

HOUSE BILL No. 5266

October 6, 2005, Introduced by Reps. Bieda, Miller, Polidori, Wojno, Alma Smith, Accavitti, Brandenburg, Palmer, Drolet and Acciavatti and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 80122, 80144, 80145, 80146, 80149, 80151,
80152, 80155, 80180, 80198b, 80205, and 80209 (MCL 324.80122,
324.80144, 324.80145, 324.80146, 324.80149, 324.80151, 324.80152,
324.80155, 324.80180, 324.80198b, 324.80205, and 324.80209),
sections 80122, 80144, 80145, 80146, 80149, 80151, 80155, and
80198b as added by 1995 PA 58, section 80152 as amended by 1999 PA
19, section 80180 as amended by 1996 PA 174, section 80205 as
amended by 2004 PA 27, and section 80209 as added by 2000 PA 229.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80122. (1) Except as otherwise provided in this part, a
2 person shall not operate or give permission for the operation of a
3 vessel of any length on the waters of this state unless the fees
4 prescribed in section 80124 for the vessel are paid, the
5 certificate of number assigned to the vessel is on board and is in
6 full force and effect, and, except for the following, the
7 identifying number and decal are displayed on each side of the
8 forward half of the vessel in accordance with this part and the
9 rules promulgated by the department under this part:

10 (a) A decal and identifying numbers for a wooden hull and
11 historic vessel as that term is defined in section 80124 may be
12 displayed in the manner described in section 80126(2).

13 (b) A decal for an inflatable boat may be displayed on the
14 transom of the boat.

15 (2) If a vessel is actually numbered in another state of
16 principal use in accordance with a federally approved numbering
17 system, it is in compliance with the numbering requirements of this
18 state while it is temporarily being used in this state. This
19 subsection applies to a vessel for which a valid temporary
20 certificate is issued to the vessel's owner by the issuing
21 authority of the state in which the vessel is principally used.

22 (3) If a vessel is removed to this state as the new state of
23 principal use, a number awarded by any other issuing authority is
24 valid for not more than 60 days before numbering is required by
25 this state.

26 **(4) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A**
27 **STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF**

1 NOT MORE THAN \$500.00.

2 Sec. 80144. (1) When vessels are being operated in such a
3 manner as to make collision imminent or likely, the following
4 ~~rules~~ apply:

5 (a) When 2 vessels are approaching each other head-on, or
6 nearly so, the operator of each shall cause his or her vessel to
7 pass on the port side of the other.

8 (b) When overtaking a vessel proceeding in the same direction,
9 the operator of the overtaking vessel, unless it is not feasible to
10 do so, shall pass on the port side of the vessel ahead.

11 (c) When 2 vessels are approaching each other at right angles
12 or obliquely so as to involve risk of collision, other than when 1
13 vessel is overtaking another, the operator of the vessel that has
14 the other on his or her own port side shall hold his or her course
15 and speed, and the operator of the vessel that has the other on his
16 or her own starboard side shall give way to the other by directing
17 his or her course to starboard so as to cross the stern of the
18 other vessel or, if necessary to do so, shall slacken his or her
19 speed, stop, or reverse.

20 (d) When a motorboat and a vessel under sail are proceeding in
21 a manner that involves a risk of collision, the operator of the
22 motorboat shall give way to the vessel under sail.

23 (e) When a motorboat and a vessel not propelled by sail or
24 mechanical means are proceeding in a manner that involves risk of
25 collision, the operator of the motorboat shall give way to the
26 other vessel.

27 (f) When, by any of the rules provided in this section, the

1 operator of a vessel is required to give way to the other, the
2 operator of the other vessel shall maintain his or her direction
3 and speed.

4 (2) This section does not relieve the operator of a vessel
5 otherwise privileged by this section from the duty to operate with
6 due regard for the safety of all persons using the waters of this
7 state.

8 (3) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
9 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF
10 NOT MORE THAN \$500.00.

