

Act No. 400  
Public Acts of 2018  
Approved by the Governor  
December 19, 2018  
Filed with the Secretary of State  
December 19, 2018  
EFFECTIVE DATE: March 19, 2019

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Rep. Marino

# ENROLLED HOUSE BILL No. 5836

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 44522, 80141, and 80212 (MCL 324.44522, 324.80141, and 324.80212), section 44522 as amended by 2012 PA 294 and sections 80141 and 80212 as amended by 2012 PA 120; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 44522. (1) A boat livery shall not rent a personal watercraft to any of the following:

(a) A person who is under 14 years of age.

(b) A person who does not display to the boat livery owner or the owner’s agent, if it is required under part 802, a boating safety certificate that is issued by the department or the United States Coast Guard Auxiliary or an electronic copy, in a format approved by the department of such a boating safety certificate, unless the individual obtains training in the safe use of a personal watercraft from the boat livery before the personal watercraft is rented. The department shall provide to boat liveries guidelines for the training required under this subdivision.

(2) A person who rents a personal watercraft from a boat livery shall not permit an individual to operate the personal watercraft if the individual has not obtained a boating safety certificate as required under part 802.

(3) A boat livery shall provide a copy of the written rental agreement to each individual who rents a personal watercraft from the boat livery and who has obtained the training required under subsection (1). The written rental agreement shall include all of the following information:

(a) The name of the person who rents a personal watercraft from the boat livery.

(b) The date or dates of the rental.

(4) The written rental agreement described under subsection (3) is a valid boating safety certificate under part 802 only for the person named in the certificate on the date or dates of the rental of the personal watercraft.

(5) A person who rents a personal watercraft from a boat livery is liable for any injury resulting from the negligent operation of the personal watercraft, whether the negligence consists of a violation of the statutes of this state, or the failure to observe the ordinary care in operation required by the common law. If the personal watercraft is operated by an individual other than the person who rents the personal watercraft, the person who rents the personal watercraft is

not liable under this subsection unless the personal watercraft is being operated with his or her expressed or implied consent. It is rebuttably presumed that the personal watercraft is being operated with the consent of the person if it is operated by his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the person's family.

(6) A person who violates subsection (1) or (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both. A person who violates subsection (1) or (2) twice within a 3-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both. A person who violates subsection (1) or (2) 3 or more times within a 5-year period is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$2,000.00, or both.

(7) In addition to any penalty imposed under subsection (6), upon a person's second or subsequent violation of subsection (1), the court may issue an order impounding the personal watercraft that was rented in violation of subsection (1) for not more than 1 year. The cost of storage for an impoundment ordered under this subsection shall be paid by the owner of the personal watercraft.

Sec. 80141. (1) In addition to the requirements of subsection (2), a person less than 12 years of age shall not operate a motorboat that is powered by a motor or motors totaling more than 6 horsepower on the waters of this state unless both of the following requirements are met:

(a) He or she is under the direct supervision of a person on board the motorboat who is 16 years of age or older and who, if born on or after July 1, 1996, has been issued a boating safety certificate.

(b) The motorboat is powered by a motor or motors totaling no more than 35 horsepower.

(2) Subject to subsection (4), a person born on or after July 1, 1996 shall not operate a motorboat that is powered by a motor or motors totaling more than 6 horsepower on the waters of this state unless the person has been issued a boating safety certificate.

(3) A person operating or supervising the operation of a motorboat as described in this section shall present the boating safety certificate issued to him or her or, at the person's option, an electronic copy, in a format approved by the department, of a boating safety certificate issued to him or her, upon the demand of a peace officer who identifies himself or herself as a peace officer.

(4) An individual who, under subsection (3), displays an electronic copy of his or her boating safety certificate using an electronic device is not presumed to have consented to a search of the electronic device. This state, an employee of this state, a peace officer, or an entity employing the peace officer is not liable for damage to or loss of an electronic device that occurs as a result of the peace officer's viewing an electronic copy of a boating safety certificate as provided in this section, regardless of whether the peace officer was in possession of the electronic device at the time the damage or loss occurred.

Sec. 80212. (1) The department shall issue a boating safety certificate to each individual who successfully completes a boating safety course as described in section 80211 and passes an examination prescribed by the department.

(2) The department shall consider the number of examinations that are administered under this section when calculating the state aid to counties under section 80117.

(3) The department shall not issue a boating safety certificate to an individual unless the individual has successfully completed a boating safety course and passed an examination as described in subsection (1). A boating safety certificate issued under this section is valid, unless revoked, for the life of the person who earned the certificate.

(4) The department of natural resources shall develop and, in conjunction with the department of state police, implement a process using the L.E.I.N., or any other appropriate system that limits access to law enforcement, to allow law enforcement agencies of this state to verify that an individual has obtained a boating safety certificate.

(5) As used in this section, "L.E.I.N." means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

Enacting section 1. Section 80210 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80210, is repealed.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) House Bill No. 5988.

(b) House Bill No. 5989.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor