



HOUSE BILL No. 4349

February 8, 1995, Introduced by Reps. Alley, Middaugh, Murphy and Hill and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend Act No. 451 of the Public Acts of 1994, entitled
"Natural resources and environmental protection act,"
being sections 324.101 to 324.90101 of the Michigan Compiled Laws, by adding section 90106 and parts 701, 703, 711, 713, 715, 721, 723, 731, 733, 741, 742, 743, 751, 761, 765, 767, 769, 771, 773, 775, 777, 781, 783, 785, 791, 793, 801, 803, 811, and 821; to amend the headings of certain parts; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 451 of the Public Acts of 1994, being
2 sections 324.101 to 324.90101 of the Michigan Compiled Laws, is
3 amended by adding section 90106 and parts 701, 703, 711, 713,
4 715, 721, 723, 731, 733, 741, 742, 743, 751, 761, 765, 767, 769,
5 771, 773, 775, 777, 781, 783, 785, 791, 793, 801, 803, 811, and

1 821 and by amending the headings of certain parts to read as
2 follows:

3 ~~CHAPTER 4: RECREATION~~

4 ~~SUBCHAPTER 1: RECREATION~~

5 ~~ADMINISTRATION~~

6 ~~Part 701: Recreation and Cultural Arts~~

7 CHAPTER 4: RECREATION

8 SUBCHAPTER 1: RECREATION

9 ADMINISTRATION

10 PART 701 RECREATION AND CULTURAL ARTS

11 Sec. ~~1~~ 70101. There ~~shall be~~ IS established a state
12 recreation and cultural arts section in the department. ~~of~~
13 ~~conservation.~~

14 Sec. ~~2~~ 70102. The head of the state recreation and cul-
15 tural arts section shall be a person widely experienced in commu-
16 nity recreation and shall be directly responsible to ~~the~~ A
17 deputy director. ~~of staff.~~

18 Sec. ~~3~~ 70103. The state recreation and cultural arts sec-
19 tion shall provide technical advice and guidance to the political
20 subdivisions of this state and other interested groups and agen-
21 cies in the planning and development of recreation programs,
22 areas, and facilities including but not limited to creative and
23 cultural activities, and programs for senior citizens, the
24 handicapped, and the culturally deprived. The section shall col-
25 lect and disseminate necessary data and information relating to
26 its duties and shall maintain a cooperative relationship with the
27 tourist, resort, and educational extension services of the

1 universities, the Michigan ~~tourist council~~ TRAVEL COMMISSION,
2 Michigan's 4 regional tourist associations, and the various fed-
3 eral agencies.

4 Sec. ~~-5-~~ 70104. ~~The governor shall appoint 15 members to~~
5 ~~act as an advisory committee for the state recreation and cul-~~
6 ~~tural arts section. Members of the committee shall serve without~~
7 ~~compensation for terms of 4 years. The advisory committee~~
8 DEPARTMENT shall provide continual representation of citizen
9 interest, need, and participation in a wide variety of
10 leisure-time pursuits.

11 Sec. ~~-6-~~ 70105. The ~~director of the~~ department ~~of~~
12 ~~conservation~~ may reassign existing employees of the department
13 OF NATURAL RESOURCES or employ staff necessary to ~~carry out out~~
14 ~~the provisions of~~ IMPLEMENT this ~~act~~ PART.

15 Sec. ~~-7-~~ 70106. The ~~conservation commission, upon recom-~~
16 ~~mendation of the director of conservation and of the chief of the~~
17 ~~state recreation and cultural arts section,~~ DEPARTMENT shall
18 ~~make~~ PROMULGATE rules ~~and regulations~~ necessary for the
19 establishment and ~~the carrying out~~ IMPLEMENTATION of ~~the pro-~~
20 ~~visions of~~ this PART. ~~act in accordance with the provisions of~~
21 ~~Act No. 88 of the Public Acts of 1943, as amended, being sections~~
22 ~~24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act~~
23 ~~No. 197 of the Public Acts of 1952, as amended, being sections~~
24 ~~24.101 to 24.110 of the Compiled Laws of 1948.~~

25 ~~Part 703. Outdoor Recreation~~

PART 703 OUTDOOR RECREATION

1

2 Sec. ~~1~~ 70301. The department ~~of conservation~~ is autho-
3 rized to prepare, maintain, and keep up-to-date a comprehensive
4 plan for the development of the outdoor recreation resources of
5 the state.

6 Sec. ~~2~~ 70302. The department ~~of conservation~~ may apply
7 to any appropriate agency or officer of the United States for
8 participation in or the receipt of aid from any federal program
9 respecting outdoor recreation. ~~It~~ THE DEPARTMENT may enter
10 into contracts and agreements with the United States or any
11 appropriate agency ~~thereof~~ OF THE UNITED STATES, keep financial
12 and other records relating ~~thereto~~ TO THOSE CONTRACTS AND
13 AGREEMENTS, and furnish to appropriate officials and agencies of
14 the United States ~~such~~ reports and information as may be rea-
15 sonably necessary to enable ~~such~~ THE officials and agencies to
16 perform their duties under ~~such~~ THE programs. In connection
17 with obtaining the benefits of any such program, the department
18 ~~of conservation~~ shall coordinate its activities with and repre-
19 sent the interests of all agencies and subdivisions of the state
20 having interests in the planning, development, and maintenance of
21 outdoor recreation resources and facilities.

22 Sec. ~~3~~ 70303. Grants-in-aid received from the ~~federal~~
23 land and water conservation fund act OF 1965, PUBLIC LAW 88-578,
24 78 STAT. 897, shall be deposited in the state treasury and dis-
25 bursed to agencies and subdivisions of the state upon authoriza-
26 tion of the department. ~~of conservation. Such apportionments of~~
27 ~~federal funds received on or before June 30, 1968, shall be made~~

1 ~~available in the ratio of 50 per centum for state projects and 50~~
 2 ~~per centum for projects proposed by subdivisions of the state,~~
 3 ~~but the director of the Michigan department of conservation may~~
 4 ~~vary said percentages by not more than 10 points either way to~~
 5 ~~meet the current relative needs for recreational lands and facil-~~
 6 ~~ities as indicated by the comprehensive recreational plan.~~ In
 7 the apportionment of funds to subdivisions of the state, the
 8 ~~director of conservation~~ DEPARTMENT shall give special consid-
 9 eration to those subdivisions where population density and land
 10 and facility needs are greatest.

11 Sec. ~~4~~ 70304. The department ~~of conservation~~ shall NOT
 12 make ~~no~~ A commitment or enter into ~~any~~ AN agreement pursuant
 13 to an exercise of authority under this ~~act~~ PART until the leg-
 14 islature has appropriated sufficient funds to it for meeting the
 15 state's share, if any, of project costs. It is the legislative
 16 intent that, to ~~such~~ THE extent ~~as may be~~ necessary to assure
 17 the proper operation and maintenance of areas and facilities
 18 acquired or developed pursuant to any program participated in by
 19 this state under ~~authority of~~ this ~~act~~ PART, ~~such~~ THOSE
 20 areas and facilities shall be publicly maintained for outdoor
 21 recreation purposes. The department ~~of conservation~~ may enter
 22 into and administer agreements with the United States or any
 23 appropriate agency ~~thereof~~ OF THE UNITED STATES for planning,
 24 acquisition, and development projects involving participating
 25 federal-aid funds on behalf of any subdivision of this state, if
 26 ~~such~~ THE subdivision gives necessary assurances to the
 27 department ~~of conservation~~ that it has available sufficient

1 funds to meet its share, if any, of the cost of the project and
 2 that the acquired or developed areas will be operated and main-
 3 tained at the SUBDIVISION'S expense ~~of the subdivision~~ for
 4 public outdoor recreation use.

5 ~~Sec. 5. This act shall take effect on July 1, 1965.~~

6 Sec. ~~6~~ 70305. The department ~~of conservation~~ is autho-
 7 rized to disburse state appropriated grants-in-aid to political
 8 subdivisions of the state to be used in conjunction with
 9 ~~P.L. 88-578~~ THE LAND AND WATER CONSERVATION FUND ACT OF 1965,
 10 PUBLIC LAW 88-578, 78 STAT. 897, which provides financial assist-
 11 ance for outdoor recreation. The criteria for project approval
 12 established for federal cost-sharing under the various federal
 13 grants-in-aid programs shall be used as guidelines in allocating
 14 state grants-in-aid to political subdivisions of the state. ~~In~~
 15 ~~no case, shall the~~ THE state's share of the cost of a particular
 16 project SHALL NOT exceed 25% of the total cost. ~~In no case~~
 17 ~~shall total~~ TOTAL state grants-in-aid under this ~~act~~ PART
 18 during any fiscal year SHALL NOT exceed the amount specifically
 19 appropriated ~~therefor~~ FOR THAT PURPOSE by the legislature.

20 ~~Part 705. Public Recreation Bond~~

21 ~~Part 707. Recreation Bond~~

22 ~~Part 709. Public Recreation Fund~~

23 ~~Part 711. Recreation Improvement Fund~~

24 PART 711 RECREATION IMPROVEMENT FUND

25 ~~Sec. 1. This act shall be known and may be cited as the~~
 26 ~~"recreation improvement fund act".~~

1 Sec. ~~2~~ 71101. As used in this ~~act~~ PART:

2 (a) "Associated facilities" means restrooms, shelters,
3 campgrounds, and parking lots ~~, which~~ directly ~~relate~~ RELATED
4 to trails or waterways projects.

5 ~~(b) "Commission" means the commission of natural~~
6 ~~resources.~~

7 ~~(c) "Department" means the department of natural resources.~~

8 ~~(d) "Director" means the director of the department.~~

9 (B) ~~(e)~~ "Fund" means the recreation improvement fund cre-
10 ated in section ~~5~~ 71104.

11 (C) ~~(f)~~ "Michigan state waterways fund" means the Michigan
12 state waterways fund created in section ~~8 of Act No. 320 of the~~
13 ~~Public Acts of 1947, being section 281.508 of the Michigan~~
14 ~~Compiled Laws~~ 78110.

15 (D) ~~(g)~~ "Off-road vehicle" means ORV as it is defined in
16 ~~section 1 of Act No. 319 of the Public Acts of 1975, being sec-~~
17 ~~tion 257.1601 of the Michigan Compiled Laws~~ PART 811, which
18 ~~are~~ IS required to be registered under ~~Act No. 319 of the~~
19 ~~Public Acts of 1975, being sections 257.1601 to 257.1626 of the~~
20 ~~Michigan Compiled Laws~~ PART 811.

21 (E) ~~(h)~~ "Recreational projects" means, in addition to the
22 activities provided for in this ~~act~~ PART, the construction,
23 maintenance, and operation of trails and associated facilities
24 ~~which~~ THAT may be used by off-road vehicles, cross-country
25 skiers, horseback riders, and hikers, ~~—~~ and inland lake cleanup
26 grants as provided by ~~the inland lake improvement act of 1966,~~

1 ~~Act No. 345 of the Public Acts of 1966, being sections 281.901 to~~
2 ~~281.930 of the Michigan Compiled Laws~~ PART 309.

3 (F) ~~(i)~~ "Recreational snowmobile trail improvement fund"
4 means the recreational snowmobile trail improvement fund created
5 in section ~~4e of Act No. 74 of the Public Acts of 1968, being~~
6 ~~section 257.1504e of the Michigan Compiled Laws~~ 82110.

7 (G) ~~(j)~~ "Vessel" means all watercraft except the
8 following:

9 (i) Watercraft used for commercial fishing.

10 (ii) Watercraft used by the ~~Sea Scout~~ SEA SCOUT department
11 of the ~~Boy Scouts~~ BOY SCOUTS of America chiefly for training
12 scouts in seamanship.

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

15 (iv) Watercraft ~~—~~ when used in interstate or foreign com-
16 merce ~~—~~ and watercraft used or owned by any railroad company or
17 railroad car ferry company.

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

21 (H) ~~(k)~~ "Watercraft" means any contrivance now known or
22 ~~hereafter~~ invented ~~—~~ IN THE FUTURE THAT IS used ~~—~~ or
23 designed for navigation on water, including, but not limited to,
24 any vessel, ship, boat, motor vessel, steam vessel, vessel oper-
25 ated by machinery, motorboat, sailboat, barge, scow, tugboat, and
26 rowboat, ~~except~~ BUT DOES NOT INCLUDE watercraft used or owned
27 by the United States.

1 Sec. ~~3~~ 71102. (1) There is a privilege tax imposed on all
2 gasoline and diesel fuel sold in this state ~~which~~ THAT is used
3 to generate power for the operation or propulsion of vessels on
4 the waterways of this state, of off-road vehicles, and of
5 snowmobiles.

6 (2) The privilege tax shall be paid to the department of
7 treasury in the same manner, at the same time, and at the SAME
8 rate per gallon as the tax levied under Act No. 150 of the Public
9 Acts of 1927, being sections 207.101 to 207.202 of the Michigan
10 Compiled Laws. The privilege tax imposed by this section shall
11 not apply to liquefied petroleum gas.

12 Sec. ~~4~~ 71103. (1) The legislature finds THAT 2.0% of all
13 OF the gasoline sold in this state for consumption in internal
14 combustion engines is used to generate power for the operation or
15 propulsion of vessels on the waterways of this state, of off-road
16 vehicles, and of snowmobiles.

17 (2) The department and the state transportation department
18 shall prepare a joint report to the legislature by January 1,
19 1992, providing their estimate of actual gasoline and diesel fuel
20 usage based on any data collected from ~~the effective date of~~
21 ~~this act~~ MARCH 30, 1988 to January 1, 1991 and their observation
22 of the historical trends of gasoline and diesel fuel usage in
23 this state ~~of~~ FOR the following categories:

24 (a) Off-road vehicles.

25 (b) Watercraft.

26 (c) Snowmobiles.

1 Sec. ~~5~~ 71104. (1) The purchaser of gasoline for the
2 operation of vessels excepted ~~from this act~~ by section ~~1~~ shall
3 ~~be~~ 71101 IS entitled to a refund of tax paid on that gasoline,
4 upon filing a sworn claim with the department of treasury, upon
5 forms prescribed and furnished by it, within 6 months from the
6 date of purchase, as shown by the invoice. The retail distribu-
7 tor shall furnish a purchaser with an invoice showing the amount
8 of gasoline purchased, the date of the purchase, and the total
9 amount of tax paid on the purchase. Each dealer or distributor
10 shall keep a copy of the invoices issued for a period of 2 years
11 subject to examination by the department of treasury. Each claim
12 for refund shall have attached to the claim the original invoice
13 received by the purchaser ~~—~~ and, when approved by the depart-
14 ment of treasury, the claims shall be paid out of the state
15 waterways fund upon warrant of the department of treasury.

16 (2) A person who makes a false statement in a claim or
17 invoice presented to the department of treasury, or who presents
18 to the department of treasury a claim or invoice containing a
19 false statement, or who collects or causes to be paid to the
20 person or any other person a refund without being entitled to the
21 refund, shall forfeit the full amount of the claim and is guilty
22 of a misdemeanor.

23 Sec. ~~6~~ 71105. The recreation improvement fund is created
24 in the state treasury and shall be administered by the
25 department. ~~of natural resources.~~

26 Sec. ~~7~~ 71106. The department of treasury shall annually
27 present to the ~~commission of natural resources~~ DEPARTMENT an

1 accurate total of all the gasoline taxes collected and SHALL
2 determine the amount of revenue derived from them. The depart-
3 ment of treasury shall determine the portion of these revenues
4 derived from the sale of gasoline as described in section ~~3-~~
5 71102 by multiplying the total by 2.0% and shall credit this
6 amount to the recreation improvement fund, less a deduction for
7 collection costs and refunds.

8 Sec. ~~8-~~ 71107. Any money remaining in the recreation
9 improvement fund at the end of a fiscal year shall be carried
10 over in the fund to the next and succeeding fiscal years and
11 shall only be used for the purposes stated in this ~~act~~ PART.

12 Sec. ~~9-~~ 71108. (1) The ~~commission~~ DEPARTMENT shall annu-
13 ally review and make recommendations to the legislature for dis-
14 tributions of the fund, including recreational projects and geo-
15 graphic locations.

16 (2) Of the total fund, not less than 80% shall be credited
17 to the Michigan state waterways fund, not less than 14% to the
18 recreational snowmobile trail improvement fund, and the remaining
19 balance, if any, shall be distributed to recreational projects.
20 Of the remaining balance credited to recreational projects in a
21 fiscal year, not less than 25% of any funds designated for
22 projects intended for off-road vehicles shall be expended on
23 projects to repair damages as a result of pollution, impairment,
24 or destruction of air, water, or other natural resources, or the
25 public trust ~~therein~~ IN AIR, WATER, OR OTHER NATURAL RESOURCES,
26 as a result of the use of off-road vehicles.

1 ~~Sec. 10. Section 9 of Act No. 320 of the Public Acts of~~
2 ~~1947, being section 281.509 of the Michigan Compiled Laws, is~~
3 ~~repealed.~~

4 ~~Sec. 11. This act shall not take effect unless all of the~~
5 ~~following bills of the 84th Legislature are enacted into law:~~

6 ~~(a) Senate Bill No. 152.~~

7 ~~(b) Senate Bill No. 321.~~

8 ~~Part 713. Recreation Bond Authorization~~

9 PART 713 RECREATION BOND AUTHORIZATION

10 ~~Sec. 1. This act shall be known and may be cited as the~~
11 ~~"recreation bond authorization act".~~

12 Sec. ~~-2~~ 71301. The state shall borrow a sum not to exceed
13 \$140,000,000.00 and issue the general obligation bonds of this
14 state, pledging the full faith and credit of the state for the
15 payment of principal and interest on the bonds, to finance state
16 and local public recreation projects.

17 Sec. ~~-3~~ 71302. Bonds shall be issued in accordance with
18 conditions, methods, and procedures ~~to be~~ established by law.

19 Sec. ~~-4~~ 71303. The proceeds of the sale of the bonds or
20 any series of the bonds, any premium and accrued interest
21 received on the delivery of the bonds, and any interest earned on
22 the proceeds of the bonds shall be deposited in the state trea-
23 sury and credited to the recreation bond fund created in ~~the~~
24 ~~recreation bond implementation act~~ PART 715 and shall be dis-
25 bursed from that fund only for the purposes for which the bonds
26 have been authorized, including the expense of issuing the
27 bonds. The proceeds of THE sale of the bonds or any series of

1 the bonds, any premium and accrued interest received on the
 2 delivery of the bonds, and any interest earned on the proceeds of
 3 the bonds shall be expended for the purposes set forth in this
 4 ~~act~~ PART in a manner as provided by law.

5 Sec. ~~5~~ 71304. The question of borrowing a sum not to
 6 exceed \$140,000,000.00 and the issuance of the general obligation
 7 bonds of the state for the purposes set forth in this ~~act~~ PART
 8 shall be submitted to a vote of the electors of the state quali-
 9 fied to vote on the question in accordance with section 15 of
 10 article IX of the state constitution of 1963, at the next general
 11 election FOLLOWING SEPTEMBER 9, 1988. The question submitted to
 12 the electors shall be substantially as follows:

13 "Shall the state of Michigan borrow a sum not to exceed
 14 \$140,000,000.00 and issue general obligation bonds of the state,
 15 pledging the full faith and credit of the state for the payment
 16 of principal and interest on the bonds, to finance state and
 17 local public recreation projects, the method of repayment of the
 18 bonds to be from the general fund of this state?

19 Yes.....

20 No.....".

21 Sec. ~~6~~ 71305. The secretary of state shall perform all
 22 acts necessary to properly submit the question prescribed by sec-
 23 tion ~~5~~ 71304 to the electors of this state qualified to vote on
 24 the question at the next general November election FOLLOWING
 25 SEPTEMBER 9, 1988.

26 Sec. ~~7~~ 71306. (1) After the issuance of the bonds
 27 authorized by this ~~act~~ PART, there shall be appropriated from

1 the general fund of the state each fiscal year a sufficient
2 amount to pay promptly, when due, the principal of and interest
3 on all outstanding bonds authorized by this ~~act~~ PART and the
4 costs incidental to the payment of the bonds.

5 (2) The governor shall include the appropriation provided in
6 subsection (1) in his or her annual executive budget recommenda-
7 tions to the legislature.

8 Sec. ~~8~~ 71307. Bonds shall not be issued ~~under this act~~
9 unless the question set forth in section ~~5~~ 71304 is approved by
10 a majority vote of the qualified electors voting on the
11 question.

12 ~~Sec. 9. This act shall take effect September 9, 1988.~~

13 ~~Sec. 10. This act shall not take effect unless Senate Bill~~
14 ~~No. 866 of the 84th Legislature is enacted into law.~~

15 ~~Part 715. Recreation Bond Implementation~~

16 PART 715 RECREATION BOND IMPLEMENTATION

17 ~~Sec. 1. This act shall be known and may be cited as the~~
18 ~~"recreation bond implementation act".~~

19 Sec. ~~2~~ 71501. As used in this ~~act~~ PART:

20 (a) "Bonds" means the bonds issued under ~~the recreation~~
21 ~~bond authorization act~~ PART 713 OR FORMER ACT NO. 327 OF THE
22 PUBLIC ACTS OF 1988.

23 ~~(b) "Commission" means the commission of natural~~
24 ~~resources.~~

25 ~~(c) "Department" means the department of natural resources.~~

26 (B) ~~(d)~~ "Fund" means the recreation bond fund created in
27 section ~~6~~ 71506.

1 (C) ~~(e)~~ "Local public recreation project" means capital
 2 improvement projects including, but not limited to, the construc-
 3 tion, expansion, development, or rehabilitation of recreational
 4 facilities, and the restoration of the natural environment. ~~It~~
 5 LOCAL PUBLIC RECREATION PROJECT does not include the operation,
 6 maintenance, or administration of ~~such~~ THOSE facilities, wages,
 7 or administration of projects or purchase of facilities already
 8 dedicated to public recreational purposes.

9 (D) ~~(f)~~ "Local unit of government" means a county, city,
 10 township, village, school district, the Huron-Clinton metropoli-
 11 tan authority, or any authority composed of counties, cities,
 12 townships, villages, or school districts, or any combination
 13 ~~thereof~~ OF THOSE ENTITIES, which authority is legally consti-
 14 tuted to provide public recreation.

15 ~~(g) "Rule" means a rule promulgated pursuant to the admin-~~
 16 ~~istrative procedures act of 1969, Act No. 306 of the Public Acts~~
 17 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
 18 ~~Laws.~~

19 Sec. ~~1a~~ 71502. The legislature finds and declares that
 20 the construction, expansion, development, and rehabilitation of
 21 state and local recreational facilities ~~—~~ and the restoration
 22 of the natural environment under this ~~act~~ PART are a public
 23 purpose in the interest of the health, safety, and general wel-
 24 fare of the citizens of this state.

25 Sec. ~~3~~ 71503. (1) The bonds issued under ~~the recreation~~
 26 ~~bond authorization act~~ PART 713 shall be issued in 1 or more
 27 series, each series to be in a principal amount, to be dated, to

1 have the maturities which may be either serial, term, or term and
2 serial, to bear interest at a rate or rates, to be subject or not
3 subject to prior redemption ~~—~~ and, if subject to prior
4 redemption, with or without call premiums, to be payable at a
5 place or places, to have or not have provisions for registration
6 as to principal only or as to both principal and interest, to be
7 in a form and to be executed in a manner as shall be determined
8 by resolution to be adopted by the state administrative board,
9 and to be subject to or granting those covenants, directions,
10 restrictions, or rights specified by resolution to be adopted by
11 the state administrative board as necessary to ~~insure~~ ENSURE
12 the marketability, insurability, or tax-exempt status. The state
13 administrative board shall rotate legal counsel when issuing
14 bonds.

15 (2) The state administrative board by resolution may autho-
16 rize the state treasurer to provide for the sale of the bonds at
17 a discount, THE investment and reinvestment of bond sales pro-
18 ceeds, other details for the bonds, the costs of issuance, and
19 the security for the bonds as is necessary and advisable.

20 (3) The bonds shall be approved by the department of trea-
21 sury, before their issuance but shall not otherwise be subject to
22 the municipal finance act, Act No. 202 of the Public Acts of
23 1943, being sections 131.1 to 139.3 of the Michigan Compiled
24 Laws.

25 (4) The bonds or any series of the bonds shall be sold at
26 ~~such~~ A price and at a publicly advertised sale or a
27 competitively negotiated sale as shall be determined by the state

1 administrative board. If bonds are issued at a competitively
2 negotiated sale, the state administrative board shall use its
3 best efforts to include firms based in this state in the sale of
4 the bonds.

5 (5) Except as provided in subsection (6), the bonds shall be
6 sold ~~in accordance with the following schedule, beginning during~~
7 ~~the first year after the effective date of this act. (a) Not~~
8 ~~more than 34% shall be sold during the first year. (b) Not more~~
9 ~~than 33% shall be sold during the second year. (c) Not more than~~
10 ~~33% shall be sold during the third year. (d) After the third~~
11 ~~year any remaining bonds may be sold~~ at the discretion of the
12 state administrative board.

13 (6) The state administrative board may alter the schedule
14 for issuance of the bonds provided in subsection (5) if amend-
15 ments to the internal revenue code of 1986 would impair the
16 tax-exempt status of the bonds.

17 Sec. ~~4~~ 71504. Bonds issued under ~~the recreation bond~~
18 ~~authorization act~~ PART 713 shall be fully negotiable under the
19 uniform commercial code, Act No. 174 of the Public Acts of 1962,
20 being sections 440.1101 to 440.11102 of the Michigan Compiled
21 Laws. The bonds and the interest on the bonds shall be exempt
22 from all taxation by the state or any political ~~subdivisions~~
23 SUBDIVISION of the state.

24 Sec. ~~5~~ 71505. Bonds issued under ~~the recreation bond~~
25 ~~authorization act~~ PART 713 are ~~hereby~~ made securities in which
26 banks, savings and loan associations, investment companies,
27 credit unions, and other persons carrying on a banking business;

1 all insurance companies, insurance associations, and other
2 persons carrying on an insurance business; and all administra-
3 tors, executors, guardians, trustees, and other fiduciaries may
4 properly and legally invest funds, including capital, belonging
5 to them or within their control.

6 Sec. ~~-6-~~ 71506. (1) The recreation bond fund is created in
7 the state treasury.

8 (2) The fund shall consist of all of the following:

9 (a) The proceeds of sales of general obligation bonds issued
10 pursuant to ~~the recreation bond authorization act~~ PART 713 and
11 any premium and accrued interest received on the delivery of the
12 bonds.

13 (b) Any interest or earnings generated by the proceeds
14 described in subdivision (a).

15 (c) Any repayments of principal and interest made under a
16 loan program authorized for in this ~~act~~ PART.

17 (d) Any federal funds received.

18 (3) The department of treasury may establish restricted sub-
19 accounts within the fund as necessary to administer the fund.

20 Sec. ~~-7-~~ 71507. (1) The proceeds of the bonds issued under
21 ~~the recreation bond authorization act~~ PART 713 shall be depos-
22 ited into the fund.

23 (2) The state treasurer shall direct the investment of the
24 fund. Except as otherwise may be required by the resolution
25 authorizing the issuance of the bonds in order to maintain the
26 exclusion from gross income of the interest paid on the bonds or
27 to comply with state or federal law, interest and earnings from

1 investment of the proceeds of any bond issue shall be allocated
2 in the same proportion as earned on the investment of the pro-
3 ceeds of the bond issue.

4 (3) Except as otherwise may be required by the resolution
5 authorizing the issuance of the bonds in order to maintain the
6 exclusion from gross income of the interest paid on the bonds or
7 to comply with state or federal law, all repayments of principal
8 and interest earned under a loan program provided in this ~~act~~
9 PART shall be credited to the appropriate restricted subaccounts
10 of the fund and used for the purposes authorized for the use of
11 bond proceeds deposited in that subaccount or to pay debt service
12 on any obligation issued which pledges the loan repayments and
13 the proceeds of which are deposited in that subaccount.

14 (4) The unencumbered balance in the fund at the close of the
15 fiscal year shall remain in the fund and shall not revert to the
16 general fund.

17 (5) The ~~commission~~ DEPARTMENT shall annually submit to the
18 governor, the ~~committee~~ COMMITTEES of the house of representa-
19 tives ~~on conservation and environment, the committee of~~ AND the
20 senate ~~on natural resources and environmental affairs~~ WITH
21 JURISDICTION PERTAINING PRIMARILY TO NATURAL RESOURCES AND THE
22 ENVIRONMENT, and the appropriations committees ~~in~~ OF the house
23 of representatives and the senate a list of all projects that are
24 recommended to be funded under this ~~act~~ PART. ~~Beginning in~~
25 ~~fiscal year 1990, this~~ THIS list shall be submitted to the leg-
26 islature not later than February 15 of each year. This list
27 shall also be submitted before any request for supplemental

1 appropriation of bond funds. The list shall include the name,
 2 address, and telephone number of the eligible recipient or par-
 3 ticipant; the nature of the eligible project; the county in which
 4 the eligible project is located; an estimate of the total cost of
 5 the eligible project; and other information considered pertinent
 6 by the ~~commission~~ DEPARTMENT. The estimated cost of eligible
 7 local public recreation projects on the list for each year in
 8 which there is a limitation on borrowing under section ~~3(5)~~
 9 71503(5) shall not exceed 1/3 of the amount authorized for local
 10 public recreation projects under section ~~8(1)(b)~~ 71508(1)(B)
 11 and (c).

12 (6) The legislature shall appropriate prospective or actual
 13 bond proceeds for projects proposed to be funded. Appropriations
 14 shall be carried over to succeeding fiscal years until the
 15 project for which the funds are appropriated is completed.

16 (7) Not later than December 31 of each year, the
 17 ~~commission~~ DEPARTMENT shall report to the governor, the
 18 ~~committee~~ COMMITTEES of the house of representatives ~~on con-~~
 19 ~~servation and environment, the committee of~~ AND the senate ~~on~~
 20 WITH JURISDICTION PERTAINING PRIMARILY TO natural resources and
 21 ~~environmental affairs~~ THE ENVIRONMENT, and the committees of
 22 the house of representatives and the senate on appropriations for
 23 the department a list of the projects financed under this ~~act~~
 24 PART. The list shall include the name, address, and telephone
 25 number of the recipient or participant; the nature of the
 26 project; the amount of money received; the county in which the

1 project is located; and other information considered pertinent by
2 the ~~commission~~ DEPARTMENT.

3 Sec. ~~8~~ 71508. (1) Except as otherwise provided in this
4 section, money in the fund shall be used as follows:

5 (a) \$70,000,000.00 of the bond revenues shall be used to
6 construct, expand, and develop recreational facilities at state
7 parks pursuant to the "5 year capital outlay program" published
8 by the department and approved by the commission, and for other
9 state recreation facilities for which matching funds are
10 available. The department may deviate from the uses of the bond
11 revenues provided in this subdivision only upon recommendation of
12 the commission and approval of the legislature.

13 (b) \$65,000,000.00 of the bond revenues shall be used to
14 provide grants and loans to local units of government for local
15 public recreation projects pursuant to this ~~act~~ PART.

16 (c) \$5,000,000.00 of the bond revenues shall be used to pro-
17 vide grants and loans to local units of government for the pur-
18 pose of discouraging development of open space and undeveloped
19 lands that on ~~the effective date of this act~~ DECEMBER 1, 1988
20 are not zoned for industrial use. Grants and loans made under
21 this subdivision shall be used to redevelop and reuse vacant man-
22 ufacturing facilities or abandoned industrial sites for recrea-
23 tional facilities.

24 (2) Money in the fund that is allocated for local public
25 recreation projects under subsection (1)(b) shall be used for any
26 of the following:

1 (a) Public recreation infrastructure improvements that
2 involve the replacement of or structural improvements relating
3 specifically to existing public recreation facilities, including,
4 but not limited to, recreation centers, sports fields, beaches,
5 trails, historical structures, playgrounds, and restoration of
6 the natural environment.

7 (b) The development of public recreation facilities on
8 waterfront sites for the purpose of increasing recreation oppor-
9 tunities that encourage further private investments in the area.
10 Public recreation facilities on waterfront sites shall include,
11 but shall not be limited to, shoreline stabilization and beauti-
12 fication, breakwaters, bulkheads, fishing piers, amphitheaters,
13 shoreline walkways, and pedestrian bridges.

14 (c) The construction of community public recreation facili-
15 ties for the purpose of addressing the recreational needs of
16 local residents, including, but not limited to, playgrounds,
17 sports fields and courts, community and senior centers, and fish-
18 ing sites.

19 (d) The development of public recreation improvements
20 ~~which~~ THAT will attract tourists or otherwise increase tourism,
21 where such developments are reasonably expected to have a sub-
22 stantial positive impact, relative to cost, on the local, region-
23 al, or state economy, including, but not limited to, campgrounds,
24 beaches, historical sites, fishing access sites, and recreational
25 development of abandoned railroad rights-of-way.

26 (e) Intermediate school districts for environmental
27 education capital outlay projects that are consistent with the

1 long-term recreation and parks plan for the local unit or units
2 of government which the intermediate school district serves.

3 (3) Money in the fund for other state recreation purposes
4 shall be used for infrastructure projects for fisheries, wild-
5 life, recreational boating, or state forest campgrounds, for
6 which not less than 50% of the cost of the project is available
7 from any combination of federal, private, or restricted funds.

8 (4) Money in the fund shall not be used for land
9 acquisition.

10 (5) Money in the fund shall not be expended for sports
11 facilities, arenas, or stadiums intended as the primary home of a
12 professional sports team, ~~or~~ for commercial theme parks, or for
13 any purpose that may result in the siting of casino gambling in
14 ~~the~~ THIS state.

15 (6) Money in the fund may be used by the department of trea-
16 sury to pay for the cost of issuing bonds under ~~the recreation~~
17 ~~bond authorization act~~ PART 713 and by the department to pay
18 department costs as provided in this subsection. Not more than
19 3% of the total amount specified in this section shall be avail-
20 able for appropriation to the department to pay department costs
21 directly associated with the completion of a project described in
22 subsection (1)(a), (b), or (c) for which bonds are issued as pro-
23 vided under this ~~act~~ PART. Bond proceeds shall not be avail-
24 able to pay indirect, administrative overhead costs incurred by
25 any organizational unit of the department not directly responsi-
26 ble for the completion of a project. Department costs shall be
27 deducted proportionately from the amounts stated in

1 subsection (1). It is the intent of the legislature that general
2 fund appropriations to the department shall not be reduced as a
3 result of department costs funded pursuant to this subsection.

4 Sec. ~~9~~ 71509. (1) Grants and loans made to local units of
5 government under section ~~8(1)(b)~~ 71508(1)(B) shall be made by
6 the ~~commission~~ DEPARTMENT and allocated as follows:

7 (a) Each region provided for in subsection (2) shall receive
8 \$6.50 per capita based upon the 1985 census figures in the docu-
9 ment entitled "estimated state spending by county fiscal year
10 1985-86" published by the senate fiscal agency, dated October,
11 1987.

12 (b) The balance of the money remaining after the distribu-
13 tion under subdivision (a) shall be used for local public recre-
14 ation projects that are regional parks as defined by rules
15 promulgated by the ~~commission~~ DEPARTMENT. An application under
16 this subdivision shall not preclude an application under subdivi-
17 sion (a).

18 (2) For purposes of the distribution of grants and loans for
19 local public recreation projects under section ~~8(1)(b)~~
20 71508(1)(B), the state is divided into the following 3 regions:

21 (a) Region 1--all of the counties of the Upper Peninsula.

22 (b) Region 2--Emmet, Charlevoix, Cheboygan, Presque Isle,
23 Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand
24 Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford,
25 Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare,
26 Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola,
27 and Sanilac counties.

1 (c) Region 3--Oceana, Newaygo, Mecosta, Muskegon, Montcalm,
2 Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee,
3 Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston,
4 Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson,
5 Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale,
6 Lenawee, and Monroe counties.

7 (3) A grant made under this ~~act~~ PART to a local unit of
8 government shall require a 25% match by the local unit of
9 government. Not more than 50% of the local unit of government's
10 contribution under this subsection may be in the form of goods
11 and services directly rendered to the construction of the
12 project, or federal funds, or both. A local unit of government
13 shall establish to the satisfaction of the ~~commission~~
14 DEPARTMENT the cost or fair market value, whichever is less as of
15 the date of the notice of approval by the ~~commission~~
16 DEPARTMENT, of any of the above items with which it seeks to meet
17 its local unit portion.

18 (4) The ~~commission~~ DEPARTMENT shall promulgate rules that
19 establish criteria for grants and loans made under this ~~act~~
20 PART, an application process, the definition of regional parks,
21 and a process for disbursement of grants and loans to local units
22 of government.

23 (5) A facility funded under this section shall not be sold,
24 disposed of, or converted to a use not specified in the applica-
25 tion for the grant or loan without express approval of the
26 ~~commission~~ DEPARTMENT.

1 Sec. ~~+0~~ 71510. (1) The ~~commission~~ DEPARTMENT shall
2 assure maximum participation by local units of government by
3 ~~promulgation of~~ PROMULGATING rules that provide for a grant or
4 loan program, where appropriate. In determining whether a grant
5 or a loan program is appropriate, the ~~commission~~ DEPARTMENT
6 shall consider whether the project is likely to be undertaken
7 without state assistance; the availability of state funds from
8 other sources; the degree of private sector participation in the
9 type of project under consideration; the extent of the need for
10 the project as a demonstration project; and ~~such~~ other factors
11 considered important by the ~~commission~~ DEPARTMENT.

12 (2) Prior to making a grant or loan authorized by this ~~act~~
13 PART, the ~~commission~~ DEPARTMENT shall consider the extent to
14 which the making of the grant or loan contributes to the achieve-
15 ment of a balanced distribution of grants and loans throughout
16 the state.

17 Sec. ~~++~~ 71511. An application for a grant or a loan
18 authorized under this ~~act~~ PART shall be made on a form pre-
19 scribed by the ~~commission~~ DEPARTMENT. The ~~commission~~
20 DEPARTMENT may require the applicant to provide any information
21 reasonably necessary to allow the ~~commission~~ DEPARTMENT to make
22 determinations required by this ~~act~~ PART.

23 Sec. ~~+2~~ 71512. The ~~commission~~ DEPARTMENT shall not make
24 a grant or a loan under this ~~act~~ PART unless all of the follow-
25 ing conditions are met:

26 (a) The applicant demonstrates that the proposed project is
27 in compliance with all applicable state laws and rules.

1 (b) The applicant demonstrates to the ~~commission~~
2 DEPARTMENT the capability to ~~carry out~~ IMPLEMENT the proposed
3 project.

4 (c) The applicant provides the ~~commission~~ DEPARTMENT with
5 evidence that a licensed professional engineer has approved the
6 plans and specifications for the project, if appropriate.

7 (d) The applicant demonstrates to the ~~commission~~
8 DEPARTMENT that there is an identifiable source of funds for the
9 maintenance and operation of the proposed project.

10 Sec. ~~+3-~~ 71513. (1) A recipient of a grant or a loan made
11 under this ~~act~~ PART shall be subject to all of the following:

12 (a) A recipient shall keep an accounting of the money spent
13 on the project or facility in a generally accepted manner. The
14 accounting shall be subject to a postaudit.

15 (b) A recipient shall obtain authorization from the
16 ~~commission~~ DEPARTMENT before implementing a change that signif-
17 icantly alters the proposed project or facility.

18 (2) The ~~commission~~ DEPARTMENT may revoke a grant or a loan
19 made by it under this ~~act~~ PART or withhold payment if the
20 recipient fails to comply with the terms and conditions of the
21 grant or loan ~~7~~ or with the requirements of this ~~act~~ PART or
22 the rules promulgated under this ~~act~~ PART.

23 (3) The ~~commission~~ DEPARTMENT may recover a grant if the
24 project for which the grant was made never operates.

25 (4) The ~~commission~~ DEPARTMENT may withhold a grant or a
26 loan until the ~~commission~~ DEPARTMENT determines that the

1 recipient is able to proceed with the proposed project or
2 facility.

3 (5) To assure timely completion of a project, the
4 ~~commission~~ DEPARTMENT may withhold 10% of the grant or loan
5 amount until the project is complete.

6 Sec. ~~14~~ 71514. The ~~commission~~ DEPARTMENT shall promul-
7 gate rules as are necessary or required to implement this ~~act~~
8 PART.

9 ~~Sec. 15. This act shall take effect December 1, 1988.~~

10 ~~Sec. 16. This act shall not take effect unless Senate Bill~~
11 ~~No. 865 of the 84th Legislature is enacted into law.~~

12 ~~TRAILWAYS~~

13 ~~Part 721. Michigan Trailways~~

14 TRAILWAYS

15 PART 721 MICHIGAN TRAILWAYS

16 ~~Sec. 1. This act shall be known and may be cited as the~~
17 ~~"Michigan trailways act".~~

18 Sec. ~~3~~ 72101. As used in this ~~act~~ PART:

19 (a) "Advisory council" means the Michigan trailways advisory
20 council created in section ~~11~~ 72110.

21 ~~(b) "Commission" means the commission of natural~~
22 ~~resources.~~

23 (B) ~~(c)~~ "Council" means a Michigan railway management
24 council established pursuant to section ~~7~~ 72106.

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

1 (C) ~~(e)~~ "Fund" means the Michigan trailways fund created
2 in section ~~10~~ 72109.

3 (D) ~~(f)~~ "Governmental agency" means the federal
4 government, ~~or~~ a county, city, village, or township, or a com-
5 bination of any of these entities.

6 (E) ~~(g)~~ "Michigan railway" means a railway designated by
7 the commission pursuant to section ~~4~~ 72103.

8 ~~(h) "Person" means an individual, partnership, corporation,~~
9 ~~association, governmental entity, or other legal entity.~~

10 ~~(i) "Rule" means a rule promulgated pursuant to the adminis-~~
11 ~~trative procedures act of 1969, Act No. 306 of the Public Acts of~~
12 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
13 ~~Laws.~~

14 (F) ~~(j)~~ "Trailway" means a land corridor that features a
15 broad trail capable of accommodating a variety of public recre-
16 ation uses.

17 Sec. ~~2~~ 72102. The legislature finds and declares that a
18 statewide system of trailways will provide for public enjoyment,
19 health, and fitness; encourage constructive leisure-time activi-
20 ties; protect open space, cultural and historical resources, and
21 habitat for wildlife and plants; enhance the local and state
22 economies; link communities, parks, and natural resources; create
23 opportunities for rural-urban exchange, agricultural education,
24 and THE marketing of farm products; and preserve corridors for
25 possible future use for other public purposes. Therefore, the
26 planning, acquisition, development, operation, and maintenance of

1 Michigan trailways is in the best interest of the state and is
2 declared to be a public purpose.

3 Sec. ~~4~~ 72103. (1) Upon petition ~~—~~ by any person or on
4 its own motion, the commission may designate a trailway in ~~the~~
5 THIS state as a "Michigan trailway". The petition or motion
6 shall propose permitted uses of the trailway. The commission
7 shall not designate a trailway AS a Michigan trailway unless it
8 meets, or will meet when completed, all of the following
9 requirements:

10 (a) The land on which the trailway is located is owned by
11 the state or a governmental agency, or otherwise is under the
12 long-term control of the state or a governmental agency through a
13 lease, easement, or other arrangement. If the land is owned by a
14 governmental agency, the commission shall obtain the consent of
15 the governmental agency before designating the land as part of a
16 Michigan trailway.

17 (b) The design and maintenance of the trailway and its
18 related facilities meet generally accepted standards of public
19 safety.

20 (c) The trailway meets appropriate standards for its desig-
21 nated recreation uses.

22 (d) The trailway is available for designated recreation uses
23 on a nondiscriminatory basis.

24 (e) The trailway is a multiuse trail suitable for use by
25 pedestrians, by people with disabilities, and by other users, as
26 appropriate.

1 (f) The railway is, or has potential to be, a segment of a
2 statewide network of railways, or it attracts a substantial
3 share of its users from beyond the local area.

4 (g) The railway is marked with an official Michigan trail-
5 way sign and logo at major access points.

6 (h) The railway is not directly attached to a roadway,
7 except at roadway crossings.

8 (i) Where feasible, the railway offers adequate support
9 facilities for the public, including parking, sanitary facili-
10 ties, and emergency telephones, that are accessible to people
11 with disabilities and are at reasonable frequency along the
12 railway.

13 (j) Potential negative impacts of railway development on
14 owners or residents of adjacent property are minimized through
15 all of the following:

16 (i) Adequate enforcement of railway rules and regulations.

17 (ii) Continuation of access for railway crossings for agri-
18 cultural and other purposes.

19 (iii) Construction and maintenance of fencing, where neces-
20 sary, by the owner or operator of the railway.

21 (iv) Other means as considered appropriate by the
22 commission.

23 (k) Other conditions required by the commission.

24 (2) The commission shall not designate a railway a Michigan
25 railway under subsection (1) unless a public hearing has been
26 held in the vicinity of the proposed Michigan railway to take
27 testimony and gather public opinion on the proposed designation

1 including, but not limited to, the proposed uses of the trailway
2 and whether or not motorized uses are appropriate for the
3 trailway. The public hearing shall be held at a location and at
4 a time calculated to attract a fair representation of opinions on
5 the designation. A transcript or a summary of the testimony at
6 the public hearing shall be forwarded to the commission.

7 (3) At the time a Michigan trailway is designated under
8 subsection (1), the commission shall, in consultation with the
9 governmental agencies in which the trailway is located, establish
10 uses to be permitted on the trailway. In establishing permitted
11 uses, the commission shall consider all of the following:

12 (a) The safety and enjoyment of trailway users.

13 (b) Impacts on residents, landowners, and businesses adja-
14 cent to the trailway.

15 (c) Applicable local ordinances.

16 (4) A change in the permitted uses of a Michigan trailway
17 established under subsection (3) relating to whether or not a
18 motorized use is allowed on the trailway shall not be made with-
19 out approval of the commission after a public hearing held in the
20 same manner as provided in subsection (2).

21 (5) The commission may revoke a Michigan trailway designa-
22 tion if it determines that a trailway fails to meet the require-
23 ments of this section. Before revoking a Michigan trailway des-
24 ignation, the commission shall provide notice to all entities
25 involved in the management of the trailway. If the trailway is
26 brought into compliance with this section within 90 days after

1 providing this notice, the commission shall not revoke the
2 designation.

3 Sec. ~~5~~ 72104. (1) Upon petition ~~—~~ by any person or on
4 its own motion, the commission may designate a trailway, bicycle
5 path, sidewalk, road, or other suitable route that does not meet
6 the requirements of this ~~act~~ PART for a Michigan trailway as a
7 "Michigan trailway connector" if the connector meets all of the
8 following:

9 (a) The connector meets appropriate safety standards and
10 appropriate design standards for its designated uses.

11 (b) The connector connects directly to a Michigan trailway.

12 (c) The public agency having jurisdiction over the connector
13 has consented in writing to the designation.

14 (d) The connector is marked with an official Michigan trail-
15 way connector sign and logo at major access points.

16 (2) An aquatic corridor capable of accommodating watercraft
17 that connects to a Michigan trailway may be designated as a
18 Michigan trailway connector if it meets the requirements of
19 subsection (1)(a) to (d).

20 Sec. ~~6~~ 72105. The department may operate and maintain a
21 Michigan trailway that is located on state owned land or may
22 enter into an agreement with a council or 1 or more governmental
23 agencies to provide for the operation and maintenance of the
24 Michigan trailway. An agreement entered into under this subsec-
25 tion may include provisions for any of the following:

26 (a) Construction, maintenance, and operation of the
27 trailway.

1 (b) Enforcement of railway rules and regulations including
2 permitted uses of the railway.

3 (c) Other provisions consistent with this ~~act~~ PART.

4 Sec. ~~7~~ 72106. (1) Two or more governmental agencies may
5 establish a Michigan railway management council for the develop-
6 ment and management of a Michigan railway pursuant to the urban
7 cooperation act of 1967, Act No. 7 of the ~~Extra Session of the~~
8 Public Acts of THE EXTRA SESSION OF 1967, being section 124.501
9 to 124.512 of the Michigan Compiled Laws.

10 (2) Upon formation, a council shall adopt operating proce-
11 dures and shall elect officers as the council considers
12 appropriate.

13 (3) A council may do 1 or more of the following as autho-
14 rized in an interlocal agreement entered into pursuant to Act
15 No. 7 of the ~~Extra Session of the~~ Public Acts of THE EXTRA
16 SESSION OF 1967:

17 (a) Operate and maintain that portion of 1 or more Michigan
18 railways that ~~are~~ IS owned or under the control of the govern-
19 mental agencies establishing the council.

20 (b) Pursuant to an agreement under section ~~6~~ 72105, oper-
21 ate and maintain that portion of 1 or more Michigan railways
22 that ~~are~~ IS located on state owned land. .

23 (c) Coordinate the enforcement of railway rules and regula-
24 tions ~~—~~ and other applicable laws and ordinances, including
25 permitted uses of the railway on railways owned or under the
26 control of the governmental agencies establishing the council or,

1 pursuant to an agreement under section ~~-6-~~ 72105, trailways that
2 are located on state owned land.

3 (d) Receive any grant made from the fund or other funding
4 related to that portion of a Michigan trailway within its
5 jurisdiction.

6 (e) Acquire or hold real property for the purpose of operat-
7 ing a Michigan trailway.

8 (f) Perform other functions consistent with this ~~act~~
9 PART.

10 (4) A council may be dissolved by the governmental agencies
11 that participated in creating the council. However, if a council
12 has entered into an agreement with the department under
13 section ~~-6-~~ 72105, the agreement shall specify how the council
14 may be dissolved.

15 Sec. ~~-8-~~ 72107. In agricultural areas, a Michigan trailway
16 may be temporarily closed by the entity operating the trailway to
17 allow pesticide application on lands adjoining the trailway. The
18 entity operating the Michigan trailway shall post the closure of
19 the trailway or arrange with a landowner ~~—~~ or other person ~~—~~
20 for the posting of signs and the closure of the trailway during
21 pesticide application and appropriate reentry periods.

22 Sec. ~~-9-~~ 72108. (1) The commission may do any of the
23 following:

24 (a) Grant easements or use permits or lease land owned by
25 the state that is being used for a Michigan trailway for a use
26 that is compatible with the use of the Michigan trailway.

1 (b) Enter into contracts for concessions along a state owned
2 Michigan railway.

3 (c) Lease land adjacent to a state owned Michigan railway
4 for the operation of concessions.

5 (2) If the commission approves of the acquisition of land by
6 the department, the commission may state that the specified land
7 is acquired for use as a Michigan railway. Following acquisi-
8 tion of land that the commission states is acquired for use as a
9 Michigan railway, any revenue derived from that land pursuant to
10 subsection (1), except as otherwise provided by law, shall be
11 deposited into the fund.

12 Sec. ~~40~~ 72109. (1) The Michigan railways fund is created
13 within the state treasury.

14 (2) Except as otherwise provided by law, the state treasurer
15 may receive money or other assets from any of the following for
16 deposit into the fund:

17 (a) Fees collected from users of railways on state forest
18 lands.

19 (b) Payments to the state for easements, use permits,
20 leases, or other use of state owned Michigan railway property.

21 (c) Payments to the state for concessions operated by pri-
22 vate vendors on state owned property located on or adjacent to a
23 Michigan railway.

24 (d) Federal funds.

25 (e) Gifts or bequests.

26 (f) State appropriations.

1 (g) Money or assets from other sources as provided by law.

2 (3) The state treasurer shall direct the investment of the
3 fund. The state treasurer shall credit to the fund interest and
4 earnings from fund investments.

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

7 (5) Money in the fund may be expended for any of the follow-
8 ing purposes:

9 (a) The expenses of the department in operating and main-
10 taining the Michigan railway system and enforcing Michigan
11 railway rules and regulations.

12 (b) Grants to or contracts with councils or governmental
13 agencies to operate and maintain segments of Michigan railways
14 and to enforce Michigan railway rules and regulations.

15 (c) Funding Michigan railway construction and
16 improvements.

17 (d) Acquisition of land or rights in land.

18 (e) Publications and promotions of the Michigan railways
19 system.

20 (6) In determining the expenditure of money in the fund, the
21 department shall consider all of the following:

22 (a) The need for funding for each of the purposes listed in
23 subsection (5).

24 (b) The estimated cost of Michigan railway management for
25 each governmental agency that manages a Michigan railway, based
26 on previous costs, railway mileage, level of use, and other
27 relevant factors.

1 (c) The need of each governmental agency that manages a
2 Michigan trailway for financial assistance in managing that
3 trailway, and the amount of money from the fund received by that
4 agency in the past.

5 (d) The amount of revenue accruing to the fund that is gen-
6 erated from each Michigan trailway.

7 (e) Other factors considered appropriate by the department.

8 (7) The department shall submit a report to the legislature
9 on or before December 1 of each year describing the use of money
10 appropriated from the fund in the previous fiscal year.

11 Sec. ~~44~~ 72110. (1) The Michigan trailways advisory coun-
12 cil is created within the department OF NATURAL RESOURCES.

13 (2) The advisory council shall consist of the following mem-
14 bers appointed by the commission:

15 (a) One individual who is involved with the establishment or
16 operation of a multiple use trailway.

17 (b) Two individuals who represent Michigan trailway user
18 groups.

19 (c) One local government official from a governmental agency
20 in which a multiple use trailway is located.

21 (d) One member of the general public.

22 (3) The members first appointed to the commission shall be
23 appointed within 90 days after ~~the effective date of this act~~
24 APRIL 21, 1993.

25 (4) Members of the advisory council shall serve for terms of
26 4 years, or until a successor is appointed, whichever is later,

1 except that of the members first appointed, 2 shall serve for 1
2 year, 1 shall serve for 2 years, and 1 shall serve for 3 years.

3 (5) If a vacancy occurs on the advisory council, the commis-
4 sion shall make an appointment for the unexpired term in the same
5 manner as the original appointment.

6 (6) The commission may remove a member of the advisory coun-
7 cil for incompetency, dereliction of duty, malfeasance, misfeas-
8 ance, or nonfeasance in office, or any other good cause.

9 (7) The first meeting of the advisory council shall be
10 called by the commission. At the first meeting the advisory
11 council shall elect from among its members a chairperson and
12 other officers as it considers necessary or appropriate. After
13 the first meeting, the advisory council shall meet at least annu-
14 ally ~~—~~ or more frequently at the call of the chairperson or ~~—~~
15 if requested by 3 or more members.

16 (8) A majority of the members of the advisory council
17 ~~constitute~~ CONSTITUTES a quorum for the transaction of business
18 at a meeting of the advisory council. A majority of the members
19 present and serving is required for official action of the
20 advisory council.

21 (9) The business ~~which~~ the advisory council may perform
22 shall be conducted at a public meeting of the advisory council
23 held in compliance with the open meetings act, Act No. 267 of the
24 Public Acts of 1976, being sections 15.261 to 15.275 of the
25 Michigan Compiled Laws.

26 (10) A writing prepared, owned, used, in possession of, or
27 retained by the advisory council in the performance of an

1 official function is subject to the freedom of information act,
2 Act No. 442 of the Public Acts of 1976, being sections 15.231 to
3 15.246 of the Michigan Compiled Laws.

4 (11) Members of the advisory council shall serve without
5 compensation. However, members of the advisory council may be
6 reimbursed for their actual and necessary expenses incurred in
7 the performance of their official duties as members of the
8 advisory council.

9 (12) The advisory council shall do both of the following:

10 (a) Make recommendations to the commission and the depart-
11 ment on the expenditure of money in the fund.

12 (b) Advise the commission and the department on the imple-
13 mentation of this act and the establishment and operation of
14 Michigan trailways.

15 Sec. ~~+2-~~ 72111. All state agencies shall cooperate with
16 the commission and the department in the implementation of this
17 ~~-act-~~ PART.

18 Sec. ~~+3-~~ 72112. The commission may promulgate rules as it
19 considers necessary to implement this ~~-act-~~ PART.

20 ~~Sec. 14. This act shall not take effect unless Senate Bill~~
21 ~~No. 203 of the 87th Legislature is enacted into law.~~

22 ~~Part 723. Trails~~

23 PART 723 TRAILS

24 Sec. ~~+1-~~ 72301. As used in this ~~-act-~~ ~~"trail"~~ PART,
25 "TRAIL" means a right-of-way adapted to foot or horseback
26 travel.