11 Sec. 80145. A person operating or propelling a vessel upon the
12 waters of this state shall operate it in a careful and prudent
13 manner and at such a rate of speed so as not to endanger
14 unreasonably the life or property of any person. A person shall not
15 operate any vessel at a rate of speed greater than will permit him
16 or her, in the exercise of reasonable care, to bring the vessel to
17 a stop within the assured clear distance ahead. A person shall not
18 operate a vessel in a manner so as to interfere unreasonably with
19 the lawful use by others of any waters. A PERSON WHO VIOLATES THIS
20 SECTION IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE
21 ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00.

22 Sec. 80146. (1) The department may promulgate rules to
23 establish maximum motorboat speed limits or to allow unlimited
24 motorboat speed on the waters of this state.

25 (2) On waters of this state for which a motorboat speed limit
26 is not established under subsection (1), on any waters for which
27 the department has not established an unlimited motorboat speed

1 limit, or on any waters for which stricter speed restrictions are
2 not established pursuant to an act, a maximum speed limit of 55
3 miles per hour is established, except in an emergency and except
4 for authorized peace and conservation officers when engaged in
5 official duties. The maximum speed limit of 55 miles per hour
6 ~~shall~~ **DOES** not apply to the Great Lakes and Lake St. Clair, except
7 for an area within 1 mile of the shoreline measured at a right
8 angle from the shoreline. Upon receipt of a resolution by the
9 governing body of a local unit of government having jurisdiction
10 over waters of this state requesting a reduction in the maximum
11 speed limit on those waters, the department, pursuant to sections
12 80108 to 80113, may establish a maximum speed limit not to exceed
13 40 miles per hour on those waters.

14 (3) A person shall not operate a motorboat on the waters of
15 this state at a speed greater than slow-no wake speed or the
16 minimum speed necessary for the motorboat to maintain forward
17 movement when within 100 feet of the shoreline where the water
18 depth is less than 3 feet, as determined by vertical measurement,
19 except in navigable channels not otherwise posted.

20 (4) **EXCEPT AS PROVIDED IN SUBSECTIONS (5) AND (6), A PERSON**
21 **WHO VIOLATES SUBSECTION (2) OR (3) IS RESPONSIBLE FOR A STATE CIVIL**
22 **INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN**
23 **\$500.00**

24 (5) ~~—(4)—~~ A person operating a motorboat in violation of this
25 section is guilty of reckless operation of a motorboat punishable
26 as provided in section 80171.

27 (6) ~~—(5)—~~ The department may waive **THE REQUIREMENTS OF** this

1 section and section 80156 for marine events authorized by the
2 department under section 80164.

3 Sec. 80149. Persons operating vessels on the waters of this
4 state in areas not marked by well defined channels, canals, rivers,
5 or stream courses shall operate the vessels in a counter-clockwise
6 fashion to the extent that it is reasonably possible. These persons
7 and persons being towed on water skis or on a water sled, kite,
8 surfboard, or similar contrivance shall maintain a distance of 100
9 feet from any dock, raft, buoyed or occupied bathing area, or
10 vessel moored or at anchor, except when the vessel is proceeding at
11 a slow-no wake speed or when water skiers are being picked up or
12 dropped off, if that operation is otherwise conducted with due
13 regard to the safety of persons and property and in accordance with
14 the laws of this state. **A PERSON WHO VIOLATES THIS SECTION IS**
15 **RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY**
16 **A CIVIL FINE OF NOT MORE THAN \$500.00.**

17 Sec. 80151. (1) ~~An operator of any~~ **A PERSON OPERATING A**
18 vessel shall not have in tow or otherwise be assisting in the
19 propulsion of a person on water skis or on a water sled, surfboard,
20 or other similar contrivance during the period of 1 hour after
21 sunset to 1 hour prior to sunrise. ~~Any~~

22 (2) A person ~~permitting~~ **SHALL NOT PERMIT** himself or herself
23 to be towed on water skis or on a water sled, surfboard, or similar
24 contrivance in violation of this part. ~~is guilty of a misdemeanor.~~

25 (3) **A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A**
26 **STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF**
27 **NOT MORE THAN \$500.00.**

