

HOUSE BILL No. 4778

May 12, 2005, Introduced by Reps. Palsrok, Vander Veen, Huizenga, Elsenheimer, Taub, Pastor and Booher and referred to the Committee on Conservation, Forestry, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 44520a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 44520A. (1) AN OWNER OF A NONMOTORIZED LIVERY BOAT IS NOT
2 LIABLE FOR AN INJURY TO OR THE DEATH OF A USER OF THE NONMOTORIZED
3 LIVERY BOAT RESULTING FROM A RISK INHERENT IN THE USE OR OPERATION
4 OF A NONMOTORIZED LIVERY BOAT.

5 (2) AS USED IN THIS SECTION:

6 (A) "OWNER OF A NONMOTORIZED LIVERY BOAT" MEANS THE PERSON WHO
7 OWNS THE NONMOTORIZED LIVERY BOAT, THE BOAT LIVERY THAT RENTS,
8 LEASES, OR FURNISHES THE NONMOTORIZED LIVERY BOAT FOR USE, OR AN

1 EMPLOYEE OR AGENT OF THE OWNER OR BOAT LIVERY.

2 (B) "RISK INHERENT IN THE USE OR OPERATION OF A NONMOTORIZED
3 LIVERY BOAT" MEANS A DANGER OR CONDITION THAT IS AN INTEGRAL PART
4 OF THE USE OR OPERATION OF A NONMOTORIZED LIVERY BOAT THAT IS
5 LIMITED TO 1 OR MORE OF THE FOLLOWING:

6 (i) WAVE OR OTHER WATER MOTION.

7 (ii) WEATHER CONDITIONS.

8 (iii) CONTACT OR MANEUVERS NECESSARY TO AVOID CONTACT WITH
9 ANOTHER VESSEL OR A MANMADE OBJECT IN OR NEAR THE WATER.

10 (iv) CONTACT OR MANEUVERS NECESSARY TO AVOID CONTACT WITH ROCK,
11 SAND, VEGETATION, OR OTHER NATURAL OBJECTS IN OR NEAR THE WATER.

12 (v) MALFUNCTION OF EQUIPMENT, EXCEPT FOR EQUIPMENT OWNED BY
13 THE OWNER OF A NONMOTORIZED LIVERY BOAT.

14 (vi) FAILURE TO USE OR WEAR A PERSONAL FLOTATION DEVICE OR TO
15 HAVE LIFESAVING EQUIPMENT AVAILABLE, EXCEPT IF THE OWNER OF A
16 NONMOTORIZED LIVERY BOAT FAILED TO PROVIDE THE PERSONAL FLOTATION
17 DEVICE OR LIFESAVING EQUIPMENT WHEN REQUIRED BY LAW OR REGULATION
18 TO DO SO.

19 (vii) THE ACTIONS OF A VESSEL OPERATOR, EXCEPT IF THE OWNER OF
20 A NONMOTORIZED LIVERY BOAT LEASED OR RENTED THE LIVERY BOAT TO AN
21 OPERATOR WHO THE OWNER KNEW OR IN THE EXERCISE OF REASONABLE CARE
22 SHOULD HAVE KNOWN WAS DISQUALIFIED BY LAW OR REGULATION FROM
23 OPERATING THE LIVERY BOAT.

24 (viii) HAVING A NUMBER OF PERSONS IN EXCESS OF THE MAXIMUM
25 NUMBER APPROVED FOR THE LIVERY BOAT ON BOARD, EXCEPT IF THE OWNER
26 OF A NONMOTORIZED LIVERY BOAT KNOWINGLY ALLOWED THE LIVERY BOAT TO
27 LEAVE THE BOAT LIVERY'S PREMISES WITH A NUMBER OF PERSONS IN EXCESS

1 OF THE MAXIMUM NUMBER APPROVED FOR THE LIVERY BOAT ON BOARD OR DID
2 NOT PROPERLY INFORM THE USER OF THE MAXIMUM NUMBER OF PERSONS
3 APPROVED FOR THE LIVERY BOAT.

4 (C) "USER OF THE NONMOTORIZED LIVERY BOAT" MEANS A PERSON WHO
5 PARTICIPATES IN THE USE OR OPERATION OF THE NONMOTORIZED LIVERY
6 BOAT REGARDLESS OF WHETHER THE PERSON RENTED OR LEASED THE
7 NONMOTORIZED LIVERY BOAT.