1 Sec. ~~2~~ 72302. Within legislative appropriations, the
 2 department ~~of conservation~~ shall make a survey and prepare a
 3 master plan for a state system of trails with ~~camp sites~~
 4 CAMPSITES and necessary facilities ~~which~~ THAT takes into
 5 account points of historical interest and scenic beauty.
 6 Revisions of the plan may be made from time to time. On those
 7 parts of the trail ~~which~~ THAT are not public roads, the
 8 ~~director of conservation~~ DEPARTMENT may prohibit motor
 9 equipment. The department may provide, develop, and maintain a
 10 system of trails with ~~camp sites~~ CAMPSITES and necessary facil-
 11 ities for the use of the public, within the appropriations made
 12 ~~therefor~~ FOR THOSE PURPOSES by the legislature.

13 Sec. ~~3~~ 72303. The department may accept gifts or grants
 14 of land, rights-of-way and other property. The department ~~shall~~
 15 ~~have authority to~~ MAY use state timber, timber materials,
 16 equipment, and prison labor on lands THAT ARE under lease or use
 17 permit to it.

18 ~~RECREATIONAL TRESPASS~~

19 ~~Part 731. Recreational Trespass~~

20 RECREATIONAL TRESPASS

21 PART 731 RECREATIONAL TRESPASS

22 ~~Sec. 1. This act shall be known and may be cited as the~~
 23 ~~"recreational trespass act".~~

24 Sec. ~~1a~~ 73101. As used in this ~~act~~ PART:

25 (a) "Farm product" means that term as defined in section 2
 26 of the Michigan right to farm act, Act No. 93 of the Public Acts
 27 of 1981, being section 286.472 of the Michigan Compiled Laws.

1 (b) "Farm property" means land used in the production of a
2 farm product and all lands contained within the farm.

3 Sec. ~~2~~ 73102. (1) Except as provided in subsection (4), a
4 person shall not enter or remain upon the property of another
5 person, other than farm property or a wooded area connected to
6 farm property, to engage in any recreational activity or trapping
7 on that property without the consent of the owner or his or her
8 lessee or agent, if either of the following circumstances
9 exists:

10 (a) The property is fenced or enclosed ~~—~~ and ~~the~~
11 ~~property~~ is maintained in such a manner as to exclude
12 intruders.

13 (b) The property is posted in a conspicuous manner against
14 entry. The minimum letter height on the posting signs shall be 1
15 inch. Each posting sign shall be not less than 50 square inches,
16 and the signs shall be spaced to enable a person to observe not
17 less than 1 sign at any point of entry upon the property.

18 (2) Except as provided in subsection (4), a person shall not
19 enter or remain upon farm property or a wooded area connected to
20 farm property for any recreational activity or trapping without
21 the consent of the owner or his or her lessee or agent, whether
22 or not the farm property or wooded area connected to farm prop-
23 erty is fenced, enclosed, or posted.

24 (3) On fenced or posted property or farm property, a fisher-
25 man wading or floating a navigable public stream may, without
26 written or oral consent, enter upon property within the clearly
27 defined banks of the stream or walk a route as closely proximate

1 to the clearly defined bank as possible when necessary to avoid a
2 natural or artificial hazard or obstruction, including, but not
3 limited to, a dam, deep hole, fence, or other exercise of owner-
4 ship by the riparian owner.

5 (4) A person other than a person possessing a firearm may,
6 unless previously prohibited in writing or orally by the property
7 owner or his or her lessee or agent, enter on foot upon the prop-
8 erty of another person for the sole purpose of retrieving a hunt-
9 ing dog. The person shall not remain on the property beyond the
10 reasonable time necessary to retrieve the dog.

11 (5) Consent to enter or remain upon the property of another
12 person pursuant to this section may be given orally or in
13 writing. The consent may establish conditions for entering or
14 remaining upon that property. Unless prohibited in the written
15 consent, a written consent may be amended or revoked orally. If
16 the owner or his or her lessee or agent requires all persons
17 entering or remaining upon the property to have written consent,
18 the presence of the person on the property without written con-
19 sent is prima facie evidence of unlawful entry.

20 (6) As used in this section, "hunting dog" means a dog
21 allowed to range freely to engage in or aid in hunting on the day
22 the dog enters the property of another person.

23 Sec. ~~3~~ 73103. (1) A person shall not discharge a firearm
24 within the right-of-way of a public highway adjoining or abutting
25 any platted property, fenced, enclosed, or posted property, farm
26 property, or a wooded area connected to farm property without the

1 consent of the owner of the abutting property ~~—~~ or his or her
2 lessee or agent.

3 (2) As used in this section, "public highway" means a road
4 or highway under the jurisdiction of the state transportation
5 department, the road commission of a county, or of a local unit
6 of government.

7 Sec. ~~3a~~ 73104. A person shall not remove, deface, or
8 destroy a sign or poster that has been posted pursuant to this
9 ~~act~~ PART.

10 Sec. ~~4~~ 73105. A person shall not post a sign on property
11 owned by another person or enclose the property of another person
12 to prohibit hunting, fishing, trapping, or other recreational
13 activities on that property without the written permission of the
14 owner of that property ~~—~~ or his or her lessee or agent.

15 Sec. ~~5~~ 73106. (1) A prosecution under this ~~act~~ PART
16 shall be in the name of the people of the state, shall be brought
17 before a district court of competent jurisdiction in the county
18 in which the offense was committed, and shall be brought within 1
19 year from the time the offense charged was committed.

20 (2) A peace officer may seize property and otherwise enforce
21 this ~~act~~ PART upon complaint of the landowner ~~—~~ or his or her
22 lessee or agent.

23 Sec. ~~6~~ 73107. (1) Except as provided in subsection (2), a
24 cause of action shall not arise against the owner, tenant, or
25 lessee of property for an injury to a person who is on that prop-
26 erty with oral or written consent but who has not paid the owner,
27 tenant, or lessee of that property valuable consideration for the

1 recreational or trapping use of the property, unless the injury
2 was caused by the gross negligence or willful and wanton miscon-
3 duct of the owner, tenant, or lessee.

4 (2) A cause of action shall not arise against the owner,
5 tenant, or lessee of property for an injury to a person who is on
6 that property with oral or written consent and has paid the
7 owner, tenant, or lessee valuable consideration for fishing,
8 trapping, or hunting on that property, unless that person's inju-
9 ries were caused by a condition that involved an unreasonable
10 risk of harm and all of the following apply:

11 (a) The owner, tenant, or lessee knew or had reason to know
12 of the condition or risk.

13 (b) The owner, tenant, or lessee failed to exercise reason-
14 able care to make the condition safe ~~—~~ or to warn the person of
15 the condition or risk.

16 (c) The person injured did not know or did not have reason
17 to know of the condition or risk.

18 Sec. ~~7~~ 73108. The prosecuting attorney for a county shall
19 enforce this ~~act~~ PART and prosecute all persons charged with
20 violating this ~~act~~ PART in that county. The attorney repre-
21 senting a ~~city, village, or township~~ MUNICIPALITY may enforce
22 this ~~act~~ PART in that ~~city, village, or township,~~
23 MUNICIPALITY and prosecute all persons charged with violating
24 this ~~act~~ PART in that ~~city, village, or township~~
25 MUNICIPALITY.

26 Sec. ~~8~~ 73109. A person shall not resist or obstruct a
27 peace officer enforcing this ~~act~~ PART.

1 Sec. ~~9~~ 73110. (1) Except as provided in subsection (2), a
2 person who violates this ~~act~~ PART is guilty of a misdemeanor
3 punishable by imprisonment for not more than 90 days or a fine of
4 not more than \$100.00, or both.

5 (2) A person convicted of a second or subsequent violation
6 of this ~~act~~ PART occurring within 3 years of a previous viola-
7 tion of this ~~act~~ PART shall be punished by imprisonment for not
8 more than 90 days or a fine of not less than \$100.00 or more than
9 \$1,000.00, or both.

10 (3) Except as provided in subsection (4), if a person is
11 sentenced under subsection (2) and the person is licensed to hunt
12 or fish in this state, the court may order the person's hunting
13 or fishing license revoked for the remainder of the calendar year
14 and order the person not to seek or possess a hunting or fishing
15 license of any kind for not more than 3 succeeding calendar
16 years.

17 (4) If a person is sentenced under subsection (2), IF the
18 second or subsequent violation occurred on a private shooting
19 preserve licensed pursuant to ~~section 1 of Act No. 134 of the~~
20 ~~Public Acts of 1957, being section 317.301 of the Michigan~~
21 ~~Compiled Laws~~ PART 417, IF the person possessed a firearm or bow
22 including, but not limited to, a crossbow, at the time the viola-
23 tion occurred, and IF the person is licensed to hunt or fish in
24 this state, THEN the court shall order the person's license
25 revoked for the remainder of the calendar year and shall order
26 the person not to seek or possess a hunting or fishing license of
27 any kind for not more than 3 succeeding calendar years.

1 (5) The court may order a person convicted of violating this
2 ~~act~~ PART to pay the costs of prosecution.

3 (6) Property brought onto the property of another person
4 while committing a second or subsequent violation of this ~~act~~
5 PART may be seized and forfeited as provided in chapter 47 of the
6 revised judicature act of 1961, Act No. 236 of the Public Acts of
7 1961, being sections 600.4701 to 600.4709 of the Michigan
8 Compiled Laws.

9 (7) The court shall order a person convicted of violating
10 this ~~act~~ PART to make restitution for any damage arising out of
11 the violation.

12 Sec. ~~9a~~ 73111. (1) A local unit of government may adopt
13 this ~~act~~ PART as an ordinance, except that a penalty imposed
14 for a violation of that ordinance shall not exceed the penalty
15 authorized by law for the violation of an ordinance enacted by
16 that local unit of government.

17 (2) A local unit of government shall not enact, maintain, or
18 enforce an ordinance, regulation, or resolution that contradicts
19 or conflicts in any manner with this ~~act~~ PART.

20 ~~Sec. 10. Act No. 285 of the Public Acts of 1927, being~~
21 ~~sections 317.161 to 317.165 of the Compiled Laws of 1970, is~~
22 ~~repealed.~~

23 ~~Sec. 11. This act shall not take effect unless House Bill~~
24 ~~No. 6219 and House Bill No. 6221 of the 1976 regular session of~~
25 ~~the legislature are enacted into law.~~

26 ~~Part 733. Liability of Landowners~~

1 PART 733 LIABILITY OF LANDOWNERS

2 Sec. ~~73301~~. (1) Except as otherwise provided in this
3 section, a cause of action shall not arise for injuries to a
4 person who is on the land of another without paying to the owner,
5 tenant, or lessee of the land a valuable consideration for the
6 purpose of fishing, hunting, trapping, camping, hiking, sightsee-
7 ing, motorcycling, snowmobiling, or any other outdoor recrea-
8 tional use or trail use, with or without permission, against the
9 owner, tenant, or lessee of the land unless the injuries were
10 caused by the gross negligence or willful and wanton misconduct
11 of the owner, tenant, or lessee.

12 (2) A cause of action shall not arise for injuries to a
13 person who is on the land of another without paying to the owner,
14 tenant, or lessee of the land a valuable consideration for the
15 purpose of entering or exiting from or using a Michigan trailway
16 AS DESIGNATED UNDER PART 721 or other public trail, with or with-
17 out permission, against the owner, tenant, or lessee of the land
18 unless the injuries were caused by the gross negligence or will-
19 ful and wanton misconduct of the owner, tenant, or lessee. For
20 purposes of this subsection, a Michigan trailway or public trail
21 may be located on land of any size including, but not limited to,
22 urban, suburban, subdivided, and rural land.

23 (3) A cause of action shall not arise against the owner,
24 tenant, or lessee of land or premises for injuries to a person
25 who is on that land or premises for the purpose of gleaning agri-
26 cultural or farm products, unless that person's injuries were

1 caused by the gross negligence or willful and wanton misconduct
2 of the owner, tenant, or lessee.

3 (4) A cause of action shall not arise against the owner,
4 tenant, or lessee of a farm used in the production of agricul-
5 tural goods as defined by section 35(1)(h) of the single business
6 tax act, Act No. 228 of the Public Acts of 1975, being section
7 208.35 of the Michigan Compiled Laws, for injuries to a person
8 who is on that farm and has paid the owner, tenant, or lessee
9 valuable consideration for the purpose of fishing or hunting,
10 unless that person's injuries were caused by a condition which
11 involved an unreasonable risk of harm and all of the following
12 apply:

13 (a) The owner, tenant, or lessee knew or had reason to know
14 of the condition or risk.

15 (b) The owner, tenant, or lessee failed to exercise reason-
16 able care to make the condition safe, or to warn the person of
17 the condition or risk.

18 (c) The person injured did not know or did not have reason
19 to know of the condition or risk.

20 (5) A cause of action shall not arise against the owner,
21 tenant, or lessee of land or premises for injuries to a person,
22 other than an employee or contractor of the owner, tenant, or
23 lessee, who is on the land or premises for the purpose of picking
24 and purchasing agricultural or farm products at a farm or
25 "u-pick" operation, unless the person's injuries were caused by a
26 condition that involved an unreasonable risk of harm and all of
27 the following apply:

1 (a) The owner, tenant, or lessee knew or had reason to know
2 of the condition or risk.

3 (b) The owner, tenant, or lessee failed to exercise reason-
4 able care to make the condition safe, or to warn the person of
5 the condition or risk.

6 (c) The person injured did not know or did not have reason
7 to know of the condition or risk.

8 (6) As used in this section, "agricultural or farm products"
9 means the natural products of the farm, nursery, grove, orchard,
10 vineyard, garden, and apiary, including, but not limited to,
11 trees and firewood.

12 ~~SUBCHAPTER 2: PARKS~~

13 ~~PARKS~~

14 ~~Part 741. State Parks Commission~~

15 SUBCHAPTER 2: PARKS

16 PARKS

17 PART 741 STATE PARKS SYSTEM

18 ~~Sec. 1. This act shall be known and may be cited as the~~
19 ~~"Michigan state parks system act".~~

20 Sec. ~~1b~~ 74101. As used in this ~~act~~ PART:

21 ~~(a) "Commission" means the commission of natural~~
22 ~~resources.~~

23 ~~(b) "Department" means the director of the department of~~
24 ~~natural resources or his or her designee.~~

25 ~~(c) "Director" means the director of the department of natu-~~
26 ~~ral resources.~~

1 (A) ~~(d)~~ "Fund" means the state park improvement fund
2 created in section ~~3~~ 74108.

3 (B) ~~(e)~~ "Improvement program" means the construction,
4 reconstruction, development, improvement, bettering, operating,
5 maintaining, and extending a facility at a state park, including
6 a site improvement, impoundment, road and parking lot, toilet
7 building, concession building, shelter building, bathhouse, util-
8 ity, outdoor center, visitor service facility, ski area, ski tow,
9 ski shelter, and administration unit.

10 (C) ~~(f)~~ "Motor vehicle" means a vehicle that is
11 self-propelled.

12 ~~(g) "Person" means an individual, partnership, corporation,~~
13 ~~association, governmental entity, or other legal entity.~~

14 (D) ~~(h)~~ "State park" means a state park or state recre-
15 ation area designated by the director.

16 (E) ~~(i)~~ "State park revenues" means all revenues collected
17 for state parks, including but not limited to, motor vehicle per-
18 mits, concession fees, nonmotorized trail permits, fees, leases,
19 camping fees, sale of farm animals from Maybury state park, dona-
20 tions, and gifts.

21 Sec. ~~1a~~ 74102. (1) The legislature finds:

22 (a) Michigan state parks preserve and protect Michigan's
23 significant natural and historic resources.

24 (b) Michigan state parks are appropriate and uniquely suited
25 to provide opportunities to learn about protection and management
26 of Michigan's natural resources.

1 (c) Michigan state parks are an important component of
2 Michigan's tourism industry and vital to local economies.

3 (2) The department shall create, maintain, operate, promote,
4 and make available for public use and enjoyment a system of state
5 parks to preserve and protect Michigan's significant natural
6 resources and areas of natural beauty or historic significance,
7 to provide open space for public recreation, and to provide an
8 opportunity to understand Michigan's natural resources and need
9 to protect and manage those resources.

10 Sec. ~~4c~~ 74103. In implementing the responsibilities under
11 this ~~act~~ PART, the department may do 1 or more of the
12 following:

13 (a) Enter into contracts or agreements that may be necessary
14 to implement this ~~act~~ PART.

15 (b) Lease state park property to a person.

16 (c) Accept gifts, grants, or bequests from any public or
17 private source to be used for a purpose consistent with this
18 ~~act~~ PART.

19 (d) Acquire property for designation as a state park.

20 (e) Provide the granting of concessions to a person within
21 the boundaries of a state park. In granting a concession, the
22 department shall provide that each concession is awarded at least
23 every 7 years based on extension, renegotiation, or competitive
24 bidding.

25 (2) The department may acquire land and undertake an
26 improvement program for state parks, pursuant to the powers,
27 rights, and privileges conferred by this ~~act~~ PART, but land

1 acquisition or an improvement program shall not be undertaken
2 until approved by the legislature in the annual capital outlay
3 appropriation act.

4 Sec. ~~7d~~ 74104. (1) The department shall establish an
5 "adopt-a-park" program that will allow volunteer groups to assist
6 state park staff in maintaining and enhancing state parks.

7 (2) Subject to subsection (3), volunteer groups in the
8 adopt-a-park program may adopt any available state park and may
9 choose any 1 or more of the following volunteer activities:

- 10 (a) Spring cleanups.
- 11 (b) Environmental activities.
- 12 (c) Accessibility projects.
- 13 (d) Special events.
- 14 (e) Park maintenance and development.
- 15 (f) Public information and assistance.
- 16 (g) Training.

17 (3) The department shall designate the activities to be per-
18 formed by a volunteer group in the adopt-a-park program. The
19 department may provide for more than 1 volunteer group to adopt a
20 state park.

21 (4) A volunteer group that wishes to participate in the
22 adopt-a-park program shall submit an application to the depart-
23 ment on a form provided by the department. Additionally, volun-
24 teer groups shall agree to the following:

- 25 (a) Volunteer groups shall participate in the program for at
26 least a 2-year period.

1 (b) Volunteer groups shall consist of at least 6 people who
2 are 18 years of age or older, unless the volunteer group is a
3 school or scout organization, in which case the volunteers may be
4 under 18 years of age.

5 (c) Volunteer groups shall give a total of 400 hours over a
6 2-year period.

7 (d) Volunteer groups shall comply with other reasonable
8 requirements of the department.

9 (5) A state park manager may issue to volunteers who are
10 actively working on adopt-a-park projects that last more than 1
11 day free camping permits if campsites are available. A state
12 park manager may waive state park entry fees for volunteers
13 entering state parks to work on adopt-a-park projects.

14 (6) The department shall design and erect near the state
15 park headquarters of each state park in the adopt-a-park program
16 an adopt-a-park program sign with the name of the volunteer
17 group's sponsoring organization listed for each volunteer group
18 that has contributed at least 100 service hours by volunteers.

19 Sec. ~~4e~~ 74105. The department may appoint persons to
20 serve as volunteers for the purpose of facilitating the responsi-
21 bilities of the department as provided in this ~~act~~ PART. While
22 a volunteer is serving in such a capacity, the volunteer has the
23 same immunity from civil liability as a department employee and
24 shall be treated in the same manner as an employee under
25 section 8 of Act No. 170 of the Public Acts of 1964, being
26 section 691.1408 of the Michigan Compiled Laws. A volunteer
27 shall not carry a firearm while functioning as a volunteer.

1 Sec. ~~-2-~~ 74106. For the purpose of providing a park
2 improvement program, the commission may issue revenue bonds as
3 provided in this ~~act~~ PART. The commission may issue revenue
4 bonds payable from state park revenues. The aggregate principal
5 amount of the revenue bonds shall not exceed \$100,000,000.00.
6 The department shall provide notice to the appropriations commit-
7 tee of the senate and the house of representatives at least 30
8 days before bonds are offered for sale. There may be included in
9 the cost for which bonds are to be issued a reasonable allowance
10 for legal, engineering, architectural and consultant services,
11 traffic studies, cost of printing and issuing of the bonds,
12 interest on the bonds becoming due before collection of the first
13 available state park revenues and for a period of 1 year thereaf-
14 ter, and other incidental expenses. The bonds shall be autho-
15 rized by a resolution adopted by a majority vote of a quorum of
16 the commission and may be issued in 1 or more series as shall be
17 determined by the commission.

18 Sec. ~~-2a-~~ 74107. The commission may authorize the depart-
19 ment, but only within limitation which shall be contained in the
20 commission's authorizing resolution, to do 1 or more of the
21 following:

22 (a) Sell and deliver and receive payment for bonds.

23 (b) Approve interest rates, purchase prices, discounts, pre-
24 miums, maturities, principal amounts, interest payment dates,
25 redemption rights at the option of the commission or the holder,
26 and the place and time of delivery and payment for the bonds.

1 (c) Deliver bonds to refund prior bonds or partly to refund
2 bonds and partly for other authorized purposes.

3 (d) Select which outstanding bonds will be refunded, if any,
4 by the new issue of bonds.

5 (e) Any other matters and procedures necessary to complete
6 the issuance and delivery of the bonds.

7 Sec. ~~3~~ 74108. A resolution adopted by the commission
8 authorizing the issuance of bonds shall contain all of the
9 following:

10 (a) A description in reasonable detail of the improvement
11 program as approved by the legislature, for which the bonds are
12 to be issued.

13 (b) The form of the bonds and all of the following:

14 (i) The maturity date or dates for the bonds with no matu-
15 rity later than 30 years after the issuance of the bonds.

16 (ii) The principal amount of and principal payment dates for
17 the bonds.

18 (iii) The interest rate or rates for the bonds or that bonds
19 shall not bear any interest.

20 (iv) The redemption provisions, with or without premium, for
21 the bonds, if any.

22 (v) The authorized denominations for the bonds.

23 (vi) Whether the bonds may be sold at a discount or for a
24 premium.

25 (vii) The manner in which the bonds will be executed.

26 (viii) Any other provision concerning the bonds or the
27 security for the bonds the commission considers appropriate.

1 (c) A provision that the state park revenues shall be
2 pledged for the payment of the bonds. However, the pledge of
3 state park revenues shall be on a parity with pledges of the rev-
4 enues previously or subsequently made by the commission pursuant
5 to any other resolution authorizing the issuance of bonds under
6 this ~~act~~ PART and the resolution shall state that the pledge
7 complies with this subdivision.

8 (d) A covenant that the park permit fees and penalties pro-
9 vided in section ~~40~~ 74117 shall be revised from time to time
10 within the limits permitted by law when necessary to ~~insure~~
11 ENSURE that the revenues to be derived from the fees shall be
12 sufficient to pay the principal of and interest on bonds issued
13 pursuant to this ~~act~~ PART and other obligations of the commis-
14 sion in connection with the issuance of bonds.

15 (e) A provision requiring the fiscal agent to set aside
16 money from the state park revenue bond receiving fund into a fund
17 to be designated as the state park debt service fund in a sum
18 proportionately sufficient to provide for the payment of the
19 principal of and interest upon all bonds payable from the fund as
20 and when the principal and interest becomes due and payable in
21 the manner prescribed by the commission. In addition the resolu-
22 tion shall authorize the commission to provide that a reasonable
23 excess amount may be set aside by the fiscal agent from time to
24 time as directed by the commission in the state park debt service
25 fund to produce and provide a reserve to meet a possible future
26 deficiency in the fund. The resolution shall further provide
27 that out of the revenues remaining each quarter, after having

1 first met the requirements of the state park debt service fund,
2 including the reserve for the fund, the commission may by direc-
3 tion to the fiscal agent next set aside additional money in the
4 state park debt service fund for the purpose of calling bonds for
5 redemption, subject to approval by the state administrative
6 board. The resolution shall also contain a provision for the
7 investment of funds held by the fiscal agent.

8 (f) A provision that money on deposit in the state park rev-
9 enue bond receiving fund after setting aside the amounts in the
10 state park debt service fund is surplus money, and shall be
11 deposited quarterly by the fiscal agent upon the order of the
12 commission in the state treasury in a fund to be designated as
13 the state park improvement fund. This fund shall be subject to
14 appropriation by the legislature for the improvement, operation,
15 and maintenance of state parks and recreation areas. Any unex-
16 pended revenue in the fund, along with excess revenue from prior
17 fiscal years, shall be carried over into subsequent fiscal
18 years. Interest and earnings of the fund shall remain in the
19 fund. Not less than \$10.00 of each annual permit and not less
20 than \$2.00 of each daily permit projected to be sold in a fiscal
21 year may be appropriated for the maintenance and operation of
22 state parks and recreation areas in that fiscal year.

23 (g) The terms and conditions under which additional bonds
24 payable from the state park revenues of equal standing with a
25 prior issue of bonds may be issued.

26 (h) A provision for deposit and expenditure of the proceeds
27 of sale of the bonds and for investment of the proceeds of sale

1 of the bonds and of other funds of the commission relating to
2 bonds authorized by this ~~act~~ PART.

3 (i) A provision that in the event of a default in the pay-
4 ment of principal of or interest on the bonds, or in the per-
5 formance of an agreement or covenant contained in the resolution,
6 the holders of a specified percentage of the outstanding bonds
7 may institute 1 or more of the following for the equal benefit of
8 the holders of all of the bonds:

9 (i) An action of mandamus or any other suit, action, or pro-
10 ceeding to enforce the rights of the holders of the bonds.

11 (ii) An action upon the defaulted bonds or coupons.

12 (iii) Any other action as may be provided by law.

13 Sec. ~~3a~~ 74109. The increased fee revenue as a result of
14 Act No. 177 of the Public Acts of 1989 shall not be used to
15 reduce the state general fund/general purpose support for state
16 park operations. If the state general fund/general purpose sup-
17 port for state park operations does not equal or exceed the
18 amount appropriated in fiscal year 1993-94 as this amount is
19 annually adjusted pursuant to the Detroit consumer price
20 index--all items, then Act No. 177 of the Public Acts of 1989
21 shall be repealed.

22 Sec. ~~4~~ 74110. Any bond issued under this ~~act~~ PART shall
23 state that it is not a general obligation of the state of
24 Michigan, but is a revenue bond payable only from state park
25 revenues. Nothing in this ~~act~~ PART authorizes the state to
26 incur debt contrary to the constitution or laws of the state.
27 The holders of the bonds shall not have the right to compel a

1 sale of any real estate or personal property of the state parks,
2 nor shall the holders of the bonds have any lien, mortgage, or
3 other encumbrances upon any property of the state of Michigan,
4 real, personal, or mixed. Bonds shall be fully negotiable within
5 the meaning of the negotiable instruments law of this state.

6 Sec. ~~-5-~~ 74111. The commission may issue bonds for the pur-
7 pose of refunding any obligations issued under this ~~-act-~~ PART,
8 or may authorize a single issue of bonds in part for the purpose
9 of refunding such obligations and in part for the purpose of
10 financing any additional cost of land or improvement program.
11 Bonds issued under this section are payable only from state park
12 revenues and may be sold in the manner provided for the sale of
13 bonds in this ~~-act-~~ PART. If sold, that portion of the proceeds
14 representing the refunding portion may be either applied to the
15 payment of the obligations refunded or deposited in escrow for
16 their retirement.

17 Sec. ~~-6-~~ 74112. The maximum rate of interest on bonds
18 issued under this ~~-act-~~ PART shall be that set forth for bonds in
19 the municipal finance act, Act No. 202 of the Public Acts of
20 1943, being sections 131.1 to 139.2 of the Michigan Compiled
21 Laws, but bonds issued under this ~~-act-~~ PART shall not in any
22 other way be subject to Act No. 202 of the Public Acts of 1943.
23 The sale and award of bonds shall be conducted and made by the
24 commission at a public or private sale. If a public sale is
25 held, the bonds shall be advertised for sale once not less than 7
26 days before sale in a publication with statewide circulation
27 which carries as a part of its regular service notices of the

1 sales of municipal bonds and that has been designated in the
2 resolution as a publication complying with these qualifications.
3 The notice of sale shall be in the form as designated by the
4 commission.

5 Sec. ~~7~~ 74113. All state park revenues shall be deposited
6 with the state treasurer who shall act as the fiscal agent for
7 the department. The state treasurer shall establish a special
8 depository account to be designated "state park revenue bond
9 receiving fund". The necessary expenses of the fiscal agent
10 incurred by reason of his or her duties under this ~~act~~ PART
11 shall be paid from the state park revenue bond receiving fund.
12 The commission may designate banks or trust companies to act as
13 paying agents for bonds issued pursuant to ~~the act~~ THIS PART.
14 The paying agent shall be paid from the state park debt service
15 fund.

16 Sec. ~~7a~~ 74114. The department may establish fees and col-
17 lect fees for activities in state parks except those activities
18 ~~in~~ FOR which fees are established under this ~~act~~ PART. All
19 fees collected under this section shall be deposited into the
20 fund.

21 Sec. ~~8~~ 74115. Except as otherwise provided in this ~~act~~
22 PART, free entry of a motor vehicle shall not be permitted into
23 any state park or portion of a state park posted in accordance
24 with this ~~act~~ PART.

25 Sec. ~~9~~ 74116. The department shall designate the state
26 parks in which a park permit is required for lawful entry by
27 motor vehicle. The department shall designate only those parks

1 in which state facilities and services are provided for the
2 public. The department may designate portions of state parks
3 where a park permit is not necessary. The department shall post
4 signs at designated parks or designated portions of parks that
5 state that a motor vehicle park permit is required. A person
6 shall not enter any state park or portion of a state park in
7 which a motor vehicle park permit is required without a valid
8 motor vehicle permit affixed to the vehicle. A valid park permit
9 procured pursuant to section ~~+0~~ 74117 shall be permanently
10 affixed to the lower right-hand corner of the windshield of any
11 motor vehicle entering a state park or portion of a state park in
12 which a motor vehicle park permit is required, except that a park
13 permit is not required to be affixed to a motor vehicle while the
14 motor vehicle is being driven or parked within an established
15 federal, state, or county highway within a state park. The
16 requirement to obtain a motor vehicle park permit does not apply
17 to motor vehicles used in the operation or maintenance of state
18 parks, to emergency vehicles, or to state-owned or law enforce-
19 ment motor vehicles or private motor vehicles being operated on
20 official state business.

21 Sec. ~~+0~~ 74117. (1) The department may require park per-
22 mits and collect park permit fees for entry into a state park or
23 portion of a state park posted in the manner prescribed by this
24 ~~act~~ PART. The department shall prepare and distribute park
25 permits to implement this ~~act~~ PART.

26 (2) Except as otherwise provided in this section, an annual
27 park permit shall be issued and shall authorize the entry of the

1 motor vehicle to which it is originally attached within the
2 confines of any state park or recreation area during the calendar
3 year in which issued. The fee for the annual park permit is
4 \$18.00 in 1994, and \$20.00 in 1995 and thereafter, except that an
5 owner of a resident motor vehicle who is 65 years of age or older
6 shall be issued a special annual park permit for 1/4 the amount
7 of the annual park permit.

8 (3) A daily park permit, valid for 1 day only, shall be
9 issued for a fee to be fixed by the department, but in an amount
10 not to exceed \$4.00 for resident motor vehicles and \$6.00 for
11 nonresident motor vehicles. The fee for nonresident motor vehi-
12 cles may be \$4.00 in all parks except where nonresident day use
13 is extremely high. The department shall identify parks where
14 nonresident day use is extremely high and set the nonresident fee
15 at \$6.00. The daily permit shall authorize the entry of the
16 motor vehicle to which it is originally attached within the con-
17 fines of a state park during the day in which issued.

18 (4) A resident motor vehicle is a vehicle that is registered
19 as a motor vehicle in this state.

20 (5) This ~~act~~ PART applies only to the entry of motor vehi-
21 cles into the state parks and to the park permits authorized in
22 this ~~act~~ PART and does not obviate the necessity of obtaining
23 additional permits for special services or park privileges as
24 previously or subsequently may be required by law or by rules
25 promulgated by the department. The department shall designate
26 each person in the state authorized to sell park permits and
27 shall require as a condition of the designation that a surety

1 bond be furnished in an amount and in a form and with the surety
2 as is acceptable to the department. A person designated by the
3 department after being designated may issue park permits in
4 accordance with this ~~act~~ PART.

5 (6) Commercial motor coaches or vans are not eligible to
6 enter a state park with an annual park permit. The department
7 may establish a daily fee not to exceed \$15.00 to allow commer-
8 cial motor coaches or vans with a capacity of over 12 passengers
9 daily entry into a state park.

10 (7) The department may add to the cost of a reservation or
11 for payment for a motor vehicle entrance or camping fee the
12 charges that the state incurs because of the use of a credit
13 card.

14 Sec. ~~74118~~ 74118. On or before the tenth day of every month,
15 all persons authorized to sell park permits shall pay to the
16 department all money received from the sale of park permits for
17 the preceding month. Any person who refuses or neglects to pay
18 the money as provided in this section, in addition to other pen-
19 alties provided by law, forfeits the right to sell park permits.
20 All persons authorized to sell park permits, except employees of
21 the department who receive a regular salary from the state, may
22 charge the purchaser as compensation 15 cents additional for each
23 annual park permit and 10 cents additional for each daily park
24 permit issued. On or before February 15 of each year a complete
25 report of all permits sold during the previous calendar year
26 shall be filed with the department by each person authorized to

1 sell park permits, and all unsold park permits for the previous
2 year shall be returned to the department.

3 Sec. ~~44a~~ 74119. (1) Pursuant to section 36 of article IX
4 of the state constitution of 1963, the Michigan state parks
5 endowment fund is created within the state treasury. The
6 Michigan state parks endowment fund may be referred to as the
7 Genevieve Gillette state parks endowment fund.

8 (2) The state treasurer may receive money or other assets
9 from any source for deposit into the endowment fund. The state
10 treasurer shall direct the investment of the endowment fund. The
11 state treasurer shall credit to the endowment fund interest and
12 earnings from endowment fund investments.

13 (3) Money in the endowment fund at the close of the fiscal
14 year shall remain in the endowment fund and shall not lapse to
15 the general fund.

16 (4) The accumulated principal of the endowment fund shall
17 not exceed \$800,000,000.00, which amount shall be annually
18 adjusted pursuant to the Detroit consumer price index -- all
19 items beginning when the endowment fund reaches \$800,000,000.00.
20 This annually adjusted figure is the accumulated principal limit
21 of the endowment fund.

22 (5) Money in the endowment fund shall be expended for opera-
23 tions, maintenance, and capital improvements at Michigan state
24 parks.

25 (6) Money in the endowment fund shall be expended as
26 follows:

1 (a) Until the endowment fund reaches an accumulated
2 principal of \$800,000,000.00, each state fiscal year the
3 legislature may appropriate not more than \$5,000,000.00 of the
4 money in the endowment fund as this \$5,000,000.00 amount is annu-
5 ally adjusted pursuant to the Detroit consumer price index -- all
6 items.

7 (b) Once the accumulated principal in the endowment fund
8 reaches \$800,000,000.00, only the interest and earnings of the
9 endowment fund in excess of the amount necessary to maintain the
10 endowment fund's accumulated principal limit shall be expended.

11 (7) Unexpended appropriations of the endowment fund from any
12 state fiscal year as authorized by this section may be carried
13 forward or may be appropriated as determined by the legislature
14 for purposes of this section.

15 Sec. ~~+2-~~ 74120. The department may promulgate rules
16 ~~pursuant to the administrative procedures act of 1969, Act~~
17 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
18 ~~24.320 of the Michigan Compiled Laws,~~ to implement this ~~act~~
19 PART.

20 Sec. ~~+2a-~~ 74121. A person shall not do the following in a
21 state park:

22 (a) Destroy, damage, or remove any tree, shrub, wildflower,
23 or other vegetation or property without the permission of the
24 department.

25 (b) Operate a motor vehicle except in a designated area.

26 (c) Violate this ~~act~~ PART or rules promulgated under this
27 ~~act~~ PART.

1 Sec. ~~43~~ 74122. (1) A person who violates this ~~act~~ PART
2 or a rule promulgated under this ~~act~~ PART is guilty of a
3 misdemeanor. In any proceeding for the violation of this ~~act~~
4 PART or a rule promulgated under this ~~act~~ PART, where a motor
5 vehicle without the required park permit affixed is found parked
6 in any state park, the registration plate displayed on the motor
7 vehicle ~~shall constitute~~ CONSTITUTES prima facie evidence that
8 the owner of the motor vehicle was the person who parked or
9 placed it at the location where IT WAS found.

10 (2) In addition to the penalties provided for in subsection
11 (1), a person convicted of an act of vandalism shall reimburse
12 the department up to 3 times the amount of the damage as deter-
13 mined by the court. All money collected pursuant to this subsec-
14 tion shall be credited to the fund.

15 Sec. ~~43a~~ 74123. The department may establish a fine for
16 failure to purchase a park permit which shall be twice the cost
17 of a motor vehicle entrance permit or daily permit as established
18 by this ~~act~~ PART or by the department.

19 Sec. ~~43b~~ 74124. (1) To ensure compliance with this ~~act~~
20 PART and the rules promulgated under this ~~act~~ PART, the direc-
21 tor may commission park and recreation enforcement officers with
22 limited arrest powers to enforce this ~~act~~ PART, rules promul-
23 gated under this ~~act~~ PART, and any laws of this state specified
24 in those rules as enforceable by commissioned park and recreation
25 enforcement officers, upon properties administered by the depart-
26 ment under this ~~act~~ PART. In performing these duties, park and
27 recreation enforcement officers shall be vested with the powers,

1 privileges, prerogatives, and immunities conferred upon peace
2 officers by the general laws of this state.

3 (2) In addition to the limited arrest authority granted in
4 subsection (1), a park and recreation enforcement officer may
5 arrest a person without a warrant if 1 or more of the following
6 exist:

7 (a) The person commits an assault or an assault and battery
8 punishable under section 81 or 81a of the Michigan penal code,
9 Act No. 328 of the Public Acts of 1931, being sections 750.81 and
10 750.81a of the Michigan Compiled Laws, against the park and rec-
11 reation enforcement officers or against another person while in
12 the presence of the park and recreation enforcement officers.

13 (b) The park and recreation enforcement officers have rea-
14 sonable cause to believe that a felony has been committed and
15 reasonable cause to believe that the person has committed it.

16 (c) The park and recreation enforcement officers have posi-
17 tive information by written, telegraphic, teletypic, telephonic,
18 radio, or other authoritative source that a peace officer holds a
19 warrant for the person's arrest.

20 (d) The person commits a civil infraction or misdemeanor in
21 violation of the following sections of the Michigan vehicle code,
22 Act No. 300 of the Public Acts of 1949:

23 (i) Section 625 or 625b, being sections 257.625 and 257.625b
24 of the Michigan Compiled Laws.

25 (ii) Section 611, being section 257.611 of the Michigan
26 Compiled Laws.

1 (iii) Sections 626 and 626b, being sections 257.626 and
2 257.626b of the Michigan Compiled Laws.

3 (iv) Section 627, being section 257.627 of the Michigan
4 Compiled Laws.

5 (e) The person violates Act No. 319 of the Public Acts of
6 1975, being sections 257.1601 to 257.1626 of the Michigan
7 Compiled Laws.

8 (f) The person violates sections ~~63(6)~~ 80143(6) and
9 80198B(2). ~~+92(2) of the marine safety act, Act No. 303 of the~~
10 ~~Public Acts of 1967, being sections 281.1063 and 281.1192 of the~~
11 ~~Michigan Compiled Laws.~~

12 Sec. ~~+4~~ 74125. All bonds issued pursuant to this ~~act~~
13 PART and the interest on those bonds is exempt from taxation by
14 the state, or by any municipality, corporation, county, or other
15 political subdivision or taxing district of the state.

16 PART 742 CAMP REGISTRATION CARDS

17 Sec. ~~+1~~ 74201. (1) A person ~~or party~~ shall not camp on
18 any ~~state owned~~ STATE OWNED lands under the jurisdiction or
19 control of the department ~~of conservation,~~ without having first
20 posted a camp registration card.

21 (2) As used in this ~~act~~ PART, "to camp" means the erection
22 of a tent or tent-type camper or the parking and occupancy of a
23 travel or house trailer or truck camper.

24 Sec. ~~-2~~ 74202. ~~Such~~ A person ~~or party shall~~ MAY obtain
25 without charge from ~~any~~ A conservation officer or ~~any~~ A
26 person authorized to issue fishing or hunting licenses ~~7~~ a camp
27 registration card and shall enter ~~thereon~~ ON THE CAMP

1 REGISTRATION CARD in the space provided, in plain and legible
2 English, the name and address of every person occupying ~~said~~
3 THE camp. ~~Such~~ THE card shall be prominently and conspicuously
4 posted at the campsite before the camp is made and shall be left
5 so posted upon the departure of the camping party.

6 Sec. ~~3~~ 74203. Upon breaking camp, every member of ~~such~~
7 A camping party ~~shall be~~ IS responsible for the disposal, by
8 burying or burning, of all rubbish, papers, cans, containers, or
9 any other article or thing of any nature whatsoever brought into
10 or built upon the premises by the camping party. A person camp-
11 ing upon the ~~aforesaid~~ STATE OWNED lands shall not deposit and
12 leave any tin cans, bottles, refuse, or other rubbish unburied or
13 otherwise disposed of on the premises.

14 Sec. ~~4~~ 74204. The ~~director of conservation~~ DEPARTMENT
15 shall ~~cause to~~ have printed and distributed a sufficient number
16 of camp registration cards to ~~carry out the provisions of~~
17 IMPLEMENT this ~~act~~ PART.

18 Sec. ~~5~~ 74205. It ~~shall be~~ IS the duty of any peace
19 officer, including conservation officers, to enforce ~~the provi-~~
20 ~~sions of~~ this ~~act~~ PART.

21 Sec. ~~6~~ 74206. ~~Any~~ A person who ~~shall violate any of~~
22 ~~the provisions of~~ VIOLATES this ~~act shall be deemed~~ PART IS
23 guilty of a misdemeanor, ~~and upon conviction thereof shall be~~
24 ~~subject to~~ PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS,
25 OR a fine of not more than \$100.00 and costs of prosecution, ~~or~~
26 ~~imprisonment in the county jail for a period not to exceed 90~~
27 ~~days,~~ or both, ~~such fine and imprisonment in the discretion of~~

1 ~~the court~~ and, in addition, ~~thereto, shall be~~ IS liable for
 2 any costs incurred by the ~~director of conservation~~ DEPARTMENT
 3 in cleaning up the ~~camp site~~ CAMPSITE of ~~such~~ THE person, ~~or~~
 4 ~~persons,~~ which liability shall be recoverable in any court of
 5 competent jurisdiction in this state.

6 Sec. ~~7~~ 74207. ~~Nothing contained in this act shall be~~
 7 ~~deemed to~~ THIS PART DOES NOT apply to any state park,
 8 campground, or recreation area administered by the department.
 9 ~~of conservation.~~

10 ~~Sec. 8. Section 27a of chapter 4 of Act No. 286 of the~~
 11 ~~Public Acts of 1929, as added by Act No. 195 of the Public Acts~~
 12 ~~of 1949, being section 314.27a of the Compiled Laws of 1948, is~~
 13 ~~hereby repealed.~~

14 ~~Part 743. Municipal Appropriations for State Parks~~

15 ~~Part 745. Vandalism in Parks and Recreation Areas~~

16 ~~Part 747. Camp Registration Cards~~

17 ~~Part 749. State Parks Improvements~~

18 PART 743 STATE PARKS FOUNDATION

19 ~~Sec. 1. This act shall be known and may be cited as the~~
 20 ~~"Michigan state parks foundation act".~~

21 Sec. ~~2~~ 74301. As used in this ~~act~~ PART:

22 ~~(a) "Department" means the director of the department of~~
 23 ~~natural resources or his or her designee.~~

24 ~~(b) "Director" means the director of the department of natu-~~
 25 ~~ral resources.~~

26 (A) ~~(c)~~ "Foundation" means the Michigan state parks
 27 foundation created in section ~~3~~ 74302.

1 (B) ~~(d)~~ "State park" means a state park or state
2 recreation area designated by the director.

3 Sec. ~~3~~ 74302. (1) The department shall create a founda-
4 tion to be known as the Michigan state parks foundation. The
5 foundation shall exercise its powers, functions, and duties inde-
6 pendently of the department of natural resources. The foundation
7 shall be governed by an executive board consisting of the direc-
8 tor who shall serve as a nonvoting ex officio member, and 13
9 voting members who shall be appointed by the governor.

10 (2) The members of the foundation who are appointed by the
11 governor pursuant to subsection (1) shall serve for a term of 4
12 years or until a successor is appointed, whichever is later,
13 except that of the members first appointed, 3 shall serve for 1
14 year, 3 shall serve for 2 years, and 3 shall serve for 3 years.

15 (3) If a vacancy occurs on the foundation from the members
16 appointed by the governor, an appointment shall be made for the
17 unexpired term in the same manner as the original appointment.
18 The governor may remove appointed foundation members for neglect
19 of duty or malfeasance in relation to the member's foundation
20 duties.

21 (4) The foundation shall meet immediately upon complete for-
22 mation and then shall meet at least quarterly.

23 (5) Seven members of the foundation shall constitute a
24 quorum for the conducting of business. The foundation shall
25 select a chairperson, vice-chairperson, and other officials from
26 the membership as the members of the foundation consider
27 necessary.

1 (6) A member of the foundation shall not receive
2 compensation for his or her services but may be reimbursed for
3 expenses incurred in the performance of his or her duties as a
4 member of the foundation.

5 (7) The department shall provide staff assistance to the
6 foundation as necessary for it to carry out its functions.

7 (8) The business the executive board of the foundation may
8 perform shall be conducted at a public meeting of the board held
9 in compliance with the open meetings act, Act No. 267 of the
10 Public Acts of 1976, being sections 15.261 to 15.275 of the
11 Michigan Compiled Laws. Public notice of the time, date, and
12 place of the meetings shall be given in the manner required by
13 Act No. 267 of the Public Acts of 1976.

14 Sec. ~~4~~ 74303. The purpose of the foundation is to support
15 the overall enhancement of the Michigan state parks system and to
16 foster awareness, appreciation, understanding, and involvement in
17 the system through focused assistance that is supplementary to
18 appropriated parks funding.

19 Sec. ~~5~~ 74304. The foundation shall do the following:

20 (a) Determine those projects or undertakings for which the
21 foundation will solicit funding. In determining projects to
22 fund, the foundation shall select projects that enhance the use,
23 preservation, enjoyment, or understanding of the natural and his-
24 toric resources of the state parks through the following focus
25 areas of need:

26 (i) Education and outreach.

1 (ii) Visitor information services and interpretive
2 facilities.

3 (iii) Support for volunteer activities.

4 (iv) Employee support program.

5 (b) Maintain a current list and description of projects for
6 which contributions are sought.

7 (c) Provide for methods by which persons who contribute to
8 the foundation projects may be commemorated for their
9 contributions.

10 (d) Advise potential contributors of all tax ramifications
11 of contributions to the foundation.

12 (e) Invest assets of the foundation in any instrument, obli-
13 gation, security, or property considered appropriate by the exec-
14 utive board of the foundation.

15 (f) Provide for receiving contributions in lump sums or
16 periodic sums.

17 (g) Administer money collected by the foundation.

18 (h) Segregate contributions to the foundation into various
19 accounts.

20 (i) Procure insurance against any loss in connection with
21 the assets of the foundation or foundation activities.

22 (j) Enter into contracts on behalf of the foundation.

23 (k) Define the terms and conditions under which money may be
24 disbursed by the foundation.

25 (l) Contract for goods and services and engage personnel as
26 is necessary and engage the services of private consultants,
27 actuaries, managers, legal counsel, and auditors for rendering

1 professional, management, and technical assistance and advice,
 2 payable out of any money of the foundation. However, not more
 3 than 10% of the money of the foundation shall be used for the
 4 purpose of this subdivision or other administrative costs of the
 5 foundation.

6 (m) Exercise other powers necessary or convenient to carry
 7 out and effectuate the purposes, objectives, and provisions of
 8 this ~~act~~ PART, and the purposes of the foundation.

9 Sec. ~~6~~ 74305. The foundation shall be managed solely pur-
 10 suant to and for the purpose set forth in this ~~act~~ PART and
 11 money or other assets of the foundation shall not be loaned or
 12 otherwise transferred or used by the state for any purpose other
 13 than the purposes of this ~~act~~ PART.

14 Sec. ~~7~~ 74306. The foundation shall annually prepare or
 15 cause to be prepared an accounting which shall be a public docu-
 16 ment and shall transmit a copy of the accounting to the governor,
 17 the senate majority and minority leaders, and the Republican and
 18 Democratic leaders of the house of representatives. The founda-
 19 tion may also make available the accounting of the foundation to
 20 a contributor to the foundation. The accounts of the foundation
 21 ~~shall be~~ ARE subject to annual audits by the state auditor gen-
 22 eral or a certified public accountant appointed by the auditor
 23 general.

24 PART 751 DARK SKY PRESERVE

25 Sec. ~~1~~ 75101. As used in this ~~act~~ PART:

26 ~~(a) "Commission" means the commission of natural~~
 27 ~~resources.~~

1 (A) ~~(b)~~ "Dark sky preserve" means the area designated in
2 section ~~2~~ 75102.

3 (B) ~~(c)~~ "Fully shielded" means outdoor light fixtures
4 shielded or constructed so that no light rays are emitted by the
5 installed fixture at angles above 15 degrees below the horizontal
6 plane and also constructed so that the filament or light source
7 is not visible to the naked eye when viewed from a point higher
8 than 15 degrees below the horizontal plane.

9 Sec. ~~2~~ 75102. The state owned land at lake Hudson,
10 legally described as:

11 All state-owned land located in Sections 25, 26, 27, 34, 35,
12 and 36, T 7 S, R 1 E, and Section 1, T 8 S, R 1 E - Lenawee
13 County, Michigan.

14 is designated a dark sky preserve.

15 Sec. ~~3~~ 75103. (1) The commission shall ensure that out-
16 door lighting within a dark sky preserve is not installed unless
17 necessary for safety, security, or the reasonable use and enjoy-
18 ment of property within the preserve.

19 (2) The commission shall ensure that outdoor lighting within
20 a dark sky preserve does not unreasonably interfere with night-
21 time activities that require darkness, including, but not limited
22 to, the enjoyment of the night sky, nighttime photography, and
23 wildlife photography.

24 Sec. ~~4~~ 75104. Within 90 days after ~~the effective date of~~
25 ~~this act~~ JUNE 9, 1993, the commission shall ensure that all out-
26 door lighting within a dark sky preserve conforms to the
27 following:

(a) Lighting shall be directed downward.

(b) Whenever possible, lighting shall be provided by fully shielded fixtures.

(c) Wherever practical and appropriate, outdoor lighting fixtures shall be motion sensor fixtures, and not fixtures that remain lighted during all hours of darkness.

Sec. ~~5~~ 75105. This ~~act~~ PART does not restrict the use and development of the state owned land at lake Hudson as prescribed by the master plan approved by the commission if the use and development are in compliance with this ~~act~~ PART.

Sec. ~~6~~ 75106. This ~~act~~ PART is repealed ~~upon the expiration of 10 years after its effective date~~ ON JUNE 10, 2003.

~~ABORIGINAL RECORDS AND ANTIQUITIES AND ABANDONED PROPERTY~~

~~Part 761. Aboriginal Records and Antiquities~~

ABORIGINAL RECORDS AND ANTIQUITIES AND ABANDONED PROPERTY

PART 761 ABORIGINAL RECORDS AND ANTIQUITIES

Sec. ~~1a~~ 76101. As used in this ~~act~~ PART:

(a) "Abandoned property" means an aircraft; a watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of an aircraft or watercraft; the personal property of the officers, crew, and passengers of an aircraft or watercraft; and the cargo of an aircraft or watercraft, which have been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by owners and insurers. Abandoned property also means materials resulting from activities of historic and prehistoric ~~native~~ NATIVE Americans.

1 (b) "Bottomlands" means the unpatented lake bottomlands of
2 the Great Lakes.

3 (c) "Committee" means the underwater salvage and preserve
4 committee created in section ~~1b~~ 76103.

5 ~~(d) "Department" means the department of natural~~
6 ~~resources.~~

7 (D) ~~(e)~~ "Great Lakes" means lakes Erie, Huron, Michigan,
8 St. Clair, and Superior.

9 (E) ~~(f)~~ "Great Lakes bottomlands preserve" means an area
10 located on the bottomlands of the Great Lakes and extending
11 upward to and including the surface of the water, which is delin-
12 eated and set aside by rule ~~promulgated pursuant to the adminis-~~
13 ~~trative procedures act of 1969, Act No. 306 of the Public Acts of~~
14 ~~1969, as amended, being sections 24.201 to 24.328 of the Michigan~~
15 ~~Compiled Laws,~~ for special protection of abandoned property of
16 historical value, or ecological, educational, geological, or
17 scenic features or formations having recreational, educational,
18 or scientific value. A preserve may encompass a single object,
19 feature, or formation, or a collection of several objects, fea-
20 tures, or formations.

21 (F) ~~(g)~~ "Historical value" means value relating to, or
22 illustrative of, Michigan history, including the statehood, ter-
23 ritorial, colonial, and historic, and prehistoric native American
24 periods.

25 (G) ~~(h)~~ "Mechanical or other assistance" means all
26 ~~manmade~~ HUMANMADE devices, including pry bars, wrenches and
27 other hand or power tools, cutting torches, explosives, winches,

1 flotation bags, lines to surface, extra divers buoyancy devices,
2 and other buoyance devices, used to raise or remove artifacts.

3 (H) ~~-(i)-~~ "Recreational value" means value relating to an
4 activity ~~which~~ THAT the public engages in, or may engage in,
5 for recreation or sport, including scuba diving and fishing.

6 Sec. ~~+-~~ 76102. (1) The state reserves to itself the exclu-
7 sive right and privilege, except as provided in this ~~-act-~~ PART,
8 of exploring, surveying, excavating, and regulating through its
9 authorized officers, agents, and employees, all aboriginal
10 records and other antiquities, including mounds, earthworks,
11 forts, burial and village sites, mines or other relics, and aban-
12 doned property of historical or recreational value found upon or
13 within any of the lands owned by or under the control of the
14 state.

15 (2) The state reserves to itself a possessory right or title
16 superior to that of a finder to abandoned property of historical
17 or recreational value found on the state owned bottomlands of the
18 Great Lakes. This property shall belong to this state with
19 administration and protection jointly vested in the department
20 and the secretary of state.

21 Sec. ~~+-~~ 76103. (1) The underwater salvage and preserve
22 committee is created in the department OF NATURAL RESOURCES to
23 provide technical and other advice to the ~~director of the~~
24 department and the secretary of state with respect to their
25 responsibilities under this ~~-act-~~ PART.

26 (2) The underwater salvage and preserve committee shall
27 consist of 9 members appointed as follows:

1 (a) Two individuals appointed by the ~~director of the~~
2 department who have primary responsibility in the department OF
3 NATURAL RESOURCES for administering this ~~act~~ PART.

4 (b) Two individuals appointed by the secretary of state who
5 have primary responsibility in the department of state for admin-
6 istering this ~~act~~ PART.

7 (c) One individual appointed by the director of commerce.

8 (d) Four individuals appointed by the governor with the
9 advice and consent of the senate from the general public. Two of
10 these individuals shall have experience in recreational scuba
11 diving.

12 (3) An individual appointed to the committee shall serve for
13 a term of 3 years. A vacancy on the committee shall be filled in
14 the same manner as an original appointment and the term of a
15 member appointed to fill a vacancy shall be for 3 years. Members
16 of the committee shall serve without compensation, except for
17 their regular state salary where applicable.

18 (4) The chairperson of the committee shall alternate between
19 the representatives from the department and the department of
20 state. The chairperson shall be designated by the ~~director of~~
21 ~~the~~ department or the secretary of state, whichever is applica-
22 ble from among his or her representatives on the committee. The
23 chairperson's term shall run for 12 months, from October 1
24 through September 30. The ~~director of the~~ department shall
25 appoint the first chairperson of the committee for a term ending
26 September 30, 1989. The chairperson shall call meetings as
27 necessary but not less than 4 times per year, set the agenda for

1 meetings, ensure that adequate minutes are taken, and file an
2 annual report of committee proceedings with the head of the
3 departments of state, natural resources, and commerce.

4 (5) The committee is an advisory body and may perform all of
5 the following functions:

6 (a) Make recommendations with regard to the creation and
7 boundaries of Great Lakes underwater preserves.

8 (b) Review applications for underwater salvage permits and
9 make recommendations regarding issuance.

10 (c) Consider and make recommendations regarding the charging
11 of permit fees and the appropriate use of revenue generated by
12 those fees.

13 (d) Consider the need for and the content of rules intended
14 to implement this ~~act~~ PART and make recommendations concerning
15 the promulgation of rules.