1 Sec. 80152. (1) Except as otherwise provided in this section,
2 a person shall not operate a vessel on the waters of this state if
3 he or she is towing or otherwise assisting a person on water skis
4 or on a water sled, aquaplane, surfboard, or other similar
5 contrivance unless a person capable of communicating to the vessel
6 operator the condition and needs of the person being towed or
7 assisted is on board the vessel and positioned to observe the
8 person being towed or assisted. **A PERSON WHO VIOLATES THIS**
9 **SUBSECTION IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE**
10 **ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00.**

11 (2) Subsection (1) does not apply to vessels used by duly
12 constituted ski schools in the giving of instructions or to vessels
13 used in sanctioned ski tournaments, competitions, expositions, or
14 trials. Vessels described in this subsection shall be equipped with
15 a 170-degree wide-angle rearview mirror affixed in a manner that
16 will permit the operator to observe the progress of the person
17 being towed.

18 (3) ~~This section~~ **SUBSECTION (1)** does not apply to motorboats
19 less than 16 feet in length actually operated by the person being
20 towed and so constructed as to be incapable of carrying the
21 operator in or on the motorboat.

22 (4) Subsection (1) does not apply to a vessel operator who is
23 towing a person preparing for a specific water ski tournament if
24 all of the following conditions are met:

25 (a) The vessel operator is certified as provided in subsection

26 (5).

27 (b) The person being towed is certified as provided in

1 subsection (6).

2 (c) Towing is conducted so that, on average, not more than 1
3 vessel approaches within 300 feet of the towing vessel during any
4 5-minute period.

5 (d) The vessel is equipped with all of the following:

6 (i) A center-mounted tow pylon.

7 (ii) A large clear rearview mirror capable of allowing the
8 vessel operator to distinguish hand signals at a distance of 75
9 feet.

10 (iii) Markings that identify the vessel as a vessel that is
11 being operated in conformance with this subsection.

12 (5) The department shall adopt standards for water ski
13 tournament boat operation established by U.S.A. water ski in
14 "Trained Boat Driver Program", April 1997, and by the American
15 water ski association in "Drivers' Policy Manual". However, the
16 department may promulgate rules providing for alternative standards
17 under the administrative procedures act of 1969, 1969 PA 306, MCL
18 24.201 to 24.328. The department shall certify each individual who
19 satisfies the standards described in this subsection as a
20 tournament water ski vessel operator and issue proof of that
21 certification to the individual.

22 (6) The department shall adopt standards for tournament water
23 skiers established by the Michigan water ski association in
24 "Guidelines for Training Permit Eligibility", proposed revision 125
25 of 1996. However, the department may promulgate rules providing for
26 alternative standards under the administrative procedures act of
27 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall

1 certify each individual who satisfies the standards described in
2 this subsection as a tournament water skier and issue proof of that
3 certification to the individual.

4 (7) The Michigan water ski association shall provide annually
5 to the department and the Michigan sheriffs association both of the
6 following:

7 (a) A list of the individuals whom the organization considers
8 qualified for tournament water skiing.

9 (b) The names of not more than 3 bodies of water on which each
10 of those individuals may be authorized to practice for tournament
11 water skiing.

12 (8) The department shall specify the body or bodies of water
13 upon which a water skier may practice upon each certificate issued
14 under subsection (6).

15 Sec. 80155. Any person diving or submerging in any of the
16 waters of this state with the aid of a diving suit or other
17 mechanical diving device shall place a buoy or boat in the water at
18 or near the point of submergence. The buoy or boat shall bear a red
19 flag not less than 14 inches by 16 inches with a 3-1/2 inch white
20 stripe running from 1 upper corner to a diagonal lower corner. The
21 flag shall be in place only while actual diving operations are in
22 progress. A vessel shall not be operated within 200 feet of a
23 buoyed diver's flag unless it is involved in tendering the diving
24 operation. A person diving shall stay within a surface area of 100
25 feet of the diver's flag. **A PERSON WHO VIOLATES THIS SECTION IS**
26 **RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY**
27 **A CIVIL FINE OF NOT MORE THAN \$500.00.**

1 Sec. 80180. (1) A peace officer, without a warrant, may arrest
2 a person if the peace officer has reasonable cause to believe that
3 the person was, at the time of an accident, the operator of a
4 vessel involved in the accident in this state while in violation of
5 section 80176(1), (3), (4), or (5) or a local ordinance
6 substantially corresponding to section 80176(1) or (3).

