1 watercraft that meets or exceeds the minimum course content for
2 boating or personal watercraft education established by the
3 national association of state boating law administrators
4 education committee (October 1996).

5 (ii) Is approved by the department.

6 (f) ~~(e)~~ "Channel" means either of the following:

7 (i) The deepest part of a stream, bay, or ~~straight~~ **strait**
8 through which the main current flows.

9 (ii) The part of a body of water deep enough for navigation
10 through an area otherwise not suitable for navigation that is
11 marked by a single or double line of navigational aids or range
12 markers.

13 (g) ~~(f)~~ "Dealer" means a person and an authorized
14 representative of that person who annually purchases from a
15 manufacturer, or who is engaged in selling or manufacturing, 6 or
16 more personal watercraft that require certificates of number
17 under part 801.

18 (h) ~~(g)~~ "Department" means the department of natural
19 resources.

20 (i) ~~(h)~~ "Director" means the director of the department of
21 natural resources.

22 (j) ~~(i)~~ "Manufacturer" means a person engaged in any of the
23 following:

24 (i) The manufacture, construction, or assembly of personal
25 watercraft or associated equipment.

26 (ii) The manufacture or construction of components for
27 personal watercraft and associated equipment to be sold for

1 subsequent assembly.

2 (iii) The importation of a personal watercraft or associated
3 equipment into the state for sale.

4 (k) ~~-(j)-~~ "Operate" means to be in control of a personal
5 watercraft **or airboat** while the personal watercraft **or airboat** is
6 under way and is not docked or at anchor or secured in another
7 way.

8 (l) ~~-(k)-~~ "Operator" means the person who is in control or in
9 charge of a personal watercraft **or airboat** while that vessel is
10 under way.

11 (m) ~~-(l)-~~ "Owner" means a person who claims or is entitled to
12 lawful possession of a personal watercraft by virtue of that
13 person's legal title or equitable interest in a personal
14 watercraft.

15 (n) ~~-(m)-~~ "Peace officer" means 1 or both of the following:

16 (i) A law enforcement officer as that term is defined in
17 section 2 of the commission on law enforcement standards act,
18 1965 PA 203, MCL 28.602.

19 (ii) A deputy who is authorized by a sheriff to enforce this
20 act and who has satisfactorily completed at least 40 hours of law
21 enforcement training, including training specific to this part.

22 (o) ~~-(n)-~~ "Person" means an individual, corporation, limited
23 liability company, partnership, association, governmental entity,
24 or other legal entity.

25 (p) ~~-(o)-~~ "Personal watercraft" means a vessel that meets all
26 of the following requirements:

27 (i) Uses a motor-driven propeller or an internal combustion

1 engine powering a water jet pump as its primary source of
2 propulsion.

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

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

7 (q) ~~-(p)-~~ "Political subdivision" means a county,
8 metropolitan authority, municipality, or combination of those
9 entities in this state.

10 (r) ~~-(q)-~~ "Slow--no wake speed" means the use of a vessel at
11 a very slow speed so that the resulting wake or wash is minimal.

12 (s) ~~-(r)-~~ "Use" means operate, navigate, or employ.

13 (t) ~~-(s)-~~ "Vessel" means every description of watercraft used
14 or capable of being used as a means of transportation on water.

15 (u) ~~-(t)-~~ "Waters of this state" means any waters within the
16 territorial limits of this state, and includes those waters of
17 the Great Lakes that are under the jurisdiction of this state.

18 Sec. 80202. (1) This part applies to personal watercraft
19 and associated equipment used on the waters of this state.

20 (2) **Where specifically provided, this part applies to**
21 **airboats and associated equipment used on the waters of this**
22 **state.**

23 (3) ~~-(2)-~~ Except where expressly indicated otherwise, this
24 part does not apply to a personal watercraft ~~that is all of~~ or
25 **an airboat under the following circumstances:**

26 (a) **If all of the following conditions are met:**

27 (i) ~~-(a)- Owned~~ **The personal watercraft or airboat is owned**

1 by a state or political subdivision of a state other than this
2 state and its political subdivisions.