16 (e) Consider and make recommendations concerning appropriate
17 legislation.

18 (f) Consider and make recommendations concerning program
19 operation.

20 (6) The committee shall not replace or supersede the respon-
21 sibility or authority of the secretary of state or the ~~director~~
22 ~~of the~~ department to carry out their responsibilities under this
23 ~~act~~ PART.

24 Sec. ~~2~~ 76104. A deed, as provided by this ~~act~~ PART,
25 given by this state, except state tax deeds for the conveyance of
26 any land owned by the state, shall contain a clause reserving to
27 this state a property right in aboriginal antiquities including

1 mounds, earthworks, forts, burial and village sites, mines, or
2 other relics and also reserving the right to explore and excavate
3 for the aboriginal antiquity by and through this state's autho-
4 rized agent and employee. This section ~~shall apply~~ APPLIES
5 only to the sale of tax reverted land. The ~~commission of natu-~~
6 ~~ral resources~~ DEPARTMENT, with the approval of the secretary of
7 state, may waive this reservation when conveying platted property
8 and when making conveyances under ~~Act No. 193 of the Public Acts~~
9 ~~of 1911, as amended, being sections 322.481 to 322.484 of the~~
10 ~~Michigan Compiled Laws~~ SUBPART 3 OF PART 21.

11 Sec. ~~3~~ 76105. A person, either personally or through an
12 agent or employee, shall not explore or excavate an aboriginal
13 remain covered by this ~~act~~ PART upon lands owned by the state,
14 except under a permit issued by the ~~director of the~~ department
15 ~~of natural resources~~ with written approval of the secretary of
16 state. A permit shall be issued without charge. This section
17 shall not apply to the Mackinac Island state park commission on
18 lands owned or controlled by the MACKINAC ISLAND STATE PARK
19 commission.

20 Sec. ~~4~~ 76106. Without the consent of the land owner, a
21 person shall not remove any relics or records of antiquity such
22 as human or other bones; shells, stone, bone, or copper imple-
23 ments; pottery or shards of pottery, or similar artifacts and
24 objects from the premises where they have been discovered.

25 Sec. ~~4a~~ 76107. (1) Except as provided in section ~~4b~~
26 76108, a person shall not recover, alter, or destroy abandoned
27 property which is in, on, under, or over the bottomlands of the

1 Great Lakes, including those within a Great Lakes bottomlands
2 preserve, unless the person has a permit issued jointly by the
3 secretary of state and the department pursuant to section ~~4c-~~
4 76109.

5 (2) A person who recovers abandoned property without a
6 permit when a permit is required by this ~~act~~ PART shall trans-
7 mit the property to the secretary of state and the recovered
8 property shall be the property of the secretary of state.

9 (3) A person shall not remove, convey, mutilate, or deface a
10 human body or the remains of a human body located on the bottom-
11 lands of the Great Lakes.

12 (4) A person who violates subsection (1) by recovering or
13 destroying abandoned property with a fair market value of \$100.00
14 or more is guilty of a felony, punishable by imprisonment for not
15 more than 2 years, or by a fine of not more than \$5,000.00, or
16 both.

17 Sec. ~~4b-~~ 76108. (1) A person may recover abandoned prop-
18 erty outside a Great Lakes bottomlands preserve without a permit
19 if the abandoned property is not attached to, nor located on, in,
20 or located in the immediate vicinity of and associated with a
21 sunken aircraft or watercraft and if the abandoned property is
22 recoverable by hand without mechanical or other assistance.

23 (2) A person who recovers abandoned property valued at more
24 than \$10.00 without a permit pursuant to subsection (1) shall
25 file a written report within 30 days after removal of the prop-
26 erty with the department or the secretary of state if the
27 property has been abandoned for more than 30 years. The written

1 report shall list all recovered property ~~which~~ THAT has been
2 abandoned for more than 30 years and the location of the property
3 at the time of recovery. For a period of 90 days after the
4 report is filed, the person shall make the recovered property
5 available to the department and the secretary of state for
6 inspection at a location in this state. If the secretary of
7 state determines that the recovered property does not have his-
8 torical value, the secretary of state shall release the property
9 to the person by means of a written instrument.

10 Sec. ~~4c~~ 76109. (1) A permit issued under this section
11 shall authorize a person to recover abandoned property located
12 on, in, or located in the immediate vicinity of and associated
13 with a sunken aircraft or watercraft.

14 (2) A person shall file an application for a permit with the
15 department on a form prescribed by the department and approved by
16 the secretary of state. The application shall contain all of the
17 following information:

18 (a) The name and address of the applicant.

19 (b) The name, if known, of the watercraft or aircraft on or
20 around which recovery operations are to occur and a current pho-
21 tograph or drawing of the watercraft or aircraft, if available.

22 (c) The location of the abandoned property to be recovered
23 and the depth of water in which it may be found.

24 (d) A description of each item to be recovered.

25 (e) The method to be used in recovery operations.

1 (f) The proposed disposition of the abandoned property
2 recovered, including the location at which it will be available
3 for inspection by the department and the secretary of state.

4 (g) Other information which the department or the secretary
5 of state considers necessary in evaluating the request for a
6 permit.

7 (3) An application for a permit ~~shall~~ IS not ~~be~~
8 ~~considered~~ complete until all information requested on the
9 application form and any other information requested by the
10 department or the secretary of state has been received by the
11 department. After receipt of an otherwise complete application,
12 the department may request additional information or documents as
13 are determined to be necessary to make a decision to grant or
14 deny a permit. The department, or the secretary of state, shall
15 notify the applicant in writing when the application is
16 deficient.

17 (4) An applicant notified that an application for a permit
18 may be deficient and returned due to insufficient information
19 under subsection (3) shall, within 20 days after the date the
20 notice is mailed, provide the information. If the applicant
21 fails to respond within the 20-day period, the application shall
22 be denied unless the applicant requests additional time and pro-
23 vides reasonable justification for an extension of time.

24 (5) The department and the secretary of state shall, with
25 the advice of the committee, approve or disapprove an application
26 for a permit within 30 days after the date a complete application
27 is filed with the department. The department and the secretary

1 of state may approve an application conditionally or
2 unconditionally. A condition to the approval of an application
3 shall be in writing on the face of the permit. The department
4 and the secretary of state may impose such conditions as are con-
5 sidered reasonable and necessary to protect the public trust and
6 general interests, including conditions that accomplish 1 or more
7 of the following:

8 (a) Protect and preserve the abandoned property to be recov-
9 ered, and the recreational value of the area in which recovery is
10 being accomplished.

11 (b) Assure reasonable public access to the abandoned prop-
12 erty after recovery.

13 (c) Are in conformity with rules applying to activities
14 within a Great Lakes bottomlands preserve.

15 (d) Prohibit injury, harm, and damage to a bottomlands site
16 or abandoned property not authorized for removal during and after
17 salvage operations by the permit holder.

18 (e) Prohibit or limit the amount of discharge of possible
19 pollutants, such as floating timbers, planking, and other debris,
20 which may emanate from the shipwreck, plane wreck, or salvage
21 equipment.

22 (f) Require the permit holder to submit a specific removal
23 plan prior to commencing any salvaging activities. Among other
24 matters considered appropriate by either the department or the
25 secretary of state, or both, the removal plan may be required to
26 ensure the safety of those removing or assisting in the removal
27 of the abandoned property and to address how the permit holder

1 proposes to prevent, minimize, or mitigate potential adverse
2 effects upon the abandoned property to be removed, that portion
3 of the abandoned property which is not to be removed, and the
4 surrounding geographic features.

5 (6) The department shall approve an application for a permit
6 unless the department determines that the abandoned property to
7 be recovered has substantial recreational value in itself or in
8 conjunction with other abandoned property in its vicinity under-
9 water, or the recovery of abandoned property would not comply
10 with rules applying to a Great Lakes bottomlands preserve.

11 (7) The secretary of state shall approve the application for
12 a permit unless the secretary of state determines that the aban-
13 doned property to be recovered has substantial historical value
14 in itself or in conjunction with other abandoned property in its
15 vicinity. If the property has substantial historical value, the
16 secretary of state, pursuant to subsection (5), may impose a con-
17 dition to the approval of the application requiring the applicant
18 to turn over recovered property to the secretary of state for the
19 purpose of preserving the property or permitting public access to
20 the property. The secretary of state may authorize the display
21 of the property in a public or private museum or by a local unit
22 of government. In addition to the conditions authorized by sub-
23 section (5), the secretary of state may provide for payment of
24 salvage costs in connection with the recovery of the abandoned
25 property.

26 (8) A person who discovers an abandoned watercraft ~~which~~
27 THAT is located outside of a Great Lakes bottomlands preserve

1 ~~shall be~~ IS entitled to recover cargo situated on, in, or
2 associated with the watercraft, if the person applies for a
3 permit pursuant to this section within 90 days after discovering
4 the watercraft. If an application for a permit to recover cargo
5 is not filed within 90 days after a watercraft discovery, subject
6 to subsections (4) and (5) an exclusive cargo recovery permit
7 shall be issued to the first person applying for such a permit.
8 Only 1 permit to recover the same cargo shall be issued and oper-
9 ative at a time. When a watercraft containing cargo is simulta-
10 neously discovered by more than 1 person, a permit shall be
11 approved with respect to the first person or persons jointly
12 applying for a permit.

13 (9) A person aggrieved by a condition contained on a permit
14 or by the denial of an application for a permit may request an
15 administrative review of the condition or the denial by the
16 ~~director of the department~~ COMMISSION or the secretary of
17 state, whichever disapproves the application or imposes the
18 condition. A person shall file the request for review with the
19 ~~department~~ COMMISSION or the secretary of state, whichever is
20 applicable, within 90 days after the permit application is sub-
21 mitted to the department. An administrative hearing conducted
22 pursuant to this subsection shall be conducted under the proce-
23 dures set forth in chapter 4 of the administrative procedures act
24 of 1969, Act No. 306 of the Public Acts of 1969, ~~as amended,~~
25 being sections 24.271 to 24.287 of the Michigan Compiled Laws.
26 If neither the department or the secretary of state approves the
27 application and an administrative review is requested from both

1 the ~~department~~ COMMISSION and the secretary of state, the
2 appeals shall be combined upon request of the appellant or either
3 the ~~department~~ COMMISSION or the secretary OF state and a
4 single administrative hearing shall be conducted. The ~~director~~
5 ~~of the department~~ COMMISSION and the secretary of state shall
6 issue jointly the final decision and order in the case.

7 (10) A permit issued under this section shall be valid until
8 December 31 of the year in which the application for the permit
9 was filed and is not renewable. If an item designated in a
10 permit for recovery is not recovered, a permit holder may, upon
11 request following the expiration of the permit, be issued a new
12 permit to remove the same abandoned property if the permit holder
13 demonstrates that diligence in attempting recovery was exercised
14 under the previously issued permit.

15 (11) A permit issued under this section shall not be trans-
16 ferred or assigned unless the assignment is approved in writing
17 by both the department and the secretary of state.

18 Sec. ~~4d~~ 76110. (1) Within 10 days after recovery of aban-
19 doned property, a person with a permit issued pursuant to section
20 ~~4c~~ 76109 shall report the recovery in writing to the
21 department. The person recovering the abandoned property shall
22 give authorized representatives of the department and the secre-
23 tary of state an opportunity to examine the abandoned property
24 for a period of 90 days after recovery. Recovered abandoned
25 property shall not be removed from this state without written
26 approval of the department and the secretary of state. If the
27 recovered abandoned property is removed from the state without

1 written approval, the attorney general, upon request from the
2 department or the secretary of state, shall bring an action for
3 the recovery of the property.

4 (2) If the secretary of state determines that the recovered
5 abandoned property does not have historical value, the secretary
6 of state shall release the property to the person holding the
7 permit by means of a written instrument.

8 Sec. ~~4e~~ 76111. (1) The department shall establish Great
9 Lakes bottomlands preserves by rule. ~~promulgated pursuant to the~~
10 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
11 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
12 ~~Compiled Laws.~~ A Great Lakes bottomlands preserve shall be
13 established by emergency rule if it is determined by the
14 ~~director of the~~ department that this action is necessary to
15 immediately protect an object or area of historical or recrea-
16 tional value.

17 (2) A Great Lakes bottomlands preserve may be established
18 whenever a bottomlands area includes a single watercraft of sig-
19 nificant historical value, includes 2 or more abandoned water-
20 craft, or contains other features of archaeological, historical,
21 recreational, geological, or environmental significance.
22 Bottomlands areas containing few or no watercraft or other fea-
23 tures directly related to the character of a preserve may be
24 excluded from preserves.

25 (3) In establishing a Great Lakes bottomlands preserve, the
26 department shall consider all of the following factors:

1 (a) Whether creating the preserve is necessary to protect
2 either abandoned property possessing historical or recreational
3 value, or significant underwater geological or environmental
4 features.

5 (b) The extent of local public and private support for cre-
6 ation of the preserve.

7 (c) Whether a preserve development plan has been prepared by
8 a state or local agency.

9 (d) The extent to which preserve support facilities such as
10 roads, marinas, charter services, hotels, medical hyperbaric
11 facilities, and rescue agencies have been developed in or are
12 planned for the area.

13 (4) The department and the secretary of state shall not
14 grant a permit to recover abandoned artifacts within a Great
15 Lakes bottomlands preserve except for historical or scientific
16 purposes or when the recovery will not adversely affect the his-
17 torical, cultural, or recreational integrity of the preserve area
18 as a whole.

19 (5) An individual Great Lakes bottomlands preserve shall not
20 exceed 400 square miles in area. Great Lakes bottomlands pre-
21 serves shall be limited in total area to not more than 10% of the
22 Great Lakes bottomlands within this state.

23 (6) Upon the approval of the committee, not more than 1
24 vessel associated with great lakes maritime history may be sunk
25 intentionally within a great lakes bottomlands preserve.

26 However, ~~no~~ state money shall NOT be expended to purchase,
27 transport, or sink the vessel.

1 Sec. ~~4f~~ 76112. (1) The department and the secretary of
2 state, jointly or separately, may promulgate rules ~~pursuant to~~
3 ~~the administrative procedures act of 1969, Act No. 306 of the~~
4 ~~Public Acts of 1969, as amended, being sections 24.201 to 24.328~~
5 ~~of the Michigan Compiled Laws,~~ as are necessary to implement
6 this ~~act~~ PART.

7 (2) Within each Great Lakes bottomlands preserve, the
8 department and the secretary of state may jointly promulgate
9 rules ~~, pursuant to the administrative procedures act of 1969,~~
10 ~~Act No. 306 of the Public Acts of 1969, which~~ THAT govern access
11 to and use of a Great Lakes bottomlands preserve. These rules
12 may regulate or prohibit the alteration, destruction, or removal
13 of abandoned property, features, or formations within a
14 preserve.

15 Sec. ~~4g~~ 76113. Sections ~~4a~~ 76107 to ~~4d~~ 76110 shall
16 not be considered to impose the following limitations:

17 (a) A limitation on the right of a person to engage in
18 diving for recreational purposes in and upon the Great Lakes or
19 the bottomlands of the Great Lakes.

20 (b) A limitation on the right of the department or the sec-
21 retary of state to recover, or to contract for the recovery of,
22 abandoned property in and upon the bottomlands of the Great
23 Lakes.

24 (c) A limitation on the right of a person to own either
25 abandoned property recovered before July 2, 1980 or abandoned
26 property released to a person after inspection.

1 Sec. ~~4h~~ 76114. (1) If the department or the secretary of
2 state finds that the holder of a permit issued pursuant to
3 section ~~3~~ 76105 or ~~4c~~ 76109 is not in compliance with this
4 ~~act~~ PART, a rule promulgated under this ~~act~~ PART, or a provi-
5 sion of or condition in the permit, or has damaged abandoned
6 property or failed to use diligence in attempting to recover
7 property for which a permit was issued, the department or the
8 secretary of state, individually or jointly, may summarily sus-
9 pend or revoke the permit. If the permit holder requests a hear-
10 ing within 15 days following the effective date of the suspension
11 or revocation, the ~~department~~ COMMISSION or the secretary of
12 state shall conduct an administrative hearing pursuant to chapter
13 4 of the administrative procedures act of 1969, Act No. 306 of
14 the Public Acts of 1969, being sections 24.271 to 24.287 of the
15 Michigan Compiled Laws, to consider whether the permit should be
16 reinstated.

17 (2) The attorney general, on behalf of the department or the
18 secretary of state, individually or jointly, may commence a civil
19 action in circuit court to enforce compliance with this ~~act~~
20 PART, to restrain a violation of this ~~act~~ PART or any action
21 contrary to a decision denying a permit, to enjoin the further
22 removal of artifacts, geological material, or abandoned property,
23 or to order the restoration of an affected area to its prior
24 condition.

25 Sec. ~~4i~~ 76115. Each person who participates in the sport
26 of scuba diving on the Great Lakes bottomlands accepts the
27 dangers ~~which~~ THAT adhere in that sport insofar as the dangers

1 are obvious and necessary. Those dangers include, but are not
2 limited to, injuries which can result from entanglements in
3 sunken watercraft or aircraft; the condition of sunken watercraft
4 or aircraft; the location of sunken watercraft or aircraft; the
5 failure of the state to fund staff or programs at bottomlands
6 preserves; and the depth of the objects and bottomlands within
7 preserves.

8 Sec. ~~5~~ 76116. (1) A person who violates section ~~3~~ 76105
9 or ~~4 of this act~~ 76106 is guilty of a misdemeanor, ~~and shall~~
10 ~~be punished by a fine of not more than \$100.00 or~~ PUNISHABLE by
11 imprisonment for not more than 30 days, OR A FINE OF NOT MORE
12 THAN \$100.00, or both.

13 (2) A person who violates sections ~~4a~~ 76107 or ~~4e~~ 76111
14 or a rule promulgated under this ~~act~~ PART is guilty of a
15 misdemeanor. Unless another penalty is provided in this ~~act~~
16 PART, a person convicted of a misdemeanor under this subsection
17 ~~shall be punished~~ IS PUNISHABLE by ~~a fine of not more than~~
18 ~~\$500.00 or by~~ imprisonment for not more than 6 months, OR A FINE
19 OF NOT MORE THAN \$500.00, or both.

20 Sec. ~~6~~ 76117. (1) If a person who violates this ~~act~~
21 PART or a rule promulgated under this ~~act~~ PART uses a water-
22 craft, mechanical or other assistance, scuba gear, sonar equip-
23 ment, a motor vehicle, or any other equipment or apparatus during
24 the course of committing the violation, the items so used may be
25 attached, proceeded against, and confiscated as prescribed in
26 this ~~act~~ PART.

1 (2) To effect confiscation, the law enforcement or
2 conservation officer seizing the property shall file a verified
3 complaint in the circuit court for the county in which the sei-
4 zure was made or in the circuit court for Ingham county. The
5 complaint shall set forth the kind of property seized, the time
6 and place of the seizure, the reasons for the seizure, and a
7 demand for the property's condemnation and confiscation. Upon
8 the filing of the complaint, an order shall be issued requiring
9 the owner to show cause why the property should not be
10 confiscated. The substance of the complaint shall be stated in
11 the order. The order to show cause shall fix the time for serv-
12 ice of the order and for the hearing on the proposed condemnation
13 and confiscation.

14 (3) The order to show cause shall be served on the owner of
15 the property as soon as possible, but not less than 7 days before
16 the complaint is to be heard. The court, for cause shown, may
17 hear the complaint on shorter notice. If the owner is not known
18 or cannot be found, notice may be served in 1 or more of the fol-
19 lowing ways:

20 (a) By posting a copy of the order in 3 public places for 3
21 consecutive weeks in the county in which the seizure was made and
22 by sending a copy of the order by certified mail to the last
23 known business or residential address of the owner. If the last
24 addresses of the owner are not known, mailing a copy of the order
25 is not required.

26 (b) By publishing a copy of the order in a newspaper once
27 each week for 3 consecutive weeks in the county where the seizure

1 was made and by sending a copy of the order by registered mail to
2 the last known residential address of the owner. If the last
3 residential address of the owner is not known, mailing a copy of
4 the order is not required.

5 (c) In such a manner as the court directs.

6 (4) Upon hearing of the complaint, if the court determines
7 that the property mentioned in the petition was possessed,
8 shipped, or used contrary to law, either by the owner or by a
9 person lawfully in possession of the property under an agreement
10 with the owner, an order shall be made condemning and confiscat-
11 ing the property and directing its sale or other disposal by the
12 ~~director of the~~ department. If the owner signs a property
13 release, a court proceeding ~~shall~~ IS not ~~be~~ necessary. At
14 the hearing, if the court determines that the property was not
15 possessed, shipped, or used contrary to law, the court shall
16 order the ~~director of the~~ department to immediately return the
17 property to its owner.

18 (5) The department shall deposit the proceeds it receives
19 under this section into the state treasury to the credit of the
20 underwater preserve fund created in section ~~7~~ 76118.

21 Sec. ~~7~~ 76118. (1) The underwater preserve fund is created
22 as a separate fund in the state treasury, and it may receive rev-
23 enue as provided in this ~~act~~ PART, or revenue from any other
24 source.

25 (2) Money in the underwater preserve fund shall be appropri-
26 ated for only the following purposes:

1 (a) To the secretary of state for the development of
2 maritime archaeology in this state.

3 (b) To the department of commerce for the promotion of Great
4 Lakes bottomlands preserves.

5 (c) To the department for the enforcement of this ~~act~~
6 PART.

7 ~~SUBCHAPTER 3: MACKINAC ISLAND STATE PARK~~

8 ~~Part 765. Mackinac Island Fire Protection~~

9 ~~Part 767. Mackinac Island State Park Commission~~

10 ~~Part 769. Mackinac Island State Park~~

11 ~~Part 771. Mackinac Island State Park Rules~~

12 ~~Part 773. Mackinac Island; Clerk's Quarters American Fur~~
13 ~~Company~~

14 ~~Part 775. Michilimackinac State Park~~

15 ~~Part 777. Old Mission Church at Mackinac Island~~

16 SUBCHAPTER 3: MACKINAC ISLAND STATE PARK

17 PART 765 MACKINAC ISLAND STATE PARK

18 SEC. 76501. AS USED IN THIS PART, "COMMISSION" MEANS THE
19 MACKINAC ISLAND STATE PARK COMMISSION.

20 Sec. ~~+~~ 76502. Pursuant to the turning over to the state
21 of Michigan, for use as a state park, and for no other purpose,
22 the military reservation, lands and buildings of the national
23 park on Mackinac Island, subject to a reversion to the United
24 States whenever the state ceases to use the lands for the purpose
25 ~~aforesaid~~ DESCRIBED IN THIS SECTION, by the secretary of war,
26 under the authorization of an act of congress, ~~such~~ THE lands

1 and buildings shall be used as a state park and shall be known as
2 the Mackinac Island state park.

3 Sec. ~~2~~ 76503. (1) ~~Within 15 days after the passage of~~
4 ~~this act the~~ THE governor shall appoint 7 commissioners, who
5 shall be citizens of, registered voters, and regularly domiciled
6 in this state and who ~~shall hereafter~~ constitute a board of
7 commissioners to be known as the Mackinac Island state park
8 commission. ~~Provided, That~~ HOWEVER, the present commission-
9 ers shall hold office until their successors have been
10 appointed. One commissioner shall be known as the "resident
11 commissioner," and ~~said~~ THIS commissioner shall be a legal res-
12 ident of the island and a property owner in the city of Mackinac
13 Island for a period of not less than 6 months preceding his OR
14 HER nomination. One commissioner shall be a resident of the vil-
15 lage of Mackinaw City. His OR HER term of office shall commence
16 on April 12, 1958.

17 (2) ~~Said commissioners~~ THE MEMBERS OF THE COMMISSION shall
18 be appointed by the governor, by and with the advice and consent
19 of the senate, for terms of 6 years each and shall hold office
20 until their successors are appointed. ~~Provided, That~~
21 HOWEVER, of the members first appointed, 2 shall be appointed for
22 a term of 2 years, 2 for a term of 4 years each, and 2 for a term
23 of 6 years each. ~~Provided further, That not~~ NOT more than 4
24 commissioners at any ~~one~~ 1 time shall be of the same political
25 party. Vacancies shall be filled by the governor in the same
26 manner as the original appointment for the unexpired term. No
27 member of the ~~board~~ COMMISSION shall receive any compensation

1 for his OR HER services as commissioner, but each commissioner
2 shall receive his OR HER actual disbursement for his OR HER
3 expense incurred in connection with the duties of his OR HER
4 office, which expense shall be allowed and paid by the auditor
5 general upon proper SUBMITTAL OF vouchers. ~~therefor.~~ The com-
6 mission shall annually elect a ~~chairman~~ CHAIRPERSON,
7 ~~vice chairman~~ VICE-CHAIRPERSON, and secretary.

8 (3) THE MACKINAC ISLAND STATE PARK COMMISSION IS CREATED
9 WITHIN THE DEPARTMENT OF NATURAL RESOURCES AND SHALL HAVE THE
10 POWERS AND DUTIES OF AN AGENCY TRANSFERRED UNDER A TYPE I TRANS-
11 FER PURSUANT TO SECTION 3 OF THE EXECUTIVE ORGANIZATION ACT OF
12 1965, ACT NO. 380 OF THE PUBLIC ACTS OF 1965, BEING
13 SECTION 16.103 OF THE MICHIGAN COMPILED LAWS.

14 Sec. ~~3~~ 76504. (1) The Mackinac Island state park shall be
15 under the control and management of the Mackinac Island state
16 park commission, and ~~the~~ A majority of the members of the com-
17 mission ~~shall constitute~~ CONSTITUTES a quorum for the transac-
18 tion of business. The business which the commission may perform
19 shall be conducted at a public meeting of the commission held in
20 compliance with the open meetings act, Act No. 267 of the Public
21 Acts of 1976, being sections 15.261 to 15.275 of the Michigan
22 Compiled Laws. Public notice of the time, date, and place of the
23 meeting shall be given in the manner required by Act No. 267 of
24 the Public Acts of 1976.

25 (2) The ~~commissioners~~ COMMISSION may lay out, manage, and
26 maintain the park, preserve the old fort, and promulgate and
27 enforce rules not inconsistent with the laws of this state and

1 necessary to implement this ~~act~~ PART; may effect leases and fix
2 prices for rentals or privileges upon the property of the park;
3 may sell or lease as personal property buildings or structures
4 acquired by the commission in settlement of delinquent land
5 rentals; and may employ a superintendent and other persons as may
6 be needed.

7 (3) ~~Rules of the commission shall be promulgated pursuant~~
8 ~~to the administrative procedures act of 1969, Act No. 306 of the~~
9 ~~Public Acts of 1969, as amended, being sections 24.201 to 24.315~~
10 ~~of the Michigan Compiled Laws.~~ The rules of the commission shall
11 apply to all roads situated on Mackinac Island state park lands.
12 The commission shall not make a rule permitting the use of motor
13 vehicles except motor vehicles owned by the state, a political
14 subdivision of the state, or by a public utility, and used in the
15 exercise of its franchise. The commission may provide by rule
16 for the issuance of temporary permits for the operation of motor
17 vehicles over roads situated on state park lands. The commission
18 may grant permits for the use of lands for the expansion of
19 existing cemeteries, under terms and conditions as the commission
20 prescribes. The commission may also grant privileges and fran-
21 chises for waterworks, sewerage, transportation, and lighting,
22 for a period of not more than 40 years. The commission shall
23 prescribe by rule the maximum number of horse drawn vehicles for
24 hire that may be licensed by the commission for operation within
25 the park.

26 (4) The sheriff of the county of Mackinac, upon the
27 application of the commission, shall appoint 1 or more persons

1 who shall be designated by the commission as deputy sheriffs in
2 and for the county, and who shall be employees of the commission
3 but who shall not receive fees or emoluments for services as
4 deputy sheriffs. The ~~commissioners~~ COMMISSION may ~~fix~~
5 ESTABLISH the compensation of the persons employed by ~~them~~ THE
6 COMMISSION, but a debt or obligation shall not be created by
7 ~~them~~ THE COMMISSION exceeding the amount of money at ~~their~~
8 ITS disposal at the time.

9 (5) All money received from rentals or privileges shall be
10 paid promptly into the state treasury to be credited to the gen-
11 eral fund and to be disbursed as appropriated by the
12 legislature. The Mackinac Island state park commission, in con-
13 sideration of the furnishing of fire protection, street service,
14 sewerage service, and other public service agreed upon, may remit
15 reasonable rentals as the commission determines from leases of
16 property acquired by the state under the general property tax
17 act, Act No. 206 of the Public Acts of 1893, ~~as amended,~~ being
18 sections 211.1 to 211.157 of the Michigan Compiled Laws and
19 deeded to the commission, to the several tax assessing units in
20 which the property is situated as provided in Act No. 206 of the
21 Public Acts of 1893, ~~as amended,~~ in proportion to the delin-
22 quent taxes and special assessments of the units cancelled
23 against the description of land.

24 (6) A writing prepared, owned, used, in the possession of,
25 or retained by the commission in the performance of an official
26 function shall be made available to the public in compliance with
27 the freedom of information act, Act No. 442 of the Public Acts of

1 1976, being sections 15.231 to 15.246 of the Michigan Compiled
2 Laws. The ~~commissioners~~ COMMISSION shall ~~make~~ PROVIDE to the
3 governor an annual report and statement of receipts and expendi-
4 tures, and recommendations and suggestions as ~~they consider~~ THE
5 COMMISSION CONSIDERS proper.

6 Sec. ~~4~~ 76505. ~~It shall be the duty of the~~ THE superin-
7 tendent of ~~said~~ THE Mackinac Island state park ~~to~~ SHALL see
8 to it that the United States flag is kept floating from the flag-
9 staff at Fort Mackinac, and rules relative thereto ~~being~~ ARE
10 the same as those that have governed in that matter when the fort
11 was in possession and occupancy by the United States troops.

12 Sec. ~~4a~~ 76506. The Mackinac Island state park commission
13 may acquire by purchase, lease, grant, or transfer the use of
14 certain state land in the county of Mackinac for the purpose of
15 developing and restoring as an historical site the area in or
16 near the location where Fort deBuade once stood. After the
17 acquisition and restoration, the site shall be under the juris-
18 diction, management, and control of the Mackinac Island state
19 park commission, and the commission shall have and exercise the
20 same rights and powers over the site as it has and exercises over
21 Mackinac Island state park, including the right to levy and col-
22 lect fees for the use of the facilities at the site. All rules
23 ~~and regulations made~~ PROMULGATED by the commission shall be
24 effective within the whole territory covered by the park. The
25 commission may ~~prescribe~~ PROMULGATE and enforce rules ~~and~~
26 ~~regulations~~ relative to any part or portion ~~thereof~~ OF THE

1 PARK, notwithstanding any contrary or inconsistent ordinance,
2 regulation, or bylaw of any political subdivision.

3 Sec. ~~-5-~~ 76507. ~~Any~~ A person who ~~shall wilfully cut~~
4 WILLFULLY CUTS, ~~peel~~ PEELS, or otherwise ~~injure~~ INJURES or
5 ~~destroy~~ DESTROYS any tree standing in Mackinac Island state
6 park, or who ~~shall carry, draw, leave~~ CARRIES, DRAWS, LEAVES,
7 or ~~deposit~~ DEPOSITS anywhere within ~~said~~ THE park, any filth,
8 rubbish, or garbage, ~~shall be deemed~~ IS guilty of a misdemea-
9 or, ~~and, upon conviction thereof, shall be fined~~ PUNISHABLE BY
10 IMPRISONMENT FOR NOT LESS THAN 10 DAYS OR MORE THAN 60 DAYS, OR A
11 FINE OF not less than ~~10 dollars nor~~ \$10.00 OR more than ~~50~~
12 ~~dollars~~ \$50.00, ~~or by imprisonment in the county jail of~~
13 ~~Mackinac county, for a period of not less than 10 days nor more~~
14 ~~than 60 days,~~ or both, ~~such fine and imprisonment,~~ in the dis-
15 cretion of the court.

16 Sec. ~~-6-~~ 76508. The superintendent of the Mackinac Island
17 state park may appoint, by and with the consent of the ~~board of~~
18 ~~commissioners~~ COMMISSION, such number of special police as the
19 ~~board~~ COMMISSION may by resolution direct, which special police
20 shall be under the supervision and direction of the superinten-
21 dent, who shall be charged with the execution of ~~such~~ THE rules
22 ~~and regulations~~ PROMULGATED BY THE COMMISSION for the care and
23 preservation of the park, and the property in and about the fort.
24 ~~, as may be prescribed in rules duly formulated by the board.~~
25 ~~Such~~ THE special police shall be vested with the authority of
26 sheriffs of the island, and may apprehend and arrest, without
27 warrant, any person whom they may find violating the rules which

1 shall have been published relative to good order, the
2 preservation of property, the mutilation of landmarks, or the
3 destruction or injury to growing trees and shrubs. The special
4 police are authorized to make complaint against offenders against
5 the rules of the government of Mackinac Island state park, before
6 the district court of the judicial district that includes
7 Mackinac Island and the judges ~~are hereby authorized to~~ MAY
8 take cognizance, hear, try, and determine such complaints and
9 pass sentence upon ~~such~~ offenders, in accordance with the pro-
10 cedures applicable in misdemeanor cases.

11 Sec. ~~7~~ 76509. The Mackinac Island state park commission,
12 for and on behalf of the state of Michigan, is ~~hereby~~ autho-
13 rized to receive, accept, and hold, by gift, grant, devise, or
14 bequest, any property, real or personal, but only for the pur-
15 poses incidental to or connected with the state parks under its
16 management and control.

17 PART 767 MACKINAC ISLAND STATE PARK COMMISSION

18 SEC. 76701. AS USED IN THIS PART, "COMMISSION" MEANS THE
19 MACKINAC ISLAND STATE PARK COMMISSION.

20 Sec. ~~+~~ 76702. The Mackinac Island state park commission
21 ~~, hereinafter sometimes called "the commission", is hereby~~
22 authorized and empowered, in addition to the powers already con-
23 ferred on it by law, to exercise the following powers, rights,
24 and privileges:

25 (a) To acquire, construct, develop, improve, better, extend,
26 repair, maintain, use, and operate all property, real or
27 personal, necessary to the exercise of the powers, rights,

1 privileges, and functions conferred upon it by law and this ~~act~~
2 PART including, ~~without limiting the generality of the~~
3 ~~foregoing~~ BUT NOT LIMITED TO, the power to acquire, construct,
4 develop, improve, better, extend, restore, reconstruct, renovate,
5 refurbish, repair, equip, furnish, maintain, use, and operate,
6 and to provide landscaping, driveways, streets, and walkways for,
7 buildings, structures, areas (any and all), and facilities of all
8 kinds ~~which~~ THAT in the judgment of the commission will
9 increase the beauty and utility of ~~said~~ THE state park facili-
10 ties and provide recreational, historical, or other facilities
11 for the benefit and enjoyment of the public, or ~~which~~ THAT are
12 necessary or convenient to the exercise of the powers of the
13 commission.

14 (b) To employ consulting architects, engineers, museum tech-
15 nicians, landscape architects, supervisors, managers, lawyers,
16 fiscal agents, and other agents and employees as it ~~may deem~~
17 CONSIDERS necessary, and to ~~fix~~ ESTABLISH their compensation.

18 (c) To enlist the guidance, assistance, and cooperation of
19 the Michigan historical commission.

20 (d) To ~~make such~~ ESTABLISH charges for admission to the
21 facilities under its jurisdiction, to ~~make such~~ ESTABLISH other
22 charges for the use of any ~~such~~ facilities, including fees or
23 charges to be imposed on concessionaires, and to charge ~~such~~
24 rentals for the lease or use of any of its facilities as ~~in the~~
25 ~~judgment of~~ the commission ~~may seem~~ DETERMINES proper and as
26 will assure the prompt and full carrying out of all covenants

1 contained in the proceedings authorizing any bonds ~~hereunder~~
2 PURSUANT TO THIS PART.

3 (e) To acquire, construct, develop, improve, repair,
4 maintain, and operate, but not to extend the runway beyond ~~3600~~
5 3,600 feet, an airport or landing field on property under its
6 jurisdiction, and to lease to any governmental unit any real or
7 personal property under its jurisdiction for use as an airport or
8 landing field on ~~such~~ THE terms and conditions ~~as shall be~~
9 approved by the commission and the department of ~~administration~~
10 MANAGEMENT AND BUDGET. The exercise of any power granted by this
11 subsection ~~shall be~~ IS subject to determination by the proper
12 federal authority that such exercise will not affect the title of
13 the state to the land involved. All rules and regulations
14 ~~promulgated~~ ESTABLISHED by any lessee shall reflect written
15 approval by the commission before ~~any such~~ THE rules or regula-
16 tions are in effect.

17 Sec. ~~2~~ 76703. (1) The commission ~~is authorized and~~
18 ~~empowered from time to time to~~ MAY issue its gross revenue bonds
19 in anticipation of the collection of all or any part of its reve-
20 nues, for the purpose of acquiring, constructing, reconstructing,
21 improving, bettering, extending, restoring, refurbishing, reno-
22 vating, repairing, equipping, furnishing, any or all, the proper-
23 ties and facilities ~~which~~ THAT it is authorized to acquire,
24 construct, reconstruct, maintain, or operate ~~hereunder~~ UNDER
25 THIS PART, including properties and facilities ~~now~~ owned by it,
26 and shall pledge to the payment of the interest on and principal
27 of such bonds, all or any part of the revenues derived from the

1 operation of the properties and facilities so controlled and
2 operated by the commission. There may be included in the cost
3 for which bonds are to be ~~so~~ issued, reasonable allowances for
4 legal, engineering, or fiscal services, interest during construc-
5 tion or reconstruction and for 6 months after the estimated date
6 of completion of ~~such~~ THE construction or reconstruction or
7 until full revenues are being received from the operation of the
8 facility, and other incidental expenses. ~~Such~~ THE bonds shall
9 be authorized by resolution of the commission and may be issued
10 in 1 or more series, may bear such date or dates, may mature at
11 such time or times not exceeding 30 years from their respective
12 dates, may bear interest at such rate or rates, may be in such
13 form, either coupon or registered, may be executed in such
14 manner, may be payable at such place or places, may be subject to
15 such terms of redemption, with or without premium, and may con-
16 tain such terms, covenants, and conditions as such resolution or
17 subsequent resolution may provide. Pending preparation of the
18 definitive bonds, interim receipts, or certificates in such form
19 and with such provisions as the commission may determine may be
20 issued to the purchaser or purchasers of the bonds sold pursuant
21 to this ~~act~~ PART. ~~Said~~ THE bonds and interim receipts and
22 certificates shall be fully negotiable within the meaning of and
23 for all purposes of the negotiable instruments law of this
24 state. The maximum rate of interest on such bonds shall be that
25 set forth for bonds issued pursuant to the municipal finance act,
26 Act No. 202 of the Public Acts of 1943, ~~as amended,~~ being
27 sections 131.1 to ~~+38.2~~ 139.3 of the Michigan Compiled Laws,

1 but bonds issued under this ~~act~~ PART shall not in any other way
2 be subject to ~~the municipal finance act,~~ Act No. 202 of the
3 Public Acts of 1943. ~~, as amended.~~ The sale and award of notes
4 shall be conducted and made by the commission at a public or pri-
5 vate sale. If a public sale is held, the notes shall be adver-
6 tised for sale once not less than 7 days before sale in a publi-
7 cation printed in the English language and circulated in this
8 state, which carries as a part of its regular service notices of
9 the sales of municipal bonds and which has been designated in the
10 resolution as a publication complying with these qualifications.
11 The notice of sale shall be in the form as designated by the
12 commission. Bonds may be sold at a discount as provided in the
13 bond resolution.

14 (2) Any resolution authorizing the issuance of bonds under
15 this ~~act~~ PART or any instrument of trust entered into as
16 ~~hereinafter~~ authorized BY THIS PART may contain covenants,
17 including, but not limited to, ANY OF THE FOLLOWING:

18 (a) The purpose or purposes to which the proceeds of the
19 sale of the bonds may be applied, and the deposit, use, and dis-
20 position ~~thereof~~ OF THE PROCEEDS.

21 (b) The use, deposit, securing of deposits, and disposition
22 of the revenues of the commission, including the creation and
23 maintenance of reserves.

24 (c) The issuance of additional bonds payable from the reve-
25 nues of the commission.

26 (d) The operation and maintenance of properties of the
27 commission.

1 (e) The insurance to be carried thereon, and the use,
2 deposit, and disposition of insurance money.

3 (f) Books of account and the inspection and audit ~~thereof~~
4 OF THE BOOKS OF ACCOUNT and the accounting methods of the
5 commission.

6 (g) The nonrendering of any free service by the commission.

7 (h) The preservation of the properties of the commission, so
8 long as any of the bonds remain outstanding, from any mortgage,
9 sale, lease, or other encumbrance not specifically permitted by
10 the terms of the resolution.

11 (i) The employment of sufficient personnel for the collec-
12 tion of fees and charges incident to the operation of the facil-
13 ity and for the payment of compensation to such personnel out of
14 the fees and charges.

15 (3) In the discretion of the commission, any bonds issued
16 under ~~the provisions of~~ this ~~act~~ PART may be secured by a
17 trust indenture by and between the commission and a corporate
18 trustee, which may be any bank having the right to exercise the
19 powers of a trust company within this state. Any such trust
20 indenture may pledge or assign the revenues from the operation of
21 properties of the commission, but shall not convey or mortgage
22 any properties, except such revenues. Any ~~such~~ trust indenture
23 or any resolution providing for the issuance of ~~such~~ bonds may
24 contain such provisions for protecting and enforcing the rights
25 and remedies of the bondholders as may be reasonable and proper
26 and not in violation of law, including covenants setting forth
27 the duties of the commission in relation to the acquisition of

1 property and the construction, improvement, maintenance, repair,
2 operation, and insurance of the improvements in connection with
3 which ~~such~~ THE bonds ~~shall~~ have been authorized, and the cus-
4 tody, safeguarding, and application of all money, and provisions
5 for the employment of consulting engineers, architects, and land-
6 scape architects in connection with the planning, construction,
7 or operation of ~~such~~ THE improvements. Any ~~such~~ trust inden-
8 ture may set forth the rights and remedies of the bondholders and
9 of the trustee, and may restrict the individual right of action
10 by bondholders as is customary in trust agreements or trust
11 indentures securing bonds and debentures of corporations. In
12 addition to the foregoing, any ~~such~~ trust indenture or resolu-
13 tion may contain ~~such~~ other provisions as the commission ~~may~~
14 ~~deem~~ CONSIDERS reasonable and proper for the security of the
15 bondholders. The holder of any bond issued ~~hereunder~~ UNDER
16 THIS PART or a trustee in his or her behalf may bring suit
17 against the commission and its members, officers, and agents to
18 enforce the provisions and covenants contained in any ~~such~~
19 trust indenture or resolution. All expenses incurred in carrying
20 out the provisions of any ~~such~~ trust indenture may be treated
21 as a part of the cost of operation of the improvements for which
22 the bonds are authorized.

23 (4) Money received pursuant to ~~the authority of~~ this ~~act~~
24 PART, whether as proceeds from the sale of bonds or as revenues
25 from the operations of properties, or otherwise received by the
26 commission, shall be ~~deemed~~ CONSIDERED to be trust funds, to be
27 held and applied solely as provided in this ~~act~~ PART and in the

1 resolution authorizing, or trust indenture securing, its bonds.
2 All money ~~so~~ received may be deposited in as received and paid
3 out by any bank or banks selected for such purpose and eligible
4 to hold public money under the laws of this state, such deposits
5 and paying out to be in the manner provided in such resolution or
6 trust indenture. None of ~~such~~ THE money need be paid into the
7 state treasury.

8 (5) If the commission has issued any bonds under this ~~act~~
9 PART, ~~it~~ THE COMMISSION may thereafter issue and negotiate new
10 bonds under this ~~act~~ PART for the purpose of providing for the
11 retirement of those outstanding bonds, in whole or in part. The
12 new bonds shall be designated "gross revenue refunding bonds",
13 and except as otherwise provided in the refunding resolution,
14 shall be secured to the same extent and shall have the same
15 source of payment as the bonds which have been ~~thereby~~ refund-
16 ed, or may be payable from earnings on investments held in trust
17 to pay refunded bonds for the period of time specified in the
18 ordinance authorizing the bonds. The refunding bonds may be
19 issued to include the amount of any premium to be paid upon the
20 calling of the callable bonds to be refunded or any premium nec-
21 essary to be paid in order to secure the surrender of the non-
22 callable bonds to be refunded, interest to the maturity or
23 redemption date of the bonds to be refunded, and the cost of
24 issuing the refunding bonds. This section shall not be construed
25 as providing for the redemption of noncallable unmatured bonds
26 without the consent of the holder or holders of the bonds. The
27 refunding bonds may be sold at public sale, may be privately

1 negotiated, or may be exchanged for the obligations to be
2 refunded by the obligations, and if sold, the proceeds shall be
3 deposited in a bank and credited to a special trust account to be
4 used only for the redemption or purchase of the outstanding
5 bonds. If refunding bonds are to be issued and sold for the pur-
6 pose of refunding noncallable unmatured bonds, those bonds shall
7 be surrendered and canceled at the time of delivery to the pur-
8 chaser of the refunding bonds, or sufficient funds shall be
9 deposited in trust to pay principal and interest to maturity on
10 noncallable bonds. If refunding bonds are to be issued for the
11 purpose of refunding callable bonds, those bonds shall be surren-
12 dered and canceled at the time of delivery to the purchaser of
13 the refunding bonds, or sufficient funds shall be deposited in
14 trust to pay principal, interest, and redemption premium to the
15 earliest redemption date on callable bonds. When the resolution
16 authorizing the bonds to be refunded permits, the borrower may
17 deposit in trust direct obligations of, or obligations the prin-
18 cipal and interest of which are unconditionally guaranteed by,
19 the United States and which do not permit redemption at the
20 option of the issuer, the principal and interest on which when
21 due, without reinvestment, will provide funds sufficient to pay
22 principal, interest, and call premium, when due, on the bonds
23 being refunded.

24 (6) Notwithstanding the other provisions of this section:

25 (a) Interest on the bonds may be payable at any time pro-
26 vided in the resolution, and may be set, reset or calculated, or
27 both, as provided in the resolution.

1 (b) If so authorized in the resolution bonds may be:

2 (i) Made the subject of a put or agreement to repurchase by
3 the commission.

4 (ii) Secured by a letter of credit issued by a bank pursuant
5 to an agreement entered into by the commission or secured by any
6 other collateral.

7 (iii) Callable.

8 (iv) Reissued by the commission once reacquired by the com-
9 mission pursuant to any put or repurchase agreement.

10 (c) The commission may by resolution do any of the
11 following:

12 (i) Authorize the issuance of renewal bonds.

13 (ii) Refund, or refund in advance, bonds by the issuance of
14 new bonds, whether the bonds to be refunded have or have not
15 matured.

16 (iii) Issue bonds partly to refund bonds and partly for any
17 other purposes authorized by this ~~act~~ PART.

18 (iv) Buy and sell any bonds issued under this ~~act~~ PART.

19 (d) Renewal, refunding, or advance refunding bonds are
20 subject to all of the following:

21 (i) Shall be sold and the proceeds applied to the purchase
22 redemption or payment of the bonds to be renewed or refunded.

23 (ii) May be sold or resold at a public or private sale upon
24 such terms and conditions as the commission may establish in the
25 order.

1 (iii) May pledge the revenues pledged in the issue to be
2 refunded in advance effective when a defeasance has occurred with
3 respect to the original issue.

4 (e) If the commission so authorizes in the resolution autho-
5 rizing the bonds, any bonds issued may be secured in whole or in
6 part pursuant to a trust or escrow agreement which agreement may
7 also govern the issuance of renewal bonds, refunding bonds, and
8 advance refunding bonds. ~~Such~~ THE agreement may authorize the
9 trustee or escrow agent to make investments of any type autho-
10 rized in the agreement.

11 (f) Powers specified in this subsection shall be in addition
12 to those set forth in all other subsections and sections of this
13 ~~act~~ PART.

14 (7) The commission shall hire an independent certified
15 public accountant approved by the legislative auditor general to
16 perform an annual audit of all of its operations which are
17 required by, or in any way relate to, any covenants made in con-
18 nection with any bonds issued pursuant to this ~~act~~ PART.

19 (8) The bonds shall be signed by the chairperson or
20 vice-chairperson of the commission and attested to by any other
21 officer of the commission authorized to do so by resolution of
22 the commission. The signature of either officer, but not both,
23 may be affixed by facsimile.

24 Sec. ~~3~~ 76704. The commission shall prescribe and collect
25 charges and fees as above authorized for admission to and for the
26 use of the services, facilities and commodities supplied by or
27 through all its properties, including museums, the revenues of

1 which have been pledged to the payment of bonds issued
2 ~~hereunder~~ UNDER THIS PART, and shall revise such charges and
3 fees from time to time whenever necessary to ~~insure~~ ENSURE that
4 the revenues to be derived ~~therefrom~~ FROM THE CHARGES AND FEES
5 shall be fully sufficient to pay principal of and interest on
6 such bonds, and to carry out all requirements and covenants con-
7 tained in the proceedings pursuant to which any such bonds are
8 issued. All or any part of the gross revenues derived by the
9 commission from the operation, leasing, or other use of any prop-
10 erties of the commission utilized as a part of any state park
11 project financed ~~hereunder~~ UNDER THIS PART may be pledged to
12 the payment of such principal and interest. Each bond shall
13 recite in substance that ~~such~~ THE bond and the interest
14 ~~thereon~~ ON THE BOND are payable solely from the revenues
15 pledged to the payment thereof, and that ~~such~~ THE bond does not
16 constitute a debt of the commission or of the state of Michigan
17 within the meaning of any constitutional or statutory
18 limitation.

19 Sec. ~~4~~ 76705. The commission is ~~hereby declared to~~
20 ~~constitute~~ a public body corporate constituting an instrumental-
21 ity of the state of Michigan and carrying out duties and func-
22 tions imposed upon and in the state under its constitution and
23 laws, and shall have the power to sue and be sued. It is accord-
24 ingly ~~hereby~~ found, determined, and declared that the carrying
25 out of powers of the commission and the purposes of this ~~act~~
26 PART are for the benefit of the people of the state and
27 constitute a public purpose. Accordingly, all property owned by

1 the commission or owned by the state and controlled by the
2 commission shall be exempt from all taxes levied by the state and
3 all of its political subdivisions and taxing districts, and the
4 bonds and interim receipts or certificates issued by the commis-
5 sion and the income therefrom shall be free from taxation within
6 the state, and the commission shall be required to pay no taxes
7 or assessments upon its activities or upon any of its revenues.

8 Sec. ~~-5-~~ 76706. ~~Nothing in this act~~ THIS PART shall NOT
9 be construed or interpreted as ~~to authorize~~ AUTHORIZING or
10 ~~permit~~ PERMITTING the incurring of the indebtedness of the
11 state of Michigan contrary to the provisions of the constitution
12 or laws of the state.

13 Sec. ~~-6-~~ 76707. The commission may in its discretion cause
14 any resolution authorizing the issuance of bonds ~~hereunder~~
15 UNDER THIS PART to be published ~~one~~ 1 time in a newspaper pub-
16 lished in the county where the facilities are located having a
17 general circulation ~~therein~~ IN THAT COUNTY. Any action or pro-
18 ceeding questioning the validity of ~~such~~ THE resolution or any
19 provision ~~thereof~~ OF THE RESOLUTION or the validity of the
20 bonds authorized ~~thereby~~ BY THE RESOLUTION or the provisions of
21 any trust indenture ~~therein~~ IN THE RESOLUTION authorized to be
22 executed for the security of ~~such~~ THE bonds, must be commenced
23 within 20 days from the publication of ~~such~~ THE resolution.
24 After the expiration of ~~said~~ THE 20 days, no right of action or
25 defense founded upon the invalidity of ~~said~~ THE resolution or
26 any of its provisions or of ~~said~~ THE trust indenture, if any,

1 or of the bonds, shall be asserted nor shall any court in this
2 state have authority to inquire into such matters.

3 Sec. ~~7~~ 76708. Except to the extent that the STATE consti-
4 tution of ~~Michigan~~ 1963 may be construed to require the
5 approval of any act of the commission ~~hereunder~~ UNDER THIS
6 PART, by the state administrative board, the commission may carry
7 out all powers and functions granted and imposed in it
8 ~~hereunder~~ UNDER THIS PART without first obtaining the approv-
9 of any other state department, board, bureau, agency, or
10 official.

11 Sec. ~~8~~ 76709. ~~In so far as any one~~ IF 1 or more provi-
12 sions of this ~~act may be~~ PART ARE inconsistent with ~~the provi-~~
13 ~~sions of~~ any other act, general or special, ~~the provisions of~~
14 this ~~act shall be~~ PART IS controlling.

15 PART 769 MACKINAC ISLAND STATE PARK RULES

16 Sec. ~~1~~ 76901. The ~~board of commissioners of the~~
17 Mackinac Island state park ~~shall have authority to make,~~
18 ~~publish~~ COMMISSION MAY PROMULGATE and enforce ~~such~~ reasonable
19 rules ~~and regulations~~ for the care and preservation of the
20 Mackinac Island state park, for the maintenance of good order,
21 for the protection of property, and for the welfare of ~~said~~ THE
22 park, as ~~shall~~ from time to time ~~be deemed~~ THE COMMISSION
23 CONSIDERS necessary or expedient. ~~by said board.~~

24 Sec. ~~2~~ 76902. Whenever ~~said board shall make~~ THE
25 MACKINAC ISLAND STATE PARK COMMISSION PROMULGATES any rules ~~or~~
26 ~~regulations~~ pertaining to the management or welfare of ~~said~~
27 THE park, it shall have authority to enforce ~~same~~ THOSE RULES

1 and to cause offenders and persons violating ~~any~~ THE rules ~~and~~
2 ~~regulations~~ prescribed to be punished ~~therefor~~ in the manner
3 set forth and indicated in Act No. 80 of the Public Acts of 1905,
4 BEING SECTIONS 19.141 TO 19.145 OF THE MICHIGAN COMPILED LAWS.

5 Sec. ~~3~~ 76903. All rules ~~and regulations made~~
6 PROMULGATED by ~~said board~~ THE MACKINAC ISLAND STATE PARK
7 COMMISSION under ~~authority of~~ this PART, THIS ACT, or any other
8 act shall be effective within the whole territory covered by
9 ~~said~~ THE park, and ~~said board shall have the power and author-~~
10 ~~ity to prescribe~~ THE MACKINAC ISLAND STATE PARK COMMISSION MAY
11 PROMULGATE and enforce rules ~~and regulations~~ relative to any
12 part or portion ~~thereof~~ OF THE PARK, notwithstanding any con-
13 trary or inconsistent ordinance, regulation, or ~~by law~~ BYLAW of
14 the city of Mackinac Island.

15 PART 771 MACKINAC ISLAND FIRE PROTECTION

16 Sec. ~~4~~ 77101. The Mackinac Island state park commission
17 and the city of Mackinac Island by its governing body are
18 ~~hereby~~ authorized to enter into a continuing contract for fire
19 protection to be furnished by the city of Mackinac Island for
20 property under the control and management of the Mackinac Island
21 state park commission. The fire protection service and apparatus
22 to be furnished shall meet with the approval of the state fire
23 marshal. The contract shall be signed by the chief executive and
24 clerk of the city of Mackinac Island and by the ~~chairman~~
25 CHAIRPERSON and secretary of the Mackinac Island state park
26 commission.