7 (2) A peace officer who has reasonable cause to believe that a
8 person was operating a vessel on the waters of this state, and
9 that, by the consumption of intoxicating liquor, the person may
10 have affected his or her ability to operate a vessel, may require
11 the person to submit to a preliminary chemical breath analysis. The
12 following apply with respect to a preliminary chemical breath
13 analysis:

14 (a) Only a peace officer who has successfully completed a
15 training course taught by a state-certified instructor in the
16 administration of the preliminary chemical breath analysis may
17 administer that test.

18 (b) A peace officer may arrest a person based in whole or in
19 part upon the results of a preliminary chemical breath analysis.

20 (c) The results of a preliminary chemical breath analysis are
21 admissible in a criminal prosecution for a crime described in
22 section 80187(1) or in an administrative hearing solely to assist
23 the court or hearing officer in determining a challenge to the
24 validity of an arrest. This subdivision does not limit the
25 introduction of other competent evidence offered to establish the
26 validity of an arrest.

27 (d) A person who submits to a preliminary chemical breath

1 analysis remains subject to the requirements of sections 80187 to
2 80190 for the purposes of chemical tests described in those
3 sections.

4 (e) A person who refuses to submit to a preliminary chemical
5 breath analysis upon a lawful request by a peace officer is
6 responsible for a state civil infraction and may be ordered to pay
7 a civil fine of not more than ~~\$100.00~~ **\$500.00**.

8 (3) A peace officer making an arrest under this part shall
9 take measures to assure that the vessel and its occupants are
10 safely returned to shore.

11 (4) If, within 60 days after the issuance of a citation for a
12 state civil infraction under this section, the person to whom the
13 citation is issued is not charged with a violation of section
14 80176(1), (3), (4), or (5) or a local ordinance substantially
15 corresponding to section 80176(1) or (3), the citation issued for
16 the state civil infraction is void. Upon application of the person
17 to whom the citation is issued, money paid by the person as a fine,
18 costs, or otherwise shall be immediately returned.

19 Sec. 80198b. (1) The owner or person in charge of a bathing
20 beach maintained primarily for public use shall not knowingly
21 permit a person to bathe or swim from the bathing beach unless
22 buoys outlining a safe bathing or swimming area are established in
23 accordance with section 80159.

24 (2) A person who is bathing or swimming from a bathing beach
25 maintained primarily for public use shall not bathe or swim in
26 waters that are within 100 feet beyond the buoyed bathing or
27 swimming area. This subsection does not apply to persons swimming

1 from adjacent privately owned beaches that are not open to the
2 general public.

3 (3) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
4 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF
5 NOT MORE THAN \$500.00.

6 Sec. 80205. (1) Until ~~5 years after the effective date of the~~
7 ~~2004 amendatory act that amended this section~~ **MARCH 16, 2009,**
8 except as otherwise provided in this section, a person shall not
9 operate a personal watercraft on the waters of this state unless
10 each person riding on or being towed behind the personal watercraft
11 is wearing a type I, type II, or type III personal flotation device
12 as described in R 281.1234 of the Michigan administrative code.

13 (2) Beginning ~~5 years after the effective date of the 2004~~
14 ~~amendatory act that amended this section~~ **MARCH 16, 2009,** except as
15 otherwise provided in this section, a person shall not operate a
16 personal watercraft on the waters of this state unless each person
17 12 years of age or older riding on or being towed behind the
18 personal watercraft is wearing a type I, type II, or type III
19 personal flotation device as described in R 281.1234 of the
20 Michigan administrative code.

21 (3) Beginning ~~5 years after the effective date of the 2004~~
22 ~~amendatory act that amended this section~~ **MARCH 16, 2009,** a person
23 shall not operate a personal watercraft on the waters of this state
24 unless each person on board or being towed by the personal
25 watercraft who is less than 12 years of age is wearing a type I or
26 type II personal flotation device as described in R 281.1234 of the
27 Michigan administrative code.

1 (4) A person shall not operate a personal watercraft on the
2 waters of this state unless each person on board the personal
3 watercraft is wearing a personal flotation device that is not
4 inflatable.