3 **(ii) ~~-(b) Used~~ The personal watercraft or airboat is used**
4 **principally for governmental purposes.**

5 **(iii) ~~-(c) Clearly~~ The personal watercraft or airboat is**
6 **clearly** marked and identifiable as ~~personal watercraft~~ **a vessel**
7 that is used principally for governmental purposes.

8 **(b) If an airboat is used for surveying, dredging, or other**
9 **water-based commercial efforts permitted or mandated by state or**
10 **federal statute.**

11 Sec. 80205. (1) Except as otherwise provided in this
12 section, a person shall not operate a personal watercraft on the
13 waters of this state unless each person 12 years of age or older
14 riding on or being towed behind the personal watercraft is
15 wearing a type I, type II, or type III personal flotation device
16 as described in R 281.1234 of the Michigan administrative code.

17 (2) A person shall not operate a personal watercraft on the
18 waters of this state unless each person on board or being towed
19 by the personal watercraft who is less than 12 years of age is
20 wearing a type I or type II personal flotation device as
21 described in R 281.1234 of the Michigan administrative code.

22 (3) A person shall not operate a personal watercraft on the
23 waters of this state unless each person on board the personal
24 watercraft is wearing a personal flotation device that is not
25 inflatable.

26 (4) A person shall not operate a personal watercraft on the
27 waters of this state if a child who is under 7 years of age is on

1 board or being towed behind the personal watercraft unless the
2 child is in the company of his or her parent or guardian or a
3 designee of the parent or guardian.

4 (5) While operating a personal watercraft equipped by the
5 manufacturer with a lanyard-type engine cutoff switch on the
6 waters of this state, a person shall have the lanyard attached to
7 his or her person, clothing, or personal flotation device as is
8 appropriate for the personal watercraft.

9 (6) A person shall not operate a personal watercraft on the
10 waters of this state during the period that begins 1 hour before
11 sunset and ends at 8 a.m. As used in this subsection, "sunset"
12 means that time as determined by the national weather service.

13 (7) A person operating a personal watercraft on the waters of
14 this state shall not cross within 150 feet behind another vessel,
15 other than a personal watercraft, unless the person is operating
16 the personal watercraft at slow--no wake speed.

17 (8) A person shall not operate a personal watercraft **or an**
18 **airboat** on the waters of this state where the water depth is less
19 than 2 feet, as determined by vertical measurement, unless 1 or
20 both of the following circumstances exist:

21 (a) The personal watercraft is being operated at slow--no
22 wake speed.

23 (b) The personal watercraft is being docked or launched.

24 (9) A person shall operate a personal watercraft in a
25 reasonable and prudent manner. A maneuver that unreasonably or
26 unnecessarily endangers life, limb, or property, including, but
27 not limited to, all of the following, constitutes reckless

1 operation of a personal watercraft under section 80208:

2 (a) Weaving through congested vessel traffic.

3 (b) Jumping the wake of another vessel unreasonably or
4 unnecessarily close to the other vessel or when visibility around
5 the other vessel is obstructed.

6 (c) Waiting until the last possible moment before swerving to
7 avoid a collision.

8 (10) A person shall not operate a personal watercraft on the
9 waters of this state carrying more persons than the personal
10 watercraft is designed to carry.

11 (11) A violation of subsection (10) is prima facie evidence
12 of reckless operation of a watercraft under section 80208.

13 (12) A person operating a personal watercraft in excess of
14 the speeds established under part 801 is guilty of reckless
15 operation of a personal watercraft under section 80208.

16 (13) This section does not apply to a performer engaged in a
17 professional exhibition or a person preparing to participate or
18 participating in a regatta, race, marine parade, tournament, or
19 exhibition held in compliance with section 80164 under a permit
20 issued by the department and at the time and place specified in
21 the permit.

22 Sec. 80206. (1) A person shall not operate a personal
23 watercraft **or an airboat** on the waters of this state outside of a
24 channel or in an area where aquatic rooted vegetation is visible
25 above the surface of the water in the deltaic wetlands of a lake
26 that is greater than 32 square miles and less than 144 square
27 miles in area.

1 (2) A person who violates subsection (1) is responsible for a
2 state civil infraction punishable by a fine of \$25.00.

3 Sec. 80222. Except as otherwise provided in this part, a
4 **person who operates a** personal watercraft ~~operator~~ **or an**
5 **airboat** shall comply with part 801.