1 ~~Sec. 2. There is hereby appropriated for the fiscal year~~
2 ~~ending June 30, 1964 from the general fund of the state the sum~~
3 ~~of \$1,800.00 to the Mackinac Island state park commission for the~~
4 ~~purpose of making payments under such contract.~~

5 PART 773 OLD MISSION CHURCH AT MACKINAC ISLAND

6 Sec. ~~+~~ 77301. The Mackinac Island state park commission
7 is ~~hereby~~ authorized to acquire, in consideration of the pay-
8 ment of the sum of \$1.00 and other considerations to be in hand
9 paid, the so-called "Old Mission Church", being all that certain
10 piece or parcel of land situate and being in the city of Mackinac
11 Island, county of Mackinac and state of Michigan, and MORE
12 PARTICULARLY described as follows: ~~to wit:~~

13 Lot 6 of Block 4 of C. R. Miller's Proposed Subdivision of
14 the Mission House Lots in the Village of Mackinac and bounded and
15 more particularly described as follows: Beginning at a point in
16 the North line of East Water Street as prolonged in said subdivi-
17 sion 30 feet North 89° East from the Southeast corner of the
18 North half of Lot 12 (known as the Wendell Homestead) for a place
19 of beginning; thence North 6° East along the East line of Mission
20 Street as platted in said subdivision to the South line of an
21 alley 120 feet; thence along the South line of said alley North
22 89° 15' East 51 feet; thence Southerly about 118 feet to a point
23 in the prolongation of the North line of said East Water Street
24 in said proposed plat of said subdivision; thence Westerly on
25 said North line of said East Water Street 52 feet to the place of
26 beginning, said lot being intended to be the same land on which
27 the Old Mission Church now stands, together with all and singular

PART 777 MICHILIMACKINAC STATE PARK

1 PART 777 MICHILIMACKINAC STATE PARK
2 Sec. ~~1~~ 77701. The ~~board of commissioners of~~ Mackinac
3 Island state park COMMISSION shall have the control and manage-
4 ment of the site formerly occupied as a military post under the
5 name of Fort Michilimackinac, in the village of Mackinaw City,
6 county of Cheboygan and state of Michigan, ~~heretofore~~
7 PREVIOUSLY conveyed by the ~~said~~ village of Mackinaw City to the
8 state of Michigan, under and by virtue of ~~the provisions of~~ Act
9 No. 520 of the local acts of 1903, conveyed as Wawatam park, by
10 deed dated January ~~twenty seventh~~ 27, 1904, which ~~said~~ deed
11 is recorded in the office of the register of deeds of Cheboygan
12 county in liber 26 of deeds on page 588. Though conveyed as
13 "Wawatam Park," ~~said~~ THE park shall hereafter be known as
14 "Michilimackinac state park". ~~."~~

15 Sec. ~~2~~ 77702. ~~Said board shall have authority to make,~~
16 ~~publish~~ THE MACKINAC ISLAND STATE PARK COMMISSION MAY PROMULGATE
17 and enforce ~~such~~ reasonable rules ~~and regulations~~ for the
18 care and preservation of Michilimackinac state park, for the
19 maintenance of good order, for the protection of property and for
20 the welfare of ~~said~~ THE park as shall from time to time be
21 ~~deemed~~ CONSIDERED necessary or expedient by ~~said board~~ THE
22 MACKINAC ISLAND STATE PARK COMMISSION.

23 Sec. ~~3~~ 77703. Whenever ~~said board shall make any~~ THE
24 MACKINAC ISLAND STATE PARK COMMISSION PROMULGATES rules ~~or~~
25 ~~regulations~~ pertaining to the management or welfare of ~~said~~
26 THE park, it shall have authority to enforce the ~~same~~ RULES and
27 to cause offenders and persons violating ~~any~~ THE rules ~~and~~

1 ~~regulations prescribed~~ to be punished ~~therefor~~ in the manner
 2 set forth and indicated in Act No. 80 of the Public Acts of 1905,
 3 BEING SECTIONS 19.141 TO 19.145 OF THE MICHIGAN COMPILED LAWS.

4 Sec. ~~4~~ 77704. All rules ~~and regulations made by said~~
 5 ~~board under the authority of~~ PROMULGATED BY THE MACKINAC ISLAND
 6 STATE PARK COMMISSION UNDER this PART, THIS ACT, or any other act
 7 shall be effective within the whole territory covered by ~~said~~
 8 THE park. ~~, and said board shall have the power and authority to~~
 9 ~~prescribe~~ THE MACKINAC ISLAND STATE PARK COMMISSION MAY
 10 PROMULGATE and enforce rules ~~and regulations~~ relative to any
 11 part or portion ~~thereof~~ OF THE PARK, notwithstanding any con-
 12 trary or inconsistent ordinance, regulation, or ~~by law~~ BYLAW of
 13 the village of Mackinaw City.

14 ~~SUBCHAPTER 4: THE MICHIGAN STATE WATERWAYS COMMISSION~~

15 ~~GENERAL~~

16 ~~Part 781. Michigan State Waterways Commission~~

17 SUBCHAPTER 4: THE MICHIGAN STATE WATERWAYS COMMISSION

18 PART 781 MICHIGAN STATE WATERWAYS COMMISSION

19 Sec. ~~4~~ 78101. As used in this ~~act~~ PART:

20 (a) "Commission" means the Michigan state waterways
 21 commission.

22 (b) "Director" means the administrative director of the
 23 commission.

24 (c) ~~(t)~~ "Diesel motor fuel" means any liquid fuel used in
 25 the operation of engines of the diesel type in motor vehicles or
 26 watercraft.

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

19 (e) "Harbor" means a portion of a lake or other body of
20 water either naturally or artificially protected so as to be a
21 place of safety for watercraft, including contrivances used or
22 designed for navigation on water and used or owned by the United
23 States.

24 (F) ~~(n)~~ "Harbor facilities" means the structures at a
25 harbor constructed to protect the lake or body of water and the
26 facilities provided within the harbor and ashore for the mooring

1 and servicing of watercraft and the servicing of crews and
2 passengers.

3 (G) ~~(m)~~ "Liquefied petroleum gas" means gases derived from
4 petroleum or natural gases which are in the gaseous state at
5 normal atmospheric temperature and pressure, but which may be
6 maintained in the liquid state at normal atmospheric temperature
7 by suitable pressure. Liquefied petroleum gas includes those
8 products predominately composed of propane, propylene, butylene,
9 butane, and similar products which are not covered in chapters 1
10 and 2 of Act No. 150 of the Public Acts of 1927, being sections
11 207.101 to 207.134 of the Michigan Compiled Laws.

12 (H) ~~(o)~~ "Marina" means a site which contains harbor
13 facilities.

14 (I) ~~(d)~~ "Navigable water" means any waterway navigable by
15 vessels, or capable of being made navigable by vessels through
16 artificial improvements, and includes the structures and facili-
17 ties created to facilitate navigation.

18 (J) ~~(f)~~ "Person" includes any individual, partnership,
19 corporation, association, or body politic, except the United
20 States and this state, and includes any trustee, receiver,
21 assignee, or other similar representative of those entities.

22 (k) "Retail fuel dealer" includes any person or persons,
23 both private and municipal, who engage in the business of selling
24 or distributing fuel within the state.

25 (l) ~~(j)~~ "Secretary of state" means the secretary of state
26 of this state, acting directly or through a duly authorized
27 deputy, investigators, agents, and employees.

1 (M) ~~(h)~~ "Vessel" means all watercraft except the
2 following:

3 (i) Watercraft used for commercial fishing.

4 (ii) Watercraft used by the ~~Sea Scout~~ SEA SCOUT department
5 of the ~~Boy Scouts~~ BOY SCOUTS of America chiefly for training
6 scouts in seamanship.

7 (iii) Watercraft owned by this state, ~~or~~ any political
8 subdivision of this state, or ~~by~~ the federal government.

9 (iv) Watercraft ~~—~~ when used in interstate or foreign com-
10 merce ~~—~~ and watercraft used or owned by any railroad company or
11 railroad car ferry company.

12 (v) Watercraft ~~—~~ when used in trade, including watercraft
13 when used in connection with an activity ~~which~~ THAT constitutes
14 a person's chief business or means of livelihood.

15 (N) ~~(g)~~ "Watercraft" means any contrivance used or
16 designed for navigation on water, including but not limited to
17 any vessel, ship, boat, motor vessel, steam vessel, vessel oper-
18 ated by machinery, motorboat, sailboat, barge, scow, tugboat, and
19 rowboat, ~~except~~ BUT DOES NOT INCLUDE contrivances used or owned
20 by the United States.

21 (O) ~~(c)~~ "Waterway" means any body of water.

22 Sec. ~~2~~ 78102. There is created a state commission to be
23 known and designated as the Michigan state waterways commission.
24 The commission shall consist of 7 members, who shall be appointed
25 by the governor, with the advice and consent of the senate. The
26 term of office of each member shall be 3 years, except that of
27 members first appointed, 2 shall be appointed for 1 year, 2 shall

1 be appointed for 2 years, and 1 shall be appointed for 3 years.
2 Not less than 2 members shall reside north of townline 16, 1 of
3 whom shall reside in the upper peninsula and 1 of whom shall
4 reside in the lower peninsula. One of the members shall be an
5 individual who owns or operates a harbor or marina in this state
6 at the time of his or her appointment and during his or her mem-
7 bership on the commission. One member shall be a representative
8 of the marine-trades industry who does not own or operate a
9 harbor or marina. The first term of the individual who owns or
10 operates a harbor or marina shall expire on September 18, 1989.
11 The first term of the marine-trade representative who does not
12 own or operate a harbor or marina shall expire on September 18,
13 1988. A member appointed to fill a vacancy occurring other than
14 by expiration of a term shall be appointed for the unexpired
15 term. Members shall qualify by taking and filing the constitu-
16 tional oath of office. A member of the commission shall not
17 receive a salary for his or her services as a commissioner, but
18 may be reimbursed for actual and necessary expenses incurred in
19 performance of official duties. The members of the commission
20 may be removed by the governor for inefficiency, neglect of duty,
21 misuse of office, or malfeasance in office, in the manner pro-
22 vided by law for the removal of other public officers for similar
23 causes. Vacancies shall be filled for the unexpired term in the
24 same manner as original appointments. The commission shall,
25 immediately upon its appointment, organize, adopt a seal, and
26 make, amend, and revise the rules necessary for the
27 administration of ~~this act~~ THE COMMISSION'S DUTIES UNDER THIS

1 PART. The commission at the organization meeting shall elect
2 from its members a chairperson and vice-chairperson to serve for
3 1 year and annually thereafter shall elect such officers, each to
4 serve until his or her successor is appointed and qualified.
5 Action shall not be taken by the commission with less than a
6 majority assent of its members. The department of management and
7 budget shall provide suitable offices and equipment for the use
8 of the commission.

9 Sec. ~~2a~~ 78103. (1) The business which the Michigan state
10 waterways commission may perform shall be conducted at a public
11 meeting of the commission held in compliance with THE OPEN MEET-
12 INGS ACT, Act No. 267 of the Public Acts of 1976, being sections
13 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of
14 the time, date, and place of the meeting shall be given in the
15 manner required by Act No. 267 of the Public Acts of 1976.

16 (2) A writing prepared, owned, used, in the possession of,
17 or retained by the commission in the performance of an official
18 function shall be made available to the public in compliance with
19 THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public Acts of
20 1976, being sections 15.231 to 15.246 of the Michigan Compiled
21 Laws.

22 Sec. ~~3~~ 78104. There is ~~hereby~~ established the office of
23 administrative director of the commission. The director quali-
24 fied by a record of experience in connection with boating shall
25 be appointed by the commission to serve for an indefinite term,
26 during his OR HER efficient, honest, and businesslike execution
27 of his OR HER duties. He OR SHE shall receive such compensation

1 as the commission may determine, not in excess of \$8,400.00, and
2 shall be reimbursed for all traveling and other expenses incurred
3 by him OR HER in the discharge of his OR HER official duties.
4 The director shall be charged with the administration of this
5 ~~act~~ PART in accordance with the policies established by the
6 commission. The DEPARTMENT, UPON RECOMMENDATION OF THE director,
7 subject to the approval of the commission, ~~is hereby authorized~~
8 ~~to~~ MAY employ such assistants, and ~~to~~ make such expenditures
9 as may be necessary in ~~carrying out the provisions of~~
10 IMPLEMENTING this ~~act~~ PART RELATED TO THE POWERS AND DUTIES OF
11 THE COMMISSION. The salaries of all employees, and the necessary
12 expenses while traveling in performing any of their duties, shall
13 be paid in the same manner as the salaries and expenses of other
14 state employees are paid.

15 Sec. ~~4~~ 78105. The ~~commission~~ DEPARTMENT shall have the
16 following powers and duties:

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

20 (b) To acquire, by purchase, lease, gift, or condemnation
21 the lands, rights of way, and easements necessary for harbors and
22 channels. ~~and the commission~~ THE DEPARTMENT shall be consid-
23 ered a state agency under the provisions of Act No. 149 of the
24 Public Acts of 1911, being sections 213.21 to 213.25 of the
25 Michigan Compiled Laws, relative to condemnation by state
26 agencies.

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

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

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

12 (f) To represent the state of Michigan and the governor of
13 Michigan in dealings with the chief of engineers of the United
14 States army and his or her authorized agents for the purposes set
15 forth in this ~~act~~ PART.

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

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

1 (i) To collect the proceeds from the sale of marine fuel at
2 harbors operated by the ~~commission~~ DEPARTMENT. The proceeds
3 from the sales shall be credited to the Michigan state waterways
4 fund and used for the purchase of marine fuel supplies as may be
5 needed. Any remaining revenue from this source not needed for
6 the purchase of marine fuel supplies may be expended in the same
7 manner as other funds within the Michigan state waterways fund.

8 Sec. ~~5~~ 78106. The ~~several counties, townships, cities~~
9 ~~and villages~~ LOCAL UNITS OF GOVERNMENT of this state, within the
10 jurisdiction of which are situated inland waterways connected
11 with or connecting the waters of the ~~great lakes~~ GREAT LAKES,
12 or within which channels to nearby inland lakes and streams may
13 be constructed or opened for navigation and shelter of light
14 draft vessels, are ~~hereby~~ authorized by majority vote of their
15 respective legislative bodies, to enter into contracts and agree-
16 ments with the ~~commission~~ DEPARTMENT in the accomplishment of
17 the purposes ~~herein~~ set forth IN THIS PART.

18 Sec. ~~6~~ 78107. Facilities in harbors and connecting water-
19 ways established under ~~the provisions of~~ this ~~act~~ PART shall
20 be open to all on equal and reasonable terms.

21 Sec. ~~7~~ 78108. (1) The ~~commission~~ DEPARTMENT is ~~hereby~~
22 authorized to take such action as may be necessary to provide the
23 finances required of local agencies as condition for United
24 States' participation in any project in which the ~~commission~~
25 DEPARTMENT is empowered to act and to use any part or all of the
26 appropriation and funds otherwise available to meet such part of
27 the requirement of local participation as the ~~commission may~~

1 ~~deem~~ DEPARTMENT CONSIDERS proper, and to enter into agreements
2 with any political subdivision of the state in connection with
3 participation with the United States in any project in which the
4 ~~commission~~ DEPARTMENT is empowered to act, and to provide such
5 adjustments which in the judgment of the ~~commission~~ DEPARTMENT
6 are ~~deemed~~ CONSIDERED to be in the best interest of the state.
7 ~~of Michigan.~~

8 (2) The ~~commission~~ DEPARTMENT may enter into any contract
9 or agreement with the ~~war department~~ ARMY CORPS OF ENGINEERS of
10 the United States, or any other agency or instrumentality of the
11 United States for the dredging of harbors, the erection of break-
12 waters, piers or any other device for the protection of vessels,
13 and may do any act or enter into any contract or agreement desir-
14 able in ~~carrying out the purposes of~~ IMPLEMENTING this ~~act~~
15 PART. The ~~commission~~ DEPARTMENT is further authorized to take
16 such steps as may be necessary to take advantage of any act of
17 congress ~~heretofore or hereafter~~ enacted which may be of
18 assistance in carrying out the purposes of this ~~act~~ PART.

19 SEC. 78109. THE COMMISSION SHALL ADVISE THE DEPARTMENT ON
20 THE ADMINISTRATION OF THIS PART.

21 Sec. ~~8~~ 78110. (1) The Michigan state waterways fund is
22 created in the state treasury. The fund shall be administered by
23 the ~~Michigan state waterways commission~~ STATE TREASURER and
24 shall be used BY THE DEPARTMENT solely for the construction,
25 operation, and maintenance of recreational boating facilities,
26 the acquisition of property for the purposes of this ~~act~~ PART,

1 and for the administration of this ~~act~~ PART. The fund shall
2 receive such revenues as the legislature may provide.

3 (2) The Michigan harbor development fund is created in the
4 state treasury. The fund shall be administered by the ~~Michigan~~
5 ~~state waterways commission~~ STATE TREASURER and shall be used BY
6 THE DEPARTMENT solely for the purposes provided in ~~the harbor~~
7 ~~development act~~ PART 791 and for the administration of that
8 ~~act~~ PART. The fund shall receive revenues as provided in ~~the~~
9 ~~harbor development act~~ PART 791 and such other revenues as the
10 legislature may provide.

11 Sec. ~~40~~ 78111. It is the purpose of this ~~act~~ PART, in
12 providing for harbors and channels, that the appropriation made
13 by the state be considered an advancement, and that the fees,
14 taxes, and other revenues received under ~~the provisions of~~ this
15 ~~act~~ PART, to be credited to the Michigan state waterways fund,
16 shall be applied against ~~said~~ THE advancement, until all
17 advancements have been fully paid. Thereafter all such fees,
18 taxes, and revenues shall be available for continued expansion
19 and development of harbors and connecting waterways. ~~→~~
20 ~~Provided, however, That~~ HOWEVER, subject to the approval of the
21 state administrative board, the necessary expense of administra-
22 tion of this ~~act~~ PART, and any expense necessary to the protec-
23 tion of the harbors, and connecting waterways, constructed or
24 established under the provisions of this ~~act~~ PART, or any
25 improvement ~~thereto~~ TO THE HARBORS AND CONNECTING WATERWAYS
26 necessary for the proper and adequate protecting of vessels,
27 shall be paid from ~~said~~ THE fees, taxes, and revenues before

1 being credited to ~~said~~ THE advancements. The state
 2 administrative board shall from time to time provide for the
 3 transfer of credits to advancements from the Michigan state
 4 waterways fund to the general fund, until ~~said~~ THE advancements
 5 ~~shall~~ have been fully paid.

6 Sec. ~~++~~ 78112. In addition to the other matters contained
 7 ~~herein~~ IN THIS PART, this ~~act~~ PART shall constitute prima
 8 facie evidence of the acceptance by the state of Michigan of the
 9 provisions for state participation in the federal program for
 10 construction of certain harbors of refuge within the boundaries
 11 of the state of Michigan as provided for in CHAPTER 19,
 12 59 STAT. 10, Public Law 14 of the 79th Congress authorized March
 13 2, 1945, pursuant to House Document No. 446 of the 78th
 14 Congress.

15 ~~Part 783. Ferry Docks at the Straits of Mackinac~~

16 PART 783 FERRY DOCKS AT THE STRAITS OF MACKINAC

17 Sec. ~~+~~ 78301. The jurisdiction and control of the follow-
 18 ing described lands is ~~hereby~~ transferred from the state
 19 ~~highway commissioner~~ TRANSPORTATION DEPARTMENT to the ~~state~~
 20 ~~waterways commission~~ DEPARTMENT:

21 Mackinaw City Dock

22 Lots 1 to 6, both inclusive, of block 9 and Railroad avenue
 23 lying east of the east line of Huron avenue in Wendell's addition
 24 to Mackinaw City, Cheboygan county, Michigan.

25 Oil Storage Area

26 All that part of the unplatted portion of government lot 1
 27 of section 18, town 39 north, range 3 west, village of Mackinaw

1 City, Cheboygan county, Michigan, and water lots 55 and 56, block
2 B of the plat of "Mackinaw City" as recorded in the office of the
3 register of deeds, Cheboygan county, Michigan, described as:

4 Beginning at a point on the southerly line of government lot
5 1 of said section 18 which is 93.7 feet easterly, measured along
6 said southerly lot line from its intersection with the former
7 westerly line of Huron avenue according to the recorded plat of
8 the village of Mackinaw City, said point of beginning being the
9 center line of the existing pavement on Huron avenue; thence
10 northeasterly along said center line at an angle of $103^{\circ} 03' 15''$
11 with the southerly line of said government lot 1, a distance of
12 418.54 feet to the northerly line of water lot 55 extended west-
13 erly; thence easterly at an angle to the right of $77^{\circ} 02' 25''$,
14 along said extension and the northerly line of said water lot 55,
15 a distance of 410 feet more or less to the water's edge of the
16 Straits of Mackinac; thence southerly along said water's edge,
17 408 feet more or less to the southerly line of government lot 1
18 of said section 18; thence westerly along said southerly line of
19 said government lot 1, a distance of 520 feet more or less, to
20 the point of beginning; reserving an easement for highway pur-
21 poses in, over and upon that part of the above described property
22 which lies westerly of a line 100 feet easterly of, measured at
23 right angles to, and parallel with the center line of the exist-
24 ing pavement on Huron avenue. Subject to the reservation in
25 favor of the Michigan Central railroad company and the New York
26 Central railroad company as recorded in liber 122, on pages

1 467-469, office of the register of deeds, Cheboygan county,
2 Michigan.

3 St. Ignace Dock 1

4 Lots 6 to 12, both inclusive, of block 2, of assessor's plat
5 No. 5, city of St. Ignace, Mackinac county, Michigan, according
6 to the plat thereof recorded in liber 2 of plats, on page 49,
7 register's office, Mackinac county, Michigan.

8 St. Ignace Dock 2

9 Lots 1 and 2, block 2, assessor's plat No. 5, city of
10 St. Ignace, Mackinac county, Michigan, according to the plat
11 thereof recorded in liber 2 of plats, on page 49, register's
12 office, Mackinac county, Michigan.

13 Also, that part of private claim 15 located south of
14 assessor's plat No. 5, city of St. Ignace, lying between State
15 street on the west and lake Huron on the east, city of
16 St. Ignace, Mackinac county, Michigan.

17 Also, that part of the north 2/3 of private claim 14 lying
18 between State street on the west and lake Huron on the east, city
19 of St. Ignace, Mackinac county, Michigan.

20 St. Ignace Dock 3

21 Lots 16 to 28, both inclusive, of block 1 and entire blocks
22 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St. Ignace,
23 Mackinac county, Michigan, according to the plat thereof recorded
24 in liber 2 of plats, on page 39, register's office, Mackinac
25 county, Michigan.

1 Also, that part of private claim 2 located south of the
2 south line of Straits subdivision and east of the east line of
3 State street, city of St. Ignace, Mackinac county, Michigan.

4 Also, that part of private claim 1 located north of the
5 north line of block 1 of the partition plat of private claim 1
6 and east of a line 363 feet east of, measured at right angles,
7 and parallel with the centerline of State street, city of
8 St. Ignace, Mackinac county, Michigan.

9 Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19,
10 both inclusive, block 2 and lots 1 to 4, both inclusive, block 5,
11 including the streets and alley adjacent thereto, of the parti-
12 tion plat of private claim 1, city of St. Ignace, Mackinac
13 county, Michigan.

14 Sec. ~~2~~ 78302. The ~~waterways commission~~ DEPARTMENT shall
15 operate and maintain the docks, and approaches to the docks, as
16 the ~~waterways commission~~ DEPARTMENT determines is necessary to
17 serve tourism and boating in the area. The ~~waterways~~
18 ~~commission~~ DEPARTMENT shall relinquish control of the docks and
19 approaches for use by the state or any of its agencies if for any
20 reason the Mackinac Straits bridge becomes unusable, or in the
21 event of an emergency declared by the governor.

22 Sec. ~~3~~ 78303. Subject to the provisions of this ~~act~~
23 PART, the ~~state waterways commission~~ DEPARTMENT may grant
24 leases and concessions for the use of the properties transferred
25 by this ~~act~~ PART. The ~~commission~~ DEPARTMENT shall ~~make~~
26 PROMULGATE rules ~~and regulations in accordance with Act No. 88~~
27 ~~of the Public Acts of 1943, as amended, being sections 24.71 to~~

1 ~~24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of~~
 2 ~~the Public Acts of 1952, as amended, being sections 24.101 to~~
 3 ~~24.110 of the Compiled Laws of 1948,~~ for the use of these prop-
 4 erties by all persons without discrimination. The ~~commission~~
 5 DEPARTMENT shall not grant exclusive use of the docking facili-
 6 ties to any person, but may lease designated areas to particular
 7 persons for the operation of commercial enterprises. The
 8 ~~commission~~ DEPARTMENT may make arrangements with other state
 9 agencies for use of portions of the properties transferred by
 10 this ~~act~~ PART.

11 Sec. ~~4~~ 78304. The ~~waterways commission~~ DEPARTMENT may
 12 enter into a lease for a period not to exceed 25 years with the
 13 village of Mackinaw City, whereby the village agrees to operate
 14 and maintain the parking facilities located on the property
 15 described in section ~~4 of this act~~ 78301 as the Mackinaw City
 16 dock, to construct, operate, and maintain buildings on the
 17 Mackinaw City dock, or to perform other functions in relation to
 18 the Mackinaw City dock, under such terms and conditions as may be
 19 agreed upon by the ~~waterways commission~~ DEPARTMENT and the vil-
 20 lage of Mackinaw City.

21 Sec. ~~5~~ 78305. The ~~waterways commission~~ DEPARTMENT may
 22 enter into a lease for a period not to exceed 25 years with the
 23 city of St. Ignace, whereby the city agrees to operate and main-
 24 tain the parking facilities located on the property described in
 25 section ~~4 of this act~~ 78301 as the St. Ignace docks numbers 1
 26 and 2, to construct, operate, and maintain buildings on the
 27 St. Ignace docks numbers 1 and 2, or to perform other functions

1 in relation to the St. Ignace docks numbers 1 and 2, under such
2 terms and conditions as may be agreed upon by the ~~waterways~~
3 ~~commission~~ DEPARTMENT and the city of St. Ignace.

4 Sec. ~~6~~ 78306. (1) The jurisdiction and control of the
5 following described land is ~~hereby~~ transferred from the
6 Mackinac Island state park commission to the ~~state waterways~~
7 ~~commission~~ DEPARTMENT:

8 A parcel of land beginning at the northwest corner of lot
9 No. 88 of assessors plat No. 2, city of Mackinac Island, county
10 of Mackinac, extending along the south side of Huron street in a
11 westerly direction 530 feet thence to the shoreline of lake Huron
12 in a southerly direction, the distance from Huron street to the
13 shore of lake Huron being approximately 80 feet; thence easterly
14 along the shore of lake Huron to the southwest corner of Lot
15 No. 88 of assessors plat No. 2, city of Mackinac Island, county
16 of Mackinac, and thence northerly approximately 80 feet along the
17 west line of lot No. 88, assessors plat No. 2, city of Mackinac
18 Island, county of Mackinac, to the point of beginning; also the
19 docks, piers, buildings and appurtenances situated thereon or
20 attached thereto, which are now under the jurisdiction of the
21 Mackinac Island state park commission.

22 (2) The ~~commission~~ DEPARTMENT shall operate the properties
23 transferred by this section as a harbor facility for small craft
24 and shall not permit the operation of any commercial enterprise
25 thereon except the sale of marine fuel and other supplies for
26 small craft by the ~~commission~~ DEPARTMENT.

1 Sec. ~~7~~ 78307. All revenues received by the ~~commission~~
 2 DEPARTMENT under ~~the provisions of~~ this ~~act~~ PART shall be
 3 deposited in the state treasury to the credit of the state water-
 4 ways fund and shall be expended as appropriated by the
 5 legislature.

6 SEC. 78308. THE MICHIGAN STATE WATERWAYS COMMISSION CREATED
 7 IN PART 781 SHALL ADVISE THE DEPARTMENT ON THE ADMINISTRATION OF
 8 THIS PART.

9 ~~Sec. 8. This act shall become effective January 1, 1960.~~

10 ~~Part 785. Cheboygan Lock and Dam~~

11 PART 785 CHEBOYGAN LOCK AND DAM

12 Sec. ~~1~~ 78501. The ~~state waterways commission~~ DEPARTMENT
 13 may purchase and receive from its owners on behalf of the state
 14 for a nominal consideration of not to exceed \$1.00 and subject to
 15 an agreement that the ~~commission~~ DEPARTMENT maintain the prop-
 16 erty and such terms, conditions, and stipulations as the
 17 ~~commission~~ DEPARTMENT may approve, the locks, dams, races,
 18 structures, and related properties, facilities, flowage
 19 easements, and real estate connected with or a part of the facil-
 20 ity now known as the Cheboygan lock and dam, at Cheboygan,
 21 Michigan.

22 Sec. ~~2~~ 78502. The ~~commission~~ DEPARTMENT may operate,
 23 control, maintain, and lease such property and may establish and
 24 revise fees and hours of operation for the facility. ~~It~~ THE
 25 DEPARTMENT may enter into agreements with any ~~individual, com-~~
 26 ~~pany or political subdivision~~ PERSON with respect to water

1 rights, water levels, controls, lockage fees, and related
2 matters.

3 Sec. ~~3~~ 78503. Revenues received by the ~~commission~~
4 DEPARTMENT under this ~~act~~ PART shall be deposited in the state
5 treasury to the credit of the Michigan state waterways fund and
6 shall be spent only pursuant to appropriations by the
7 legislature.

8 SEC. 78504. THE MICHIGAN STATE WATERWAYS COMMISSION CREATED
9 IN PART 781 SHALL ADVISE THE DEPARTMENT ON THE ADMINISTRATION OF
10 THIS PART.

11 ~~HARBOR DEVELOPMENT~~

12 ~~Part 791. Harbor Development~~

13 PART 791 HARBOR DEVELOPMENT

14 ~~Sec. 1. This act shall be known and may be cited as the~~
15 ~~"harbor development act".~~

16 Sec. ~~2~~ 79101. As used in this ~~act~~ PART:

17 (a) "Commission" means the Michigan state waterways commis-
18 sion created in ~~section 2 of Act No. 320 of the Public Acts of~~
19 ~~1947, being section 281.502 of the Michigan Compiled Laws~~
20 PART 781.

21 (b) "Harbor" means a portion of a lake or other body of
22 water either naturally or artificially protected ~~so as~~ IN ORDER
23 to be a place of safety for watercraft.

24 (c) "Harbor facilities" means the structures of a harbor
25 constructed to protect the lake or body of water and the facili-
26 ties provided within the harbor and ~~ashore~~ ON SHORE for the

1 mooring and servicing of watercraft and the servicing of crews
2 and passengers.

3 ~~(d) "Local unit of government" means a city, village, town~~
4 ~~ship, or county.~~

5 (D) ~~(e)~~ "Marina" means a site which contains harbor
6 facilities.

7 (E) ~~(f)~~ "Nonrevenue-producing harbor facilities" means any
8 portion of harbor facilities that would not normally produce rev-
9 enue and includes, but is not limited to, jetties, breakwaters,
10 dredging, and shore protection.

11 ~~(g) "Person" means an individual, partnership, corporation,~~
12 ~~or association or other legal entity.~~

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

19 (G) ~~(i)~~ "Watercraft" means any contrivance used or
20 designed for navigation on water, including, but not limited to,
21 any vessel, ship, boat, motor vessel, steam vessel, vessel oper-
22 ated by machinery, motorboat, sailboat, barge, scow, tugboat, and
23 rowboat.

24 Sec. ~~3~~ 79102. The ~~commission~~ DEPARTMENT may provide
25 assistance to a person seeking to secure construction, operation,
26 and maintenance of recreational boat slips on the waters of this
27 state as provided in this ~~act~~ PART.

1 Sec. ~~4~~ 79103. The ~~commission~~ DEPARTMENT may purchase
2 real property accessible to, or capable of being made accessible
3 to, the waters of this state for the development of marinas, as
4 provided in this ~~act~~ PART, only when it can be demonstrated
5 that the demand for recreational boat slips within a specific
6 harbor or within a local unit of government exceeds the available
7 supply.

8 Sec. ~~4a~~ 79104. The ~~commission~~ DEPARTMENT shall not pur-
9 chase property located within a local unit of government, under
10 this ~~act~~ PART, if the local unit of government where the prop-
11 erty is located imposes property taxes on property containing a
12 shoreline recreational facility that is owned by an adjacent
13 local unit of government.

14 Sec. ~~5~~ 79105. The ~~commission~~ DEPARTMENT may sell or
15 remove buildings or other structures on real property acquired by
16 the ~~commission~~ DEPARTMENT under this ~~act~~ PART, and may sell
17 real property or rights or interest in real property not consid-
18 ered essential for the purposes of this ~~act~~ PART.

19 Sec. ~~6~~ 79106. If, in the judgment of the ~~commission~~
20 DEPARTMENT, real property acquired under this ~~act~~ PART requires
21 modification or improvement to make it financially attractive to
22 potential investors in a marina, the ~~commission~~ DEPARTMENT may
23 construct nonrevenue-producing harbor facilities at those sites.

24 Sec. ~~7~~ 79107. After real property is acquired under this
25 ~~act~~ PART, the ~~commission~~ DEPARTMENT may enter into leases of
26 the real property or portions of the real property the
27 ~~commission~~ DEPARTMENT determines will aid in the construction

1 of a marina, the provision of summer or winter storage of
2 watercraft, or the provision of services normally found at com-
3 mercial marinas.

4 Sec. ~~8~~ 79108. (1) If the ~~commission~~ DEPARTMENT deter-
5 mines that real property acquired by it under this ~~act~~ PART is
6 suitable for use as a marina, ~~it~~ THE DEPARTMENT shall publicly
7 solicit proposals for the development of the marina and the lease
8 of the real property. The solicitation of proposals shall
9 include published notices in at least 1 local news publication of
10 general circulation in the area in which the marina will be
11 located and in at least 2 journals related to the marina, water-
12 craft, or harbor industries, which journals have statewide
13 circulation. A reasonable time shall be allowed for bidders to
14 respond, and all proposals shall be publicly opened and read. A
15 proposal received by the ~~commission~~ DEPARTMENT in response to
16 the solicitation may be rejected by the ~~commission~~ DEPARTMENT
17 for any reason or without cause if the ~~commission~~ DEPARTMENT
18 believes such action to be appropriate. The ~~commission~~
19 DEPARTMENT may waive any defects in any proposals received, at
20 its discretion, but is not required to do so.

21 (2) In evaluating proposals for the construction of
22 revenue-producing harbor facilities and the operation of a
23 marina, the ~~commission~~ DEPARTMENT shall take into considera-
24 tion, among other things, the technical qualifications of the
25 applicants; the financial responsibility of the applicants; the
26 ability of the applicants to perform efficiently the services
27 necessary to maintain a sound facility, including the prior

1 experience, if any, of the applicants in operating a marina; the
2 proposed lease payments; the nature and scope of each applicant's
3 plans for the marina; and the timetables for development of the
4 proposed marina.

5 Sec. ~~9~~ 79109. (1) A lease entered into by the
6 ~~commission~~ DEPARTMENT under this ~~act~~ PART shall be for an
7 initial term of not more than 25 years. A lease may be extended
8 for a period not to exceed 5 years, at the discretion of the
9 ~~commission~~ DEPARTMENT, if the lessee has complied with the pro-
10 visions of the lease and has made appropriate efforts to upgrade
11 and maintain the real property.

12 (2) The ~~commission~~ DEPARTMENT shall establish, by rule, a
13 penalty schedule for nonpayment of lease payments. The
14 ~~commission~~ DEPARTMENT shall provide in a lease entered into
15 under this ~~act~~ PART that, if a lessee is in default on a pay-
16 ment for more than 60 days, or if a lessee defaults on a payment
17 or delays making a payment for more than 30 days on more than 2
18 occasions in a single year, the ~~commission~~ DEPARTMENT may
19 declare the lease agreement breached and seek its remedies at law
20 or in accordance with the lease agreement.

21 (3) The ~~commission~~ DEPARTMENT shall provide notice in any
22 lease entered into under this ~~act~~ PART that the lessee may be
23 subject to taxation under Act No. 189 of the Public Acts of 1953,
24 being sections 211.181 to 211.182 of the Michigan Compiled Laws.

25 Sec. ~~10~~ 79110. A lease entered into by the ~~commission~~
26 DEPARTMENT under this ~~act~~ PART or an interest in a lease
27 entered into by the ~~commission~~ DEPARTMENT under this ~~act~~ PART

1 shall not be sold, transferred, or assigned unless the sale,
2 transfer, or assignment is first approved by the ~~commission~~
3 DEPARTMENT, after receipt of a written application containing the
4 same information as to the purchaser, transferee, or assignee as
5 is required of an original applicant. This section does not
6 restrict the transfer by bequest or descent of the lessee.

7 Sec. ~~++~~ 79111. A lease entered into by the ~~commission~~
8 DEPARTMENT under this ~~act~~ PART shall not be issued without
9 consideration. However, the ~~commission~~ DEPARTMENT may estab-
10 lish annual lease payments, which reduce the initial financial
11 burden on the lessee as much as is reasonably possible, with sub-
12 sequent payments to be appropriately increased to assure payment
13 of the total lease obligation prior to the termination of the
14 lease.

15 Sec. ~~+2~~ 79112. The ~~commission~~ DEPARTMENT may enter into
16 lease agreements for purposes of this ~~act~~ PART with 1 or more
17 local units of government acting jointly with the ~~commission~~
18 DEPARTMENT as a lessor. Revenue from each lease shall be appor-
19 tioned according to the proportional share of the investments
20 made by the ~~commission~~ DEPARTMENT and the local unit or units
21 of government in the construction of nonrevenue-producing harbor
22 facilities and in consideration of the relative land investments
23 of the entities.

24 Sec. ~~+3~~ 79113. The ~~commission~~ DEPARTMENT may establish
25 minimum standards applicable to the construction and operation of
26 harbor facilities by a lessee including, but not limited to,
27 restrooms and showers, the number of slips available to transient

1 and seasonal watercraft rentals, construction material, parking
2 lots, engineering and architectural plans and designs, watercraft
3 launching facilities, and watercraft storage and repair
4 facilities.

5 Sec. ~~+4~~ 79114. All revenue from lease contracts entered
6 into under this ~~act~~ PART shall be deposited in the state trea-
7 sury and credited to the harbor development fund created in
8 section ~~8 of Act No. 320 of the Public Acts of 1947, being sec-~~
9 ~~tion 281.508 of the Michigan Compiled Laws~~ 78110.

10 Sec. ~~+5~~ 79115. The ~~commission~~ DEPARTMENT shall not be
11 liable for loss of life or injury or damage to persons or prop-
12 erty as a result of the conditions on real property, waterways,
13 or facilities on real property leased to persons by the
14 ~~commission~~ DEPARTMENT under this ~~act~~ PART. However, this
15 section shall not relieve lessees of any obligations they may
16 otherwise have to persons or to damages if they are found to have
17 failed to meet their obligations properly.

18 Sec. ~~+6~~ 79116. The ~~commission~~ DEPARTMENT shall promul-
19 gate rules ~~pursuant to the administrative procedures act of~~
20 ~~1969, Act No. 306 of the Public Acts of 1969, being sections~~
21 ~~24.201 to 24.328 of the Michigan Compiled Laws,~~ as are necessary
22 to implement this ~~act~~ PART.

23 SEC. 79117. THE MICHIGAN STATE WATERWAYS COMMISSION CREATED
24 IN PART 781 SHALL ADVISE THE DEPARTMENT ON THE ADMINISTRATION OF
25 THIS PART.

26 Sec. ~~+7~~ 79118. A person shall not deny another individual
27 the full and equal enjoyment of the goods, services, facilities,

1 privileges, advantages, or accommodations created under this
 2 ~~act~~ PART because of religion, race, color, national origin,
 3 age, sex, or marital status.

4 ~~Sec. 18. This act shall not take effect unless House Bill~~
 5 ~~No. 4709 of the 84th Legislature is enacted into law.~~

6 ~~Part 793. Harbors, Channels, and Other Navigational~~
 7 ~~Facilities~~

8 PART 793 HARBORS, CHANNELS, AND OTHER NAVIGATIONAL FACILITIES

9 Sec. ~~1~~ 79301. ~~The term~~ AS USED IN THIS PART, "political
 10 subdivision" ~~used herein is defined to mean~~ MEANS any ~~county,~~
 11 ~~city, village, township~~ LOCAL UNIT OF GOVERNMENT or port dis-
 12 trict of this state and any other governmental agency or subdivi-
 13 sion, public corporation, authority, or district in this state,
 14 which is or may be authorized by law to acquire, establish, con-
 15 struct, maintain, improve, and operate harbors, channels, and
 16 other navigational facilities. Whenever used in this ~~act~~ PART,
 17 the term political subdivision ~~shall include~~ INCLUDES any
 18 ~~combinations~~ COMBINATION of political subdivisions acting
 19 jointly.

20 Sec. ~~2~~ 79302. A political subdivision ~~is hereby autho-~~
 21 ~~rized (a) to adopt~~ MAY DO 1 OR MORE OF THE FOLLOWING:

22 (A) ADOPT and amend all ~~needful~~ NECESSARY rules,
 23 regulations, and ordinances for the management, government, and
 24 use of any waterways, harbors, channels, or other navigational
 25 facilities under its control, either within or ~~without~~ OUTSIDE
 26 OF its territorial limits; ~~to~~ employ harbor guards, police, or
 27 a ~~harbor master~~ HARBORMASTER with full police powers; ~~to fix~~

1 ESTABLISH penalties for the violation of ~~said~~ THE rules,
2 regulations, and ordinances; and enforce ~~such~~ THOSE penalties.

3 ~~, (b) to adopt~~

4 (B) ADOPT and enact rules, regulations, and ordinances
5 designed to safeguard the public upon or beyond the limits of
6 harbors, channels, connecting waterways, or other navigational
7 facilities within ~~such~~ THE political subdivision or its politi-
8 cal jurisdiction, which rules shall be consistent with and con-
9 form to, as nearly as ~~may be~~ possible, the laws of this state.

10 ~~, (c) to vest~~

11 (C) VEST authority for the maintenance, operation, and regu-
12 lation thereof in an officer, board, or body of ~~such~~ THE polit-
13 ical subdivision by ordinances or resolution which shall pre-
14 scribe the duties and powers of ~~such~~ THE officers, boards, or
15 body. ~~, and (d) to employ~~

16 (D) EMPLOY a regular ~~harbor master~~ HARBORMASTER for the
17 harbors, channels, connecting waterways, or navigational facili-
18 ties under its control; ~~, or~~, in cases where a harbor board or
19 body is established, the ~~harbor master~~ HARBORMASTER may be
20 employed by ~~such~~ THE board or body.

21 Sec. ~~3~~ 79303. All powers, ~~right~~ RIGHTS, and authority
22 granted to any political subdivision in this ~~act~~ PART may be
23 exercised and enjoyed by 2 or more ~~of them~~ POLITICAL
24 SUBDIVISIONS, or by this state through its appropriate agencies
25 and 1 or more such political subdivisions acting jointly, either
26 within or ~~without~~ OUTSIDE OF the territorial limits of either
27 of them, and contracts may be entered with each ~~other~~ POLITICAL

1 SUBDIVISION for the ~~herein provided~~ PURPOSES OF IMPLEMENTING
2 THIS PART and ~~authorized~~ AUTHORIZING joint action.

3 ~~SUBCHAPTER 5: WATERCRAFT AND MARINE SAFETY~~

4 ~~Part 801. Marine Safety~~

5 SUBCHAPTER 5: WATERCRAFT AND MARINE SAFETY

6 PART 801 MARINE SAFETY

7 ~~Sec. 1. This act shall be known and may be cited as the~~
8 ~~"marine safety act".~~

9 Sec. ~~2~~ 80101. As used in this ~~act~~ PART:

10 (a) "Anchored rafts" means all types of nonpowered rafts
11 used for recreational purposes that are anchored seasonally on
12 waters of this state.

13 (b) "Associated equipment" means any of the following that
14 are not radio equipment:

15 (i) An original system, part, or component of a boat at the
16 time that boat was manufactured, or a similar part or component
17 manufactured or sold for replacement.

18 (ii) Repair or improvement of an original or replacement
19 system, part, or component.

20 (iii) An accessory or equipment for, or appurtenance to, a
21 boat.

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

24 (c) "Boat" means a vessel.

25 (d) "Boat livery" means a business that holds a vessel for
26 renting, leasing, or chartering.

1 ~~(e) "Commission" means the commission of natural~~
2 ~~resources.~~

3 (E) ~~(f)~~ "Controlled substance" means that term as defined
4 in section 7104 of the public health code, Act No. 368 of the
5 Public Acts of 1978, being section 333.7104 of the Michigan
6 Compiled Laws.

7 (F) ~~(g)~~ "Conviction" means a final conviction, the payment
8 of a fine, a plea of guilty or nolo contendere if accepted by the
9 court, a finding of guilt, or a probate court disposition on a
10 violation of this ~~act~~ PART, regardless of whether the penalty
11 is rebated or suspended.

12 Sec. ~~4~~ 80102. As used in this ~~act~~ PART:

13 (a) "Dealer" means a person and an authorized representative
14 of that person who annually purchases from a manufacturer, or who
15 is engaged in selling or manufacturing, 6 or more vessels that
16 require certificates of number under this ~~act~~ PART.

17 ~~(b) "Department" means the director of the department of~~
18 ~~natural resources or his or her designee.~~

19 ~~(c) "Director" means the director of the department of natu-~~
20 ~~ral resources.~~

21 (B) ~~(d)~~ "Identification document" means any of the
22 following:

23 (i) A valid Michigan operator's or chauffeur's license.

24 (ii) A valid driver's or chauffeur's license issued by an
25 agency, department, or bureau of the United States or another
26 state.

1 (iii) An official identification card issued by an agency,
2 department, or bureau of the United States, this state, or
3 another state.

4 (iv) An official identification card issued by a political
5 subdivision of this state or another state.

6 (C) ~~(e)~~ "Issuing authority" means the United States coast
7 guard or a state that has a numbering system approved by the
8 United States coast guard.

9 (D) ~~(f)~~ "Law of another state" means a law or ordinance
10 enacted by another state or by a local unit of government in
11 another state.

12 (E) ~~(g)~~ "Lifeboat" means a small boat designated and used
13 solely for lifesaving purposes, and does not include a dinghy,
14 tender, speedboat, or other type of craft that is not carried
15 aboard a vessel for lifesaving purposes.

16 (F) ~~(h)~~ "Long-term incapacitating injury" means an injury
17 that causes serious impairment of a body function.

18 Sec. ~~6~~ 80103. As used in this ~~act~~ PART:

19 (a) "Manufacturer" means a person engaged in any of the
20 following:

21 (i) The manufacture, construction, or assembly of boats or
22 associated equipment.

23 (ii) The manufacture or construction of components for boats
24 and associated equipment to be sold for subsequent assembly.

25 (iii) The importation of a boat or associated equipment into
26 the state for sale.

1 (b) "Marine law" means this ~~act or~~ PART, a local ordinance
2 adopted in conformity with this ~~act~~ PART, or A rule promulgated
3 ~~pursuant to~~ UNDER this ~~act~~ PART.

4 (C) "MARINE SAFETY ACT" MEANS FORMER ACT NO. 303 OF THE
5 PUBLIC ACTS OF 1967.

6 (D) ~~(c)~~ "Marine safety program" means marine law enforce-
7 ment, search and rescue operations, water safety education,
8 recovery of drowned bodies, and boat livery inspections.

9 (E) ~~(d)~~ "Michigan vehicle code" means Act No. 300 of the
10 Public Acts of 1949, being sections 257.1 to 257.923 of the
11 Michigan Compiled Laws.

12 (F) ~~(e)~~ "Motorboat" means a vessel propelled wholly or in
13 part by machinery.

14 (G) ~~(f)~~ "Operate" means to be in control of a vessel while
15 the vessel is ~~underway~~ UNDER WAY and is not secured in some
16 manner such as being docked or at anchor.

17 (H) ~~(g)~~ "Operator" means the person who is in control or
18 in charge of a vessel while that vessel is underway.

19 (I) ~~(h)~~ "Owner" means a person who claims or is entitled
20 to lawful possession of a vessel by virtue of that person's legal
21 title or equitable interest in a vessel.

22 Sec. ~~8~~ 80104. As used in this ~~act~~ PART:

23 (a) "Passenger" means a person carried on board a vessel
24 other than any of the following:

25 (i) The owner or his or her representative.

26 (ii) The operator.

1 (b) "Peace officer" means any of the following:

2 (i) A sheriff.

3 (ii) A sheriff's deputy.

4 (iii) A deputy who is authorized by a sheriff to enforce
5 this ~~act~~ PART and who has satisfactorily completed at least 40
6 hours of law enforcement training, including training specific to
7 this ~~act~~ PART.

8 (iv) A village or township marshal.

9 (v) An officer of the police department of any ~~city, vil-~~
10 ~~lage, or township~~ MUNICIPALITY.

11 (vi) An officer of the Michigan state police.

12 (vii) The director ~~of the department~~ and conservation
13 officers employed by the department.

14 ~~(c) "Person" means an individual, partnership, firm, corpo-~~
15 ~~ration, company, association, or governmental entity, and~~
16 ~~includes a trustee, receiver, assignee, or similar representative~~
17 ~~of any of them.~~

18 (C) ~~(d)~~ "Personal watercraft" means a vessel that meets
19 all of the following requirements:

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

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

25 (iii) Is designed to be operated by 1 or more persons posi-
26 tioned on, rather than within, the confines of the hull.

1 (D) ~~(e)~~ "Political subdivision" means any county,
2 metropolitan authority, ~~city, village, township~~ MUNICIPALITY,
3 or combination ~~thereof~~ OF THOSE ENTITIES in this state.
4 Whenever a body of water is located in more than 1 political sub-
5 division, all of the subdivisions shall act individually in order
6 to comply with ~~the provisions of~~ this ~~act~~ PART, except THAT
7 if the problem is confined to a specific area of the body of
8 water, only the political subdivision in which the problem waters
9 lie shall act.

10 (E) ~~(f)~~ "Port" means left, and reference is to the port
11 side of a vessel or to the left side of the vessel.

12 (F) ~~(g)~~ "Probate court disposition" means the entry of a
13 probate court order of disposition for a child found to be within
14 the provisions of chapter XIIIA of Act No. 288 of the Public Acts
15 of 1939, being sections 712A.1 to 712A.31 of the Michigan
16 Compiled Laws.

17 (G) ~~(h)~~ "Prosecuting attorney", except as the context
18 ~~otherwise~~ requires OTHERWISE, means the attorney general, the
19 prosecuting attorney of a county, or the attorney representing a
20 political subdivision of government.

21 (H) ~~(i)~~ "Regatta", "boat race", "marine parade",
22 "tournament", or "exhibition" means an organized water event of
23 limited duration that is conducted according to a prearranged
24 schedule.

25 (I) ~~(j)~~ "Slow--no wake speed" means a very slow speed
26 whereby the wake or wash created by the vessel would be minimal.

1 (J) ~~(k)~~ "Starboard" means right, and reference is to the
2 starboard side of a vessel or to the right side of the vessel.

3 (K) ~~(l)~~ "State aid" means payment made by the state to a
4 county for the conduct of a marine safety program.

5 (L) ~~(m)~~ "Undocumented vessel" means a vessel that does not
6 have, and is not required to have, a valid marine document issued
7 by the United States coast guard or federal agency successor to
8 the United States coast guard.

9 (M) ~~(n)~~ "Uniform inspection decal" means an
10 adhesive-backed sticker created by the department pursuant to
11 section ~~16~~ 80166 that is color-coded to indicate the year that
12 it expires and is attached to a vessel in the manner prescribed
13 for decals in section ~~3~~ 80122 when a peace officer inspects
14 and determines that the vessel complies with this ~~act~~ PART.

15 (N) ~~(o)~~ "Use" means operate, navigate, or employ.

16 (O) ~~(p)~~ "Vessel" means every description of watercraft
17 used or capable of being used as a means of transportation on
18 water.

19 (P) ~~(q)~~ "Waters of this state" means any waters within the
20 territorial limits of this state, and includes those waters of
21 the Great Lakes that are under the jurisdiction of this state.

22 Sec. ~~10~~ 80105. (1) This ~~act~~ PART applies to vessels and
23 associated equipment used, to be used, or carried in vessels used
24 on waters subject to the jurisdiction of this state.

25 (2) This ~~act~~ PART, except where expressly indicated other-
26 wise, does not apply to ANY OF THE FOLLOWING:

1 (a) Foreign vessels temporarily using waters subject to
2 state jurisdiction.

3 (b) Military or public vessels of the United States, except
4 recreational-type public vessels.

5 (c) A vessel whose owner is a state or political subdivision
6 ~~thereof~~ OF A STATE, other than this state and its political
7 subdivisions, ~~which~~ THAT is used principally for governmental
8 purposes ~~,~~ and ~~which~~ THAT is clearly identifiable as such.

9 (d) A ship's lifeboat.

10 Sec. ~~++~~ 80106. ~~(++)~~ The department shall be responsible
11 for administration of this ~~act~~ PART except as otherwise pro-
12 vided in this ~~act~~ PART. The Michigan sheriffs' association
13 shall designate an advisory representative to the department who
14 shall transmit information, advice, and recommendations relative
15 to county marine activities and assist in the coordination of
16 state and county marine safety programs.

17 ~~(2) Effective January 1, 1989, the marine safety advisory~~
18 ~~council is created in the department. The council shall be com-~~
19 ~~posed of a representative of the Michigan sheriffs' association,~~
20 ~~the Michigan association of counties, the Michigan boating asso-~~
21 ~~ciation, the department, the department of management and budget,~~
22 ~~the senate fiscal agency, and the house fiscal agency.~~
23 ~~Representatives of the senate and house fiscal agencies shall be~~
24 ~~ex officio nonvoting members of the council. The representatives~~
25 ~~shall be appointed by the association, department, or agency that~~
26 ~~they represent.~~

1 ~~(3) The council shall make recommendations to the department~~
2 ~~pursuant to section 24 on how state aid to counties should be~~
3 ~~allocated.~~

4 ~~Sec. 111a 80107. (1) The marine safety education commis-~~
5 ~~sion is created in the department. The commission shall be~~
6 ~~administered by the recreation division of the department of nat-~~
7 ~~ural resources. The commission shall consist of the following~~
8 ~~members:~~

9 ~~(a) The director or his or her designee.~~

10 ~~(b) The director of the department of state police or his or~~
11 ~~her designee.~~

12 ~~(c) The superintendent of public instruction or his or her~~
13 ~~designee.~~

14 ~~(d) Twelve individuals appointed by the governor with the~~
15 ~~advice and consent of the senate as follows:~~

16 ~~(i) One individual recommended by the Michigan sheriffs'~~
17 ~~association.~~

18 ~~(ii) One individual recommended by the state boating law~~
19 ~~administrator.~~

20 ~~(iii) One individual recommended by the United States power~~
21 ~~squadrons.~~

22 ~~(iv) One individual recommended by the United States coast~~
23 ~~guard auxiliary.~~

24 ~~(v) One individual recommended by the American national red~~
25 ~~cross.~~

26 ~~(vi) One individual recommended by the Michigan boating~~
27 ~~industries association.~~

1 ~~(vii) One individual recommended by the national marine~~
2 ~~manufacturers association.~~

3 ~~(viii) One individual recommended by the Michigan consumers~~
4 ~~council.~~

5 ~~(ix) One individual from a county marine safety division.~~

6 ~~(x) Two individuals from the general public.~~

7 ~~(xi) One individual recommended by the Michigan association~~
8 ~~of counties.~~

9 ~~(2) At least 4 of the individuals appointed by the governor~~
10 ~~in subsection (1) shall be women.~~

11 ~~(3) The members of the commission shall serve without com-~~
12 ~~pensation, but shall be entitled to actual and necessary travel~~
13 ~~and other expenses incurred in the performance of official~~
14 ~~duties.~~

15 ~~(4) The commission shall select a chairperson from among its~~
16 ~~members.~~

17 ~~(5) The department shall supply clerical staff as needed by~~
18 ~~the commission.~~

19 ~~(6) The commission shall meet at least once a year in the~~
20 ~~fall at the call of the chairperson of the commission.~~

21 ~~(7) A majority of the members of the commission shall con-~~
22 ~~stitute a quorum for the transaction of business at a meeting of~~
23 ~~the commission. Action by the commission shall be by a majority~~
24 ~~of the votes cast.~~

25 ~~(8) The commission~~ DEPARTMENT shall review boating acci-
26 dents on Michigan waters and study the development of marine
27 safety education programs and other policies of state government

1 relating to marine safety ~~· The commission shall report to the~~
2 ~~department on its findings and shall recommend to the department~~
3 AND SHALL CONSIDER changes to DEPARTMENT policies and programs.

4 ~~(9) As used in this section, "commission" means the marine~~
5 ~~safety education commission.~~

6 Sec. ~~+2-~~ 80108. The department may regulate the operation
7 of vessels, water skis, water sleds, aquaplanes, surfboards, or
8 other similar contrivances on the waters of this state. Where
9 special regulations are determined necessary, the department may
10 establish vessel speed limits; prohibit the use of vessels, water
11 skis, water sleds, aquaplanes, surfboards, or other similar con-
12 trivances; restrict the use of vessels, water skis, water sleds,
13 aquaplanes, surfboards, or other similar contrivances by day and
14 hour; establish and designate areas restricted solely to boating,
15 skin or scuba diving, fishing, swimming, or water skiing; and ~~—~~
16 prescribe any other regulations relating to the use or operation
17 of vessels, water skis, water sleds, aquaplanes, surfboards, or
18 other similar contrivances ~~which~~ THAT will assure compatible
19 use of state waters and best protect the public safety. The
20 department shall prescribe special local regulations in such a
21 manner as to make the regulations uniform with other special
22 local regulations established on other waters of this state inso-
23 far as is reasonably possible.