5 (5) A person shall not operate a personal watercraft on the
6 waters of this state if a child who is under 7 years of age is on
7 board or being towed behind the personal watercraft unless the
8 child is in the company of his or her parent or guardian or a
9 designee of the parent or guardian.

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

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

19 (8) A person operating a personal watercraft on the waters of
20 this state shall not cross within 150 feet behind another vessel,
21 other than a personal watercraft, unless the person is operating
22 the personal watercraft at slow--no wake speed. **A PERSON WHO**
23 **VIOLATES THIS SUBSECTION IS RESPONSIBLE FOR A STATE CIVIL**
24 **INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN**
25 **\$500.00.**

26 (9) A person shall not operate a personal watercraft on the
27 waters of this state where the water depth is less than 2 feet, as

1 determined by vertical measurement, unless 1 or both of the
2 following circumstances exist:

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

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

6 **(10) A PERSON WHO VIOLATES SUBSECTION (9) IS RESPONSIBLE FOR A**
7 **STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF**
8 **NOT MORE THAN \$500.00.**

9 **(11) —(10)—** A person shall operate a personal watercraft in a
10 reasonable and prudent manner. A maneuver that unreasonably or
11 unnecessarily endangers life, limb, or property, including, but not
12 limited to, all of the following, constitutes reckless operation of
13 a personal watercraft under section 80208:

14 (a) Weaving through congested vessel traffic.

15 (b) Jumping the wake of another vessel unreasonably or
16 unnecessarily close to the other vessel or when visibility around
17 the other vessel is obstructed.

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

20 **(12) —(11)—** A person shall not operate a personal watercraft
21 on the waters of this state carrying more persons than the personal
22 watercraft is designed to carry.

23 **(13) —(12)—** A violation of subsection **—(11)— (12)** is prima
24 facie evidence of reckless operation of a watercraft under section
25 80208.

26 **(14) —(13)—** A person operating a personal watercraft in excess
27 of the speeds established under part 801 is guilty of reckless

1 operation of a personal watercraft under section 80208.

2 (15) ~~-(14)-~~ This section does not apply to a performer engaged
3 in a professional exhibition or a person preparing to participate
4 or participating in a regatta, race, marine parade, tournament, or
5 exhibition held in compliance with section 80164 under a permit
6 issued by the department and at the time and place specified in the
7 permit.

8 (16) ~~-(15)-~~ The department shall annually prepare and submit
9 to the standing committees of the senate and house of
10 representatives with primary jurisdiction over marine safety issues
11 an accident report related to the use of personal watercraft, the
12 types of personal flotation devices that were being used, and the
13 injuries that resulted.

14 Sec. 80209. (1) Except when traveling at slow--no wake speed
15 perpendicular to the shoreline, a person who operates a personal
16 watercraft on 1 of the Great Lakes that is under the jurisdiction
17 of this state shall maintain a distance of 200 feet from the
18 shoreline.

19 (2) Except as provided in subsection (4), a person who
20 operates a personal watercraft or a person who is being towed by a
21 personal watercraft on a water sled, kite, surfboard, parachute,
22 tube, water ski, or similar equipment on the waters of this state
23 shall maintain a distance of not less than 100 feet from a dock,
24 raft, or buoyed or occupied bathing or swimming area, a person in
25 the water or on the water in a personal flotation device, or a
26 vessel moored, anchored, drifting, or sitting in dead water.

27 (3) A person who operates a personal watercraft or a person

1 who is being towed by a personal watercraft on a water sled, kite,
2 surfboard, parachute, tube, water ski, or similar equipment on the
3 waters of this state shall maintain a distance of not less than 200
4 feet from a submerged diver, vessel engaged in underwater diving
5 activities, or a flotation device displaying the international
6 diving insignia.

7 (4) Subsection (2) does not apply under either of the
8 following conditions:

9 (a) The personal watercraft being operated or the person being
10 towed is proceeding at a slow--no wake speed.

11 (b) The personal watercraft being operated or the person being
12 towed is in a navigable channel, canal, river, or stream not
13 otherwise posted.

14 (5) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
15 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF
16 NOT MORE THAN \$500.00.