24 Sec. ~~+3-~~ 80109. (1) Except as provided in subsection (2),
25 the ~~commission~~ DEPARTMENT shall promulgate rules authorized by
26 this ~~act pursuant to the administrative procedures act of 1969,~~
27 ~~Act No. 306 of the Public Acts of 1969, as amended, being~~

1 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ PART.

2 The department shall publish the approved rules in a convenient
3 form.

4 (2) Subsection (1) shall not apply to special local rules
5 adopted pursuant to sections ~~+4-~~ 80110 and ~~+5-~~ 80111.

6 Sec. ~~+4-~~ 80110. The department may initiate investigations
7 and inquiries into the need for special rules for the use of ves-
8 sels, water skis, water sleds, aquaplanes, surfboards, or other
9 similar contrivances on any of the waters of this state. If con-
10 trols for such activities are considered necessary, or changes or
11 amendments to or repeal of an existing local ordinance is
12 required, a local ordinance shall be prepared. Notice of a
13 public hearing shall be made in a newspaper of general circula-
14 tion in the area in which the local ordinance is to be imposed,
15 amended, or repealed, not less than 10 calendar days before the
16 hearing. Interested persons shall be afforded an opportunity to
17 present their views on the proposed local ordinance either orally
18 or in writing.

19 Sec. ~~+5-~~ 80111. A local ordinance proposed pursuant to
20 section ~~+4-~~ 80110 shall be submitted to the governing body of
21 the political subdivision in which the controlled waters lie.
22 Within 60 calendar days, the governing body shall inform the
23 department that it approves or disapproves of the proposed local
24 ordinance. If the required information is not received within
25 the time specified, the department shall consider the proposed
26 local ordinance disapproved by the governing body. If the
27 governing body disapproves the proposed local ordinance, or if

1 the 60-day period has elapsed without a reply having been
 2 received from the governing body, no further action shall be
 3 taken. If the governing body approves the proposed local ordi-
 4 nance, the local ordinance shall be enacted identical in all
 5 respects to the local ordinance proposed by the department.

6 Sec. ~~+6-~~ 80112. Local political subdivisions ~~which~~ THAT
 7 believe that special local ordinances of the type authorized by
 8 this ~~act~~ PART are needed on waters subject to their jurisdic-
 9 tion shall inform the department and request assistance. All
 10 such requests shall be in the form of an official resolution
 11 approved by a majority of the governing body of the concerned
 12 political subdivision. Upon receipt of such resolutions, the
 13 department shall proceed as required by sections ~~+4-~~ 80110 and
 14 ~~+5-~~ 80111.

15 Sec. ~~+7-~~ 80113. (1) State, county, and local peace offi-
 16 cers shall enforce local ordinances enacted in accordance with
 17 this ~~act~~ PART.

18 (2) All rules promulgated under this section and sections
 19 ~~+2, +4, +5-~~ 80108, 80110, 80111, and ~~+6-~~ 80112 before ~~the~~
 20 ~~effective date of the 1985 amendatory act that added this~~
 21 ~~subsection~~ MARCH 17, 1986 shall remain in effect unless
 22 rescinded pursuant to the administrative procedures act of 1969,
 23 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
 24 24.328 of the Michigan Compiled Laws.

25 (3) Local political subdivisions may enact as an ordinance
 26 any or all of sections ~~+2 to +8, +31 to +33, +36, +61, +62, +71 to +79,~~
 27 ~~+101, +151, +152, and +161 to +168-~~ 80101 TO 80104, 80122 TO 80124,

1 80126, 80140, 80141, 80144 TO 80153, 80155, 80164, 80165, AND
2 80166 TO 80173.

3 Sec. ~~18~~ 80114. (1) The ~~commission~~ DEPARTMENT may
4 promulgate rules to establish performance or other safety stan-
5 dards relating to boat construction or the installation, use, or
6 carriage of associated equipment.

7 (2) In order that a boat operator may pass unhindered from
8 jurisdiction to jurisdiction, it is the intention of the legisla-
9 ture that rules authorized by this section shall be identical to
10 federal regulations for enforcement purposes. However, rules
11 requiring the carrying or using of marine safety articles to meet
12 uniquely hazardous conditions or circumstances within this state
13 may be promulgated, if the rules for ~~such~~ THE safety articles
14 are approved by the United States coast guard.

15 Sec. ~~21~~ 80115. (1) The revenue received under this ~~act~~
16 PART shall be deposited in the state treasury. The revenue divi-
17 sion, department of treasury, shall annually present to the
18 department an accurate total of all the revenues collected, and
19 shall then credit the revenues collected to the following funds:

20 (a) ~~21%~~ 17.5% to the Michigan state waterways fund created
21 in ~~Act No. 320 of the Public Acts of 1947, being sections~~
22 ~~281.501 to 281.511 of the Michigan Compiled Laws, until January~~
23 ~~1, 1989, and 17.5% thereafter~~ SECTION 78110.

24 (b) ~~19%~~ 33.5% to the Michigan harbor development fund cre-
25 ated in ~~Act No. 320 of the Public Acts of 1947, being sections~~
26 ~~281.501 to 281.511 of the Michigan Compiled Laws, until January~~
27 ~~1, 1989, and 33.5% thereafter~~ SECTION 78110.

1 (c) ~~60%~~ 49% to the marine safety fund created in
 2 subsection (2). ~~, until January 1, 1989, and 49% thereafter.~~

3 (2) The marine safety fund is created as a separate fund in
 4 the state treasury. The legislature shall appropriate from the
 5 marine safety fund for water safety education programs and for
 6 the administration and enforcement of this ~~act~~ PART, including
 7 state aid to counties, and for no other purpose, but not in
 8 excess of revenues credited to the marine safety fund. No por-
 9 tion of the fees provided for in section ~~33~~ 80124 shall be
 10 appropriated for the inspection of vessels that carry passengers
 11 for hire and are regulated under ~~the charter and livery boat~~
 12 ~~safety act, Act No. 244 of the Public Acts of 1986, being sec-~~
 13 ~~tions 281.571 to 281.595 of the Michigan Compiled Laws-~~
 14 PART 445.

15 Sec. ~~22~~ 80116. The department shall do all things neces-
 16 sary to conduct a comprehensive boating safety program as pro-
 17 vided in chapter 131 of part I of subtitle II of title 46 of the
 18 United States ~~code~~ CODE, 46 U.S.C. 13101 to 13110; to comply
 19 with rules promulgated ~~thereunder~~ UNDER THAT ACT by the secre-
 20 tary of the department in which the coast guard is operating; and
 21 to accept federal financial assistance as provided in ~~the~~ THAT
 22 act.

23 Sec. ~~23~~ 80117. (1) Each county of the state is entitled
 24 to receive state aid as provided in this ~~act~~ PART. A county
 25 board of commissioners desiring to conduct a marine safety pro-
 26 gram shall submit to the department by December 31 of each year
 27 an estimate of authorized expenditures for the following calendar

1 year, in the form and containing the information the department
2 requires. The department shall review the entire request and may
3 approve the county request for state aid. The department shall
4 annually survey the marine safety program of each county to
5 assist in determining the amount of state aid to be allocated to
6 a county for its marine safety program. In making its annual
7 determination of the amount of state aid to be allocated to a
8 county, the department shall develop and employ a formula which
9 shall include such factors as:

10 (a) The number of students to be trained in boating safety
11 in any United States coast guard auxiliary, United States power
12 squadron, or department-sponsored marine safety classes.

13 (b) The number of boat user days.

14 (c) The number of livery boats.

15 (d) Program effectiveness measured by comparing the existing
16 rate of compliance with current statutes to the acceptable rate
17 of compliance determined by the department.

18 (e) The number and type of boat access areas requiring a
19 county marine safety program.

20 (f) The water area of the county.

21 (2) A determination of the amount of state aid allocated to
22 a county under this ~~act~~ PART shall not be based, wholly or in
23 part, upon the number of vessels within that county that are
24 stopped or inspected under section ~~+6+~~ 80166.

25 (3) State aid allocated to a county under this ~~act~~ PART
26 shall be used exclusively for the conduct of the county marine
27 safety program as provided by this ~~act~~ PART and rules

1 promulgated ~~hereunder~~ UNDER THIS PART. Within 90 days after
2 the close of each calendar year, a county board of commissioners
3 shall submit to the department a statement of authorized expendi-
4 tures actually incurred, in the form and containing the informa-
5 tion that the department requires. A county that provides the
6 department with statements or supplements to statements subse-
7 quent to the 90-day period is not eligible for state aid under
8 this ~~act~~ PART.

9 Sec. ~~24~~ 80118. The amount of state aid to be allocated to
10 a county pursuant to this ~~act~~ PART shall be determined by the
11 department IN THE MANNER THE DEPARTMENT DETERMINES IS
12 APPROPRIATE. ~~For the fiscal year 1988 1989 and each fiscal year~~
13 ~~thereafter, the department shall allocate state aid to counties~~
14 ~~in the manner recommended by the marine safety advisory council.~~
15 The department shall review the county's statement of authorized
16 expenditures actually incurred and if satisfied shall provide
17 state aid in an amount not to exceed $\frac{3}{4}$ of the county's esti-
18 mated authorized expenditures for the past calendar year. If the
19 county's authorized expenditures actually incurred for the past
20 calendar year exceed the county's estimated authorized expendi-
21 tures for that calendar year, the department, if it considers it
22 to be in the best interests of the state and adequate funds have
23 been appropriated by the legislature for state aid to counties,
24 may provide state aid in excess of $\frac{3}{4}$ of the county's estimated
25 authorized expenditures for that calendar year, but not in excess
26 of $\frac{3}{4}$ of the county's authorized expenditures actually
27 incurred. If the amount appropriated by the legislature for

1 state aid to counties is insufficient to pay the full amount to
2 which the counties are entitled, the department shall reduce the
3 allocations proportionate to the shortfall of revenue among all
4 state and local programs for which marine safety fund resources
5 were appropriated.

6 Sec. ~~-25-~~ 80119. Annually the department of the treasury
7 shall audit the county records pertaining to the marine safety
8 program to assure the proper disposition of ~~these moneys~~ THIS
9 MONEY in accordance with ~~the provisions of this act~~ PART and
10 rules PROMULGATED UNDER THIS PART. If the audit reveals THAT a
11 refund of state aid ~~moneys~~ MONEY is due TO the state, the
12 county treasurer, within 30 days of the completion of the audit,
13 shall send to the department the amount of the refund due TO the
14 state, which the ~~director~~ DEPARTMENT shall return to the marine
15 safety fund.

16 Sec. ~~-26-~~ 80120. The department and the county sheriffs
17 shall cooperate in the conduct of the marine safety program. The
18 county sheriffs shall maintain records and submit reports in
19 ~~such~~ A form and containing ~~such~~ information as the department
20 may require.

21 Sec. ~~-27-~~ 80121. The department may ~~adopt such~~ PROMULGATE
22 rules as may be necessary to ~~carry out the provisions of~~
23 IMPLEMENT this ~~section~~ PART.

24 Sec. ~~-31-~~ 80122. (1) Except as otherwise provided in this
25 ~~act~~ PART, a person shall not operate or give permission for the
26 operation of a vessel of any length on the waters of this state
27 unless the fees prescribed in section ~~-33-~~ 80124 for the vessel

1 are paid, the certificate of number assigned to the vessel is on
2 board and is in full force and effect, and, except for the fol-
3 lowing, the identifying number and decal are displayed on each
4 side of the forward half of the vessel in accordance with this
5 ~~act~~ PART and the rules promulgated by the department UNDER THIS
6 PART:

7 (a) A decal and identifying numbers for a wooden hull and
8 historic vessel as that term is defined in section ~~33~~ 80124 may
9 be displayed in the manner described in section ~~36(2)~~
10 80126(2).

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

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

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

24 Sec. ~~32~~ 80123. (1) The owner of a vessel is not required
25 to pay a fee and a vessel is not required to be numbered and to
26 display a decal under this ~~act~~ PART if the vessel is 1 or more
27 of the following:

1 (a) Used temporarily on the waters of this state and the
2 owner and the vessel are from a country other than the United
3 States.

4 (b) A vessel that is owned by the United States, used in the
5 public service for purposes other than recreation, and clearly
6 identifiable as such a vessel.

7 (c) A vessel's lifeboat.

8 (d) An all-terrain vehicle not used as a vessel.

9 (e) A raft, sailboard, surfboard, or swim float.

10 (f) A vessel 16 feet or less, propelled by hand either with
11 oars or paddles, and not used for rental or other commercial
12 purposes.

13 (g) A nonmotorized canoe or kayak not used for rental or
14 other commercial purposes.

15 (2) The owner of a vessel documented by the United States
16 coast guard or a federal agency that is the successor to the
17 United States coast guard shall comply with this ~~act~~ PART,
18 including the payment of fees as provided in this ~~act, however~~
19 PART. HOWEVER, the vessel shall not be required to display num-
20 bers under this ~~act~~ PART.

21 (3) This ~~act~~ PART does not prohibit the numbering of an
22 undocumented vessel pursuant to this ~~act~~ PART upon request by
23 the owner, even though the vessel is exempt from the numbering
24 requirements of this ~~act~~ PART.

25 Sec. ~~33~~ 80124. (1) Except as otherwise provided in this
26 section, the owner of a vessel required to be numbered and to
27 display a decal shall file an application for a certificate of

1 number with the secretary of state. The secretary of state shall
2 prescribe and furnish certificate of title application forms. If
3 a vessel requiring a certificate of title under ~~Act No. 160 of~~
4 ~~the Public Acts of 1976, being sections 281.1201 to 281.1223 of~~
5 ~~the Michigan Compiled Laws,~~ PART 803 is sold by a dealer, that
6 dealer shall combine the application for a certificate of number
7 that is signed by the vessel owner with the application for a
8 certificate of title. The dealer shall obtain the certificate of
9 number in the name of the owner. The owner of the vessel shall
10 sign the application. A person shall not file an application for
11 a certificate of number that contains false information. A
12 dealer who fails to submit an application as required by this
13 section is guilty of a misdemeanor, punishable by IMPRISONMENT
14 FOR NOT MORE THAN 90 DAYS, OR a fine of not more than \$100.00,
15 ~~or imprisonment for not more than 90 days,~~ or both.

16 (2) A dealer who submits an application for a certificate of
17 number as provided in subsection (1) may issue to the owner of
18 the vessel a 15-day temporary permit, on forms prescribed by the
19 secretary of state, for the use of the vessel while the certifi-
20 cate of number is being issued.

21 (3) A dealer may issue a 15-day permit, on a form prescribed
22 by the secretary of state, for the use of a vessel purchased in
23 this state and delivered to the purchaser for removal to a place
24 outside of this state, if the purchaser certifies by his or her
25 signature that the vessel will be registered and primarily used
26 and stored outside of this state and will not be returned to this
27 state by the purchaser for use or storage. A certificate of

1 number shall not be issued for a vessel holding a permit under
2 this subsection.

3 (4) A 15-day temporary permit issued under subsection (2) or
4 (3) shall not be renewed or extended.

5 (5) A person shall operate or permit the operation of a
6 vessel for which a 15-day temporary permit has been issued under
7 this section only if the temporary permit is valid and displayed
8 on the vessel as prescribed by rule promulgated by the department
9 UNDER THIS PART.

10 (6) Except as otherwise provided in this section, an appli-
11 cant shall pay the following fee at the time of application:

12 (a) A 15-day temporary permit issued under subsec-	
13 tion (3).....	\$ 10.00
14 (b) Nonpowered vessels, other than non-	
15 motorized canoes or kayaks, except as pro-	
16 vided in section 32 80123.....	9.00
17 (c) Nonmotorized canoes or kayaks except	
18 as provided in section 32 80123.....	5.00
19 (d) Motorboats less than 12 feet in	
20 length.....	14.00
21 (e) Motorboats 12 feet or over but less	
22 than 16 feet in length.....	17.00
23 (f) Motorboats 16 feet or over but less	
24 than 21 feet in length.....	42.00
25 (g) Motorboats 21 feet or over but less	
26 than 28 feet in length.....	115.00

1	(h) Motorboats 28 feet or over but less	
2	than 35 feet in length.....	168.00
3	(i) Motorboats 35 feet or over but less	
4	than 42 feet in length.....	244.00
5	(j) Motorboats 42 feet or over but less	
6	than 50 feet in length.....	280.00
7	(k) Motorboats 50 feet in length or over	448.00
8	(l) Pontoon vessels regardless of size..	23.00
9	(m) Motorized canoes regardless of size.	14.00
10	(n) Vessels licensed under the commer-	
11	cial fishing law of 1929, Act No. 84 of the	
12	Public Acts of 1929, being sections 308.1 to	
13	308.51 of the Michigan Compiled Laws	
14	PART 473.....	15.00
15	(o) Vessels carrying passengers for hire	
16	that are in compliance with the charter and	
17	livery boat safety act, Act No. 244 of the	
18	Public Acts of 1986, being sections 281.571	
19	to 281.595 of the Michigan Compiled Laws	
20	PART 445, or under federal law; and vessels	
21	carrying passengers and freight or freight	
22	only and owned within this state or hailing	
23	from a port within this state.....	45.00
24	(7) The length of a vessel is the distance from end to end	
25	over the deck, excluding the longitudinal upward or downward	
26	curve of the deck, fore and aft. A pontoon boat shall be	
27	measured by the length of its deck, fore and aft.	

1 (8) Payment of the fee specified ~~by~~ IN this section
2 exempts the vessel from the tax imposed by the general property
3 tax act, Act No. 206 of the Public Acts of 1893, ~~as amended,~~
4 being sections 211.1 to 211.157 of the Michigan Compiled Laws.

5 (9) Upon receipt of an initial application for a certificate
6 of number in approved form and payment of the required fee, the
7 secretary of state shall enter the information upon the official
8 records and issue to the applicant a certificate of number con-
9 taining the number awarded to the vessel, the name and address of
10 the owner, and other information that the secretary of state
11 determines necessary. The secretary of state shall issue a cer-
12 tificate of number that is pocket size and legible. Except as
13 provided in subsection (13), a person operating a vessel shall
14 present that vessel's certificate of number to a peace officer
15 upon the peace officer's request.

16 (10) If a check or draft payable to the secretary of state
17 under this ~~act~~ PART is not paid on its first presentation, the
18 fee or tax is delinquent as of the date the draft or check was
19 tendered. The person tendering the check or draft remains liable
20 for the payment of each fee or tax and a penalty.

21 (11) Upon determining that a fee or tax required by this
22 ~~act~~ PART has not been paid and remains unpaid after reasonable
23 notice and demand, the secretary of state may suspend a certifi-
24 cate of number.

25 (12) If a person who tenders a check or draft described in
26 subsection (10) fails to pay a fee or tax within 15 days after
27 the secretary of state gives him or her notice that the check or

1 draft described in subsection (10) was not paid on its first
2 presentation, the secretary of state shall assess and collect a
3 penalty of \$5.00 or 20% of the check or draft, whichever is
4 larger, in addition to the fee or tax.

5 (13) The owner or authorized agent of the owner of a vessel
6 less than 26 feet in length that is leased or rented to a person
7 for noncommercial use for not more than 24 hours may retain, at
8 the place from which the vessel departs or returns to the posses-
9 sion of the owner or the owner's representative, the certificate
10 of number for that vessel if a copy of the lease or rental agree-
11 ment is on the vessel. Upon the demand of a peace officer, the
12 operator shall produce for inspection either the certificate of
13 number or a copy of the lease or rental agreement for that
14 vessel. The lease or rental agreement shall contain each of the
15 following:

16 (a) The vessel number that appears on the certificate of
17 number.

18 (b) The period of time for which the vessel is leased or
19 rented.

20 (c) The signature of the vessel's owner or that person's
21 authorized agent.

22 (d) The signature of the person leasing or renting the
23 vessel.

24 (14) Upon receipt of a certificate of number for a vessel,
25 the owner of that vessel shall paint on or attach in a permanent
26 manner to each side of the forward half of the vessel the number
27 identified in the certificate of number, in the manner prescribed

1 by rules promulgated by the department. The secretary of state
2 shall assign to the owner of vessels for rent or lease a block of
3 numbers sufficient to number consecutively all of that owner's
4 rental or lease vessels. The owner shall maintain the numbers in
5 a legible condition. A vessel documented by the United States
6 coast guard or a federal agency that is the successor to the
7 United States coast guard is not required to display numbers
8 under this ~~act~~ PART but shall display a decal indicating pay-
9 ment of the fee prescribed in subsection (6), and shall otherwise
10 be in compliance with this ~~act~~ PART. This subsection does not
11 apply to a nonpowered vessel 12 feet or less in length.

12 (15) Upon receipt of an application for a certificate of
13 number in an approved form ~~—~~ and payment of the fee required by
14 this ~~act~~ PART, the secretary of state shall issue a decal that
15 is color-coded and dated to identify the year of its expiration,
16 and THAT indicates that the vessel is numbered in compliance with
17 this ~~act~~ PART. The department shall promulgate a rule or rules
18 to establish the manner in which the decal is to be displayed.

19 (16) A decal is valid for a 3-year period that begins on
20 April 1 and expires on March 31 of the third year. An original
21 certificate of number may be issued up to 90 days prior to
22 April 1. A numbering renewal decal or other renewal device may
23 be issued up to 90 days prior to the expiration of a
24 certificate.

25 (17) Upon receipt of a request for renewal of a decal and
26 payment of the fee prescribed in subsection (6), the secretary of

1 state shall issue to the applicant a decal as provided in
2 subsection (15).

3 (18) The numbering system adopted pursuant to this ~~act~~
4 PART shall be in accordance with the standard system of numbering
5 established by the secretary of the department in which the
6 United States coast guard operates.

7 (19) An agency of this state, a political subdivision of
8 this state, or a state supported college or university of this
9 state that owns a vessel that is required to be numbered under
10 this ~~act~~ PART shall register that vessel and upon payment of
11 either of the following shall receive from the secretary of state
12 a certificate of number for that vessel:

13 (a) A fee of \$3.00 for a vessel that is not used for recrea-
14 tional, commercial, or rental purposes.

15 (b) The fee required under subsection (6) for a vessel that
16 is used for recreational, commercial, or rental purposes.

17 (20) The secretary of state shall, upon receipt of payment
18 of the fee required under subsection (19), issue a certificate of
19 number for each vessel subject to subsection (19).

20 (21) A vessel that is 30 years of age or older and not used
21 other than in club activities, exhibitions, tours, parades, and
22 other similar activities is ~~an~~ A historic vessel. The secre-
23 tary of state shall make available to the public application
24 forms for certificates of number for historic vessels ~~—~~ and,
25 upon receipt of a completed application form and fee, shall
26 number ~~an~~ A historic vessel as ~~an~~ A historic vessel. The fee

1 for the numbering of ~~an~~ A historic vessel is 1/3 of the
2 otherwise applicable fee specified in subsection (6).

3 (22) Upon application to the secretary of state, the owner
4 of a nonmotorized canoe or kayak who registered that vessel under
5 ~~this act~~ FORMER ACT NO. 303 OF THE PUBLIC ACTS OF 1967 between
6 January 1, 1989 and April 17, 1990 shall receive a refund of a
7 portion of the registration fee equal to the difference in the
8 amount that owner paid and the fee amount provided in subsection
9 (6)(c).

10 (23) The secretary of state shall refund to the owner of a
11 vessel registered under this ~~act~~ PART OR FORMER ACT NO. 303 OF
12 THE PUBLIC ACTS OF 1967 all of the registration fee paid for that
13 vessel pursuant to this section OR SECTION 33 OF FORMER ACT
14 NO. 303 OF THE PUBLIC ACTS OF 1967 if all of the following condi-
15 tions are met during the period for which the registration fee
16 was paid:

17 (a) The owner transfers or assigns title or interest in the
18 registered vessel before placing the decal issued under
19 subsection (15) on the vessel.

20 (b) The owner surrenders the unused decal to the secretary
21 of state within 30 days after the date of transfer or
22 assignment.

23 (24) The secretary of state shall refund to the surviving
24 spouse of a deceased vessel owner the registration fee paid pur-
25 suant to this ~~act~~ PART, prorated on a monthly basis, upon
26 receipt of the decal issued under subsection (15) or evidence

1 satisfactory to the secretary of state that the decal issued
2 under subsection (15) has been destroyed or voided.

3 (25) If the secretary of state computes a fee under this
4 ~~act~~ PART that results in a figure other than a whole dollar
5 amount, the secretary of state shall round the figure to the
6 nearest whole dollar.

7 Sec. ~~35~~ 80125. (1) The owner of a vessel shall notify the
8 secretary of state within 15 days if the vessel is destroyed,
9 abandoned, or sold; if an interest in the vessel is transferred,
10 either wholly or in part, to another person; or if the owner's
11 address no longer conforms to the address appearing on the cer-
12 tificate of number. The notice shall consist of a surrender of
13 the certificate of number, on which the proper information shall
14 be noted on a place to be provided on the certificate. When the
15 surrender of the certificate is due to the vessel being destroyed
16 or abandoned, the secretary of state shall cancel the certificate
17 and enter that fact in the secretary of state's records, and the
18 number may be reassigned.

19 (2) The owner of a destroyed vessel, upon proper applica-
20 tion, may receive a new certificate of number, valid for the
21 remainder of the numbering period, for a replacement vessel, if
22 all of the following conditions are met:

23 (a) The replacement vessel is owned by the same person who
24 owned the destroyed vessel.

25 (b) The owner of the replacement vessel pays additional
26 fees, if required under section ~~33~~ 80124, due to the change in
27 vessel size or classification.

1 (c) Payment of a \$2.00 application fee.

2 (3) If the fees required for the replacement vessel under
3 section ~~33~~ 80124 are less than the fees ~~which~~ THAT were
4 required for the destroyed vessel, the owner of the vessel shall
5 not receive a refund.

6 (4) If the surrender of the certificate of number is due to
7 a change of the owner's address, the new address shall be
8 recorded by the secretary of state and a certificate of number
9 bearing that information shall be returned to the owner.

10 (5) The transferee of a vessel registered under this ~~act~~
11 PART, within 15 days after acquisition of the vessel, shall make
12 application to the secretary of state for transfer to the trans-
13 feree of the certificate of number issued to the vessel. The
14 transferee shall provide his or her name, address, and the number
15 of the vessel ~~—~~ and pay to the secretary of state a transfer
16 fee of \$2.00. The registration fee for the certificate of number
17 shall be 2/3 the fee provided in section ~~33~~ 80124 if the trans-
18 ferred certificate of number would have remained valid for 1 year
19 or less. The registration fee for the certificate of number
20 shall be 1/3 the fee provided in section ~~33~~ 80124 if the trans-
21 ferred certificate of number would have remained valid for more
22 than 1 year but less than 2 years. An additional registration
23 fee shall not be assessed if the transferred registration would
24 have remained valid for 2 or more years. Unless the application
25 is made and the fee paid within 15 days after acquisition of the
26 vessel, the vessel shall be considered to be without certificate
27 of number and a person shall not operate the vessel until a

1 certificate is issued. Upon receipt of the application and
2 appropriate fees, the secretary of state shall transfer the cer-
3 tificate of number issued for the vessel to the new owner. The
4 certificate of number shall be valid for a 3-year period.

5 (6) If a certificate of number is lost, mutilated, or illeg-
6 ible, the owner of the vessel shall obtain a duplicate of the
7 certificate upon application and payment of a fee of \$2.00.

8 Sec. ~~36~~ 80126. (1) A dealer shall apply for and obtain
9 from the secretary of state dealer certificates of number and
10 dealer decals for each vessel of the dealer that is tested,
11 demonstrated, or otherwise operated. Upon receipt of an applica-
12 tion in a form approved by the secretary of state and payment of
13 \$30.00 for each set of dealer certificates of number and dealer
14 decals, the secretary of state shall issue to the applicant the
15 dealer certificates of number and dealer decals. A single dealer
16 certificate of number and dealer decal issued pursuant to this
17 section may be used on only 1 vessel at a time.

18 (2) The operator of a vessel governed by this section shall
19 do each of the following:

20 (a) Maintain the dealer certificate of number on board the
21 vessel.

22 (b) Upon demand of a peace officer, display the dealer cer-
23 tificate of number.

24 (c) Permanently or temporarily display the identifying
25 number and dealer decal on the vessel in accordance with rules
26 promulgated by the department UNDER THIS PART.

1 (3) A person shall not operate a vessel numbered under this
2 section unless the dealer is on board the vessel or the operator
3 has the written authorization of the dealer to operate the
4 vessel. A person shall not use a vessel numbered under this sec-
5 tion for commercial purposes that include the rental of the
6 vessel or the carrying of passengers for hire on the vessel.

7 Sec. ~~36a~~ 80127. The secretary of state may accept payment
8 by a credit card or check in lieu of cash of a fee required under
9 this ~~act~~ PART. The secretary of state shall determine which
10 major credit cards may be utilized, provided, however, THAT the
11 fee received shall not be less than 100% of the applicable fee.

12 Sec. ~~37~~ 80128. The secretary of state may award any cer-
13 tificate of number directly or may authorize any person to act as
14 his OR HER agent for the awarding ~~thereof~~ OF A CERTIFICATE OF
15 NUMBER.

16 Sec. ~~38~~ 80129. All records of the secretary of state made
17 or kept pursuant to this ~~act~~ PART shall be public records
18 except as otherwise provided in this ~~act~~ PART. Annually the
19 secretary of state shall compile all registration numbers and
20 names of persons to whom ~~such~~ THOSE numbers have been
21 assigned. This compilation shall be furnished WITHOUT COST to
22 all police agencies requesting a copy of ~~same without cost~~ THE
23 COMPILATION. Individuals desiring copies of the annual registra-
24 tion list may obtain the ~~same~~ LIST by payment of a reasonable
25 fee established by the secretary of state.

26 Sec. ~~39~~ 80130. In order to provide an individual,
27 historical boating record, the secretary of state shall create

1 and maintain a central file that includes the name of each person
2 who is convicted of an offense, who fails to comply with an order
3 or judgment issued, or against whom an order is entered under
4 this ~~act~~ PART. A certified copy of an order, record, or paper
5 maintained in this record is admissible in evidence in ~~like~~ THE
6 SAME manner as the original and is prima facie proof of the facts
7 stated in the original.

8 Sec. ~~40~~ 80131. (1) Each municipal judge and each clerk of
9 a court of record shall keep a full record of every case in which
10 a person is charged with or cited for a violation of this ~~act~~
11 PART or of a local ordinance corresponding to this ~~act~~ PART
12 regulating the operation of vessels.

13 (2) Within 14 days after a conviction, forfeiture of bail,
14 entry of a civil infraction determination, or default judgment
15 upon a charge of, or citation for, violating this ~~act~~ PART or a
16 local ordinance corresponding to this ~~act~~ PART regulating the
17 operation of vessels, except as provided in subsection (1), the
18 municipal judge or clerk of the court of record shall prepare and
19 immediately forward to the secretary of state an abstract of the
20 record of the court for the case. The abstract shall be certi-
21 fied to be true and correct by signature, stamp, or facsimile
22 signature by the person required to prepare the abstract. If a
23 city or village department, bureau, or person is authorized to
24 accept a payment of money as a settlement for a violation of a
25 local ordinance corresponding to this ~~act~~ PART, the city or
26 village department, bureau, or person shall send a full report of
27 each case in which a person pays any amount of money to the city

1 or village department, bureau, or person to the secretary of
2 state upon a form prescribed by the secretary of state.

3 (3) The abstract or report required under this section shall
4 be made upon a form furnished by the secretary of state and shall
5 include all of the following:

6 (a) The name, address, and date of birth of the person
7 charged or cited.

8 (b) The date and nature of the violation.

9 (c) The type of vessel operated at the time of the
10 violation.

11 (d) The date of the conviction, finding, forfeiture, judg-
12 ment, or determination.

13 (e) Whether bail was forfeited.

14 (f) Any order issued by the court pursuant to this ~~act~~
15 PART.

16 (g) Other information considered necessary to the secretary
17 of state.

18 (4) As used in subsections (5) to (7), "felony in which a
19 vessel was used" means a felony during the commission of which
20 the person operated a vessel and while operating the vessel
21 presented real or potential harm to persons or property and 1 or
22 more of the following circumstances existed:

23 (a) The vessel was used as an instrument of the felony.

24 (b) The vessel was used to transport a victim of the
25 felony.

26 (c) The vessel was used to flee the scene of the felony.

1 (d) The vessel was necessary for the commission of the
2 felony.

3 (5) If a person is charged with a felony in which a vessel
4 was used, the prosecuting attorney shall include the following
5 statement on the complaint and information filed in district or
6 circuit court:

7 "You are charged with the commission of a felony in which a
8 vessel was used. If you are convicted and the judge finds that
9 the conviction is for a felony in which a vessel was used, as
10 defined in section ~~40~~ 80131 of the ~~marine safety~~ NATURAL
11 RESOURCES AND ENVIRONMENTAL PROTECTION act, ~~Act No. 303 of the~~
12 ~~Public Acts of 1967, being section 281.1040 of the Michigan~~
13 ~~Compiled Laws,~~ the secretary of state will order you not to
14 operate a vessel on the waters of this state."

15 (6) If a child is accused of an act the nature of which con-
16 stitutes a felony in which a vessel was used, the prosecuting
17 attorney or juvenile court shall include the following statement
18 on the petition filed in the probate court:

19 "You are accused of an act the nature of which constitutes a
20 felony in which a vessel was used. If the accusation is found to
21 be true and the judge or referee finds that the nature of the act
22 constitutes a felony in which a vessel was used, as defined in
23 section ~~40~~ 80131 of the ~~marine safety~~ NATURAL RESOURCES AND
24 ENVIRONMENTAL PROTECTION act, ~~Act No. 303 of the Public Acts of~~
25 ~~1967, being section 281.1040 of the Michigan Compiled Laws,~~ the
26 secretary of state will order you not to operate a vessel on the
27 waters of this state."

1 (7) If the judge or juvenile court referee determines as
 2 part of the sentence or disposition that the felony for which the
 3 defendant was convicted or adjudicated and with respect to which
 4 notice was given pursuant to subsection (5) or (6) is a felony in
 5 which a vessel was used, the clerk of the court shall forward an
 6 abstract of the court record of that conviction or adjudication
 7 to the secretary of state.

8 (8) Every person required to forward abstracts to the secre-
 9 tary of state under this section shall certify for the period
 10 from January 1 through June 30 and for the period from July 1
 11 through December 31 that all abstracts required to be forwarded
 12 during the period have been forwarded. The certification shall
 13 be filed with the secretary of state not later than 28 days after
 14 the end of the period covered by the certification. The certifi-
 15 cation shall be made upon a form furnished by the secretary of
 16 state and shall include all of the following:

17 (a) The name and title of the person required to forward
 18 abstracts.

19 (b) The court for which the certification is filed.

20 (c) The time period covered by the certification.

21 (d) The following statement:

22 "I certify that all abstracts required by section ~~40~~ 80131
 23 of the ~~marine safety~~ NATURAL RESOURCES AND ENVIRONMENTAL
 24 PROTECTION act ~~, MCL 281.1040; MSA 18.1287(40),~~ for the period
 25 _____ through _____ have been forwarded to the secre-
 26 tary of state.".

1 (e) Other information the secretary of state considers
2 necessary.

3 (f) The signature of the person required to forward
4 abstracts.

5 (9) The failure, refusal, or neglect of a person to comply
6 with this section constitutes misconduct in office and is grounds
7 for removal from office.

8 (10) Except as provided in subsection (11), the secretary of
9 state shall keep all abstracts received under this section at the
10 secretary of state's main office, and the abstracts shall be open
11 for public inspection during the office's usual business hours.
12 The secretary of state shall enter each abstract upon the boating
13 record of the person to whom it pertains and shall record the
14 information in a manner that makes the information available to
15 peace officers through the law enforcement information network.

16 (11) The court shall not submit, and the secretary of state
17 shall discard and not enter on the boating record, an abstract
18 for a conviction or civil infraction determination for a viola-
19 tion of this ~~act~~ PART that could not be the basis for the sec-
20 retary of state's issuance of an order not to operate a vessel on
21 the waters of this state. The secretary of state shall discard
22 and not enter on the boating record an abstract for a bond for-
23 feiture that occurred outside this state.

24 (12) The secretary of state shall inform the court of the
25 violations of this ~~act~~ PART that are used by the secretary of
26 state as the basis for issuance of an order not to operate a
27 vessel on the waters of this state.

1 (13) If a conviction or civil infraction determination is
 2 reversed upon appeal, the court shall transmit a copy of the
 3 order of reversal to the secretary of state, and the secretary of
 4 state shall enter the order in the proper book or index in con-
 5 nection with the record of the conviction or civil infraction
 6 determination.

7 (14) The secretary of state may permit a city or village
 8 department, bureau, person, or court to modify the requirement as
 9 to the time and manner of reporting a conviction, civil infrac-
 10 tion determination, or settlement to the secretary of state if
 11 the modification will increase the economy and efficiency of col-
 12 lecting and utilizing the records. If the permitted abstract of
 13 court record reporting a conviction, civil infraction determina-
 14 tion, or settlement originates as a part of the written notice to
 15 appear, authorized in section ~~463~~ 80168, the form of the writ-
 16 ten notice and report shall be as prescribed by the secretary of
 17 state.

18 Sec. ~~50~~ 80132. (1) Sections ~~52~~ 80134 and ~~53~~ 80135
 19 apply to a vessel operated on waters subject to the jurisdiction
 20 of this state when the vessel is EITHER OF THE FOLLOWING:

21 (a) Operated by its operator for recreational purposes. ~~→~~
 22 ~~or~~

23 (b) Required to be numbered in this state.

24 (2) This section does not apply to a vessel required to have
 25 a certificate of inspection under chapter I of title 46 ~~code~~
 26 ~~of federal regulations~~ OF THE CODE OF FEDERAL REGULATIONS.

1 Sec. ~~-51-~~ 80133. (1) The operator of a vessel involved in a
2 collision, accident, or other casualty, and the operator of any
3 other vessel, ~~so far as~~ TO THE EXTENT THAT he OR SHE can do so
4 without serious danger to his OR HER own vessel, crew, and pas-
5 sengers, shall render reasonable assistance to a person affected
6 by the collision, accident, or other casualty, including the
7 transporting of the injured person to a physician or surgeon for
8 medical or surgical treatment, if it is apparent that treatment
9 is necessary or when requested by the injured person.

10 (2) A person who complies with subsection (1), or who gratu-
11 itously and in good faith renders assistance at the scene of a
12 vessel collision, accident, or other casualty without objection
13 of the person assisted, is not liable for civil damages as a
14 result of the rendering of assistance, or for an act or omission
15 in providing or arranging towage, medical treatment, or other
16 assistance, ~~where~~ IF the assisting person acts as an ordinary,
17 reasonably prudent ~~man~~ PERSON would have acted under the same
18 or similar circumstances.

19 Sec. ~~-52-~~ 80134. In the case of collision, accident, or
20 other casualty involving a vessel, the operator shall stop his OR
21 HER vessel and give his OR HER name and address and identifica-
22 tion of his OR HER vessel, and the name and address of the owner
23 of the vessel if he OR SHE is not the operator, to the operator
24 or occupants of any other vessel involved or to the owner or his
25 OR HER agents of any property damaged by the accident.

26 Sec. ~~-53-~~ 80135. (1) In the case of collision, accident, or
27 other casualty involving a vessel, the operator shall report the

1 collision, accident, or other casualty to the nearest peace
2 officer, state police post, or the sheriff of the county in which
3 the collision, accident, or other casualty occurred.

4 (2) A report of a collision, accident, or other casualty
5 involving a vessel ~~which~~ THAT is made to a peace officer
6 other than the sheriff of the county in which the collision,
7 accident, or other casualty occurred ~~which~~ shall be reported with-
8 out delay by the peace officer to the sheriff of the county in
9 which the collision, accident, or other casualty occurred.

10 Sec. ~~55~~ 80136. A peace officer receiving a report or
11 investigating the collision, accident, or other casualty involv-
12 ing a vessel shall prepare and submit within 15 days a complete
13 report thereof to the ~~director~~ DEPARTMENT and the sheriff of
14 the county where the collision, accident, or other casualty
15 involving a vessel occurred, in ~~such~~ A form and containing such
16 information as the department may require.

17 Sec. ~~56~~ 80137. All collision, accident, or other casualty
18 reports involving a vessel shall be without prejudice and shall
19 be for the information of the department. Any person upon the
20 payment of \$2.00 to the department shall be furnished a copy of
21 the report. The report required in section ~~55 shall~~ 80136 IS
22 not ~~be~~ admissible in a court.

23 Sec. ~~57~~ 80138. In accordance with a request by an autho-
24 rized official or agency of the United States ~~which~~ or by the
25 department, information compiled or otherwise available to the
26 secretary of state and the ~~director~~ DEPARTMENT under this ~~act~~
27 PART shall be transmitted to the official or agency of the United

1 States ~~—~~ or TO the department for analytical and statistical
2 purposes.

3 Sec. ~~58~~ 80139. The ~~commission~~ DEPARTMENT shall promul-
4 gate rules to establish a state vessel collision, accident, or
5 other casualty reporting system in conformity with that estab-
6 lished by the United States coast guard.

7 Sec. ~~61~~ 80140. (1) In order to protect the public inter-
8 est in the prudent and equitable use of the waters of this state
9 and TO enhance the enjoyment of pleasure boating and other recre-
10 ational water sports ~~thereon~~ ON THE WATERS OF THE STATE, the
11 department shall establish and pursue comprehensive educational
12 programs designed to advance boating and general water safety.

13 (2) The department shall put into effect a program to train
14 youthful boat operators and shall issue a boating safety certifi-
15 cate to those who satisfactorily complete ~~such~~ THE program.
16 For the purpose of giving the courses of instruction and awarding
17 boating safety certificates, the ~~director~~ DEPARTMENT may desig-
18 nate as ~~his~~ ITS agent any person ~~he deems~~ IT CONSIDERS quali-
19 fied to act in ~~such~~ THIS capacity. ~~No~~ A charge shall NOT be
20 made for any instruction given or FOR the award of boating safety
21 certificates.

22 Sec. ~~62~~ 80141. (1) Except as otherwise provided in
23 subsection (4), a person less than 12 years of age shall not
24 operate a motorboat on the waters of this state unless ~~each~~ ALL
25 of the following conditions ~~is~~ ARE met:

26 (a) He or she is under the direct supervision of a person on
27 board the motorboat who is 16 years of age or older.

1 (b) The motorboat he or she operates is powered by a motor
2 or motors totaling no more than 35 horsepower.

3 (2) Except as otherwise provided in subsection (4), a person
4 12 through 15 years of age may operate a motorboat on the waters
5 of this state only if that person complies with either of the
6 following:

7 (a) He or she is accompanied by at least 1 person 16 years
8 of age or older.

9 (b) He or she is in possession of a boating safety certifi-
10 cate issued after he or she has satisfactorily completed a
11 department approved course in boating safety.

12 (3) A person 12 through 15 years of age operating a motor-
13 boat pursuant to subsection (2)(b) shall present the boating
14 safety certificate issued to him or her upon the demand of any
15 peace officer.

16 (4) This section does not apply to the operation of a motor-
17 boat that is powered by a motor or motors totaling no more than 6
18 horsepower.

19 Sec. ~~62a~~ 80142. (1) Except as provided in subsection (3),
20 a person shall not operate a vessel on the waters of this state
21 unless each person in an open deck area on board the vessel who
22 is less than 6 years of age is wearing a type I or type II per-
23 sonal flotation device as described in R 281.1234 of the Michigan
24 ~~Administrative Code~~ ADMINISTRATIVE CODE.

25 (2) A parent or guardian of a child less than 6 years of age
26 who accompanies that child on board a vessel that is not a
27 charter boat described in subsection (3) shall ensure that the

1 child is wearing a personal flotation device that complies with
2 this section.

3 (3) This section does not apply to a charter boat bearing
4 either of the following:

5 (a) A valid certificate of inspection issued by the United
6 States coast guard that verifies the charter boat's compliance
7 with subchapter H or subchapter T of the code of federal regula-
8 tions, 46 C.F.R. 70.01-1 to 80.40 and 175.01-1 to 185.30-30.

9 (b) A valid certificate of inspection issued by the depart-
10 ment for a class C vessel that is greater than 45 feet in
11 length.

12 (4) As used in this section, "charter boat" and "class C
13 vessel" mean those terms as defined in section ~~2 of the livery~~
14 ~~boat safety act, Act No. 244 of the Public Acts of 1986, being~~
15 ~~section 281.572 of the Michigan Compiled Laws~~ 44501.

16 (5) A person who violates this section is subject to a civil
17 fine of not more than \$100.00.

18 Sec. ~~63~~ 80143. (1) A person shall not operate a personal
19 watercraft on the waters of the state unless each person riding
20 on or being towed behind the vessel is wearing a type I, type II,
21 or type III personal flotation device as described in ~~R.~~
22 R 281.1234 of the Michigan administrative code.

23 (2) While operating a personal watercraft equipped by the
24 manufacturer with a lanyard-type engine cutoff switch on the
25 waters of the state, a person shall have the lanyard attached to
26 his or her person, clothing, or personal flotation device as is
27 appropriate for the specific vessel.

1 (3) A person shall not operate a personal watercraft on the
2 waters of the state between the hours from sunset to sunrise.

3 (4) A personal watercraft shall at all times be operated in
4 a reasonable and prudent manner. Maneuvers that unreasonably or
5 unnecessarily endanger life, limb, or property, including, but
6 not limited to, weaving through congested vessel traffic, jumping
7 the wake of another vessel unreasonably or unnecessarily close to
8 the other vessel or when visibility around the other vessel is
9 obstructed, and swerving at the last possible moment to avoid a
10 collision, constitute reckless operation of a vessel, as provided
11 in section ~~74~~ 80147.

12 (5) A person shall not operate a personal watercraft on the
13 waters of the state carrying more persons than the vessel is
14 designed to carry. Carrying more persons than the vessel is
15 designed to carry is prima facie evidence of reckless operation
16 of a watercraft under section ~~74~~ 80147.

17 (6) A person operating a personal watercraft on the waters
18 of the state shall maintain a distance of 100 feet from any dock,
19 raft ~~—~~ OR buoyed or occupied bathing area ~~—~~ or shall not
20 cross within 150 feet behind another vessel, other than a per-
21 sonal watercraft, that is traveling at a speed greater than
22 slow--no wake speed.

23 (7) A person under the age of 12 shall not operate a per-
24 sonal watercraft on the waters of the state. A person 12 through
25 15 years of age may operate a personal watercraft on the waters
26 of the state only when accompanied by a person 16 years of age or
27 older or without adult supervision when in possession of a

1 boating safety certificate in compliance with section ~~62-~~
2 80141.

3 (8) The owner of a personal watercraft or a person having
4 charge over or control of a personal watercraft shall not autho-
5 rize or knowingly permit the personal watercraft to be operated
6 in violation of subsection (7).

7 (9) This section does not apply to a performer engaged in a
8 professional exhibition or a person preparing to participate or
9 participating in a regatta, race, marine parade, tournament, or
10 exhibition held in compliance with this ~~act~~ PART.

11 ~~(10) This section shall not be enforced until after~~
12 ~~January 1, 1991.~~

13 Sec. ~~74-~~ 80144. (1) When vessels are being operated in
14 such a manner ~~so~~ as to make collision imminent or likely, the
15 following rules ~~shall~~ apply:

16 (a) When 2 vessels are approaching each other head-on, or
17 nearly so, the operator of each shall cause his OR HER vessel to
18 pass on the port side of the other.

19 (b) When overtaking a vessel proceeding in the same direc-
20 tion, the operator of the overtaking vessel, unless it is not
21 feasible to do so, shall pass on the port side of the vessel
22 ahead.

23 (c) When 2 vessels are approaching each other at right
24 angles or obliquely so as to involve risk of collision, other
25 than when 1 vessel is overtaking another, the operator of the
26 vessel ~~which~~ THAT has the other on his OR HER own port side
27 shall hold his OR HER course and speed, and the operator of the

1 vessel ~~which~~ THAT has the other on his OR HER own starboard
2 side shall give way to the other by directing his OR HER course
3 to starboard so as to cross the stern of the other vessel or, if
4 necessary to do so, shall slacken his OR HER speed, stop, or
5 reverse.

6 (d) When a motorboat and a vessel under sail are proceeding
7 in ~~such~~ a manner ~~so as to involve~~ THAT INVOLVES A risk of
8 collision, the operator of the motorboat shall give way to the
9 vessel under sail.

10 (e) When a motorboat and a vessel not propelled by sail or
11 mechanical means are proceeding in ~~such~~ A manner ~~as to~~
12 ~~involve~~ THAT INVOLVES risk of collision, the operator of the
13 motorboat shall give way to the other vessel.

14 (f) When, by any of the rules provided in this section, the
15 operator of a vessel is required to give way to the other, the
16 operator of the other vessel shall maintain his OR HER direction
17 and speed.

18 (2) ~~Nothing in this~~ THIS section ~~shall~~ DOES NOT relieve
19 the operator of a vessel otherwise privileged by ~~the provisions~~
20 ~~of~~ this section from the duty to operate with due regard for the
21 safety of all persons using the waters of this state.

22 Sec. ~~72~~ 80145. A person operating or propelling a vessel
23 upon the waters of this state shall operate it in a careful and
24 prudent manner and at such a rate of speed so as not to endanger
25 unreasonably the life or property of any person. A person shall
26 not operate any vessel at a rate of speed greater than will
27 permit him OR HER, in the exercise of reasonable care, to bring

1 the vessel to a stop within the assured clear distance ahead. A
2 person shall not operate a vessel in a manner so as to interfere
3 unreasonably with the lawful use by others of any waters.

4 Sec. ~~72a~~ 80146. (1) The ~~commission~~ DEPARTMENT may
5 promulgate rules to establish maximum motorboat speed limits or
6 to allow unlimited motorboat speed on the waters of this state.

7 (2) On waters of this state for which a motorboat speed
8 limit is not established under subsection (1), ~~or~~ on any waters
9 for which the ~~commission~~ DEPARTMENT has not established an
10 unlimited motorboat speed limit, or on any waters for which
11 stricter speed restrictions are not established pursuant to an
12 act, a maximum speed limit of 55 miles per hour is established,
13 except in an emergency and except for authorized peace and con-
14 servation officers when engaged in official duties. The maximum
15 speed limit of 55 miles per hour shall not apply to the Great
16 Lakes and Lake St. Clair, except for an area within 1 mile of the
17 shoreline measured at a right angle from the shoreline. Upon
18 receipt of a resolution by the governing body of a ~~county, town~~
19 ~~ship, city, or village~~ LOCAL UNIT OF GOVERNMENT having jurisdic-
20 tion over waters of this state requesting a reduction in the max-
21 imum speed limit on those waters, the ~~commission~~ DEPARTMENT,
22 pursuant to sections ~~12~~ 80108 to ~~17~~ 80113, may establish a
23 maximum speed limit not to exceed 40 miles per hour on those
24 waters.

25 (3) A person shall not operate a motorboat on the waters of
26 this state at a speed greater than ~~slow no wake~~ SLOW--NO WAKE
27 speed or the minimum speed necessary for the motorboat to

1 maintain forward movement when within 100 feet of the shoreline
2 where the water depth is less than 3 feet, as determined by ver-
3 tical measurement, except in navigable channels not otherwise
4 posted.

5 (4) A person operating a motorboat in violation of this sec-
6 tion is guilty of reckless operation of a motorboat punishable as
7 provided in section ~~+66~~ 80171.

8 (5) The ~~commission~~ DEPARTMENT may waive this section and
9 section ~~+14~~ 80156 for marine events authorized by the depart-
10 ment under section ~~+5+~~ 80164.

11 Sec. ~~74~~ 80147. (1) If a person carelessly and heedlessly
12 operates a vessel upon the waters of this state in disregard of
13 the rights or safety of others, ~~or~~ without due caution and cir-
14 cumspection, or at a rate of speed or in a manner that endangers
15 or is likely to endanger a person or property, that person is
16 guilty of reckless operation of a vessel and is subject to the
17 penalties described in subsection (3).

18 (2) If a person, ~~who,~~ while being towed on water skis, A
19 water sled, A surfboard, or a similar contrivance upon the waters
20 of this state, carelessly and heedlessly navigates, steers, or
21 controls himself or herself in disregard of the rights or safety
22 of others ~~—~~ or without due caution and circumspection and in a
23 manner that endangers or is likely to endanger a person or prop-
24 erty, THEN that person is guilty of reckless operation of the
25 contrivance that he or she controls ~~—~~ and is subject to the
26 penalties described in subsection (3).

1 (3) Upon a person's conviction under this section, the court
2 may issue an order prohibiting that person from operating a
3 vessel on the waters of this state for a period of not more than
4 2 years. Upon a person's subsequent conviction under this sec-
5 tion, the court shall order that person to participate in and
6 complete a marine safety educational program approved by the
7 department. An order issued pursuant to this subsection is in
8 addition to any other penalty authorized under this ~~act~~ PART.

9 Sec. ~~74a~~ 80148. (1) Subject to the exceptions described
10 in subsection (2), a person shall not operate a motorboat at more
11 than ~~slow~~ ~~no~~ SLOW--NO wake speed if any of the following
12 circumstances exist:

13 (a) A person is located on or in the bow of the motorboat,
14 and that motorboat is not manufactured to provide bow seating.

15 (b) A person or a portion of a person's body extends beyond
16 the exterior port or starboard walls of the hull of the
17 motorboat.

18 (2) This section does not apply to either of the following:

19 (a) A person engaged in the operation of a sailboat that is
20 not being powered by a motor.

21 (b) A person on board a vessel who is attempting to anchor,
22 moor, dock, or otherwise secure the vessel.

23 Sec. ~~75~~ 80149. Persons operating vessels on the waters of
24 this state in areas not marked by well defined channels, canals,
25 rivers, or stream courses shall operate THE VESSELS in a
26 counter-clockwise fashion ~~insofar as~~ TO THE EXTENT THAT it is
27 reasonably possible. These persons and persons being towed on

1 water skis ~~—~~ OR ON A water sled, kite, surfboard, or similar
2 contrivance shall maintain a distance of 100 feet from any dock,
3 raft, buoyed or occupied bathing area, or vessel moored or at
4 anchor, except when the vessel is proceeding at a slow--no wake
5 speed or when water skiers are being picked up or dropped off, if
6 ~~such~~ THAT operation is otherwise conducted with due regard to
7 the safety of persons and property and in accordance with the
8 laws of this state.

9 Sec. ~~76~~ 80150. A person shall not operate a vessel on any
10 of the waters of this state within a lawfully authorized
11 restricted area clearly marked by buoys, beacons, or other dis-
12 tinguishing devices as being prohibited to vessels.

13 Sec. ~~77~~ 80151. An operator of any vessel shall not have
14 in tow or otherwise be assisting in the propulsion of a person on
15 water skis ~~—~~ OR ON A water sled, surfboard, or other similar
16 contrivance during the period of 1 hour after sunset to 1 hour
17 prior to sunrise. Any person permitting himself OR HERSELF to be
18 towed on water skis ~~—~~ OR ON A water sled, surfboard, or similar
19 contrivance in violation of ~~any of the provisions of this act~~
20 PART is guilty of a misdemeanor.

21 Sec. ~~78~~ 80152. (1) A person shall not operate a vessel on
22 the waters of this state if he or she is towing or otherwise
23 assisting a person on water skis ~~—~~ OR ON A water sled, aqua-
24 plane, surfboard, or other similar contrivance unless a person
25 capable of communicating to the vessel operator the condition and
26 needs of the person being towed or assisted is on board the

1 vessel and positioned to observe the person being towed or
2 assisted.

3 (2) Subsection (1) does not apply to vessels used by duly
4 constituted ski schools in the giving of instructions ~~—~~ or to
5 vessels used in sanctioned ski tournaments, competitions, exposi-
6 tions, or trials. Vessels described in this subsection shall be
7 equipped with a 170-degree wide-angle rearview mirror affixed in
8 a manner that will permit the operator to observe the progress of
9 the person being towed.

10 (3) This section does not apply to motorboats less than 16
11 feet in length actually operated by the person being towed and so
12 constructed as to be incapable of carrying the operator in or on
13 the motorboat.

14 Sec. ~~79~~ 80153. Any occupant or operator of any vessel
15 ~~underway~~ UNDER WAY on the waters of this state shall not sit,
16 stand, or walk upon any portion of the vessel not specially
17 designed for ~~such~~ THAT purpose, except when immediately neces-
18 sary for the safe and reasonable navigation or operation of the
19 vessel.

20 Sec. ~~80~~ 80154. A person not in a boat shall not inten-
21 tionally rock, tip, jostle, or otherwise interfere with the oper-
22 ation of any vessel, except under supervised training.

23 Sec. ~~101~~ 80155. Any person diving or submerging in any of
24 the waters of this state with the aid of a diving suit or other
25 mechanical diving device shall place a buoy or boat in the water
26 at or near the point of submergence. The buoy or boat shall bear
27 a red flag not less than 14 inches by 16 inches with a 3-1/2 inch

1 white stripe running from 1 upper corner to a diagonal lower
2 corner. The flag shall be in place only while actual diving
3 operations are in progress. A vessel shall not be operated
4 within 200 feet of a buoyed diver's flag unless it is involved in
5 tendering the diving operation. A person diving shall stay
6 within a surface area of 100 feet of the diver's flag.

7 Sec. ~~114~~ 80156. (1) Subject to subsection (2), a person
8 shall not operate a motorboat on the waters of this state unless
9 the motorboat is equipped and maintained with an effective muf-
10 fler or underwater exhaust system that does not produce sound
11 levels in excess of 90 dB(A) when subjected to a stationary sound
12 level test as prescribed by SAE J2005 or a sound level in excess
13 of 75 dB(A) when subjected to a shoreline sound level measurement
14 procedure as described by SAE J1970. The operator of a motorboat
15 shall present the motorboat for a sound level test as prescribed
16 by SAE J2005 upon the request of a peace officer. If a motorboat
17 is equipped with more than 1 motor or engine, the test shall be
18 performed with all motors or engines operating. To determine
19 whether a person is violating this subsection, a peace officer
20 may measure sound levels pursuant to procedures prescribed in SAE
21 J1970, issued 1991-92.

22 (2) The department may by rule establish a motorboat sound
23 level test and set a maximum decibel level or levels permitted
24 for motorboat operation that replace the tests and maximum deci-
25 bel levels permitted under subsection (1). If a test and maximum
26 decibel level or levels are established pursuant to this
27 subsection, all of the following apply:

1 (a) A person shall not operate a motorboat on the waters of
2 this state if the motorboat produces sound levels that exceed the
3 maximum decibel level or levels established under this
4 subsection.

5 (b) The operator of a motorboat shall present the motorboat
6 for the sound level test established pursuant to this subsection
7 upon the request of a peace officer.

8 (c) A motorboat equipped with more than 1 motor or engine
9 shall be tested with all motors or engines operating.

10 (3) A person shall not manufacture, ~~or~~ sell, or offer for
11 sale ~~—~~ a new motorboat for use on the waters of this state if
12 that motorboat cannot be operated in a manner that complies with
13 the applicable sound levels permitted under subsection (1) or
14 (2).

15 (4) Subsections (1) and (2) do not apply to any of the
16 following:

17 (a) A motorboat tuning up ~~—~~ OR testing for or participat-
18 ing in official trials for speed records or a sanctioned race
19 conducted pursuant to a permit issued by an appropriate unit of
20 government.

21 (b) A motorboat being operated by a boat or marine engine
22 manufacturer for the purpose of testing or development.

23 (c) A motorboat that qualifies as an historic vessel.

24 (5) A person shall not operate on the waters of this state a
25 motorboat that is equipped with a cut-out, bypass, amplifier, or
26 other similar device.

1 (6) As used in this section, "dB(A)" means decibels on the
2 "A" scale on a sound meter having characteristics of a general
3 purpose sound meter as defined by American national standards
4 institute S1.4-1983.

5 (7) A person who violates this section is guilty of a misde-
6 meanor, punishable by imprisonment for not more than 90 days and
7 a fine of not less than \$100.00 or more than \$500.00.
8 Additionally, before putting the motorboat back in use, a person
9 who violates this section shall be required to install an effec-
10 tive muffler or underwater exhaust system that meets the require-
11 ments of this section on the motorboat in violation at his or her
12 expense.

13 Sec. ~~+31+~~ 80157. The owner of a vessel ~~shall be~~ IS
14 liable for any injury occasioned by the negligent operation of
15 the vessel, whether the negligence consists of a violation of
16 ~~the provisions of~~ the statutes of this state, or in the failure
17 to observe such ordinary care in the operation as the rules of
18 the common law require. The owner ~~shall~~ IS not ~~be~~ liable
19 unless the vessel is being used with his OR HER expressed or
20 implied consent. It shall be presumed that the vessel is being
21 operated with the knowledge and consent of the owner if it is
22 driven at THE time of the injury by his or her son, ~~or~~ daugh-
23 ter, spouse, father, mother, brother, sister, or other immediate
24 member of the owner's family.

25 Sec. ~~+32+~~ 80158. The owner of any vessel operated upon the
26 waters of this state ~~shall be~~ IS personally responsible for any
27 damage to life or property resulting from a wake or swell created

1 by the negligent operation or propulsion of ~~such~~ THE vessel,
2 ~~where~~ IF the vessel is being operated with his OR HER consent.

3 Sec. ~~141~~ 80159. The department may authorize, through the
4 issuance of revocable permits, the placing of buoys or beacons in
5 the waters of this state to mark obstruction to navigation, to
6 designate bathing areas, to designate vessel anchorages, or for
7 any other purpose if it will promote safety or navigation. Any
8 person who desires to place buoys or beacons in the waters of
9 this state, without expense to the state, shall make application
10 to the department in ~~such~~ A form and containing ~~such~~ informa-
11 tion ~~as~~ REQUIRED BY the department. ~~may require.~~ Buoys or
12 beacons, except for mooring buoys, shall not be placed in the
13 waters of this state unless authorized by the department in
14 writing. ~~When~~ IF authorization has been granted, the buoys or
15 beacons shall be placed only in accordance with the terms of the
16 permit and shall be ~~deemed~~ CONSIDERED lawfully placed. If
17 buoys or beacons are placed in the waters of this state without a
18 permit having been issued, the department may order their
19 removal. If, in the judgment of the department, buoys or beacons
20 authorized by ~~it~~ THE DEPARTMENT are found to be improperly
21 placed, ~~or that~~ the reason for their placement no longer
22 exists, or ~~that~~ the buoys or beacons do not conform to the uni-
23 form system of marking established by state regulation, the
24 department may revoke the permit authorizing their placement and
25 may order their removal. Revocation of permits and orders of
26 removal shall be by written notice to the person placing the
27 buoys or beacons or to the person to whom the permit was issued

1 at his OR HER last known address, directing the removal within a
2 specified time. The person to whom the notice is directed shall
3 remove the buoys or beacons in accordance with the instructions.
4 If the person fails to remove the buoys or beacons within the
5 specified time, the department may cause their removal, and the
6 cost and expense of the removal shall be charged against the
7 person authorized to place the buoys or beacons or, where autho-
8 rization has not been granted, the person placing such buoys or
9 beacons and shall be recoverable through any court of competent
10 jurisdiction.

11 Sec. ~~+42-~~ 80160. The department shall establish a uniform
12 waterway marking system for the marking of all buoys and beacons
13 authorized by ~~the provisions of this act~~ PART to be placed in
14 the waters of this state.

15 Sec. ~~+43-~~ 80161. Sections ~~+41-~~ 80159 and ~~+42-~~ ~~shall~~
16 80160 DO not exempt any person from compliance with applicable
17 federal law or regulation, and ~~they shall~~ SECTIONS 80159 AND
18 80160 DO not ~~be construed to~~ require the securing of a state
19 revocable permit if a permit therefor has been obtained from an
20 authorized agency of the United States.

21 Sec. ~~+44-~~ 80162. A person shall not moor or fasten a
22 vessel to a lawfully placed buoy or beacon, except mooring buoys,
23 or willfully move, remove, or damage such A buoy or beacon.

24 Sec. ~~+45-~~ 80163. Whenever, in the opinion of the
25 ~~director~~ DEPARTMENT, an anchored raft presents a hazard to nav-
26 igation, the department may order its relocation or removal.

1 Sec. ~~+51+~~ 80164. The department may authorize the holding
 2 of regattas, motorboat or other boat races, marine parades,
 3 tournaments, OR exhibitions, or trials ~~therefor~~ FOR THOSE
 4 EVENTS, on any waters of this state. ~~It~~ THE DEPARTMENT shall
 5 ~~adopt~~ PROMULGATE and ~~from time to time~~ may amend rules con-
 6 cerning the conduct of such marine events. Whenever a regatta,
 7 motorboat or other boat race, marine parade, tournament, OR
 8 exhibition, or trials ~~therefor~~ FOR THOSE EVENTS, is proposed to
 9 be held, the person in charge ~~thereof~~ OF THE EVENT, at least 30
 10 days prior ~~thereto~~ TO THE EVENT, shall file an application with
 11 the department for permission to hold the regatta, motorboat or
 12 other boat race, marine parade, tournament, exhibition, or
 13 trials. ~~therefor.~~ The application shall set forth the date,
 14 time, and location where it is proposed to hold ~~such~~ THE regat-
 15 ta, motorboat or other boat race, marine parade, tournament, or
 16 exhibition, and it shall not be conducted without THE WRITTEN
 17 authorization of the department. ~~in writing.~~

18 Sec. ~~+52+~~ 80165. Section ~~+51+~~ ~~shall~~ 80164 DOES not exempt
 19 a person from compliance with an applicable federal law or regu-
 20 lation, and it shall not be construed to require the securing of
 21 a state permit if a permit for an event, exhibition, or trial
 22 described in section ~~+51+~~ 80164 has been obtained from an autho-
 23 rized agency of the United States. The department in its permit
 24 may waive the provisions of sections ~~31, 71, 72a, 75, 77, 78~~
 25 80122, 80144, 80146, 80149, 80151, 80152, and ~~+14+~~ 80156, as
 26 well as the registration provisions of the laws of this state,
 27 and any of the rules promulgated by the department UNDER THIS

1 PART, ~~insofar as~~ TO THE EXTENT THAT they apply to vessels
2 participating in races, regattas, or trials sanctioned by the
3 department.

4 Sec. ~~16~~ 80166. (1) Upon the direction of a peace offi-
5 cer, the operator of a vessel moving on the waters of this state
6 shall immediately bring the vessel to a stop or maneuver it in a
7 manner that permits the peace officer to come beside the vessel.
8 The operator of the vessel and any person on the vessel shall do
9 the following upon the request of the peace officer:

10 (a) Provide his or her correct name and address.

11 (b) Exhibit the certificate of number awarded for the
12 vessel.

13 (c) If the vessel does not bear a decal described in
14 subsection (3), submit to a reasonable inspection of the vessel
15 and to a reasonable inspection and test of the equipment of the
16 vessel.

17 (2) Each police chief, the director of the law enforcement
18 division of the department OF NATURAL RESOURCES, the director of
19 the department of state police, and each sheriff shall issue a
20 book containing both of the following to each peace officer in
21 his or her department whose duties may include enforcement of
22 marine law:

23 (a) Adhesive copies of a uniform marine safety inspection
24 decal described in subsection (3).

25 (b) Receipts for each uniform inspection decal copy.

26 (3) The department shall create and each calendar year make
27 available to persons described in subsection (2) adhesive copies

1 of a uniform marine safety inspection decal that is ~~each~~ ALL of
2 the following:

3 (a) Effective for 1 calendar year.

4 (b) Of a distinct color that is changed each calendar year.

5 (c) Attachable to a vessel and bearing language that sub-
6 stantially complies with the following: "This vessel has been
7 inspected by _____ on _____ and is in compliance with the
8 equipment and registration requirements of ~~the marine safety~~
9 ~~act, Act No. 303 of the Public Acts of 1967~~ PART 801 OF THE NAT-
10 URAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT."

11 (4) A peace officer who conducts an inspection of a vessel
12 authorized under this section shall include in that inspection a
13 reasonable examination and test of the equipment on that vessel.
14 If the peace officer does not find a violation of a marine law,
15 he or she shall affix to the vessel an adhesive copy of the uni-
16 form marine safety inspection decal described in subsection (3)
17 and shall complete a receipt for that decal.

18 (5) A completed receipt for a decal shall include all of the
19 following:

20 (a) The name of the peace officer.

21 (b) The time, date, and place of the inspection.

22 (c) The vessel's identifying number.

23 (6) A peace officer shall deliver to his or her supervisor
24 or person designated by that supervisor a receipt for a decal
25 within 48 hours of affixing the decal to a vessel. The supervi-
26 sor or person designated by the supervisor shall maintain
27 receipts received under this section for a period of 1 year.

1 (7) Except for inspection of a vessel to determine the
2 number and adequacy of personal flotation devices on that vessel,
3 a peace officer shall not stop and inspect a vessel bearing the
4 decal described in this section during the period the decal
5 remains in effect unless that peace officer has probable cause to
6 believe the vessel or the vessel's operator is in violation of a
7 marine law.

8 (8) A person who is detained for a violation of this ~~act~~
9 PART or of a local ordinance substantially corresponding to a
10 provision of this ~~act~~ PART and who furnishes a peace officer
11 false, forged, fictitious, or misleading verbal or written infor-
12 mation identifying the person as another person is guilty of a
13 misdemeanor.

14 (9) A peace officer who observes a marine law violation may
15 immediately arrest the person without a warrant ~~or~~ or issue to
16 the person a written or verbal warning.

17 Sec. ~~+62-~~ 80167. If a person is arrested without a warrant
18 for any of the following, the arrested person shall, without
19 unreasonable delay, be arraigned by a magistrate or judge who is
20 within the county in which the offense charged is alleged to have
21 been committed, who has jurisdiction of the offense, and who is
22 nearest or most accessible with reference to the place where the
23 arrest is made:

24 (a) The person is arrested upon a charge of negligent
25 homicide.

1 (b) The person is arrested under section ~~+71(+)~~ 80176(1),
2 (3), (4), or (5), or a local ordinance substantially
3 corresponding to section ~~+71(+)~~ 80176(1) or (3).

4 (c) The person is arrested under section ~~74~~ 80147 or a
5 local ordinance substantially corresponding to section ~~74~~
6 80147. If in the existing circumstances it does not appear that
7 releasing the person pending the issuance of a warrant will con-
8 stitute a public menace, the arresting officer may proceed as
9 provided by section ~~+63~~ 80168.

10 Sec. ~~+63~~ 80168. (1) When a person is arrested without a
11 warrant for ~~any~~ A violation of this ~~act~~ PART punishable as a
12 misdemeanor, or of a provision of any local ordinance or rule
13 established in conformity with this ~~act~~ PART, under conditions
14 not referred to in section ~~+62~~ 80167, the arresting officer
15 shall prepare in duplicate a written notice to appear in court
16 containing the name and address of the person, the offense
17 charged, and the time and place when and where the person shall
18 appear in court. If the arrested person so demands, he or she
19 shall be arraigned by a magistrate or a district court judge as
20 provided in section ~~+62~~ 80167 in lieu of being given the
21 notice.

22 (2) The time specified in the notice to appear shall be
23 within a reasonable time after the arrest unless the person
24 arrested demands an earlier hearing.

25 (3) The place specified in the notice to appear shall be
26 before a magistrate or a district court judge WHO IS within the

1 township or county in which the offense charged is alleged to
2 have been committed and who has jurisdiction of the offense.

3 (4) Appearance may be made in person, by representation, or
4 by mail. When appearance is made by representation ~~—~~ or mail,
5 the magistrate or the district court judge may accept the plea of
6 guilty or not guilty for purposes of arraignment, with the same
7 effect as though the person personally appeared before him or
8 her. The magistrate or the district court judge, by giving
9 notice 5 days prior to the date of appearance, may require
10 appearance in person at the time and place designated in the
11 notice.

12 Sec. ~~+64~~ 80169. (1) If a person not a resident of this
13 state is arrested without a warrant for any violation of this
14 ~~act~~ PART under conditions not referred to under section ~~+62~~
15 80167, the officer making the arrest, upon demand of the arrested
16 person, shall immediately take the person for arraignment by a
17 magistrate or a district court judge in the vicinity to answer to
18 the complaint made against him or her. If a magistrate or a dis-
19 trict court judge is not available or an immediate trial cannot
20 be had, the person arrested may recognize to the officer for his
21 or her appearance by leaving with him or her a sum of money not
22 to exceed \$25.00.

23 (2) The officer making the arrest shall give a receipt to
24 the person arrested for the money deposited with him or her under
25 subsection (1), together with a written summons as provided in
26 section ~~+63~~ 80168.

1 (3) If the offender fails to appear as required, the deposit
2 shall be forfeited as in other cases of default in bail, in
3 addition to any other penalty provided in this ~~act~~ PART.

4 (4) Within 48 hours after taking a deposit under this sec-
5 tion, the officer shall deposit the money with the magistrate or
6 the district court judge named in the notice to appear, together
7 with a report stating the facts relating to the arrest. Failure
8 to make the report and deposit the money is embezzlement of
9 public money.

10 Sec. ~~+65-~~ 80170. (1) Any officer, magistrate, or district
11 court judge violating section ~~+63-~~ 80168 or ~~+64-~~ 80169 is
12 guilty of misconduct in office and is subject to removal from
13 office.

14 (2) Sections ~~+63-~~ 80168 and ~~+64-~~ ~~shall~~ 80169 govern all
15 peace officers in making arrests without a warrant for violations
16 of this ~~act~~ PART and ~~shall~~ DO not ~~be construed as~~
17 ~~preventing~~ PREVENT the execution of a warrant for the arrest of
18 the person as in other cases of misdemeanors when it may be
19 necessary.

20 Sec. ~~+66-~~ 80171. Unless otherwise specified under this
21 ~~act~~ PART, a violation of ~~any of the provisions of~~ this ~~act~~
22 PART or rules ~~established in conformity with it,~~ PROMULGATED
23 UNDER THIS PART is a misdemeanor. A political subdivision having
24 adopted ~~any~~ A local ordinance in conformity with this ~~act~~
25 PART may provide that any violation ~~thereof~~ OF THE ORDINANCE is
26 a misdemeanor. Any person convicted of reckless operation of a
27 vessel as defined in section ~~-74-~~ 80147, or of operating a vessel

1 while under the influence of intoxicating liquor or narcotic
2 drugs, in addition to any other penalty, may be refused by the
3 court having jurisdiction of the violation ~~—~~ the right of oper-
4 ating any vessel on any of the waters of this state for a period
5 of not more than 2 years.

6 Sec. ~~+67-~~ 80172. A person who, by the operation of any
7 vessel at an immoderate rate of speed or in a careless, reckless,
8 or negligent manner, but not ~~wilfully~~ WILLFULLY or wantonly,
9 injures so as to cripple or cause the death of another is guilty
10 of a misdemeanor, and shall be imprisoned ~~in the state prison~~
11 for not more than 2 years, or fined not more than \$2,000.00, or
12 both.

13 Sec. ~~+68-~~ 80173. ~~Any~~ A person who operates any vessel
14 carelessly and heedlessly in ~~wilful~~ WILLFUL and wanton disre-
15 gard of the rights or safety of others, or without due caution
16 and circumspection and at a speed or in a manner so as to endan-
17 ger or be likely to endanger any person or property and thereby
18 injures so as to cripple any person, but not causing death, is
19 guilty of the offense of felonious operation, and shall be
20 imprisoned ~~in the state prison~~ for not more than 2 years, or
21 fined not more than \$2,000.00, or both.

22 Sec. ~~+69-~~ 80174. The crime of negligent homicide ~~shall be~~
23 ~~deemed to be~~ IS included within every crime of manslaughter
24 charged to have been committed in the operation of any vessel,
25 and where a defendant is charged with manslaughter committed in
26 the operation of any vessel, if the jury finds the defendant not

1 guilty of the crime of manslaughter, the jury may render a
2 verdict of negligent homicide.

3 Sec. ~~+70-~~ 80175. (1) The operation by a nonresident of a
4 vessel upon the waters of this state, or the operation on the
5 waters of this state of a vessel owned by a nonresident if oper-
6 ated with his OR HER consent, expressed or implied, is the
7 appointment by the nonresident of the secretary of state as his
8 OR HER true and lawful attorney, upon whom may be served the sum-
9 mons in any action against him OR HER, growing out of any acci-
10 dent or collision in which ~~such~~ THE nonresident may be involved
11 while operating a vessel on the waters of this state, or in which
12 the vessel may be involved while being so operated. The opera-
13 tion is a signification of his OR HER agreement that any summons
14 against him ~~which~~ OR HER THAT is so served ~~shall have~~ HAS the
15 same legal force and validity as if served on him OR HER person-
16 ally within this state. Service of summons shall be made by
17 leaving a copy ~~thereof~~ OF THE SUMMONS with the secretary of
18 state, or his OR HER deputy, who shall keep a record of each pro-
19 cess and the day and hour of service. Service shall be suffi-
20 cient service upon the nonresident, if notice of the service and
21 a copy of the summons are forthwith either served upon the
22 defendant personally by the sheriff or constable of the county in
23 which he OR SHE resides or sent by certified mail by the plain-
24 tiff or his OR HER attorney to the defendant. If personal serv-
25 ice of the notice and copy of summons is had upon the defendant,
26 the officer making the service shall so certify in his OR HER
27 return, which shall be filed with the court having jurisdiction

1 of the cause. If service is made by certified mail, then the
2 plaintiff or his OR HER attorney shall make an affidavit showing
3 that he OR SHE has made service of the notice and summons upon
4 the defendant by certified mail, and the affiant shall attach
5 ~~thereto~~ TO THE AFFIDAVIT a true copy of the summons and notice
6 so served and the return receipt of the defendant and shall file
7 the affidavit and attached papers with the court having jurisdic-
8 tion of the cause. The court in which the action is pending may
9 order such extension of time as is necessary to afford the
10 defendant reasonable opportunity to defend the action.

11 (2) The death of a nonresident does not revoke the appoint-
12 ment by him OR HER of the secretary of state as his OR HER true
13 and lawful attorney upon whom may be served the summons in an
14 action against him OR HER growing out of any such accident or
15 collision, ~~—~~ and any action growing out of such accident or
16 collision may be commenced or prosecuted against his OR HER exec-
17 utor or administrator duly appointed by the state, territory, or
18 district of the United States or foreign country in which the
19 nonresident was domiciled at the time of his OR HER death.
20 Service of the summons shall be made upon the secretary of state,
21 and personal service of such notice and the copy of the summons
22 be upon his OR HER executor or administrator, in like manner,
23 with the same force and effect as service upon the nonresident
24 during his OR HER lifetime.

25 (3) Any action or proceeding pending in any court of this
26 state, in which the court has obtained jurisdiction of the
27 nonresident pursuant to ~~the provision of~~ this section, shall

1 not abate by reason of the death of the nonresident, but his OR
2 HER executor or administrator duly appointed in the state,
3 territory, or district of the United States or foreign country in
4 which he OR SHE was domiciled at the time of his OR HER death,
5 upon the application of the plaintiff in the action and upon such
6 notice as the court may prescribe, shall be brought in and sub-
7 stituted in the place of the decedent, and the action or proceed-
8 ing shall continue.

9 (4) The court shall include as taxable costs, in addition to
10 other legal costs against the plaintiff in case the defendant
11 prevails in the action, the actual traveling expenses of the
12 defendant from his OR HER residence to the place of trial and
13 return, not to exceed the sum of \$100.00.

14 (5) ~~The provisions of this~~ THIS section ~~shall apply~~
15 APPLIES to actions commenced in all courts of this state having
16 civil jurisdiction, including justice courts.

17 Sec. ~~171~~ 80176. (1) A person shall not operate a vessel
18 on the waters of this state if either of the following applies:

19 (a) The person is under the influence of intoxicating liquor
20 or a controlled substance, or both.

21 (b) The person has a blood alcohol content of 0.10% or more
22 by weight of alcohol.

23 (2) The owner of a vessel or a person in charge or in con-
24 trol of a vessel shall not authorize or knowingly permit the
25 vessel to be operated on the waters of this state by a person who
26 is under the influence of intoxicating liquor or a controlled

1 substance, or both, or who has a blood alcohol content of 0.10%
2 or more by weight of alcohol.

3 (3) A person shall not operate a vessel on the waters of
4 this state when, due to the consumption of an intoxicating liquor
5 or a controlled substance, or both, the person's ability to oper-
6 ate the vessel is visibly impaired. If a person is charged with
7 violating subsection (1), a finding of guilty under this subsec-
8 tion may be rendered.

9 (4) A person who operates a vessel on the waters of this
10 state under the influence of intoxicating liquor or a controlled
11 substance, or both, or with a blood alcohol content of 0.10% or
12 more by weight of alcohol, and by the operation of that vessel
13 causes the death of another person is guilty of a felony, punish-
14 able by imprisonment for not more than 15 years, or a fine of not
15 less than \$2,500.00 or more than \$10,000.00, or both.

16 (5) A person who operates a vessel on the waters of this
17 state under the influence of intoxicating liquor or a controlled
18 substance, or both, or with a blood alcohol content of 0.10% or
19 more by weight of alcohol, and by the operation of that vessel
20 causes a long-term incapacitating injury to another person is
21 guilty of a felony, punishable by imprisonment for not more than
22 5 years, or a fine of not less than \$1,000.00 or more than
23 \$5,000.00, or both.

24 Sec. ~~+72-~~ 80177. (1) If a person is convicted of violating
25 section ~~+71(+)-~~ 80176(1), the following apply:

1 (a) Except as otherwise provided in subdivisions (b) and
2 (c), the person is guilty of a misdemeanor and shall be punished
3 by 1 or more of the following:

4 (i) Community service for not more than 45 days.

5 (ii) Imprisonment for not more than 90 days.

6 (iii) A fine of not less than \$100.00 or more than \$500.00.

7 (b) If the violation occurs within 7 years of a prior con-
8 viction, the person shall be sentenced to both a fine of not less
9 than \$200.00 or more than \$1,000.00 and either of the following:

10 (i) Community service for not less than 10 days or more than
11 90 days, and may be imprisoned for not more than 1 year.

12 (ii) Imprisonment for not less than 48 consecutive hours or
13 more than 1 year, and may be sentenced to community service for
14 not more than 90 days.

15 (c) If the violation occurs within 10 years of 2 or more
16 prior convictions, the person is guilty of a felony and shall be
17 sentenced to imprisonment for not less than 1 year or more than 5
18 years, or a fine of not less than \$500.00 or more than \$5,000.00,
19 or both.

20 (2) A term of imprisonment imposed under subdivision (b)(ii)
21 shall not be suspended. A person sentenced to perform service to
22 the community under this section shall not receive compensation
23 and shall reimburse the state or appropriate local unit of gov-
24 ernment for the cost of supervision incurred by the state or
25 local unit of government as a result of the person's activities
26 in that service.

1 (3) In addition to the sanctions prescribed under
 2 subsection (1) and section ~~+71(4)~~ 80176(4) and (5), the court
 3 may, pursuant to the code of criminal procedure, Act No. 175 of
 4 the Public Acts of 1927, being sections 760.1 to 776.21 of the
 5 Michigan Compiled Laws, order the person to pay the costs of the
 6 prosecution. The court shall also impose sanctions under sec-
 7 tions ~~+81~~ 80185 and ~~+82~~ 80186.

8 (4) A person who is convicted of violating section ~~+71(2)~~
 9 80176(2) is guilty of a misdemeanor, punishable by imprisonment
 10 for not more than 90 days, or a fine of not less than \$100.00 or
 11 more than \$500.00, or both.

12 (5) As used in this section, "prior conviction" means a con-
 13 viction for a violation of ~~section +71(1)~~ ANY OF THE
 14 FOLLOWING:

15 (A) SECTION 80176(1), (4), or (5). ~~, former~~

16 (B) FORMER SECTION 171(1), (4), OR (5) OF THE MARINE SAFETY
 17 ACT.

18 (C) FORMER section 73 OF THE MARINE SAFETY ACT. ~~, a~~

19 (D) A local ordinance substantially corresponding to section
 20 ~~+71(1)~~ 80176(1) or former section 73 ~~, or a~~ OF THE MARINE
 21 SAFETY ACT.

22 (E) A law of another state substantially corresponding to
 23 section ~~+71(1)~~ 80176(1), (4), or (5) or former section 73 OF
 24 THE MARINE SAFETY ACT.

25 Sec. ~~+73~~ 80178. (1) If a person is convicted of violating
 26 section ~~+71(3)~~ 80176(3), the following apply:

1 (a) Except as otherwise provided in subdivisions (b) and
2 (c), the person is guilty of a misdemeanor punishable by 1 or
3 more of the following:

4 (i) Community service for not more than 45 days.

5 (ii) Imprisonment for not more than 90 days.

6 (iii) A fine of not more than \$300.00.

7 (b) If the violation occurs within 7 years of 1 prior con-
8 viction, the person shall be sentenced to both a fine of not less
9 than \$200.00 or more than \$1,000.00, and either of the
10 following:

11 (i) Community service for not less than 10 days or more than
12 90 days, and may be sentenced to imprisonment for not more than 1
13 year.

14 (ii) Imprisonment for not more than 1 year, and may be sen-
15 tenced to community service for not more than 90 days.

16 (c) If the violation occurs within 10 years of 2 or more
17 prior convictions, the person shall be sentenced to both a fine
18 of not less than \$200.00 or more than \$1,000.00, and either of
19 the following:

20 (i) Community service for a period of not less than 10 days
21 or more than 90 days, and may be sentenced to imprisonment for
22 not more than 1 year.

23 (ii) Imprisonment for not more than 1 year, and may be sen-
24 tenced to community service for not more than 90 days.

25 (2) In addition to the sanctions prescribed in subsection
26 (1), the court may, pursuant to the code of criminal procedure,
27 Act No. 175 of the Public Acts of 1927, being sections 760.1 to

1 776.21 of the Michigan Compiled Laws, order the person to pay the
 2 costs of the prosecution. The court shall also impose sanctions
 3 under sections ~~+81-~~ 80185 and ~~+82-~~ 80186.

4 (3) A person sentenced to perform service to the community
 5 under this section shall not receive compensation, and shall
 6 reimburse the state or appropriate local unit of government for
 7 the cost of supervision incurred by the state or local unit of
 8 government as a result of the person's activities in that
 9 service.

10 (4) As used in this section, "prior conviction" means a con-
 11 viction for a violation of ~~section +71(+)~~ ANY OF THE
 12 FOLLOWING:

13 (A) SECTION 80176(1), (3), (4), or (5). ~~, former~~

14 (B) FORMER SECTION 171(1) OF THE MARINE SAFETY ACT.

15 (C) FORMER section 73 OF THE MARINE SAFETY ACT. ~~, former~~

16 (D) FORMER section 73b OF THE MARINE SAFETY ACT. ~~, a~~

17 (E) A local ordinance substantially corresponding to section
 18 ~~+71(+)~~ 80176(1), former section 73 OF THE MARINE SAFETY ACT, or
 19 former section 73b OF THE MARINE SAFETY ACT. ~~, or a~~

20 (F) A law of another state substantially corresponding to
 21 section ~~+71(+)~~ 80176(1), (3), (4), or (5), former section 73 OF
 22 THE MARINE SAFETY ACT, or former section 73b OF THE MARINE SAFETY
 23 ACT.

24 Sec. ~~+74-~~ 80179. (1) If the prosecuting attorney intends
 25 to seek an enhanced sentence under section ~~+72-~~ 80177 or ~~+73-~~
 26 80178 based upon the defendant having 1 or more prior
 27 convictions, the prosecuting attorney shall include on the

1 complaint and information filed in district court, circuit court,
2 recorder's court, municipal court, or probate court a statement
3 listing the defendant's prior convictions.

4 (2) A prior conviction shall be established at sentencing by
5 1 or more of the following:

6 (a) An abstract of conviction.

7 (b) A copy of the defendant's boating record.

8 (c) An admission by the defendant.

9 (3) A person who is convicted of an attempted violation of
10 section ~~+7+(+)~~ 80176(1) or (3), or a local ordinance substan-
11 tially corresponding to section ~~+7+(+)~~ 80176(1) or (3), shall
12 be punished as if the offense had been completed.

13 (4) When issuing an order under this ~~act~~ PART, the secre-
14 tary of state and the court shall treat a conviction of an
15 attempted violation of section ~~+7+(+)~~ 80176(1) or (3), FORMER
16 SECTION 171(1) OR (3) OF THE MARINE SAFETY ACT, a local ordinance
17 substantially corresponding to section ~~+7+(+)~~ 80176(1) or (3),
18 or a law of another state substantially corresponding to section
19 ~~+7+(+)~~ 80176(1) or (3) the same as if the offense had been
20 completed.

21 Sec. ~~+75-~~ 80180. (1) A peace officer, without a warrant,
22 may arrest a person if the peace officer has reasonable cause to
23 believe that the person was, at the time of an accident, the
24 operator of a vessel involved in the accident in this state while
25 in violation of section ~~+7+(+)~~ 80176(1), (3), (4), or (5) or a
26 local ordinance substantially corresponding to section ~~+7+(+)~~
27 80176(1) or (3).

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

8 (a) Only a peace officer who has successfully completed a
9 training course taught by a state-certified instructor in the
10 administration of the preliminary chemical breath analysis may
11 administer that test.

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

14 (c) The results of a preliminary chemical breath analysis
15 are admissible in a criminal prosecution for a crime described in
16 section ~~+83(+)~~ 80187(1) or in an administrative hearing solely
17 to assist the court or hearing officer in determining a challenge
18 to the validity of an arrest. This subdivision does not limit
19 the introduction of other competent evidence offered to establish
20 the validity of an arrest.

21 (d) A person who submits to a preliminary chemical breath
22 analysis remains subject to the requirements of sections ~~+83-~~
23 80187 to ~~+86-~~ 80190 for the purposes of chemical tests described
24 in those sections.

25 (e) A person who refuses to submit to a preliminary chemical
26 breath analysis upon a lawful request by a peace officer is

1 responsible for a civil infraction and subject to a civil fine of
2 not more than \$100.00.

3 (3) A peace officer making an arrest under this ~~act~~ PART
4 shall take measures to assure that the vessel and its occupants
5 are safely returned to shore.

6 (4) If, within 60 days after the issuance of a citation for
7 a civil infraction under this section, the person to whom the
8 citation is issued is not charged with a violation of section
9 ~~+7+(+)~~ 80176(1), (3), (4), or (5) or a local ordinance substan-
10 tially corresponding to section ~~+7+(+)~~ 80176(1) or (3), the
11 citation issued for the civil infraction is void. Upon applica-
12 tion of the person to whom the citation is issued, money paid by
13 the person as a fine, costs, or otherwise shall be immediately
14 returned.

15 Sec. ~~+76-~~ 80181. (1) The following ~~provisions~~ apply with
16 respect to a chemical test and analysis of a person's blood,
17 urine, or breath, other than a preliminary chemical breath
18 analysis:

19 (a) The amount of alcohol or presence of a controlled sub-
20 stance, or both, in an operator's blood at the time alleged as
21 shown by chemical analysis of the person's blood, urine, or
22 breath is admissible into evidence in any civil or criminal
23 proceeding.

24 (b) A person arrested for a crime described in
25 section ~~+83(+)~~ 80187(1) shall be advised of all of the
26 following:

1 (i) That if the person takes a chemical test of his or her
2 blood, urine, or breath administered at the request of a peace
3 officer, the person has the right to demand that someone of the
4 person's own choosing administer 1 of the chemical tests; that
5 the results of the test are admissible in a judicial proceeding
6 as provided under this ~~act~~ PART and shall be considered with
7 other competent evidence in determining the innocence or guilt of
8 the defendant; and that the person is responsible for obtaining a
9 chemical analysis of a test sample obtained pursuant to the
10 person's own request.

11 (ii) That if the person refuses the request of a peace offi-
12 cer to take a test described in subparagraph (i), the test shall
13 not be given without a court order, but the peace officer may
14 seek to obtain such a court order.

15 (iii) That the person's refusal of the request of a peace
16 officer to take a test described in subparagraph (i) will result
17 in issuance of an order that the person not operate a vessel on
18 the waters of this state for at least 6 months.

19 (2) A sample or specimen of urine or breath shall be taken
20 and collected in a reasonable manner. Only a licensed physician,
21 or a licensed nurse or medical technician under the direction of
22 a licensed physician, qualified to withdraw blood and acting in a
23 medical environment, may withdraw blood at the request of a peace
24 officer for the purpose of determining the amount of alcohol or
25 presence of a controlled substance, or both, in a person's blood,
26 as provided in this subsection. A qualified person who withdraws
27 or analyzes blood, or assists in the withdrawal or analysis, in

1 accordance with this ~~act~~ PART is not liable for a crime or
2 civil damages predicated on the act of withdrawing or analyzing
3 blood and related procedures unless the withdrawal or analysis is
4 performed in a negligent manner.

5 (3) A rule relating to a chemical test for alcohol or a con-
6 trolled substance promulgated under the Michigan vehicle code,
7 Act No. 300 of the Public Acts of 1949, being sections 257.1 to
8 257.923 of the Michigan Compiled Laws, applies to a chemical test
9 administered under this ~~act~~ PART.

10 Sec. ~~+77-~~ 80182. (1) A chemical test described in section
11 ~~+76-~~ 80181 shall be administered at the request of a peace offi-
12 cer having reasonable grounds to believe the person has committed
13 a crime described in section ~~+83(+)-~~ 80187(1). A person who
14 takes a chemical test administered at the request of a peace
15 officer, as provided in section ~~+76-~~ 80181, shall be given a
16 reasonable opportunity to have someone of the person's own choos-
17 ing administer 1 of the chemical tests described in section ~~+76-~~
18 80181 within a reasonable time after the person's detention, and
19 the results of the test are admissible and shall be considered
20 with other competent evidence in determining the innocence or
21 guilt of the defendant. If the person charged is administered a
22 chemical test by someone of the person's own choosing, the person
23 charged is responsible for obtaining a chemical analysis of the
24 test sample.

25 (2) If, after an accident, the operator of a vessel involved
26 in the accident is transported to a medical facility and a sample
27 of the operator's blood is withdrawn at that time for the purpose

1 of medical treatment, the results of a chemical analysis of that
2 sample ~~is~~ ARE admissible in any civil or criminal proceeding to
3 show the amount of alcohol or presence of a controlled substance,
4 or both, in the person's blood at the time alleged, regardless of
5 whether the person had been offered or had refused a chemical
6 test. The medical facility or person performing the chemical
7 analysis shall disclose the results of the analysis to a prose-
8 cuting attorney who requests the results for use in a criminal
9 prosecution as provided in this subsection. A medical facility
10 or person disclosing information in compliance with this subsec-
11 tion is not civilly or criminally liable for making the
12 disclosure.

13 (3) If, after an accident, the operator of a vessel involved
14 in the accident is deceased, a sample of the decedent's blood
15 shall be withdrawn in a manner directed by the medical examiner
16 for the purpose of determining the amount of alcohol or the pres-
17 ence of a controlled substance, or both, in the decedent's
18 blood. The medical examiner shall give the results of the chemi-
19 cal analysis of the sample to the law enforcement agency investi-
20 gating the accident, and that agency shall forward the results to
21 the department. ~~of natural resources.~~

22 Sec. ~~+78-~~ 80183. (1) The provisions of sections ~~+76-~~
23 80181 and ~~+77-~~ 80182 relating to chemical testing do not limit
24 the introduction of any other competent evidence bearing upon the
25 question of whether or not a person was impaired by, or under the
26 influence of, intoxicating liquor or a controlled substance, or

1 both, or whether the person had a blood alcohol content of 0.10%
2 or more by weight of alcohol.

3 (2) If a chemical test described in sections ~~+76-~~ 80181 and
4 ~~+77-~~ 80182 is administered, the results of the test shall be
5 made available to the person charged or the person's attorney
6 upon written request to the prosecution, with a copy of the
7 request filed with the court. The prosecution shall furnish the
8 results at least 2 days before the day of the trial. The results
9 of the test shall be offered as evidence by the prosecution in
10 that trial. Failure to fully comply with the request bars the
11 admission of the results into evidence by the prosecution.

12 Sec. ~~+79-~~ 80184. (1) Except in a prosecution relating
13 solely to a violation of section ~~+71(1)(b)-~~ 80176(1)(B), the
14 amount of alcohol in the operator's blood at the time alleged as
15 shown by chemical analysis of the person's blood, urine, or
16 breath gives rise to the following presumptions:

17 (a) If there was at the time 0.07% or less by weight of
18 alcohol in the defendant's blood, it shall be presumed that the
19 defendant's ability to operate a vessel was not impaired due to
20 the consumption of intoxicating liquor and that the defendant was
21 not under the influence of intoxicating liquor.

22 (b) If there was at the time in excess of 0.07% but less
23 than 0.10% by weight of alcohol in the defendant's blood, it
24 shall be presumed that the defendant's ability to operate a
25 vessel was impaired within the provisions of section ~~+71(3)-~~
26 80176(3) due to the consumption of intoxicating liquor.

1 (c) If there was at the time 0.10% or more by weight of
2 alcohol in the defendant's blood, it shall be presumed that the
3 defendant was under the influence of intoxicating liquor.

4 (2) A person's refusal to submit to a chemical test as pro-
5 vided in sections ~~+76-~~ 80181 and ~~+77-~~ 80182 is admissible in a
6 criminal prosecution for a crime described in section ~~+83(+)-~~
7 80187(1) only for the purpose of showing that a test was offered
8 to the defendant, but not as evidence in determining innocence or
9 guilt of the defendant. The jury shall be instructed
10 accordingly.

11 Sec. ~~+81-~~ 80185. (1) Before accepting a plea of guilty or
12 nolo contendere under sections ~~+71-~~ 80176 to ~~+74-~~ 80179, or a
13 local ordinance substantially corresponding to section ~~+71(+)-~~
14 80176(1), (2), or (3), the court shall advise the accused of the
15 maximum possible term of imprisonment and the maximum possible
16 fine that may be imposed for the violation, and shall advise the
17 defendant that the maximum possible sanctions that may be imposed
18 will be based upon the boating record maintained by the secretary
19 of state pursuant to section ~~+39-~~ 80130 or other evidence of a
20 prior conviction as provided in section ~~+74-~~ 80179.

21 (2) Before imposing sentence, other than court-ordered oper-
22 ating sanctions, for a violation of section ~~+71(+)-~~ 80176(1),
23 (3), (4), or (5) or a local ordinance substantially corresponding
24 to section ~~+71(+)-~~ 80176(1) or (3), the court shall order the
25 person to undergo screening and assessment by a person or agency
26 designated by the office of substance abuse services to determine
27 whether the person is likely to benefit from rehabilitative

1 services, including alcohol or drug education or treatment
 2 programs. As part of the sentence, the court may order the
 3 person to participate in and successfully complete 1 or more
 4 appropriate rehabilitative programs. The person shall pay for
 5 the costs of the screening, assessment, and rehabilitative
 6 services.

7 Sec. ~~+82-~~ 80186. (1) Immediately upon acceptance by the
 8 court of a plea of guilty or nolo contendere or upon entry of a
 9 verdict of guilty for a violation of section ~~+7+(+)-~~ 80176(1),
 10 (3), (4), or (5) or a local ordinance substantially corresponding
 11 to section ~~+7+(+)-~~ 80176(1) or (3), whether or not the person is
 12 eligible to be sentenced as a multiple offender, the court shall
 13 consider all prior convictions currently entered upon the boating
 14 record of the person or other evidence of prior convictions
 15 established under section ~~+74-~~ 80179, except those convictions
 16 that, upon motion by the defendant, are determined by the court
 17 to be constitutionally invalid, and shall impose the following
 18 sanctions:

19 (a) For a conviction under section ~~+7+(4)-~~ 80176(4) or (5),
 20 the court shall order with no expiration date that the person not
 21 operate a vessel on the waters of this state.

22 (b) For a conviction under section ~~+7+(+)-~~ 80176(1) or a
 23 local ordinance substantially corresponding to section ~~+7+(+)-~~
 24 80176(1):

25 (i) If the court finds that the person has no prior convic-
 26 tions within 7 years for a violation of section ~~+7+(+)-~~
 27 80176(1), (3), (4), or (5), FORMER SECTION 171(1), (3), (4), OR

1 (5), or another boating substance abuse offense, or that the
 2 person has 1 prior conviction within 7 years for a violation of
 3 section ~~+71(3)~~ 80176(3); FORMER SECTION 171(3) OF THE MARINE
 4 SAFETY ACT; former section 73b OF THE MARINE SAFETY ACT; a local
 5 ordinance substantially corresponding to section ~~+71(3)~~
 6 80176(3) or former section 73b OF THE MARINE SAFETY ACT; or a law
 7 of another state substantially corresponding to section ~~+71(3)~~
 8 80176(3) or former section 73b OF THE MARINE SAFETY ACT, the
 9 court may order that the person not operate a vessel on the
 10 waters of this state for not less than 1 year or more than 2
 11 years.

12 (ii) If the court finds that the person has 1 or more prior
 13 convictions within 7 years for a violation of section ~~+71(1)~~
 14 80176(1), (3), (4), or (5); former section 73 OF THE MARINE
 15 SAFETY ACT; a local ordinance substantially corresponding to sec-
 16 tion ~~+71(1)~~ 80176(1) or former section 73 OF THE MARINE SAFETY
 17 ACT; or a law of another state substantially corresponding to
 18 section ~~+71(1)~~ 80176(1), (4), or (5) or former section 73 OF
 19 THE MARINE SAFETY ACT, the court shall order that the person not
 20 operate a vessel on the waters of this state for not less than 2
 21 years.

22 (iii) If the court finds that the person has 2 or more prior
 23 convictions within 10 years for a violation of section ~~+71(1)~~
 24 80176(1), (3), (4), or (5) OR FORMER SECTION 171(1), (3), (4), OR
 25 (5) or another boating substance abuse offense, the court shall
 26 order with no expiration date that the person not operate a
 27 vessel on the waters of this state.

1 (c) For a conviction under section ~~171(3)~~ 80176(3) or a
2 local ordinance substantially corresponding to section ~~171(3)~~
3 80176(3):

4 (i) If the court finds that the convicted person has no
5 prior conviction within 7 years for a violation of section
6 ~~171(1)~~ 80176(1), (3), (4), or (5) OR FORMER SECTION 171(1),
7 (3), (4), OR (5) or another boating substance abuse offense, the
8 court may order that the person not operate a vessel on the
9 waters of this state for not less than 6 months or more than 1
10 year.

11 (ii) If the court finds that the person has 1 prior convic-
12 tion within 7 years for a violation of section ~~171(1)~~ 80176(1),
13 (3), (4), or (5) OR FORMER SECTION 171(1), (3), (4), OR (5) or
14 another boating substance abuse offense, the court shall order
15 that the person not operate a vessel on the waters of this state
16 for not less than 1 year or more than 2 years.

17 (iii) If the court finds that the person has 2 or more prior
18 convictions within 10 years for a violation of section ~~171(1)~~
19 80176(1), (3), (4), or (5) OR FORMER SECTION 171(1), (3), (4), OR
20 (5) or another boating substance abuse offense, the court shall
21 order with no expiration date that person not to operate a vessel
22 on the waters of this state.

23 (2) As used in this section, "another boating substance
24 abuse offense" means former section 73 or 73b OF THE MARINE
25 SAFETY ACT, a local ordinance substantially corresponding to sec-
26 tion ~~171(1)~~ 80176(1) or (3) or former section 73 or 73b OF THE
27 MARINE SAFETY ACT, or a law of another state substantially

1 corresponding to section ~~+71(+)~~ 80176(1), (3), (4), or (5) or
2 former section 73 or 73b OF THE MARINE SAFETY ACT.

3 Sec. ~~+83-~~ 80187. (1) A person who operates a vessel on the
4 waters of this state is considered to have given consent to chem-
5 ical tests of his or her blood, breath, or urine for the purpose
6 of determining the amount of alcohol or presence of a controlled
7 substance, or both, in his or her blood in all of the following
8 circumstances:

9 (a) The person is arrested for a violation of section
10 ~~+71(+)~~ 80176(1), (3), (4), or (5), or a local ordinance sub-
11 stantially corresponding to section ~~+71(+)~~ 80176(1) or (3).

12 (b) The person is arrested for negligent homicide, man-
13 slaughter, or murder resulting from the operation of a vessel,
14 and the peace officer had reasonable grounds to believe that the
15 person was operating the vessel while impaired by, or under the
16 influence of, intoxicating liquor or a controlled substance, or
17 both, or while having a blood alcohol content of 0.10% or more by
18 weight of alcohol.

19 (2) A person who is afflicted with hemophilia, diabetes, or
20 a condition requiring the use of an anticoagulant under the
21 direction of a physician shall not be considered to have given
22 consent to the withdrawal of blood.

23 (3) A chemical test described in subsection (1) shall be
24 administered as provided in sections ~~+76-~~ 80181 and ~~+77-~~
25 80182.

26 Sec. ~~+84-~~ 80188. (1) If a person refuses the request of a
27 peace officer to submit to a chemical test offered pursuant to

1 section ~~+76-~~ 80181 or ~~+77-~~ 80182, a test shall not be given
2 without a court order, but the officer may seek to obtain the
3 court order.

4 (2) If a person refuses a chemical test offered pursuant to
5 section ~~+76-~~ 80181 or ~~+77-~~ 80182, the peace officer who
6 requested the person to submit to the test shall immediately for-
7 ward a written report to the secretary of state. The report
8 shall state that the officer had reasonable grounds to believe
9 the person committed a crime described in section ~~+83(+)-~~
10 80187(1) and that the person refused to submit to the test upon
11 the request of the peace officer and has been advised of the con-
12 sequences of the refusal. The form of the report shall be pre-
13 scribed and furnished by the secretary of state.

14 Sec. ~~+85-~~ 80189. (1) If a person refuses to submit to a
15 chemical test pursuant to section ~~+76-~~ 80181 or ~~+77-~~ 80182, the
16 peace officer shall immediately notify the person in writing that
17 within 14 days of the date of the notice the person may request a
18 hearing as provided in section ~~+86-~~ 80190. The form of the
19 notice shall be prescribed and furnished by the secretary of
20 state.

21 (2) The notice shall specifically state that failure to
22 request a hearing within 14 days will result in issuance of an
23 order that the person not operate a vessel on the waters of this
24 state. The notice shall also state that there is not a require-
25 ment that the person retain counsel for the hearing, though coun-
26 sel is permitted to represent the person at the hearing.

1 Sec. ~~+86-~~ 80190. (1) If a person who refuses to submit to
2 a chemical test pursuant to section ~~+76-~~ 80181 or ~~+77-~~ 80182
3 does not request a hearing within 14 days of the date of notice
4 pursuant to section ~~+85-~~ 80189, the secretary of state shall
5 issue an order that the person not operate a vessel on the waters
6 of this state for 6 months ~~—~~ or, for a second or subsequent
7 refusal within 7 years, for 1 year.

8 (2) If a hearing is requested, the secretary of state shall
9 hold the hearing in the same manner and under the same conditions
10 as provided in section 322 of the Michigan vehicle code, Act
11 No. 300 of the Public Acts of 1949, being section 257.322 of the
12 Michigan Compiled Laws. A person shall not order a hearing offi-
13 cer to make a particular finding on any issue enumerated under
14 subdivisions (a) to (d). Not less than 5 days' notice of the
15 hearing shall be mailed to the person requesting the hearing, to
16 the peace officer who filed the report under section ~~+84-~~ 80188,
17 and, if the prosecuting attorney requests receipt of the notice,
18 to the prosecuting attorney of the county where the arrest was
19 made. The hearing officer may administer oaths, issue subpoenas
20 for the attendance of necessary witnesses, and grant a reasonable
21 request for an adjournment. Not more than 1 adjournment shall be
22 granted to a party, and the length of an adjournment shall not
23 exceed 14 days. A hearing under this subsection shall be sched-
24 uled to be held within 45 days after the date of arrest and,
25 except for delay attributable to the unavailability of the
26 defendant, a witness, or material evidence or to an interlocutory
27 appeal or exceptional circumstances, but not for delay

1 attributable to docket congestion, shall be finally adjudicated
2 within 77 days after the date of arrest. The hearing shall cover
3 only the following issues:

4 (a) Whether the peace officer had reasonable grounds to
5 believe that the person had committed a crime described in sec-
6 tion ~~+83(+)~~ 80187(1).

7 (b) Whether the person was placed under arrest for a crime
8 described in section ~~+83(+)~~ 80187(1).

9 (c) If the person refused to submit to the test upon the
10 request of the officer, whether the refusal was reasonable.

11 (d) Whether the person was advised of his or her rights
12 under section ~~+76-~~ 80181.

13 (3) The hearing officer shall make a record of proceedings
14 held pursuant to subsection (2). The record shall be prepared
15 and transcribed in accordance with section 86 of the administra-
16 tive procedures act of 1969, Act No. 306 of the Public Acts of
17 1969, being section 24.286 of the Michigan Compiled Laws. Upon
18 notification of the filing of a petition for judicial review pur-
19 suant to section ~~+88-~~ 80194 and not less than 10 days before the
20 matter is set for review, the hearing officer shall transmit to
21 the court in which the petition is filed the original or a certi-
22 fied copy of the official record of the proceedings. The parties
23 to the proceedings for judicial review may stipulate that the
24 record be shortened. A party unreasonably refusing to stipulate
25 to a shortened record may be taxed by the court in which the
26 petition is filed for the additional costs. The court may permit
27 subsequent corrections to the record.

1 (4) After a hearing, if the person who requested the hearing
 2 does not prevail, the secretary of state shall order that the
 3 person not operate a vessel on the waters of this state for 6
 4 months ~~—~~ or, for a second or subsequent refusal within 7 years,
 5 for 1 year. The person may file a petition in the circuit court
 6 of the county in which the arrest was made to review the order as
 7 provided in section ~~+88-~~ 80194. If after the hearing the person
 8 who requested the hearing prevails, the peace officer who filed
 9 the report under section ~~+84-~~ 80188 may, with the consent of the
 10 prosecuting attorney, file a petition in the circuit court of the
 11 county in which the arrest was made to review the determination
 12 of the hearing officer as provided in section ~~+88-~~ 80194.

13 Sec. ~~+87-~~ 80191. (1) Notwithstanding a court order issued
 14 under section ~~+71(+)-~~ 80176(1), (3), (4), or (5), section ~~+81-~~
 15 80185 or ~~+82-~~ 80186, FORMER SECTION 171(1), (3), (4), OR (5),
 16 181, OR 182 OF THE MARINE SAFETY ACT, former section 73 or 73b OF
 17 THE MARINE SAFETY ACT, or a local ordinance substantially corre-
 18 sponding to section ~~+71(+)-~~ 80176(1) or (3), section ~~+81-~~ 80185
 19 or ~~+82-~~ 80186, or former section 73 or 73b OF THE MARINE SAFETY
 20 ACT, if a court has not ordered a person not to operate a vessel
 21 as authorized by this ~~-act-~~ PART, the secretary of state shall
 22 issue an order that the person not operate a vessel on the waters
 23 of this state for not less than 6 months or more than 2 years, if
 24 the person has the following convictions within a 7-year period,
 25 whether under the law of this state, a local ordinance substan-
 26 tially corresponding to a law of this state, or a law of another
 27 state substantially corresponding to a law of this state:

1 (A) ~~(i)~~ One conviction under section ~~+71(+)~~ 80176(1),
 2 FORMER SECTION 171(1) OF THE MARINE SAFETY ACT, or former section
 3 73 OF THE MARINE SAFETY ACT.

4 (B) ~~(ii)~~ Any combination of 2 convictions under section
 5 ~~+71(+)~~ 80176(3), FORMER SECTION 171(3) OF THE MARINE SAFETY
 6 ACT, or former section 73b OF THE MARINE SAFETY ACT.

7 (C) ~~(iii)~~ One conviction under section ~~+71(+)~~ 80176(1),
 8 FORMER SECTION 171(1) OF THE MARINE SAFETY ACT, or former section
 9 73 OF THE MARINE SAFETY ACT and 1 conviction under section
 10 ~~+71(+)~~ 80176(3), FORMER SECTION 171(3) OF THE MARINE SAFETY
 11 ACT, or former section 73b OF THE MARINE SAFETY ACT.

12 (D) ~~(iv)~~ One conviction under section ~~+71(+)~~ 80176(4) or
 13 (5) OR FORMER SECTION 171(4) OR (5) OF THE MARINE SAFETY ACT fol-
 14 lowed by 1 conviction under section ~~+71(+)~~ 80176(3) OR FORMER
 15 SECTION 171(3) OF THE MARINE SAFETY ACT.

16 (2) If the secretary of state receives records of more than
 17 1 conviction of a person resulting from the same incident, an
 18 order not to operate shall be issued solely for that violation
 19 for which an order could be effective for the longest period of
 20 time under this section.

21 Sec. ~~+87a~~ 80192. (1) Upon receipt of the appropriate
 22 records of conviction, the secretary of state shall issue an
 23 order with no expiration date that the person not operate a
 24 vessel on the waters of this state to a person having any of the
 25 following convictions, whether under a law of this state, a local
 26 ordinance substantially corresponding to a law of this state, or

1 a law of another state substantially corresponding to a law of
2 this state:

3 (a) Four convictions under section ~~74~~ 80147, FORMER
4 SECTION 74 OF THE MARINE SAFETY ACT, or a local ordinance sub-
5 stantially corresponding to section ~~74~~ 80147 within 7 years.

6 (b) Two convictions of a felony involving the use of a
7 vessel within 7 years.

8 (c) Any combination of 2 convictions within 7 years for 1 or
9 more of the following:

10 (i) A violation of section ~~171(1)~~ 80176(1) OR FORMER
11 SECTION 171(1) OF THE MARINE SAFETY ACT.

12 (ii) A violation of former section 73 OF THE MARINE SAFETY
13 ACT.

14 (iii) A violation of section ~~171(4)~~ 80176(4) or (5) OR
15 FORMER SECTION 171(4) OR (5) OF THE MARINE SAFETY ACT.

16 (d) One conviction under section ~~171(4)~~ 80176(4) or (5) OR
17 FORMER SECTION 171(4) OR (5) OF THE MARINE SAFETY ACT.

18 (e) Any combination of 3 convictions within 10 years for 1
19 or more of the following:

20 (i) A violation of section ~~171(1)~~ 80176(1), (3), (4), or
21 (5) OR FORMER SECTION 171(1), (3), (4), OR (5) OF THE MARINE
22 SAFETY ACT.

23 (ii) A violation of former section 73 or former section 73b
24 OF THE MARINE SAFETY ACT.

25 (2) The secretary of state shall issue an order with no
26 expiration date that a person not operate a vessel on the waters
27 of this state notwithstanding a court order issued under section

1 ~~+7+~~ 80176, section ~~+8+~~ 80185 or ~~+82-~~ 80186, former section
 2 73, ~~or~~ 73b, 171, 181, OR 182 OF THE MARINE SAFETY ACT, or a
 3 local ordinance substantially corresponding to section ~~+7+~~
 4 80176, section ~~+8+~~ 80185 or ~~+82-~~ 80186, or former section 73
 5 or 73b OF THE MARINE SAFETY ACT.

6 (3) The secretary of state shall not terminate an order with
 7 no expiration date issued under this ~~act~~ PART until both of the
 8 following occur:

9 (a) The later of the following:

10 (i) The expiration of not less than 1 year after the order
 11 was issued.

12 (ii) The expiration of not less than 5 years after the date
 13 of a subsequent issuance of an order with no expiration date
 14 occurring within 7 years after the date of a prior order.

15 (b) The person meets the requirements of the department.

16 (4) Multiple convictions resulting from the same incident
 17 shall be treated as a single violation for purposes of issuance
 18 of an order under this section.

19 (5) Judicial review of an administrative sanction under this
 20 section is governed by the law in effect at the time the offense
 21 was committed or attempted.

22 Sec. ~~+87b-~~ 80193. (1) If a person is charged with, or con-
 23 victed of, a violation of section ~~+7+(+)~~ 80176(1), (2), (3),
 24 (4), or (5) or a local ordinance substantially corresponding to
 25 section ~~+7+(+)~~ 80176(1), (2), or (3), and the person fails to
 26 answer a citation or a notice to appear in court, or for any
 27 matter pending, or fails to comply with an order or judgment of

1 the court, including, but not limited to, paying all fines,
2 costs, and crime victim's rights assessments, the court shall
3 immediately give notice by first-class mail sent to the person's
4 last known address that if the person fails to appear within 7
5 days after the notice is issued or fails to comply with the order
6 or judgment of the court, including, but not limited to, paying
7 all fines, costs, and crime victim's rights assessments, within
8 14 days after the notice is issued, the secretary of state will
9 issue an order with no expiration date that the person not oper-
10 ate a vessel on the waters of this state. If the person fails to
11 appear within the 7-day period or fails to comply with the order
12 or judgment of the court, including, but not limited to, paying
13 all fines, costs, and crime victim rights assessments, within the
14 14-day period, the court shall immediately inform the secretary
15 of state who shall immediately issue the order and send a copy to
16 the person by personal service or first-class mail sent to the
17 person's last known address.

18 (2) An order imposed under subsection (1) remains in effect
19 until both of the following occur:

20 (a) The court informs the secretary of state that the person
21 has appeared before the court and that all matters relating to
22 the violation are resolved.

23 (b) The person has paid to the court a \$25.00 administrative
24 order processing fee.

25 Sec. ~~188~~ 80194. (1) A person who is aggrieved by a final
26 determination of the secretary of state under this ~~act~~ PART may
27 petition for a review of the determination in the circuit court

1 in the county where the person was arrested. The petition shall
2 be filed within 63 days after the determination is made except
3 that, for good cause shown, the court may allow the petition to
4 be filed within 182 days after the determination is made. As
5 provided in section ~~+86-~~ 80190, a peace officer who is aggrieved
6 by a determination of a hearing officer in favor of a person who
7 requested a hearing under section ~~+86-~~ 80190 may, with the con-
8 sent of the prosecuting attorney, petition for review of the
9 determination in the circuit court in the county where the arrest
10 was made. The petition shall be filed within 63 days after the
11 determination is made except that, for good cause shown, the
12 court may allow the petition to be filed within 182 days after
13 the determination is made.

14 (2) The circuit court shall enter an order setting the cause
15 for hearing for a day certain that is not more than 63 days after
16 the date of the order. The order, a copy of the petition, which
17 shall include the person's full name, current address, and birth
18 date, and all supporting affidavits shall be served on the secre-
19 tary of state's office in Lansing not less than 20 days before
20 the date set for the hearing. If the person is seeking a review
21 of the record prepared pursuant to section ~~+86-~~ 80190, the serv-
22 ice upon the secretary of state shall be made not less than 50
23 days before the date set for the hearing.

24 (3) Except as provided in subsections (4) and (6), the court
25 may take testimony and examine all the facts and circumstances
26 incident to the order that the person not operate a vessel on the
27 waters of this state. The court may affirm, modify, or set aside

1 the order. The order of the court shall be duly entered, and the
2 petitioner shall file a certified copy of the order with the sec-
3 retary of state's office in Lansing within 7 days after entry of
4 the order.

5 (4) In reviewing a determination under section ~~+86-~~ 80190,
6 the court shall confine its consideration to a review of the
7 record prepared pursuant to section ~~+86-~~ 80190 to determine
8 whether the hearing officer properly determined the issues enu-
9 merated in section ~~+86-~~ 80190.

10 (5) This section does not apply to an order issued by the
11 secretary of state pursuant to a court order issued as part of
12 the sentence for a conviction under section ~~+71-~~ 80176, section
13 ~~+81-~~ 80185 or ~~+82-~~ 80186, FORMER SECTIONS 171, 181, OR 182 OF
14 THE MARINE SAFETY ACT, former section 73 or 73b OF THE MARINE
15 SAFETY ACT, or a local ordinance substantially corresponding to
16 section ~~+71(+)-~~ 80176(1), (2), or (3), or former section 73 or
17 73b OF THE MARINE SAFETY ACT.

18 (6) In reviewing a determination resulting in issuance of an
19 order under section ~~+87a(+)(c)-~~ 80192(1)(C), (d), or (e), the
20 court shall confine its consideration to a review of the record
21 prepared pursuant to section ~~+86-~~ 80190 or the boating record.
22 The court shall set aside the determination of the secretary of
23 state only if substantial rights of the petitioner have been
24 prejudiced because the determination is any of the following:

25 (a) In violation of the ~~-Constitution-~~ CONSTITUTION of the
26 United States, the state constitution of 1963, or a statute.

1 (b) In excess of the statutory authority or jurisdiction of
2 the secretary of state.

3 (c) Made upon unlawful procedure resulting in material prej-
4 udice to the petitioner.

5 (d) Not supported by competent, material, and substantial
6 evidence on the whole record.

7 (e) Arbitrary, capricious, or clearly an abuse or unwar-
8 ranted exercise of discretion.

9 (f) Affected by other substantial and material error of
10 law.

11 Sec. ~~+88a-~~ 80195. (1) Within 63 days after the determina-
12 tion, a person who is aggrieved by a final determination of the
13 secretary of state under this ~~-act-~~ PART may petition the circuit
14 court for the county in which the conviction or determination
15 resulting in issuance of the order that the person not operate a
16 vessel on the waters of this state for an order staying the
17 order. Except as provided in subsection (2), the court may enter
18 an ex parte order staying the order subject to terms and condi-
19 tions prescribed by the court until the determination of an
20 appeal to the secretary of state or of an appeal or a review by
21 the circuit court, or for a lesser time that the court considers
22 proper.

23 (2) The court shall not enter an ex parte order staying the
24 order if the order is based upon a claim of undue hardship.

25 Sec. ~~+89-~~ 80196. (1) A person who is ordered not to oper-
26 ate a vessel on the waters of this state and who has been
27 notified of the order by personal service or first-class mail

1 shall not operate a vessel on the waters of this state. A person
2 shall not knowingly permit a vessel owned by the person to be
3 operated on the waters of this state by a person who is subject
4 to such an order. A person who violates this subsection is
5 guilty of a misdemeanor punishable as follows:

6 (a) By imprisonment for not more than 90 days or by a fine
7 of not more than \$500.00, or both.

8 (b) For a second or subsequent violation punishable under
9 this subsection, by imprisonment for not more than 1 year or a
10 fine of not more than \$1,000.00, or both.

11 (2) Upon receiving a record of the conviction of a person
12 upon a charge of unlawful operation of a vessel while the person
13 is subject to an order not to operate a vessel on the waters of
14 this state, the secretary of state shall immediately extend the
15 length of the order for an additional like period. If the secre-
16 tary of state receives records of more than 1 conviction result-
17 ing from the same incident, all of the convictions shall be
18 treated as a single violation for purposes of extending the
19 length of an order under this subsection.

20 (3) Before a person is arraigned before a judge or district
21 court magistrate on a charge of violating this section, the
22 arresting officer shall obtain the boating record of the person
23 from the secretary of state and shall furnish the record to the
24 court. The boating record of the person may be obtained from the
25 secretary of state's computer information network.

26 (4) This section does not apply to a person who operates a
27 vessel solely for the purpose of protecting human life or

1 property, if the life or property is endangered and the summoning
2 or giving of prompt aid is essential.

3 (5) If a person is convicted of violating subsection (1),
4 the court shall order confiscation of the vessel's certificate of
5 number and cancellation of the vessel's registration numbers,
6 unless the vessel was stolen or permission to use the vessel was
7 not knowingly given. The secretary of state shall not assign a
8 registration number to or issue a certificate of number for a
9 vessel whose number is canceled and certificate confiscated until
10 after the expiration of 90 days after the cancellation or confis-
11 cation, whichever is later.

12 Sec. ~~+89a-~~ 80197. (1) When a person is convicted under
13 section ~~+89(+)-~~ 80196(1), the vessel, if it is owned in whole or
14 in part by that person, shall be ordered impounded for not less
15 than 30 or more than 120 days from the date of judgment. An
16 order of impoundment issued pursuant to this subsection is valid
17 throughout the state. Any peace officer may execute the impound-
18 ment order. The order shall include the implied consent of the
19 owner of the vessel to the storage for insurance coverage
20 purposes.

21 (2) The owner of a vessel impounded pursuant to this section
22 is liable for expenses incurred in the removal and storage of the
23 vessel whether or not the vessel is returned to him or her. The
24 vessel shall be returned to the owner only if the owner pays the
25 expenses for removal and storage. If redemption is not made or
26 the vessel is not returned as provided in this section within 30

1 days after the time set in the impoundment order for return of
2 the vessel, the vessel shall be considered abandoned.

3 (3) Nothing in this section affects the rights of a condi-
4 tional vendor, chattel mortgagee, or lessor of a vessel regis-
5 tered in the name of another person as owner who becomes subject
6 to this ~~act~~ PART.

7 Sec. ~~189b~~ 80197A. A conviction based on a plea of nolo
8 contendere shall be treated in the same manner as a conviction
9 based on a plea of guilty or a finding of guilt for all purposes
10 under this ~~act~~ PART.

11 Sec. ~~190~~ 80198. Whether with or without an expiration
12 date, an order not to operate a vessel on the waters of this
13 state or to operate a vessel with restrictions does not expire
14 until the person subject to the order pays an administrative
15 order processing fee of \$125.00 to the secretary of state. The
16 state treasurer shall deposit \$10.00 of the fee in the drunk
17 driving prevention equipment and training fund created under
18 section 625h of the Michigan vehicle code, Act No. 300 of the
19 Public Acts of 1949, being section 257.625h of the Michigan
20 Compiled Laws, and \$30.00 in the drunk driving caseflow assist-
21 ance fund created under section 625h of Act No. 300 of the Public
22 Acts of 1949. ~~, being section 257.625h of the Michigan Compiled~~
23 ~~Laws.~~ The state treasurer shall allocate the balance of the fee
24 to the department of state for the administration of orders
25 issued under this ~~act~~ PART.

26 Sec. ~~191~~ 80198A. (1) When wind conditions on the Great
27 Lakes attain a magnitude whereby 1/3 of the waves resulting

1 ~~therefrom~~ FROM THE CONDITIONS cause any public dock, pier,
 2 wharf, or retaining wall to be awash, it constitutes a state not
 3 conducive to the orderly and safe use and occupancy of ~~such~~
 4 THOSE structures.

5 (2) When ~~such~~ THE conditions DESCRIBED IN SUBSECTION (1)
 6 exist, any harbormaster, peace or police officer, or other autho-
 7 rized official may rope off or barricade entry to these struc-
 8 tures or post in a conspicuous manner notices that entry
 9 ~~thereon~~ ON THOSE STRUCTURES for the purpose of fishing,
 10 swimming, or other recreational activity is prohibited.

11 (3) A person shall not knowingly enter or remain upon any
 12 public dock, pier, wharf, or retaining wall for the purpose of
 13 fishing, swimming, or other recreational activity when ~~(1)~~ THE
 14 STRUCTURE IS roped, cabled, or otherwise barricaded in a manner
 15 designed to exclude intruders, ~~(2)~~ WHEN notice against entry is
 16 given by posting in a conspicuous manner, or ~~(3)~~ WHEN notice to
 17 leave or stay off is personally communicated to ~~him~~ THAT PERSON
 18 by a peace or police officer or other authorized official of the
 19 local unit of government.

20 Sec. ~~192~~ 80198B. (1) The owner or person in charge of a
 21 bathing beach maintained primarily for public ~~usage~~ USE shall
 22 not knowingly permit a person to bathe or swim from the bathing
 23 beach unless buoys OUTLINING A SAFE BATHING OR SWIMMING AREA are
 24 established in accordance with section ~~141~~ 80159. ~~, outlining~~
 25 ~~a safe bathing or swimming area.~~

26 (2) A person who is bathing or swimming from a bathing beach
 27 maintained primarily for public ~~usage~~ USE shall not bathe or

1 swim in waters ~~which~~ THAT are within 100 feet beyond the buoyed
 2 bathing or swimming area. This subsection ~~shall~~ DOES not apply
 3 to persons swimming from adjacent privately owned beaches ~~which~~
 4 THAT are not open to the general public.

5 Sec. ~~197~~ 80199. This ~~act shall~~ PART DOES not ~~be con-~~
 6 ~~strued to~~ affect any of the rights of an owner under the laws of
 7 the United States.

8 ~~Sec. 198. Except as provided in section 199, Act No. 245~~
 9 ~~of the Public Acts of 1959, as amended, being sections 281.651 to~~
 10 ~~281.682 of the Compiled Laws of 1948, is repealed.~~

11 ~~Sec. 199. This act shall take effect on January 1, 1968,~~
 12 ~~except that motorboats numbered for the period ending December~~
 13 ~~31, 1968, shall be numbered under the provisions of Act No. 245~~
 14 ~~of the Public Acts of 1959, as amended.~~

15 ~~Part 803. Watercraft Transfer and Certificate of Title~~

16 PART 803 WATERCRAFT TRANSFER AND CERTIFICATE OF TITLE

17 Sec. ~~1~~ 80301. ~~(1)~~ As used in this ~~act~~ PART,
 18 "watercraft" means a contrivance used or designed for navigation
 19 on water, including ~~—~~ a vessel, boat, motor vessel, steam
 20 vessel, vessel operated by machinery either permanently or tempo-
 21 rarily affixed, scow, tugboat, or any marine equipment ~~which~~
 22 THAT is capable of carrying passengers, except a ferry.

23 SEC. 80302. (1) ~~(2)~~ This ~~act~~ PART does not apply to ANY
 24 OF THE FOLLOWING:

25 (a) A boat from a jurisdiction other than this state tempo-
 26 rarily using the waters of this state.

1 (b) A boat whose owner is the United States, a state, or
2 political subdivision thereof.

3 (c) A ship's lifeboat.

4 (d) Watercraft less than 20 feet in length ~~which~~ THAT do
5 not have permanently affixed engines unless the owner, lessee, or
6 operator voluntarily wishes to become subject to ~~the provisions~~
7 ~~of~~ this ~~act~~ PART.

8 (e) Watercraft documented by an agency of the United States
9 government.

10 (2) ~~(3)~~ The various certificates, applications, and
11 assignments necessary to provide certificates of title for water-
12 craft shall be made upon appropriate forms approved by the secre-
13 tary of state.

14 Sec. ~~2~~ 80303. (1) The secretary of state shall promulgate
15 rules to implement this ~~act pursuant to Act No. 306 of the~~
16 ~~Public Acts of 1969, as amended, being sections 24.201 to 24.315~~
17 ~~of the Michigan Compiled Laws~~ PART.

18 (2) If it appears that a certificate of title is improperly
19 issued, the secretary of state shall cancel the certificate. The
20 secretary of state shall notify the person to whom the certifi-
21 cate of title was issued, as well as any lienholders appearing
22 ~~thereon~~ ON THE CERTIFICATE OF TITLE, of the cancellation, and
23 shall demand the surrender of the certificate of title, but the
24 cancellation shall not affect the validity of a lien noted
25 ~~thereon~~ ON THE CERTIFICATE OF TITLE. The holder of the certif-
26 icate of title shall return it to the secretary of state
27 immediately.

1 Sec. ~~3~~ 80304. (1) A person, except as provided in section
2 ~~5~~ 80306, shall not sell or otherwise dispose of a watercraft
3 without delivering to the purchaser or transferee ~~thereof~~ OF
4 THE WATERCRAFT a certificate of title with such assignment
5 ~~thereon~~ ON THE CERTIFICATE OF TITLE as is necessary to show
6 title in the purchaser.

7 (2) A person shall not purchase or otherwise acquire a
8 watercraft without obtaining a certificate of title for it in the
9 person's name pursuant to this ~~act~~ PART.

10 Sec. ~~4~~ 80305. (1) A person acquiring a watercraft from
11 the owner ~~thereof~~ OF THE WATERCRAFT, whether the owner is a
12 manufacturer, importer, dealer, or otherwise, shall not acquire
13 any right, title, claim, or interest in or to the watercraft
14 until that person has issued to him OR HER a certificate of title
15 to the watercraft, or delivered a manufacturer's or importer's
16 certificate for ~~it~~ THE WATERCRAFT. A waiver or estoppel shall
17 not operate in favor of that person against a person having pos-
18 session of the certificate of title, or manufacturer's or
19 importer's certificate for the watercraft, for a valuable
20 consideration.

21 (2) A court shall not recognize the right, title, claim, or
22 interest of a person in or to a watercraft sold or disposed of,
23 or mortgaged or encumbered, unless:

24 (a) Evidenced by a certificate of title or a manufacturer's
25 or importer's certificate issued pursuant to this ~~act~~ PART.

26 (b) Evidenced by admission in the pleadings or stipulation
27 of the parties.

1 Sec. ~~5~~ 80306. (1) A manufacturer, importer, dealer, or
2 other person shall not sell or otherwise dispose of a new water-
3 craft to a dealer, to be used by the dealer for purposes of dis-
4 play and resale, without delivering to the dealer a
5 manufacturer's or importer's certificate executed in accordance
6 with this section and with those assignments on the certificate
7 as are necessary to show title in the purchaser of the
8 watercraft. A dealer shall not purchase or acquire a new water-
9 craft without obtaining from the seller of the watercraft the
10 manufacturer's or importer's certificate.

11 (2) A manufacturer's or importer's certificate of the origin
12 of a watercraft shall contain, in the form and together with the
13 information the secretary of state requires, the following
14 information:

15 (a) A description of the watercraft, including, if applica-
16 ble, make, year, length, series of model, hull type, and hull
17 identification number.

18 (b) Certification of the date of transfer of the watercraft
19 to a distributor, dealer, or other transferee, and the name and
20 address of the transferee.

21 (c) Certification that this transaction is the first trans-
22 fer of the new watercraft in ordinary trade and commerce.

23 (d) Signature and address of a representative of the
24 transferor.

25 (3) An assignment of a manufacturer's or importer's certifi-
26 cate shall be printed on the reverse side of the manufacturer's
27 or importer's certificate in the form to be prescribed by the

1 secretary of state. The assignment form shall include the name
2 and address of the transferee, a certification that the water-
3 craft is new, and a warranty that the title at the time of deliv-
4 ery is subject only to the liens and encumbrances that are set
5 forth and described in full in the assignment.

6 Sec. ~~6~~ 80307. (1) Application for a certificate of title
7 for a watercraft shall be made upon a form prescribed by the sec-
8 retary of state. The application shall be filed with the secre-
9 tary of state within 15 days after the date of purchase or
10 transfer. At the request of the applicant, an application shall
11 be processed on an expedited basis. The application shall be
12 accompanied by the fee or fees prescribed in section ~~40~~ 80311,
13 and if a certificate of title was previously issued for the
14 watercraft, it shall be accompanied by the certificate of title
15 duly assigned, unless otherwise provided in this ~~act~~ PART.
16 Unless otherwise provided in this ~~act~~ PART, if a certificate of
17 title was not previously issued for the watercraft in this state,
18 the application shall be accompanied by a manufacturer's or
19 importer's certificate, by a certificate of ownership, or a cer-
20 tificate of registration issued under ~~Act No. 303 of the Public~~
21 ~~Acts of 1967, as amended, being sections 281.1001 to 281.1199 of~~
22 ~~the Michigan Compiled Laws~~ PART 801 OR FORMER ACT NO. 303 OF THE
23 PUBLIC ACTS OF 1967, if purchased by the applicant on or before
24 July 1, 1976, or by a certificate of title, bill of sale, or
25 other evidence of ownership required by the law of another state
26 from which the watercraft is brought into this state. Evidence
27 of ownership of a watercraft for which a Michigan certificate of

1 title was not previously issued, and which does not have
2 permanently affixed to it a hull identification number, shall be
3 accompanied by the certificate of hull identification number
4 assigned by the secretary of state as provided in section ~~7~~
5 80308. The secretary of state shall retain the evidence of title
6 presented by the applicant and upon which the certificate of
7 title is issued, and shall use reasonable diligence in ascertain-
8 ing whether the facts in the application are true by checking the
9 application and documents accompanying the application with the
10 records of watercraft in the secretary of state's office. If
11 satisfied that the applicant is the owner of the watercraft and
12 that the application is in the proper form, the secretary of
13 state shall issue a certificate of title.

14 (2) When a watercraft is sold by a dealer to a general pur-
15 chaser or user, the certificate of title shall be obtained in the
16 name of the purchaser by the dealer upon application signed by
17 the purchaser. In other cases, the certificate shall be obtained
18 by the purchaser.

19 Sec. ~~7~~ 80308. (1) An application for a certificate of
20 title shall be certified by the owner or purchaser of the water-
21 craft and shall contain, in the form and together with other
22 information ~~which~~ THAT the secretary of state requires, the
23 following information:

24 (a) Name and address of the applicant.

25 (b) Name and address of the previous owner.

1 (c) A statement of liens, mortgages, or other encumbrances
2 on the watercraft, and the name and address of the holder of the
3 liens, mortgages, or other encumbrances.

4 (d) If a lien, mortgage, or other encumbrance is not out-
5 standing, a statement of that fact.

6 (e) A description of the watercraft, including, if applica-
7 ble, the make, year, length, series or model, hull type, and hull
8 identification number.

9 (2) If the watercraft contains a permanent hull identifica-
10 tion number placed on the watercraft by the manufacturer of the
11 watercraft, this number shall be used as the hull identification
12 number. If there is ~~no~~ NOT A manufacturer's hull identifica-
13 tion number, or if the manufacturer's hull identification number
14 is removed or obliterated, the secretary of state, upon a pre-
15 scribed application ~~which shall include~~ THAT INCLUDES informa-
16 tion indicating proof of ownership, shall assign a hull identifi-
17 cation number to the watercraft. This assigned hull identifica-
18 tion number shall be permanently affixed to, or imprinted by the
19 applicant, at the place and in the manner designated by the sec-
20 retary of state, upon the watercraft to which the hull identifi-
21 cation number is assigned.

22 Sec. ~~-8-~~ 80309. The secretary of state shall issue a cer-
23 tificate of title containing the information required in the
24 application for a certificate of title, as prescribed by section
25 ~~-7-~~ 80308, except for the name and address of the previous
26 owner. The certificate of title shall also contain space for the
27 notation and cancellation of a lien, mortgage, or encumbrance.

1 An assignment of certificate of title shall appear on the reverse
2 side of the certificate of title in the form to be prescribed by
3 the secretary of state. The assignment form shall include a war-
4 ranty that the signer is the owner of the watercraft and that a
5 mortgage, lien, or encumbrance is not on the watercraft, except
6 as noted on the face of the certificate of title.

7 Sec. ~~9~~ 80310. (1) The secretary of state shall prescribe
8 a uniform method of numbering certificates of title, and shall
9 maintain in his OR HER office indexes for the certificates of
10 title.

11 (2) The secretary of state may destroy ~~any~~ A certificate
12 of title or supporting evidence ~~thereof~~ OF A CERTIFICATE OF
13 TITLE covering a watercraft which was on file for 10 years after
14 the date of its filing.

15 Sec. ~~10~~ 80311. (1) The secretary of state shall charge a
16 fee of \$5.00 for the processing of an application for a certifi-
17 cate of title or a duplicate certificate of title. The secretary
18 of state shall charge an additional fee of \$5.00 for the process-
19 ing of an application on an expedited basis.

20 (2) If a check or draft in payment of a fee payable to the
21 secretary of state under this section is not paid on its first
22 presentation, the fee is delinquent as of the date the check or
23 draft was tendered. The person tendering the check or draft
24 remains liable for the payment of each fee and any penalty.

25 (3) The secretary of state may suspend a certificate of
26 title ~~when~~ IF the secretary of state determines that a fee

1 prescribed in this section has not been paid and remains unpaid
2 after reasonable notice or demand.

3 (4) If a fee is still delinquent 15 days after the secretary
4 of state gives notice to a person who tendered the check or
5 draft, a \$5.00 penalty shall be assessed and collected in addi-
6 tion to the fee.

7 Sec. ~~++~~ 80312. (1) The secretary of state may issue a
8 certificate of title for a watercraft to a person who complies
9 with subsection (2) or (3) if the transfer of ownership of that
10 watercraft is any of the following:

11 (a) By operation of law including, but not limited to,
12 inheritance, devise, bequest, order in bankruptcy, insolvency,
13 replevin, or execution of sale.

14 (b) By sale to satisfy a storage or repair charge.

15 (c) By repossession upon default in performance of the terms
16 of a security agreement.

17 (d) Pursuant to subsection (3).

18 (2) A person applying for a certificate of title under this
19 section shall do all of the following:

20 (a) Surrender to the secretary of state either a valid cer-
21 tificate of title or the manufacturer's or importer's certificate
22 for the watercraft or, if surrender of a certificate for that
23 watercraft is not possible, present proof satisfactory to the
24 secretary of state of the applicant's ownership of and right of
25 possession to the watercraft.

26 (b) Pay the fee prescribed in section ~~+0-~~ 80311.

1 (c) Present to the secretary of state an application for
2 certificate of title.

3 (3) A person may petition the secretary of state for a cer-
4 tificate or certificates of title for 1 or more registered water-
5 craft that the person does not own, if each of the following cir-
6 cumstances exists:

7 (a) The record owner of the registered watercraft dies with-
8 out leaving other property that requires the procurement of let-
9 ters of administration or letters of authority under the revised
10 probate code, Act No. 642 of the Public Acts of 1978, being sec-
11 tions 700.1 to 700.993 of the Michigan Compiled Laws.

12 (b) The total value of the deceased owner's interest in all
13 watercraft subject to the petition for a certificate or certifi-
14 cates of title under this section is \$100,000.00 or less.

15 (c) The person petitioning for a certificate or certificates
16 of title under this section is 1 of the following, in the follow-
17 ing order of priority:

18 (i) The surviving spouse of the watercraft owner.

19 (ii) A person entitled to the certificate or certificates of
20 title pursuant to section 106 of the revised probate code, Act
21 No. 642 of the Public Acts of 1978, being section 700.106 of the
22 Michigan Compiled Laws.

23 (d) The person who petitions for a certificate of title
24 under this section furnishes the secretary of state with proof
25 satisfactory to the secretary of state of each of the following:

26 (i) The death of the owner of each watercraft for which a
27 certificate of title is sought.

1 (ii) The petitioner's priority to receive the decedent's
2 interest in each watercraft for which a certificate of title is
3 sought.

4 (4) A certification by the person, or agent of the person,
5 to whom possession of the watercraft passed, that sets forth the
6 facts entitling that person to possession and ownership of the
7 watercraft, together with a copy of the journal entry, court
8 order, instrument, or other document upon which the claim of pos-
9 session and ownership is founded, are satisfactory proof of
10 ownership and right of possession. If the applicant cannot
11 produce proof of ownership, the applicant may apply to the secre-
12 tary of state for a certificate of title and submit evidence that
13 establishes that person's ownership interest in the watercraft.
14 If the secretary of state finds the evidence sufficient, the sec-
15 retary of state may issue to that person a certificate of title
16 for that watercraft. The office of secretary of state shall
17 examine the records in its possession and, if it determines from
18 that examination that a lien is on the watercraft, and if the
19 applicant fails to provide satisfactory evidence of extinction of
20 the lien, the secretary of state shall furnish a certificate of
21 title that contains a statement of the lien.

22 Sec. ~~42~~ 80313. (1) An owner of a watercraft and a person
23 mentioned as owner in the last certificate of title, when the
24 watercraft is dismantled, destroyed, or changed in such manner
25 that it loses its character as a watercraft, or changed in such
26 manner that it is not the watercraft described in the certificate
27 of title, shall surrender the certificate of title to the

1 secretary of state, and ~~thereupon~~ the secretary of state shall,
2 with the consent of a holder of a lien noted ~~thereon~~ ON THE
3 CERTIFICATE OF TITLE, enter a cancellation upon his OR HER
4 records.

5 (2) Upon the cancellation of a certificate of title in the
6 manner prescribed by subsection (1), the secretary of state may
7 cancel and destroy the certificates.

8 Sec. ~~13~~ 80314. (1) If certificate of title is lost, muti-
9 lated, or becomes illegible, the person to whom that certificate
10 of title was issued shall apply to the secretary of state for a
11 duplicate copy of the certificate of title upon a form prescribed
12 by the secretary of state and accompanied by the fee prescribed
13 by section ~~10~~ 80311. The applicant shall certify the
14 application. Upon an applicant's compliance with this section,
15 the secretary of state shall issue to that applicant a duplicate
16 copy of the certificate of title that contains the legend, "This
17 is a duplicate certificate and may be subject to the rights of a
18 person under the original certificate.". A purchaser of water-
19 craft who obtains title to the watercraft through a duplicate
20 copy of the watercraft's certificate of title acquires only those
21 rights in the watercraft that the holder of the duplicate certif-
22 icate of title had. At the time of purchase, a watercraft pur-
23 chaser may require the seller to indemnify the purchaser and sub-
24 sequent purchasers of the watercraft against a loss which the
25 purchaser or subsequent purchasers may suffer by reason of a
26 claim presented upon the original certificate of title. If the
27 original certificate of title is recovered by the owner, the

1 owner shall immediately surrender it to the secretary of state
2 for cancellation.

3 (2) The secretary of state is not required to issue a dupli-
4 cate of a lost watercraft certificate of title at the time owner-
5 ship of the watercraft is being transferred if ~~each~~ ALL of the
6 following conditions ~~is~~ ARE met:

7 (a) The transferor personally appears before an authorized
8 representative of the secretary of state and does ~~each~~ ALL of
9 the following:

10 (i) Provides evidence of the transferor's identity and
11 ownership interest in the watercraft that is satisfactory to the
12 authorized representative of the secretary of state.

13 (ii) Pays the fee required under section ~~10~~ 80311.

14 (b) The transferee or the transferee's representative accom-
15 panies the transferor in appearing before the authorized agent of
16 the secretary of state and does ~~each~~ ALL of the following:

17 (i) Applies for an original certificate of title for the
18 watercraft.

19 (ii) Provides evidence of the transferee's identity that is
20 satisfactory to the authorized representative of the secretary of
21 state.

22 (iii) Pays the fee required under section ~~10~~ 80311.

23 (3) If a duplicate certificate of title is not required for
24 the transfer of a watercraft under subsection (2), the secretary
25 of state shall maintain a record specifying that ownership of the
26 watercraft was transferred without a surrender of the
27 watercraft's certificate of title.

1 (4) As used in this section, "transfer" or "transferred"
2 includes a conveyance, assignment, and gift.

3 Sec. ~~+4~~ 80315. (1) The secretary of state may provide a
4 commercial look-up service of watercraft title records on a fee
5 basis per transaction and use fee revenues received from the
6 service for necessary expenses.

7 (2) The secretary of state shall furnish information on a
8 title without charge to authorized law enforcement and conserva-
9 tion officers when engaged in official duties.

10 Sec. ~~+5~~ 80316. Manufacturers and importers shall appoint
11 and authorize agents who shall sign manufacturer's or importer's
12 certificates. The secretary of state may require that a certi-
13 fied copy of a list containing the names and the facsimile signa-
14 tures of authorized agents be furnished TO him OR HER. The sec-
15 retary of state may prescribe the form of authorization to be
16 used by manufacturers or importers and the method of certifica-
17 tion of the names of agents.

18 Sec. ~~+7~~ 80317. (1) Upon receiving knowledge of a stolen
19 watercraft, a law enforcement agency shall immediately furnish
20 the sheriff's department of the county in which the watercraft
21 was stolen and the department of state police with full informa-
22 tion concerning the theft.

23 (2) The law enforcement agency receiving the initial report
24 of the theft or conversion of a watercraft ~~—~~ shall notify the
25 department ~~of natural resources~~ and the secretary of state, and
26 shall furnish the secretary of state WITH a distinctive record
27 ~~thereof~~ OF THE INITIAL REPORT, including the make of the stolen

1 watercraft and its manufacturer's hull identification number or
2 assigned hull identification number. The secretary of state
3 shall file the record in the numerical order of the
4 manufacturer's hull identification number or assigned hull iden-
5 tification number with the index records of the watercraft. The
6 secretary of state shall prepare a report listing watercraft
7 stolen and recovered as disclosed by the reports submitted to the
8 secretary of state, to be distributed as the secretary of state
9 considers advisable.

10 (3) If a stolen or converted watercraft is recovered, the
11 owner or recovering agency shall immediately notify the law
12 enforcement agency which received the initial theft report, which
13 shall immediately notify the department, ~~of natural resources,~~
14 the sheriff of the county from which the watercraft was stolen,
15 the department of state police, and the secretary of state. The
16 secretary of state shall remove the record of the theft or con-
17 version from the file in which the report is recorded.

18 Sec. ~~+8~~ 80318. A person shall not DO ANY OF THE
19 FOLLOWING:

20 (a) Operate in this state a watercraft for which a certifi-
21 cate of title is required without having a certificate as pre-
22 scribed by this ~~act~~ PART.

23 (b) Operate in this state a watercraft for which a certifi-
24 cate of title is required for which the certificate of title is
25 canceled.

26 (c) Fail to surrender a certificate of title upon
27 cancellation of the certificate by the secretary of state and

1 notice ~~thereof~~ OF THE CANCELLATION as prescribed in this ~~act~~
2 PART.

3 (d) Fail to surrender the certificate of title to the secre-
4 tary of state, as provided in this ~~act~~ PART, if the watercraft
5 is destroyed, dismantled, or changed in such manner that it is
6 not the watercraft described in the certificate of title.

7 Sec. ~~49~~ 80319. (1) A person shall not do any of the
8 following:

9 (a) Alter or forge a certificate of title, or a
10 manufacturer's or importer's certificate, to a watercraft, an
11 assignment of either, or a cancellation of a lien on a
12 watercraft.

13 (b) Hold or use a certificate, assignment, or cancellation
14 ~~—~~ knowing it is altered or forged.

15 (c) Procure ~~—~~ or attempt to procure ~~—~~ a certificate of
16 title to a watercraft, or pass ~~—~~ or attempt to pass ~~—~~ a cer-
17 tificate of title or an assignment of title to a watercraft,
18 knowing or having reason to believe that the watercraft is
19 stolen.

20 (d) Sell ~~—~~ or offer for sale ~~—~~ in this state a water-
21 craft on which the manufacturer's or assigned hull identification
22 number is destroyed, removed, covered, altered, or defaced, with
23 knowledge of the destruction, removal, covering, alteration, or
24 defacement of the manufacturer's or assigned hull identification
25 number.

26 (e) Use a false or fictitious name, give a false or fictitious
27 address, or make a false statement in an application or

1 certificate required under this ~~act~~ PART, or in a bill of sale
2 or sworn statement of ownership, or otherwise commit a fraud in
3 an application.

4 (f) Sell or transfer a watercraft without delivering to the
5 purchaser or transferee of the watercraft a certificate of title,
6 or a manufacturer's or importer's certificate to the watercraft,
7 assigned to the purchaser as provided for in this ~~act~~ PART.

8 (2) A person who violates this section is guilty of a misde-
9 meanor, punishable by imprisonment for not more than 1 year, or a
10 fine of not more than \$5,000.00, or both.

11 Sec. ~~20~~ 80320. (1) A security agreement covering a secur-
12 ity interest in a watercraft, if the instrument is accompanied by
13 delivery of a manufacturer's or importer's certificate and fol-
14 lowed by actual and continued possession of the certificate by
15 the holder of the instrument, or, in the case of a certificate of
16 title, if a notation of the instrument is made by the secretary
17 of state on the face of the certificate, shall be valid as
18 against the creditors of the debtor, whether armed with process
19 or not, and against subsequent purchasers, secured parties, and
20 other lienholders or claimants. Liens, mortgages, and encum-
21 brances noted upon a certificate of title shall take priority
22 according to the order of time in which they are noted ~~thereon~~
23 ON THE CERTIFICATE OF TITLE by the secretary of state. Exposure
24 for sale of a watercraft by the owner ~~thereof~~ OF THE
25 WATERCRAFT, with the knowledge ~~—~~ or with the knowledge and con-
26 sent ~~—~~ of the holder of a lien, mortgage, or encumbrance
27 ~~thereon~~ ON THE WATERCRAFT, shall not render the lien, mortgage,

1 or encumbrance ineffective as against the creditors of the owner,
 2 or against holders of subsequent liens, mortgages, or encum-
 3 brances upon the watercraft.

4 (2) The secured party, upon presentation of a properly com-
 5 pleted application for certificate of title to the secretary of
 6 state, together with the fee prescribed by section ~~10~~ 80311,
 7 may have a notation of the lien made on the face of the certifi-
 8 cate of title to be issued by the secretary of state. The secre-
 9 tary of state shall enter the notation and the date ~~thereof,~~
 10 and shall note the lien and the date ~~thereof~~ in his OR HER
 11 files.

12 (3) When the lien is discharged, the holder shall note the
 13 discharge on the certificate of title over his OR HER signature.

14 Sec. ~~21~~ 80321. A watercraft acquired by the owner prior
 15 to January 1, 1977, ~~shall~~ IS not ~~be~~ the subject of a certifi-
 16 cate of title until it is mortgaged, sold, transferred, or a lien
 17 placed on the watercraft.

18 Sec. ~~23~~ 80322. A person who violates sections ~~1~~ 80301
 19 to ~~19~~ 80319 or rules promulgated under this ~~act~~ PART is
 20 guilty of a misdemeanor, and shall be ~~finned~~ IMPRISONED FOR not
 21 more than 90 DAYS, OR FINED NOT MORE THAN \$100.00, ~~or imprisoned~~
 22 ~~for not more than 90 days,~~ or both.

23 ~~Part 805. Marine Safety Education Commission~~

24 ~~SUBCHAPTER 6. MOTORIZED RECREATIONAL VEHICLES~~

25 ~~OFF ROAD RECREATION VEHICLES~~

26 ~~Part 811. Off Road Recreation Vehicles~~

SUBCHAPTER 6: MOTORIZED RECREATIONAL VEHICLES

OFF-ROAD RECREATION VEHICLES

PART 811 OFF-ROAD RECREATION VEHICLES

Sec. ~~+~~ 81101. As used in this ~~act~~ PART:

(a) "ATV" means a 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.

(b) "Code" means the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

~~(c) "Commission" means the commission of natural resources.~~

(C) ~~(d)~~ "Dealer" means a person engaged in the sale, lease, or rental of an ORV as a regular business.

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

(D) ~~(f)~~ "Designated" means posted open for ORV use with appropriate signs by the department.

(E) ~~(g)~~ "Forest road" means a hard surfaced road, gravel or dirt road, or other route capable of travel by a 2-wheel drive 4-wheel conventional vehicle designed for highway use, except an interstate, state, or county highway.

(F) ~~(h)~~ "Forest trail" means a designated path or way capable of travel only by a vehicle less than 50 inches in width.

1 (G) ~~(i)~~ "Handicapper" means a person who has 1 or more of
2 the following physical characteristics:

3 (i) Blindness.

4 (ii) Inability to ambulate more than 200 feet without having
5 to stop and rest during any time of the year.

6 (iii) Loss of use of 1 or both legs or feet.

7 (iv) Inability to ambulate without the prolonged use of a
8 wheelchair, walker, crutches, braces, or other device required to
9 aid mobility.

10 (v) A lung disease from which the person's expiratory volume
11 for 1 second, when measured by spirometry, is less than 1 liter,
12 or from which the person's arterial oxygen tension is less than
13 60 mm/hg of room air at rest.

14 (vi) A cardiovascular disease from which the person measures
15 between 3 and 4 on the New York heart classification scale, or
16 from which a marked limitation of physical activity causes
17 fatigue, palpitation, dyspnea, or anginal pain.

18 (vii) Other diagnosed disease or disorder including, but not
19 limited to, severe arthritis or a neurological or orthopedic
20 impairment that creates a severe mobility limitation.

21 (H) ~~(j)~~ "Highway" means the entire width between the
22 boundary lines of a way publicly maintained when any part of the
23 way is open to the use of the public for purposes of vehicular
24 travel.

25 (I) ~~(k)~~ "Late model ORV" means an ORV manufactured in the
26 current model year or the 5 model years immediately preceding the
27 current model year.

1 (J) ~~(l)~~ "Manufacturer" means a person, partnership,
2 corporation, or association engaged in the production and manu-
3 facture of ORVs as a regular business.

4 (K) ~~(m)~~ "Operate" means to ride in or on, and be in actual
5 physical control of, the operation of an ORV.

6 (L) ~~(n)~~ "Operator" means a person who operates ~~—~~ or is
7 in actual physical control of the operation of an ORV.

8 (M) ~~(o)~~ "ORV" or "vehicle" means a motor driven off-road
9 recreation vehicle capable of cross-country travel without bene-
10 fit of a road or trail, on or immediately over land, snow, ice,
11 marsh, swampland, or other natural terrain. ~~It~~ ORV OR VEHICLE
12 includes, but is not limited to, a multitrack or multiwheel drive
13 vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or
14 4-wheel vehicle, an amphibious machine, a ground effect air cush-
15 ion vehicle, or other means of transportation deriving motive
16 power from a source other than muscle or wind. ~~—~~ ORV ~~—~~ or
17 ~~—~~ vehicle ~~—~~ does not include a registered snowmobile, a farm
18 vehicle being used for farming, a vehicle used for military,
19 fire, emergency, or law enforcement purposes, a vehicle owned and
20 operated by a utility company or an oil or gas company when per-
21 forming maintenance on its facilities or on property over which
22 it has an easement, a construction or logging vehicle used in
23 performance of its common function, or a registered aircraft.

24 (N) ~~(p)~~ "Owner" means any of the following:

25 (i) A vendee or lessee of an ORV which is the subject of an
26 agreement for the conditional sale or lease of the ORV, with the
27 right of purchase upon performance of the conditions stated in

1 the agreement, and with an immediate right of possession vested
2 in the conditional vendee or lessee.

3 (ii) A person renting an ORV, or having the exclusive use of
4 an ORV, for more than 30 days.

5 (iii) A person who holds legal ownership of an ORV.

6 ~~(q) "Person" means an individual, partnership, corporation,~~
7 ~~the state or any of its agencies or subdivisions, or a body of~~
8 ~~persons whether incorporated or not.~~

9 (O) ~~(r)~~ "Public agency" means the department or a local or
10 federal unit of government.

11 (P) ~~(s)~~ "Roadway" means that portion of a highway
12 improved, designated, or ordinarily used for vehicular travel.
13 If a highway includes 2 or more separate roadways, the term road-
14 way refers to a roadway separately, but not to all roadways
15 collectively.

16 (Q) ~~(t)~~ "Route" means a forest road or other road that is
17 designated for purposes of this ~~act~~ PART by the department.

18 (R) ~~(u)~~ "Safety education fund" means the safety education
19 fund created ~~pursuant to~~ UNDER section ~~6b~~ 81118.

20 (S) ~~(v)~~ "Safety chief instructor" means a person who has
21 been certified by a nationally recognized ATV and ORV organiza-
22 tion to certify instructors and to do on-sight evaluations of
23 instructors.

24 (T) ~~(w)~~ "Trail improvement fund" means the ORV trail
25 improvement fund created pursuant to section ~~6a~~ 81117.

26 (U) ~~(x)~~ "Visual supervision" means the direct observation
27 of the operator with the unaided or normally corrected eye, where

1 the observer is able to come to the immediate aid of the
2 operator.

3 Sec. ~~2~~ 81102. A vehicle registered under the code ~~—~~ or
4 a vehicle registered under ~~Act No. 303 of the Public Acts of~~
5 ~~1967, as amended, being sections 281.1001 to 281.1199 of the~~
6 ~~Michigan Compiled Laws,~~ PART 801 is exempt from the licensure
7 provisions of this ~~act~~ PART, unless the vehicle is operated as
8 an ORV off highways, roadways, streets, and forest roads.

9 Sec. ~~2a~~ 81103. (1) After April 1, 1991, every ORV sold by
10 a dealer to a retail purchaser shall be subject to the certifi-
11 cate of title provisions of this ~~act~~ PART.

12 (2) After April 1, 1991, a person who purchases or otherwise
13 acquires an ORV shall make application for a certificate of title
14 as provided in this ~~act~~ PART.

15 (3) After ~~the effective date of this section~~ APRIL 1,
16 1991, the owner of an ORV ~~which~~ THAT has not been titled pursu-
17 ant to subsection (1) or (2) or the code may apply for and, if
18 otherwise eligible, receive a certificate of title issued under
19 this ~~act~~ PART. If the ORV was previously titled under the
20 code, it ~~shall~~ IS not ~~be~~ eligible for titling under this
21 ~~act~~ PART.

22 Sec. ~~2b~~ 81104. The owner of an ORV ~~which~~ THAT has been
23 and is titled under this ~~act~~ PART may, if the ORV is otherwise
24 eligible, apply for a title to the ORV under the code. If the
25 owner applies for a title under the code, the title issued under
26 this ~~act~~ PART shall at that time be surrendered to the
27 department of state.

1 Sec. ~~2c~~ 81105. After an ORV has been titled under this
2 ~~act~~ PART, both of the following shall occur:

3 (a) The owner, except as provided in section ~~2b~~ 81104,
4 shall not sell or otherwise assign ownership in the ORV without
5 delivering to the transferee a certificate of title showing
6 assignment of the ORV in the transferee's name.

7 (b) A person shall not purchase or otherwise acquire an ORV
8 without obtaining a certificate of title to it in the person's
9 name pursuant to either this ~~act~~ PART or the code.

10 Sec. ~~3~~ 81106. An ORV is exempt from ~~the provisions of~~
11 THE MOTOR VEHICLE ACCIDENT CLAIMS ACT, Act No. 198 of the Public
12 Acts of 1965, ~~as amended,~~ being sections 257.1101 to ~~257.1132~~
13 257.1133 of the Michigan Compiled Laws, and from ~~the provisions~~
14 ~~of~~ sections 3101 to 3179 of THE INSURANCE CODE OF 1956, Act
15 No. 218 of the Public Acts of 1956, ~~as amended,~~ being sections
16 500.3101 to 500.3179 of the Michigan Compiled Laws.

17 Sec. ~~4~~ 81107. (1) A person shall not sell or otherwise
18 transfer an ORV to a dealer, to be used by the dealer for pur-
19 poses of display and resale, without delivering to the dealer a
20 manufacturer's certificate of origin executed in accordance with
21 this section. A dealer shall not purchase or otherwise acquire a
22 new ORV without obtaining a manufacturer's certificate of
23 origin.

24 (2) A manufacturer's certificate of origin shall contain the
25 following information:

26 (a) A description of the ORV, including year, make, model or
27 series, and vehicle identification number.

1 (b) Certification of the date of the ~~ORV's~~ transfer OF THE
2 ORV to the dealer.

3 (c) The dealer's name and address.

4 (d) Certification that this transaction is the first trans-
5 fer of the new ORV in ordinary commerce.

6 (e) The transferor's signature and address.

7 (3) An assignment of a manufacturer's certificate of origin
8 shall be printed on the reverse side of the certificate. The
9 assignment shall include the name and address of the transferee,
10 a certification that the ORV is new, and a warranty that the
11 title at the time of delivery is subject only to the secured
12 interests set forth in the assignment.

13 Sec. ~~4a~~ 81108. (1) An application for an ORV certificate
14 of title shall be on a form prescribed by the department of
15 state. The application shall be certified by the owner or pur-
16 chaser and shall contain, in addition to other information
17 required by the department of state, the following information:

18 (a) The applicant's name and address.

19 (b) A statement of any security interest or other liens on
20 the ORV, along with the name and address of any lienholder.

21 (c) If a lien is not outstanding, a statement of that fact.

22 (d) A description of the ORV, including the year, make,
23 model or series, and vehicle identification number.

24 (2) An application for an ORV certificate of title ~~which~~
25 THAT indicates the existence of a security interest in the ORV
26 shall, if requested by the security interest holder, be
27 accompanied by a copy of the security agreement, which may be

1 unsigned. The department of state shall indicate on the copy the
2 date and place of filing and shall return the copy to the person
3 who filed the application. The filer shall forward the copy to
4 the security interest holder identified in the application.

5 Sec. ~~4b~~ 81109. (1) The purchaser or other transferee of
6 an ORV subject to the titling provisions of this ~~act~~ PART
7 shall, except as provided in subsection (2), make application to
8 the department of state for issuance of a certificate of title to
9 the ORV. The application shall be filed within 15 days after the
10 date of purchase or transfer.

11 (2) A dealer selling ORVs at retail, within 15 days after
12 delivering an ORV to a retail purchaser, shall make application
13 for issuance of an ORV certificate of title in the purchaser's
14 name. The purchaser of the ORV shall sign the application and
15 other papers necessary to enable the dealer to secure the title
16 from the department of state. If the ORV was not previously
17 titled, the application shall be accompanied by a manufacturer's
18 certificate of origin.

19 (3) At the request of the applicant, the department of state
20 shall process an application for an ORV certificate of title on
21 an expedited basis.

22 (4) An application filed with the department of state pursu-
23 ant to this section shall be accompanied by the fee or fees pre-
24 scribed in section ~~4c~~ 81110.

25 (5) Beginning January 1, 1992, a person who violates this
26 section is responsible for a civil violation and subject to a
27 civil fine of not more than \$100.00 plus costs.

1 Sec. ~~4c~~ 81110. (1) The department of state shall charge a
2 fee of \$11.00 for processing an application for an ORV certifi-
3 cate of title or a duplicate ORV certificate of title. The
4 department of state shall charge an additional fee of \$5.00 for
5 processing an application on an expedited basis.

6 (2) If a check or draft in payment of a required fee is not
7 paid on its first presentation, the fee is delinquent as of the
8 date the check or draft was tendered. The person tendering the
9 check or draft remains liable for the payment of each fee and any
10 penalty.

11 (3) The department of state may suspend an ORV certificate
12 of title if the department of state ~~has determined~~ DETERMINES
13 that a fee prescribed in this section has not been paid and
14 remains unpaid after reasonable notice or demand.

15 (4) If a fee is still delinquent 15 days after the depart-
16 ment of state has given notice to a person who tendered the check
17 or draft, a \$10.00 penalty shall be assessed and collected in
18 addition to the fee.

19 (5) The revenue collected from the fees imposed under this
20 section shall be used to support the administrative costs of the
21 secretary of state required by this section. Annual revenue col-
22 lected in excess of these administrative costs shall be credited
23 to the ORV trail improvement fund created in section ~~6a~~ 81117.
24 Amounts appropriated for administrative costs but unexpended
25 shall be credited to the ORV trail improvement fund.

1 Sec. ~~4d~~ 81111. (1) The department of state may refuse to
2 issue an original or duplicate ORV certificate of title if any of
3 the following occur:

4 (a) The applicant ~~has failed~~ FAILS to furnish all required
5 information or reasonable additional information requested by the
6 department of state.

7 (b) The required fee has not been paid.

8 (c) The applicant is not entitled to an ORV certificate of
9 title under this ~~act~~ PART.

10 (d) The ORV is titled under the code.

11 (e) The application contains a false or fraudulent
12 statement.

13 (f) The department of state has reasonable grounds to
14 believe that the ORV was stolen or embezzled.

15 (2) If satisfied that the applicant is the owner of the ORV
16 and is otherwise entitled to an ORV certificate of title, the
17 department of state shall issue an ORV certificate of title in
18 the applicant's name. The certificate shall be mailed or other-
19 wise delivered to the owner of the ORV or to another person spec-
20 ified by the owner in a separate instrument, in a form prescribed
21 by the department of state.

22 (3) If the secretary of state is not satisfied as to the
23 ownership of an ORV which is not a late model ORV and whose value
24 does not exceed \$1,500.00, the secretary of state shall require
25 the applicant to certify that the applicant is the owner of the
26 ORV and therefore entitled to make application for a certificate
27 of title for the ORV.

1 Sec. ~~4e~~ 81112. (1) An ORV certificate of title shall be
2 manufactured in a manner to prohibit as nearly as possible the
3 ability to reproduce, alter, counterfeit, forge, or duplicate the
4 certificate without ready detection and shall contain on its face
5 the information set forth in the application, including a nota-
6 tion of all secured interests in the ORV, ~~—~~ the date on which
7 the application was filed, ~~—~~ and other information required by
8 the department of state.

9 (2) The department of state shall prescribe a uniform method
10 of numbering ORV certificates of title.

11 (3) An ORV certificate of title shall contain, upon its
12 reverse side, a form for assignment and warranty of title by the
13 owner with space for the notation of a security interest in the
14 ORV. The reverse side of the ORV certificate of title may also
15 contain other forms that the department of state considers neces-
16 sary to facilitate the effective administration of this ~~act~~
17 PART. The certificate shall bear the coat of arms of this
18 state.

19 (4) A person who intentionally reproduces, alters, counter-
20 feits, forges, or duplicates an ORV certificate of title or who
21 uses a reproduced, altered, counterfeited, forged, or duplicated
22 ORV certificate of title is subject to the following penalties:

23 (a) If the intent of reproduction, alteration, counterfeit-
24 ing, forging, duplication, or use was to commit or aid in the
25 commission of an offense punishable by imprisonment for 1 or more
26 years, the person committing the reproduction, alteration,
27 counterfeiting, forging, duplication, or use is guilty of a

1 misdemeanor, punishable by imprisonment for a period equal to
2 that which could be imposed for the commission of the offense the
3 person had the intent to aid or commit. The court may also
4 assess a fine of not more than \$5,000.00 against the person.

5 (b) If the intent of the reproduction, alteration, counter-
6 feiting, forging, duplication, or use was to commit or aid in the
7 commission of an offense punishable by imprisonment for not more
8 than 1 year, the person committing the reproduction, alteration,
9 counterfeiting, forging, duplication, or use is guilty of a mis-
10 demeanor, punishable by imprisonment for not more than 1 year, or
11 a fine of not more than \$1,000.00, or both.

12 Sec. ~~4f~~ 81113. (1) If an ORV certificate of title or
13 duplicate certificate of title is lost or mutilated or becomes
14 illegible, the person entitled to possession of the certificate,
15 or the legal representative or successor in interest to the
16 titleholder of record, may make application to the department of
17 state for a duplicate ORV certificate of title. Upon receipt of
18 the application, the fee prescribed in section ~~4e~~ 81110, and
19 information satisfactory to the department of state to establish
20 entitlement to the duplicate, the department of state may issue a
21 duplicate ORV certificate of title to the applicant.

22 (2) Every duplicate ORV certificate of title shall contain
23 the legend: "This is a duplicate certificate of title and may be
24 subject to the rights of a person under the original
25 certificate."

26 Sec. ~~4g~~ 81114. (1) The secretary of state shall maintain
27 1 or more indexes pertaining to ORV certificates of title. Upon

1 receiving an application for an ORV certificate of title, the
2 secretary of state may check the information in the application
3 and accompanying documents against the indexes of titled, regis-
4 tered, stolen, and recovered ORVs and against other records main-
5 tained by the secretary of state.

6 (2) The secretary of state may provide a commercial look-up
7 service of ORV title and registration records on a fee basis.
8 The secretary of state shall not process a commercial look-up
9 request unless it is in a form prescribed by the secretary of
10 state.

11 (3) The secretary of state shall furnish information on a
12 title without charge to authorized law enforcement and conserva-
13 tion officers when engaged in official duties.

14 (4) The secretary of state may purge a record of an ORV cer-
15 tificate of title and any record pertaining to it 7 years after
16 the title was issued or the record was made or received.

17 Sec. ~~5~~ 81115. (1) Beginning April 1, 1991, except as oth-
18 erwise provided, an ORV shall not be operated on ~~—~~ or over ~~—~~
19 land, snow, ice, marsh, swampland, or other natural terrain
20 unless licensed by the owner with the department or a dealer as
21 provided in this ~~act~~ PART. Except as otherwise provided in
22 this ~~act~~ PART, a vehicle operating on a forest trail or in a
23 designated area shall be licensed under ~~the provisions of~~ this
24 ~~act~~ PART.

25 (2) Licensure is not required for an ORV ~~which~~ THAT is
26 operated exclusively in a special event of limited duration
27 ~~which~~ THAT is conducted according to a prearranged schedule

1 under a permit from the governmental unit having jurisdiction.
2 Licensure is not required for an ORV used exclusively in a safety
3 and training program as required in section ~~47~~ 81129.

4 (3) Licensure is not required for an ORV that ~~is~~
5 ~~registered~~ HAD A VALID REGISTRATION on ~~the effective date of~~
6 ~~the amendatory act that added this subsection~~ APRIL 1, 1991
7 until the expiration date of the registration.

8 Sec. ~~6~~ 81116. (1) The owner of an ORV requiring licensure
9 under this ~~act~~ PART shall file an application for a license
10 with the department or a dealer on forms provided by the
11 department. If an ORV is sold by a dealer, the application for a
12 license shall be submitted to the department by the dealer in the
13 name of the owner. The application shall be signed by the owner
14 of the vehicle, and shall be accompanied by a fee of ~~\$7.00~~
15 ~~beginning April 1, 1991,~~ \$8.00 beginning April 1, 1993, and
16 \$10.00 beginning April 1, 1995 and thereafter. A person shall
17 not file an application for registration that contains false
18 information. Upon receipt of the application in approved form
19 and upon payment of the appropriate fee, the department or dealer
20 shall issue to the applicant a license which shall be valid for
21 the 12-month period for which it is issued. A license shall be
22 issued for the 12-month period beginning April 1 and ending
23 March 31 each year.

24 (2) Dealers may purchase from the department ORV licenses
25 for resale to owners of vehicles requiring licensure under this
26 ~~act~~ PART. The department shall refund to dealers the purchase
27 price of any ORV licenses returned within 90 days after the end

1 of the 12-month period for which they were valid. The dealer
2 shall maintain and provide to the department records of ORV
3 license sales on forms provided by the department.

4 (3) The license shall be permanently attached to the vehicle
5 in the manner prescribed and in the location designated by the
6 department before the vehicle may legally be operated in accord-
7 ance with this ~~act~~ PART.

8 (4) If at the time of sale the purchaser certifies on a form
9 provided by the department that the purchased vehicle otherwise
10 requiring a license under this ~~act~~ PART will be used and stored
11 outside of this state and will not be returned by the purchaser
12 to this state for use, then a license will not be required.

13 Sec. ~~6a~~ 81117. (1) ~~Beginning April 30, 1990, the~~ THE
14 ORV trail improvement fund is created in the state treasury. The
15 fund shall be administered by the department and shall be used
16 for the signing, improvement, maintenance, and construction of
17 ORV trails, routes, or areas; ~~—~~ for the administration and
18 enforcement of this ~~act~~ PART; ~~—~~ for the leasing of land; ~~—~~
19 for the acquisition of easements, permits, or other agreements
20 for the use of land for ORV trails, routes, or areas; ~~—~~ and for
21 the restoration of any of the natural resources of this state on
22 public land that are damaged due to ORV use in conjunction with
23 the plan required by section ~~16~~ 81123.

24 (2) Beginning April 1, 1990, \$6.00 of the revenue from each
25 fee collected under section ~~6~~ 81116 shall be deposited in the
26 fund. Except as provided in section ~~6b~~ 81118, beginning

1 April 1, 1993, all of the revenue from each fee collected under
2 section ~~-6-~~ 81116 shall be deposited in the fund.

3 (3) The department may accept gifts, grants, or bequests
4 from any public or private source or from the federal, state, or
5 a local unit of government for the purposes of the fund.

6 (4) All funds allocated under this ~~-act-~~ PART shall be for
7 projects ~~-which-~~ THAT are open to the public.

8 (5) Any money remaining in the ORV trail improvement fund at
9 the end of a fiscal year shall be carried over in the fund to the
10 next and succeeding fiscal years and shall only be used for the
11 purposes stated in this section.

12 (6) No money in the ORV trail improvement fund may be
13 expended until the comprehensive system for ORV use required by
14 section ~~-6d-~~ 81127 is approved in the manner provided in
15 section ~~-6d-~~ 81127.

16 Sec. ~~-6b-~~ 81118. (1) ~~-Beginning April 17, 1990, the-~~ THE
17 safety education fund is created in the state treasury. The fund
18 shall be administered by the department of education and shall be
19 used for the purposes described in ~~-section 17(a)-~~ SECTIONS 81129
20 AND 81130.

21 (2) Beginning April 1, 1991, \$1.00 of the revenue from each
22 fee collected under section ~~-6-~~ 81116 shall be deposited in the
23 safety education fund.

24 (3) The department of education may accept gifts, grants, or
25 bequests from any public or private source or the federal, state,
26 or a local unit of government for the purposes of the fund.

1 (4) Any money remaining in the safety education fund at the
2 end of a fiscal year shall be carried over in the fund to the
3 next and succeeding fiscal years and shall only be used for the
4 purposes stated in this section.

5 Sec. ~~6e~~ 81119. (1) Not less than 40% of the revenue in
6 the ORV trail improvement fund in any year shall be distributed
7 each year TO PUBLIC AGENCIES AND NONPROFIT INCORPORATED CLUBS AND
8 ORGANIZATIONS in the form of grants for the purpose of planning,
9 improving, constructing, signing, and maintaining ORV trails,
10 areas, and routes and access to those trails, areas, and routes;
11 ~~the~~ leasing of land; ~~AND~~ the acquisition of easements,
12 permits, or other agreements for the use of land for ORV trails,
13 areas, and routes. ~~to public agencies and nonprofit incorpo-~~
14 ~~rated clubs and organizations.~~

15 (2) An application by a public agency or a nonprofit incor-
16 porated club or organization shall include a plan for restoration
17 of any of the natural resources of this state on public land that
18 are damaged due to ORV use. The public agencies or nonprofit
19 incorporated clubs or organizations shall indicate on their
20 application that their use of grant money is consistent with, and
21 meets the requirements of, the plan developed by the department
22 pursuant to section ~~16~~ 81123, and the trail, route, or area is
23 available to the public. The department shall not approve a
24 grant unless the application meets the requirements of the plan.
25 The department shall make application forms available and con-
26 sider grant requests on a yearly basis in consultation with the
27 ORV trails advisory committee created in section ~~16b~~ 81125.

1 (3) A grant shall not be made for a trail, route, or area
2 unless the trail, route, or area is available for ORV use and is
3 approved by the department. A grant for the cost of leasing of
4 land and the acquisition of easements, permits, or other agree-
5 ments may equal 100% of incurred expense. Specifications shall
6 be prescribed by the department.

7 (4) Not less than 30% of the revenue in the fund in any year
8 shall be used each year for enforcement of this ~~act~~ PART. Of
9 this amount available for enforcement, the department shall make
10 available funds for distribution in the form of grants by the
11 department to the county sheriffs' departments in the following
12 percentage amounts: 60% of the funds available for the first
13 year of operation of the fund; 50% of the funds available in the
14 second year; and 40% of the funds available in the third year and
15 each year thereafter. The balance of the funds available shall
16 be used by the department. In making grants available for dis-
17 tribution under this subsection, the department shall consider
18 the following factors:

19 (a) The number of miles of ORV trails, routes, or areas
20 within the county.

21 (b) The number of sheriff's department employees available
22 for enforcement of this ~~act~~ PART.

23 (c) The estimated number of ORVs within the county and that
24 are brought into the county for ORV use.

25 (d) The estimated number of days that ORVs may be used
26 within that county.

1 (e) Any other factors considered appropriate by the
2 department. The department shall require a county sheriff
3 receiving a grant under this subsection to maintain records and
4 submit an annual report to verify expenditure of grant money
5 received.

6 (5) Not less than 20% of the revenue in the ORV trail
7 improvement fund in any year shall be distributed each year in
8 the form of grants to public agencies and nonprofit incorporated
9 clubs and organizations for the restoration of damage that is
10 caused by ORV use to natural resources on public land. A grant
11 under this subsection may be in addition to a grant under subsec-
12 tion (1). An application for a grant under this subsection shall
13 comply with subsection (2).

14 ~~-(6) Twenty five thousand dollars shall be appropriated for~~
15 ~~the fiscal year ending September 30, 1991 only from the fund to~~
16 ~~the department of education and credited to the safety education~~
17 ~~fund to supplement funds received by the department of education~~
18 ~~under this act.~~

19 (6) ~~-(7)~~ Not more than 5% of the revenue in the fund in any
20 year shall be used for administration of this ~~act~~ PART.

21 (7) ~~-(8)~~ The remainder of the revenue in the fund in any
22 given year may be used for the purposes described in subsections
23 (1) and (4), except that in the first year of operation of the
24 fund, the remainder shall be used as prescribed in subsection
25 (4). If the remainder of the fund is used for the purposes
26 described in subsection (4), it shall be allocated as provided in
27 subsection (4).

1 (8) ~~-(9)-~~ Grants under this section shall remain available
2 until expended once a contract or commitment has been entered
3 into under this section. A contract shall be for a period of not
4 more than 2 years. A grant not expended within the contract
5 period may be renewed by the department by entering into a new
6 contract.

7 (9) ~~-(10)-~~ This section is repealed effective January 1,
8 1995.

9 Sec. ~~-8a-~~ 81120. Records of the department and the depart-
10 ment of state made and kept pursuant to this ~~-act-~~ PART shall be
11 public records, except as otherwise provided in this ~~-act-~~ PART.

12 Sec. ~~-12-~~ 81121. (1) A dealer shall maintain in safe oper-
13 ating condition an ORV rented, leased, or furnished by the
14 dealer. The dealer, dealer's agents, or employees shall explain
15 the operation of the vehicle being rented, leased, or furnished,
16 and if the dealer, dealer's agent, or employee believes the
17 person to whom the vehicle is to be rented, leased, or furnished
18 is not competent to operate the vehicle with safety to that
19 person or others, the dealer, dealer's agent, or employee shall
20 refuse to rent, lease, or furnish the vehicle.

21 (2) A dealer renting, leasing, or furnishing a vehicle shall
22 carry a policy of liability insurance subject to limits, exclu-
23 sive of interest and costs, with respect to the vehicle, as
24 follows: \$20,000.00 because of bodily injury to, or death of, 1
25 person in any 1 accident, and \$40,000.00 because of bodily injury
26 to, or death of, 2 or more persons in any 1 accident, and
27 \$10,000.00 because of injury to, or destruction of, property of

1 others in any 1 accident, or ~~in the alternative~~ ALTERNATIVELY,
2 the dealer shall demand and be shown proof that the person rent-
3 ing, leasing, or being furnished a vehicle carries a liability
4 policy of at least the type and coverage as specified above.

5 Sec. ~~14~~ 81122. (1) A person shall not operate an ORV that
6 is not registered under the ~~Michigan vehicle~~ code ~~, Act~~
7 ~~No. 300 of the Public Acts of 1949, as amended, being~~
8 ~~sections 257.1 to 257.923 of the Michigan Compiled Laws,~~ upon a
9 public highway, street, or right-of-way of a public highway or
10 street, except as provided in section ~~18~~ 81131 or under the
11 following conditions and circumstances:

12 (a) The operator of a vehicle may cross a public highway,
13 other than a limited access highway, at right angles, for the
14 purpose of getting from 1 area to another, if the operation can
15 be done in safety. The operator shall bring the vehicle to a
16 complete stop before proceeding across a public highway, and
17 shall yield the right-of-way to oncoming traffic.

18 (b) A vehicle may be operated on a street or highway for a
19 special event of limited duration ~~, AND~~ conducted according to
20 a prearranged schedule ~~, only~~ under permit from the governmen-
21 tal unit having jurisdiction. A special event involving ORVs may
22 be conducted on the frozen surface of public waters only under
23 permit from the department. ~~of natural resources.~~

24 (c) A farmer, employee of a farmer, or family member of a
25 farmer who is at least 16 years of age may operate an ORV on the
26 extreme right side of a roadway or highway right-of-way when it
27 is not practicable to operate off that roadway or highway

1 right-of-way. Such operation shall be limited to traveling to or
2 from the farmer's residence or work location or field during the
3 course of farming operations. An ORV shall not be operated pur-
4 suant to this subdivision during the period of 30 minutes before
5 sunset to 30 minutes after sunrise, when visibility is substan-
6 tially reduced due to weather conditions, or in a manner so as to
7 interfere with traffic. The state transportation department and
8 all of its employees ~~shall be~~ ARE immune from tort liability
9 for injury or damages sustained by any person arising in any way
10 by reason of the operation or use of an ORV for the limited pur-
11 poses allowed under this subdivision. An operator of an ORV
12 under this subdivision shall have attached to the ORV a flag made
13 of reflective material. The flag shall extend not less than 8
14 feet from the surface of the roadway and not less than 4 feet
15 above the top of the ORV. The flag shall be not less than 12
16 inches high by 18 inches long and not measure less than 100
17 square inches.

18 (2) In a court action in this state where competent evidence
19 demonstrates that a vehicle that is permitted to operate on a
20 highway pursuant to ~~Act No. 300 of the Public Acts of 1949~~ THE
21 CODE is in a collision with an ORV on a roadway, the operator of
22 the ORV involved in the collision shall be considered prima facie
23 negligent.

24 Sec. ~~+6-~~ 81123. (1) The department shall, by October 1,
25 1991, develop a comprehensive plan for the management of ORV use
26 of areas, routes, and trails maintained by or under the
27 jurisdiction of the department or a local unit of government

1 pursuant to section ~~18~~ 81131. The plan shall, as a minimum,
2 set forth the following methods and timetable:

3 (a) The inventorying, by appropriate means, of all areas,
4 forest roads, and forest trails used by or suitable for use by
5 ORVs.

6 (b) The identification and evaluation of the suitability of
7 areas, forest roads, and forest trails to sustain ORV use.

8 (c) The designation of areas, forest roads, and forest
9 trails for ORV use, including use by handicappers.

10 (d) The development of resource management plans to maintain
11 areas, forest roads, or forest trails and to restore or recon-
12 struct damaged areas, forest roads, or forest trails. The plans
13 shall include consideration of the social, economic, and environ-
14 mental impact of ORV use.

15 (e) Specifications for trails and areas.

16 (2) The plan DEVELOPED UNDER SUBSECTION (1) shall be revised
17 every 2 years. ~~The plan shall be submitted to the commission~~
18 ~~for approval. After the commission approves the~~ THE plan ~~, it~~
19 shall be submitted to the legislature for approval. The legisla-
20 ture shall approve the plan without amendment by concurrent reso-
21 lution adopted by both standing committees of the house OF
22 REPRESENTATIVES and senate that consider natural resources mat-
23 ters and both houses of the legislature by recorded vote. The
24 department shall submit any subsequent revisions to the plan
25 ~~approved by the commission~~ to the secretary of the senate and
26 the clerk of the house of representatives at least 20 session
27 days before the effective date of the revisions. ~~determined by~~

1 ~~the commission.~~ If both standing committees of the house OF
 2 REPRESENTATIVES and senate that consider natural resources mat-
 3 ters fail to reject the revisions within those 20 session days,
 4 the revisions shall be considered approved.

5 (3) The plan may designate where bicyclists, hikers, eques-
 6 trians, and other nonconflicting recreation trail users may use
 7 ORV trails or areas.

8 (4) ~~Within 1 year after the effective date of the amenda-~~
 9 ~~tory act that added this subsection~~ BY MAY 7, 1992, the depart-
 10 ment shall designate an appropriate area in the northern Lower
 11 Peninsula and an appropriate area in southeast Michigan as a
 12 scramble area.

13 (5) Copies of maps of trails shall be prepared and made
 14 available by the department in sufficient quantities to accompany
 15 each ORV certificate of title issued by the secretary of state
 16 and to place in each county sheriff's office and each department
 17 of natural resources field office.

18 Sec. ~~16a~~ 81124. ~~When~~ IF the department finds that rules
 19 are necessary to implement the regulatory provisions of this
 20 ~~act~~ PART or to clarify the intent of this ~~act~~ PART, the
 21 department shall promulgate rules. ~~pursuant to the administra-~~
 22 ~~tive procedures act of 1969, Act No. 306 of the Public Acts of~~
 23 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~
 24 ~~Laws.~~

25 Sec. ~~16b~~ 81125. (1) The ORV trails advisory committee is
 26 created within the department ~~which~~ OF NATURAL RESOURCES. THE
 27 ADVISORY COMMITTEE shall assist the department in developing

1 criteria for grants, nominate forest roads to be included as ORV
2 routes, nominate forest trails, assist the department in promul-
3 gating rules, and assist the department in developing the plan
4 required by section ~~+6-~~ 81123. The advisory committee shall
5 advise the department on recommendations made by ORV users of
6 forest trails, roads, and areas that should be designated for ORV
7 use. The advisory committee shall consist of 6 members appointed
8 by the director of the department on or before May 15, 1991.

9 Three of the members shall represent ORV trail users and
10 dealers. Two of the members shall represent natural resources,
11 conservation, or environmental groups. One member shall repre-
12 sent law enforcement. At least 1 member shall be from the Upper
13 Peninsula of this state. Members shall be appointed for terms of
14 3 years, except that of the members first appointed, 1 member
15 from each group and the member representing law enforcement shall
16 be appointed for 3 years and the balance of the members shall be
17 appointed for 2 years. The committee shall meet at least once
18 each year.

19 (2) This section is repealed effective January 1, 1995.

20 Sec. ~~+6c-~~ 81126. (1) Sections ~~+6-~~ 81123, ~~+6b-~~ 81125, and
21 ~~+6d-shall-~~ 81127 DO not apply to the Upper Peninsula of this
22 state.

23 (2) The Upper Peninsula task force on ORV usage is created
24 within the department OF NATURAL RESOURCES. ~~Within 60 days~~
25 ~~after the effective date of the amendatory act that added this~~
26 ~~subsection~~ BY JULY 7, 1991, the ~~director of the~~ department
27 shall appoint 9 members to constitute the task force. The task

1 force shall meet at least twice each year during 1991, 1992, and
2 1993.

3 (3) The task force shall evaluate the extent of ORV usage in
4 the Upper Peninsula, nominate forest roads to be included as ORV
5 routes, and monitor any damage caused due to ORV usage. The task
6 force shall submit a report with its recommendations to the
7 ~~director of the~~ department and the commission by January 1,
8 1994.

9 (4) This section is repealed effective January 1, 1995.

10 Sec. ~~16d~~ 81127. (1) The department shall develop a com-
11 prehensive system for the use of ~~ORVS~~ ORVs on routes, trails,
12 and areas which shall be submitted to the commission for approval
13 ~~within 10 days after the effective date of the amendatory act~~
14 ~~that added this section~~ BY MAY 17, 1991. ~~If the commission~~
15 ~~approves the system, it~~ THE DEPARTMENT shall establish an effec-
16 tive date for implementation of the system. The department shall
17 submit the system ~~approved by the commission~~ to the secretary
18 of the senate and the clerk of the house of representatives. The
19 legislature shall approve the system without amendment by concur-
20 rent resolution adopted by both standing committees of the house
21 OF REPRESENTATIVES and senate that consider natural resources
22 matters and both houses of the legislature by recorded vote.
23 After the system is approved and implemented under this section,
24 all state owned land under the jurisdiction of the department
25 shall be closed to ORV use on the effective date determined by
26 the ~~commission~~ DEPARTMENT, except designated routes, designated
27 trails, and designated areas. The ~~commission~~ DEPARTMENT shall

1 approve any subsequent revisions to the system and shall
2 establish an effective date for the revisions. The department
3 shall submit the revisions ~~approved by the commission~~ to the
4 secretary of the senate and the clerk of the house of representa-
5 tives at least 20 session days before the effective date
6 ~~determined by the commission~~ OF THE REVISIONS. If both stand-
7 ing committees of the house OF REPRESENTATIVES and senate that
8 consider natural resources matters fail to reject the revisions
9 within those 20 session days, they shall be considered approved.

10 (2) In developing the system, the department shall consider
11 the needs of hunters, senior citizens, and handicappers.

12 (3) This section is repealed effective January 1, 1995.

13 Sec. ~~16e~~ 81128. (1) Effective January 1, 1994, a citizens
14 review board shall be established. The review board shall con-
15 sist of 6 members of the general public and the director of the
16 legislative service bureau division of science and technology who
17 shall serve as the nonvoting chairperson. The 6 members of the
18 general public shall be from or representative of the soil con-
19 servation service, the Michigan association of counties, natural
20 resources, conservation, or environmental groups, the largest
21 recognized motorized cycle group, an ORV dealer association, and
22 an at-large ORV trail user.

23 (2) Two members of the review board shall be appointed by
24 the governor, 2 members shall be appointed by the speaker of the
25 house of representatives, and 2 members shall be appointed by the
26 senate majority leader.

1 (3) The review board shall submit to the standing committees
2 of the senate and the house of representatives that address
3 legislation pertaining to the environment and natural resources
4 of this state a report that contains a full review of the opera-
5 tion of the system developed by the department and approved by
6 the legislature pursuant to section ~~+6d-~~ 81127. The report
7 shall include a summary of the effectiveness of the system, rec-
8 ommendations for changes to the system, and other information
9 that the legislative committees described in this subsection may
10 request at the time of the establishment of the review board.

11 (4) The department shall provide the review board with both
12 of the following:

13 (a) The department's recommendations regarding changes to
14 the system that the department concludes would improve the
15 system.

16 (b) The department's evaluation of the effectiveness of the
17 system.

18 (5) Within 6 months after the establishment of the review
19 board, the review board shall issue its report as provided in
20 this section and the review board shall be disbanded.

21 Sec. ~~+7-~~ 81129. (1) Subject to subsections (2), (3), and
22 (17), a parent or legal guardian of a child less than 16 years of
23 age shall not permit the child to operate an ORV unless the child
24 is under the direct visual supervision of an adult and the child
25 has in his or her immediate possession an ORV safety certificate
26 issued pursuant to this ~~-act-~~ PART or a comparable ORV safety

1 certificate issued under the authority of another state or a
2 province of Canada.

3 (2) A parent or legal guardian of a child less than 12 years
4 of age shall not permit the child to operate a 4-wheeled ATV,
5 unless the child is not less than 10 years of age and is on pri-
6 vate land owned by a parent or legal guardian of the child. This
7 subsection does not apply to the operation of an ATV used in
8 agricultural operations.

9 (3) A parent or legal guardian of a child less than 16 years
10 of age shall not permit the child to operate a 3-wheeled ATV.

11 (4) Subject to subsections (5), (6), and (17), the owner or
12 person in charge of an ORV shall not knowingly permit the vehicle
13 to be operated by a child less than 16 years of age unless the
14 child is under the direct visual supervision of an adult and the
15 child has in his or her immediate possession an ORV safety cer-
16 tificate issued pursuant to this ~~act~~ PART or a comparable ORV
17 safety certificate issued under the authority of another state or
18 a province of Canada.

19 (5) The owner or person in charge of a 4-wheeled ATV shall
20 not knowingly permit the vehicle to be operated by a child less
21 than 12 years of age, unless the child is not less than 10 years
22 of age and is on private land owned by a parent or legal guardian
23 of the child. This subsection does not apply to the operation of
24 an ATV used in agricultural operations.

25 (6) The owner or person in charge of a 3-wheeled ATV shall
26 not knowingly permit the vehicle to be operated by a child less
27 than 16 years of age.

1 (7) The owner or person in charge of an ORV shall not
2 knowingly permit the vehicle to be operated by a person who is
3 incompetent to operate the vehicle because of mental or physical
4 disability, except as provided in section ~~18~~ 81131.

5 (8) The department of education shall implement a comprehen-
6 sive ORV information, safety education, and training program that
7 shall include the TRAINING OF OPERATORS AND THE preparation and
8 dissemination of information and safety advice to the public.
9 ~~and training of operators.~~ The program shall provide for the
10 training of youthful operators and for the issuance of ORV safety
11 certificates to those who successfully complete the training pro-
12 vided under the program.

13 (9) In implementing a program that is established pursuant
14 to this section, the department of education shall cooperate with
15 private organizations and associations, private and public corpo-
16 rations, the department of natural resources, the department of
17 state, and local governmental units. The department of education
18 shall consult with ORV and environmental organizations and asso-
19 ciations in regard to the subject matter of a training program
20 and performance testing that leads to certification of ORV
21 operators.

22 (10) The department of education may designate a person it
23 considers qualified to provide course instruction and to award
24 ORV safety certificates.

25 (11) The department of education shall promulgate rules
26 ~~pursuant to the administrative procedures act of 1969, Act~~
27 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~

1 ~~24.328 of the Michigan Compiled Laws,~~ to implement subsections
2 (8) to (10).

3 (12) Subject to subsections (13), (14), and (17), a child
4 who is less than 16 years of age may operate an ORV if the child
5 is under the direct visual supervision of an adult and the child
6 has in his or her immediate possession an ORV safety certificate
7 issued pursuant to this section or a comparable ORV safety cer-
8 tificate issued under the authority of another state or a prov-
9 ince of Canada.

10 (13) A child who is less than 12 years of age shall not
11 operate a 4-wheeled ATV, unless the child is not less than 10
12 years of age and is on private land owned by a parent or legal
13 guardian of the child. This subsection does not apply to the
14 operation of an ATV used in agricultural operations.

15 (14) A child who is less than 16 years of age shall not
16 operate a 3-wheeled ATV.

17 (15) When operating an ORV under subsection (12), a child
18 shall present the ORV safety certificate to a peace officer upon
19 demand.

20 (16) Notwithstanding any other provision of this section, an
21 operator who is under 12 years of age shall not cross a highway
22 or street. An operator who is not less than 12 years of age but
23 less than 16 years of age may cross a highway or street or oper-
24 ate on the right-of-way or shoulder of designated access routes
25 pursuant to section ~~18~~ 81131 if the operator has a valid ORV
26 safety certificate in his or her immediate possession and meets

1 any other requirements under this section for operation of the
2 vehicle.

3 (17) The requirement of possession or presentation of an ORV
4 safety certificate under this section shall not take effect until
5 the expiration of 6 months following the date rules are promul-
6 gated as required under subsection (11).

7 Sec. ~~17a~~ 81130. (1) A person who is under 16 years of
8 age, before operating an ATV or ORV, shall complete an ORV safety
9 education course approved by the department of education. This
10 course may include a written examination and a driving test
11 designed to test the competency of the applicant. Upon success-
12 ful completion of this safety education course, a person shall
13 receive an ORV safety certificate.

14 (2) A safety education course conducted by a college or uni-
15 versity, an intermediate school district, a local school dis-
16 trict, a law enforcement agency, other governmental agency
17 located in this state, or department of education approved non-
18 profit service organization shall be conducted in compliance with
19 this section. An agency or a school conducting a course under
20 this subsection may apply to the department for a grant from the
21 fund for costs associated with conducting a course.

22 (3) Except for a course conducted by a private business
23 enterprise as provided by subsection (4), an applicant for a
24 safety education course under this section shall pay not more
25 than a \$25.00 course fee or in the case of a university or commu-
26 nity college a fee not more than the cost of 1 credit hour of

1 instruction. The course fees shall only be used for funding the
2 administration and implementation of the course.

3 (4) An ATV or ORV, or both, safety education course required
4 by this section and approved by the department of education may
5 be conducted by a private business enterprise. A private busi-
6 ness enterprise may charge a course fee not to exceed the cost of
7 conducting the course.

8 (5) The superintendent of public instruction shall designate
9 a person to be the state coordinator of the ATV and ORV safety
10 education program. A person designated under this subsection
11 shall have successfully completed ATV and ORV safety courses.

12 (6) The superintendent of public instruction shall designate
13 a person who has successfully completed ATV and ORV safety
14 courses to perform annual inspections of course sites.

15 Sec. ~~+18-~~ 81131. (1) A ~~county, city, village, or township~~
16 LOCAL UNIT OF GOVERNMENT may pass an ordinance establishing
17 access routes along streets and highways under its jurisdiction,
18 if those access routes do not involve state or federal highways,
19 and if they meet the requirements of the plan developed pursuant
20 to section ~~+16d-~~ 81127. If necessary, consent of a state or fed-
21 eral land management agency shall be obtained for the location of
22 the route.

23 (2) A ~~city, village, or township~~ MUNICIPALITY may pass an
24 ordinance allowing a permanently disabled person to operate an
25 ORV in that ~~city, village, or township~~ MUNICIPALITY.

26 (3) A board of county road commissioners, a county board of
27 commissioners, and a county have no duty to maintain a highway

1 under their jurisdiction in a condition reasonably safe and
 2 convenient for the operation of ORVs, except the following ORVs:

3 (a) ORVs registered as motor ~~Vehicles~~ VEHICLES as provided
 4 in the ~~Michigan vehicle Code, Act No. 300 of the Public Acts of~~
 5 ~~1949, being sections 257.1 to 257.923 of the Michigan Compiled~~
 6 ~~Laws~~ CODE.

7 (b) ORVs permitted by an ordinance as provided in subsection
 8 (2).

9 (4) Beginning on ~~the effective date of the 1993 amendatory~~
 10 ~~act that added this subsection~~ OCTOBER 19, 1993, a board of
 11 county road commissioners, a county board of commissioners, and a
 12 county are immune from tort liability for injuries or damages
 13 sustained by any person arising in any way out of the operation
 14 or use of an ORV on maintained or unmaintained highways, shoul-
 15 ders, and rights-of-way over which the board of county road com-
 16 missioners, the county board of commissioners, or the county has
 17 jurisdiction. The immunity provided by this subsection does not
 18 apply to actions ~~which~~ THAT constitute gross negligence. Gross
 19 negligence is defined as conduct so reckless as to demonstrate a
 20 substantial lack of concern for whether an injury results.

21 Sec. ~~19~~ 81132. (1) The ~~commission~~ DEPARTMENT may
 22 promulgate rules ~~pursuant to Act No. 306 of the Public Acts of~~
 23 ~~1969, as amended,~~ governing the operation and conduct of ORVs,
 24 vehicle speed limits, use of vehicles by day and hour, and the
 25 establishment and designation of areas ~~wherein~~ WITHIN WHICH
 26 vehicles may be used in a manner compatible with, and that will
 27 best protect, the public safety and general welfare on the frozen

1 surface of public waters, and that will preserve the submerged
 2 marshlands adjacent to the borders of the Great Lakes, lake
 3 St. Clair, and the navigable inland waters of the state.

4 (2) The department, ~~of natural resources,~~ on its own ini-
 5 tiative ~~—~~ or upon receipt of a certified resolution of the gov-
 6 erning body of a ~~city, village, township, or county,~~ LOCAL UNIT
 7 OF GOVERNMENT may initiate investigations into the need for spe-
 8 cial rules governing the operation of vehicles on the frozen sur-
 9 face of public waters and the submerged marshlands adjacent to
 10 the borders of the Great Lakes, lake St. Clair, and the navigable
 11 inland waters of the state. ~~When~~ IF controls for that activity
 12 are ~~deemed~~ CONSIDERED necessary, or when the amendment or
 13 rescission of an existing rule is required, a rule shall be
 14 prepared. ~~and submitted to the commission for consideration.~~
 15 ~~Upon approval by the commission, notice~~ NOTICE of a public hear-
 16 ing shall be made not less than 10 days prior to the hearing, in
 17 a newspaper of general circulation in the area ~~wherein~~ WITHIN
 18 WHICH the rules are to be imposed, amended, or rescinded.

19 (3) The proposed rule shall then be submitted to the govern-
 20 ing body of the political subdivision in which the affected
 21 frozen waters ~~—~~ or marshes lie. Within 30 calendar days, the
 22 governing body shall inform the department ~~of natural resources~~
 23 that it approves or disapproves of the proposed rule. ~~When~~ IF
 24 the governing body disapproves the proposed rule, further action
 25 shall not be taken. ~~When~~ IF the governing body approves the
 26 proposed rule, a local ordinance may be enacted which shall be
 27 identical to the ~~commission~~ rule, and which ordinance shall not

1 be effective until the ~~commission~~ rule is in effect in
2 accordance with law. The ~~commission~~ DEPARTMENT shall then
3 promulgate the rule. ~~pursuant to Act No. 306 of the Public Acts~~
4 ~~of 1969, as amended.~~

5 (4) When an ordinance is enacted under the authority of a
6 rule, ~~which~~ AND THAT rule is subsequently suspended by the leg-
7 islature, or amended or rescinded by the ~~commission~~ DEPARTMENT,
8 the ordinance shall ~~likewise~~ ALSO be suspended, amended, or
9 repealed.

10 (5) A local law enforcement officer may enforce an ordinance
11 enacted pursuant to this section, and a state law enforcement
12 officer shall enforce a rule promulgated ~~pursuant to~~ UNDER this
13 section.

14 Sec. ~~20~~ 81133. A person shall not operate an ORV:

15 (a) At a rate of speed greater than is reasonable and
16 proper, or in a careless manner having due regard for conditions
17 then existing.

18 (b) Unless the person, and any passenger in or on the
19 vehicle, is wearing on his or her head a crash helmet and protec-
20 tive eyewear approved by the United States department of
21 transportation. This subdivision shall not apply if the vehicle
22 is equipped with a roof that meets or exceeds standards for a
23 crash helmet and the operator, and each passenger, is wearing a
24 properly adjusted and fastened safety belt.

25 (c) During the hours of 1/2 hour after sunset to 1/2 hour
26 before sunrise without displaying a lighted headlight and lighted
27 taillight.

1 (d) Unless equipped with a braking system that may be
2 operated by hand or foot, capable of producing deceleration at 14
3 feet ~~per~~ PER second on level ground at a speed of 20 miles per
4 hour; a brake light, brighter than the taillight, visible when
5 the brake is activated, to the rear of the vehicle when the vehi-
6 cle is operated during the hours of 1/2 hour after sunset and 1/2
7 hour before sunrise; and a throttle so designed that when the
8 pressure used to advance the throttle is removed, the engine
9 speed will immediately and automatically return to idle.

10 (e) In a state game area or state park or recreation area,
11 except on roads, trails, or areas designated for this purpose; on
12 state owned lands under the control of the department other than
13 game areas, state parks, or recreational areas where the opera-
14 tion would be in violation of rules promulgated by the
15 ~~commission~~ DEPARTMENT; in a forest nursery or planting area; on
16 public lands posted or reasonably identifiable as an area of
17 forest reproduction, and when growing stock may be damaged; in a
18 dedicated natural area of the department; or in any area in such
19 a manner as to create an erosive condition, or to injure, damage,
20 or destroy trees or growing crops. However, the department may
21 permit an owner and guests of the owner to use an ORV within the
22 boundaries of a state forest in order to access the owner's
23 property.

24 (f) On the frozen surface of public waters within 100 feet
25 of a person not in or upon a vehicle, or within 100 feet of a
26 fishing shanty or shelter or an area that is cleared of snow for
27 skating purposes, except at the minimum speed required to

1 maintain controlled forward movement of the vehicle, or as may be
2 authorized by permit in special events.

3 (g) Unless the vehicle is equipped with a spark arrester
4 type United States forest service approved muffler, in good work-
5 ing order and in constant operation. Exhaust noise emission
6 shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured
7 after January 1, 1986, when the vehicle is under full throttle,
8 traveling in second gear, and measured 50 feet at right angles
9 from the vehicle path with a sound level meter which meets the
10 requirement of ANSI S1.4 1983, using procedure and ancillary
11 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle
12 manufactured after January 1, 1986, or that level comparable to
13 the current sound level as provided for by the UNITED STATES
14 environmental protection agency when tested according to the pro-
15 visions of the current SAE J1287, June 86 test procedure for
16 exhaust levels of stationary motorcycles, using sound level
17 meters and ancillary equipment therein described. A vehicle
18 subject to this ~~act~~ PART, manufactured or assembled after
19 December 31, 1982 and used, sold, or offered for sale in this
20 state shall conform to the noise emission levels established by
21 the UNITED STATES environmental protection agency under the noise
22 control act of 1972, Public Law 92-574, 86 Stat. 1234, except in
23 an officially authorized special event.

24 (h) Within 100 feet of a dwelling at a speed greater than
25 the minimum required to maintain controlled forward movement of
26 the vehicle, except on property owned or under the operator's
27 control or on which the operator is an invited guest, or on a

1 roadway, forest road, or forest trail maintained by or under the
2 jurisdiction of the department, or on an ORV access route as
3 authorized by local ordinance.

4 (i) In or upon the lands of another without the written con-
5 sent of the owner, owner's agent, or lessee, when required by
6 ~~the recreational trespass act, Act No. 323 of the Public Acts of~~
7 ~~1976, as amended, being sections 317.171 to 317.181 of the~~
8 ~~Michigan Compiled Laws~~ PART 731. The operator of the vehicle is
9 liable for damage to private property, including, but not limited
10 to, damage to trees, shrubs, growing crops, or injury to living
11 creatures or damage caused through vehicle operation in a manner
12 so as to create erosive or other ecological damage to private
13 property. The owner of the private property may recover from the
14 person responsible nominal damages of not less than the amount of
15 damage or injury. Failure to post private property or fence or
16 otherwise enclose in a manner to exclude intruders or of the pri-
17 vate property owner or other authorized person to personally com-
18 municate against trespass shall not imply consent to ORV use.

19 (j) In an area on which public hunting is permitted during
20 the season open to the taking of deer, elk, or bear, from 7
21 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emer-
22 gency or for law enforcement purposes, to go to and from a per-
23 manent residence or a hunting camp otherwise inaccessible by a
24 conventional wheeled vehicle, to remove a deer, elk, or bear from
25 public land which has been taken pursuant to a valid license; or
26 except for the conduct of necessary work functions involving land
27 and timber survey, communication and transmission line patrol,

1 and timber harvest operations; or on property owned or under
2 control of the operator or on which the operator is an invited
3 guest. A hunter removing game pursuant to this ~~subsection~~
4 SUBDIVISION shall be allowed to leave the designated trail or
5 forest road only to retrieve the game and shall not exceed 5
6 miles per hour. A vehicle registered under the ~~Michigan vehicle~~
7 ~~code, Act No. 300 of the Public Acts of 1949, as amended, being~~
8 ~~sections 257.1 to 257.923 of the Michigan Compiled Laws,~~ CODE is
9 exempt from this subdivision while operating on a public highway
10 or A public or private road capable of sustaining automobile
11 traffic. A person holding a valid permit to hunt from a standing
12 vehicle issued pursuant to ~~section 14(1) of the wildlife conser-~~
13 ~~vation act, Act No. 256 of the Public Acts of 1988, being section~~
14 ~~300.264 of the Michigan Compiled Laws~~ PART 401, or a handicapper
15 using an ORV to access public lands for purposes of hunting or
16 fishing through use of a designated trail or forest road, is
17 exempt from this subdivision.

18 (k) While transporting on the vehicle a bow unless unstrung
19 or encased, or a firearm unless unloaded and securely encased, or
20 equipped with and made inoperative by a manufactured keylocked
21 trigger housing mechanism.

22 (l) On or across a cemetery or burial ground, or land used
23 as an airport.

24 (m) Within 100 feet of a slide, ski, or skating area, unless
25 the vehicle is being used for the purpose of servicing the area.

26 (n) On an operating or nonabandoned railroad or railroad
27 right-of-way, or public utility right-of-way, other than for the

1 purpose of crossing at a clearly established site intended for
2 vehicular traffic, except railroad, public utility, or law
3 enforcement personnel while in performance of their duties, and
4 except if the right-of-way is designated as established in sec-
5 tion ~~+6d-~~ 81127.

6 (o) In or upon the waters of any stream, river, bog, wet-
7 land, swamp, marsh, or quagmire except over a bridge, culvert, or
8 similar structure.

9 (p) To hunt, pursue, worry, kill, or attempt to hunt,
10 pursue, worry, or kill a bird or animal, wild or domesticated.

11 (q) In a manner so as to leave behind litter or other
12 debris.

13 (r) In a manner contrary to operating regulations on public
14 lands.

15 (s) While transporting or possessing, in or on the vehicle,
16 alcoholic liquor in a container that is open or uncapped or upon
17 which the seal is broken, except under either of the following
18 circumstances:

19 (i) The container is in a trunk or compartment separate from
20 the passenger compartment of the vehicle.

21 (ii) If the vehicle does not have a trunk or compartment
22 separate from the passenger compartment, the container is encased
23 or enclosed.

24 (t) While transporting any passenger in or upon an ORV
25 unless the manufacturing standards for the vehicle make provi-
26 sions for transporting passengers.

1 (u) On adjacent private land, in an area zoned residential,
2 within 300 feet of a dwelling at a speed greater than the minimum
3 required to maintain controlled forward movement of the vehicle
4 except on a roadway, forest road, or forest trail maintained by
5 or under the jurisdiction of the department, or on an ORV access
6 route as authorized by local ordinance.

7 Sec. ~~20a~~ 81134. (1) A person who is under the influence
8 of intoxicating liquor or a controlled substance, as defined by
9 section 7104 of the public health code, Act No. 368 of the Public
10 Acts of 1978, being section 333.7104 of the Michigan Compiled
11 Laws, or a combination of intoxicating liquor and a controlled
12 substance shall not operate an ORV.

13 (2) A person whose blood contains 0.10% or more by weight of
14 alcohol shall not operate an ORV.

15 (3) The owner or person in charge or in control of an ORV
16 shall not authorize or knowingly permit the ORV to be operated by
17 a person who is under the influence of intoxicating liquor or a
18 controlled substance or a combination of intoxicating liquor and
19 a controlled substance.

20 (4) Except as otherwise provided in this section, a person
21 who is convicted of a violation of subsection (1), (2), or (3) is
22 guilty of a misdemeanor, punishable by imprisonment for not more
23 than 90 days, or a fine of not less than \$100.00 or more than
24 \$500.00, or both, together with costs of the prosecution. As
25 part of the sentence for a violation of subsection (1) or (2),
26 the court shall order the person convicted not to operate an ORV
27 for a period of not less than 6 months or more than 2 years.

1 (5) On a second conviction under subsection (1) or (2) or a
2 local ordinance substantially corresponding to subsection (1) or
3 (2) within a period of 7 years, a person is guilty of a misde-
4 meanor, punishable by imprisonment for not more than 1 year, or a
5 fine of not more than \$1,000.00, or both. As part of the sen-
6 tence, the court shall order the person convicted not to operate
7 an ORV for a period of not less than 1 year or more than 2
8 years.

9 (6) On a third or subsequent conviction within a period of
10 10 years under subsection (1) or (2) ~~or~~ or a local ordinance
11 substantially corresponding to subsection (1) or (2), a person is
12 guilty of a felony. As part of the sentence, the court shall
13 order the person convicted not to operate an ORV for a period of
14 not less than 1 year or more than 2 years.

15 (7) As part of the sentence for a violation of subsection
16 (1) or (2), or a local ordinance substantially corresponding to
17 subsection (1) or (2), the court may order the person to perform
18 service to the community, as designated by the court, without
19 compensation, for a period not to exceed 12 days. The person
20 shall reimburse the state or appropriate local unit of government
21 for the cost of insurance incurred by the state or local unit of
22 government as a result of the person's activities under this
23 subsection.

24 (8) Before imposing sentence for a violation of subsection
25 (1) or (2) or a local ordinance substantially corresponding to
26 subsection (1) or (2), the court shall order the person to
27 undergo screening and assessment by a person or agency designated

1 by the office of substance abuse services, to determine whether
2 the person is likely to benefit from rehabilitative services,
3 including alcohol or drug education and alcohol or drug treatment
4 programs. As part of the sentence, the court may order the
5 person to participate in and successfully complete 1 or more
6 appropriate rehabilitative programs. The person shall pay for
7 the costs of the screening, assessment, and rehabilitative
8 services.

9 (9) Before accepting a plea of guilty under this section,
10 the court shall advise the accused of the statutory consequences
11 possible as the result of a plea of guilty in respect to suspen-
12 sion of the person's right to operate an ORV and the penalty
13 imposed for violation of this section.

14 Sec. ~~20b~~ 81135. (1) A person shall not operate an ORV if,
15 due to the consumption of intoxicating liquor, a controlled sub-
16 stance, as defined by section 7104 of the public health code, Act
17 No. 368 of the Public Acts of 1978, being section 333.7104 of the
18 Michigan Compiled Laws, or a combination of intoxicating liquor
19 and a controlled substance, the person has visibly impaired his
20 or her ability to operate the ORV. If a person is charged with
21 violating section ~~20a~~ 81134, a finding of guilty is permissible
22 under this section.

23 (2) Except as otherwise provided in this section, a person
24 convicted of a violation of this section is guilty of a misde-
25 meanor, punishable by imprisonment for not more than 90 days, or
26 a fine of not more than \$300.00, or both, together with costs of
27 the prosecution. As part of the sentence, the court shall order

1 the person convicted not to operate an ORV for a period of not
2 less than 90 days or more than 1 year.

3 (3) A person who violates this section or a local ordinance
4 substantially corresponding to this section, and has 1 or more
5 prior convictions under this section or section ~~20a~~ 81134 or a
6 local ordinance substantially corresponding to this section or
7 section ~~20a~~ 81134, is guilty of a misdemeanor, punishable by
8 imprisonment for not more than 1 year, or a fine of not more than
9 \$1,000.00, or both. If the person convicted has only 1 prior
10 conviction described in this subsection, as part of the sentence,
11 the court shall order the person not to operate an ORV for a
12 period of not less than 6 months or more than 18 months. If the
13 person has 2 or more prior convictions described in this subsec-
14 tion, the court shall order the person not to operate an ORV for
15 a period of not less than 1 year or more than 2 years.

16 (4) As part of the sentence for a violation of this section
17 or a local ordinance substantially corresponding to this section,
18 the court may order the person to perform service to the communi-
19 ty, as designated by the court, without compensation, for a
20 period not to exceed 12 days. The person shall reimburse the
21 state or appropriate local unit of government for the cost of
22 insurance incurred by the state or local unit of government as a
23 result of the person's activities under this subsection.

24 (5) Before imposing sentence for a violation of this section
25 or a local ordinance substantially corresponding to this section,
26 the court shall order the person to undergo screening and
27 assessment by a person or agency designated by the office of

1 substance abuse services, to determine whether the person is
2 likely to benefit from rehabilitative services, including alcohol
3 or drug education and alcohol or drug treatment programs. As
4 part of the sentence, the court may order the person to partici-
5 pate in and successfully complete 1 or more appropriate rehabili-
6 tative programs. The person shall pay for the costs of the
7 screening, assessment, and rehabilitative services.

8 (6) Before accepting a plea of guilty under this section,
9 the court shall advise the accused of the statutory consequences
10 possible as a result of a plea of guilty in respect to suspension
11 of the person's right to operate ~~on~~ AN ORV and the penalty
12 imposed for violation of this section.

13 Sec. ~~20c~~ 81136. (1) In a criminal prosecution for violat-
14 ing section ~~20a~~ 81134 or ~~20b~~ 81135 or a local ordinance sub-
15 stantially corresponding to section ~~20a~~ 81134 or ~~20b~~ 81135,
16 or in a criminal prosecution for negligent homicide or manslaugh-
17 ter resulting from the operation of an ORV while the operator is
18 alleged to have been impaired by or under the influence of intox-
19 icating liquor or a controlled substance or a combination of
20 intoxicating liquor and a controlled substance, or to have had a
21 blood alcohol content of 0.10% or more by weight of alcohol, the
22 amount of alcohol in the operator's blood at the time alleged as
23 shown by chemical analysis of the operator's blood, urine, or
24 breath shall be admissible into evidence.

25 (2) If a chemical test of an operator's blood, urine, or
26 breath is given, the results of the test shall be made available
27 to the person charged with an offense enumerated in subsection

1 (1) or the person's attorney upon written request to the
2 prosecution, with a copy of the request filed with the court.
3 The prosecution shall furnish the report at least 2 days before
4 the day of the trial and the results shall be offered as evidence
5 by the prosecution in a criminal proceeding. Failure to fully
6 comply with the request shall bar the admission of the results
7 into evidence by the prosecution.

8 (3) Except in a prosecution relating solely to a violation
9 of section ~~20a(2)~~ 81134(2), the amount of alcohol in the
10 operator's blood at the time alleged as shown by chemical analy-
11 sis of the operator's blood, urine, or breath shall give rise to
12 the following presumptions:

13 (a) If there was at the time 0.07% or less by weight of
14 alcohol in the operator's blood, it shall be presumed that the
15 operator was not under the influence of intoxicating liquor.

16 (b) If there was at the time in excess of 0.07% but less
17 than 0.10% by weight of alcohol in the operator's blood, it shall
18 be presumed that the operator's ability to operate an ORV was
19 impaired within the provisions of section ~~20b~~ 81135 due to the
20 consumption of intoxicating liquor.

21 (c) If there was at the time 0.10% or more by weight of
22 alcohol in the operator's blood, it shall be presumed that the
23 operator was under the influence of intoxicating liquor.

24 (4) A sample or specimen of urine or breath shall be taken
25 and collected in a reasonable manner. Only a licensed physician,
26 or a licensed nurse or medical technician under the direction of
27 a licensed physician and qualified to withdraw blood acting in a

1 medical environment, at the request of a peace officer, may
2 withdraw blood for the purpose of determining the alcoholic con-
3 tent of the blood under this ~~act~~ PART. Liability for a crime
4 or civil damages predicated on the act of withdrawing blood and
5 related procedures shall not attach to a qualified person who
6 withdraws blood or assists in the withdrawal in accordance with
7 this ~~act~~ PART unless the withdrawal is performed in a negligent
8 manner.

9 (5) A person arrested for a crime enumerated in subsection
10 (1) who takes a chemical test administered at the request of a
11 peace officer, as provided in this ~~act~~ PART, shall be given a
12 reasonable opportunity to have a person of his or her own choos-
13 ing administer 1 of the chemical tests described in this section
14 within a reasonable time after his or her detention, and the
15 results of the test shall be admissible and shall be considered
16 with other competent evidence in determining the defendant's
17 innocence or guilt of a crime enumerated in subsection (1). If
18 the person arrested is administered a chemical test by a person
19 of his or her own choosing, the person arrested shall be respon-
20 sible for obtaining a chemical analysis of the test sample. The
21 person shall be informed that he or she has the right to demand
22 that a person of his or her choosing administer 1 of the chemical
23 tests described in this section, that the results of the test
24 shall be admissible and shall be considered with other competent
25 evidence in determining the innocence or guilt of the defendant,
26 and that the person arrested shall be responsible for obtaining a
27 chemical analysis of the test sample.

1 (6) A person arrested shall be advised that if the person
2 refuses the request of a peace officer to take a test described
3 in this section, a test shall not be given without a court
4 order. The person arrested shall also be advised that the
5 person's refusal of the request of a peace officer to take a test
6 described in this section shall result in the suspension of the
7 person's right to operate an ORV.

8 (7) This section shall not be construed as limiting the
9 introduction of any other competent evidence bearing upon the
10 question of whether or not the defendant was impaired by or under
11 the influence of intoxicating liquor or a controlled substance,
12 or a combination of intoxicating liquor and a controlled sub-
13 stance, or whether the person had a blood alcohol content of
14 0.10% or more by weight of alcohol.

15 (8) If a jury instruction regarding a defendant's refusal to
16 submit to a chemical test under this section is requested by the
17 prosecution or the defendant, the jury instruction shall be given
18 as follows:

19 "Evidence was admitted in this case which, if believed by
20 the jury, could prove that the defendant had exercised his or her
21 right to refuse a chemical test. You are instructed that such a
22 refusal is within the statutory rights of the defendant and is
23 not evidence of the defendant's guilt. You are not to consider
24 such a refusal in determining the guilt or innocence of the
25 defendant.".

26 (9) If after an accident the operator of an ORV involved in
27 the accident is transported to a medical facility and a sample of

1 the operator's blood is withdrawn at that time for the purpose of
2 medical treatment, the results of a chemical analysis of that
3 sample shall be admissible in a criminal prosecution for a crime
4 described in subsection (1) to show the amount of alcohol or
5 presence of a controlled substance, or both, in the person's
6 blood at the time alleged, regardless of whether the person had
7 been offered or had refused a chemical test. The medical facil-
8 ity or person performing the chemical analysis shall disclose the
9 results of the analysis to a prosecuting attorney who requests
10 the results for use in a criminal prosecution as provided in this
11 subsection. A medical facility or person disclosing information
12 in compliance with this subsection shall not be civilly or crimi-
13 nally liable for making the disclosure.

14 (10) If after an accident the operator of an ORV involved in
15 the accident is deceased, a sample of the decedent's blood shall
16 be withdrawn in a manner directed by the medical examiner for the
17 purpose of determining blood alcohol content or presence of a
18 controlled substance, or both. The medical examiner shall give
19 the results of the chemical analysis to the law enforcement
20 agency investigating the accident, and that agency shall forward
21 the results to the department of state police.

22 Sec. ~~20d~~ 81137. (1) Except as provided in subsection (2),
23 a person who operates an ORV is considered to have given consent
24 to chemical tests of his or her blood, breath, or urine for the
25 purpose of determining the amount of alcohol or presence of a
26 controlled substance or both in his or her blood, and may be
27 requested by a peace officer to submit to chemical tests of his

1 or her blood, breath, or urine for the purpose of determining the
2 amount of alcohol or presence of a controlled substance or both
3 in his or her blood if:

4 (a) The person is arrested for a violation of section
5 ~~20a(1)~~ 81134(1) or (2) or ~~20b~~ 81135 or a local ordinance sub-
6 stantially corresponding to section ~~20a(1)~~ 81134(1) or (2) or
7 ~~20b~~ 81135.

8 (b) The person is arrested for negligent homicide or man-
9 slaughter resulting from the operation of an ORV, and the peace
10 officer has reasonable grounds to believe that the person was
11 operating the ORV while impaired by or under the influence of
12 intoxicating liquor, a controlled substance, or a combination of
13 intoxicating liquor and a controlled substance.

14 (2) A person who is afflicted with hemophilia, diabetes, or
15 a condition requiring the use of an anticoagulant under the
16 direction of a physician shall not be considered to have given
17 consent to the withdrawal of blood.

18 Sec. ~~20e~~ 81138. (1) A person who is requested pursuant to
19 section ~~20d(1)~~ 81137(1) to take a chemical test shall be
20 advised of the right to refuse to submit to chemical tests; and
21 if the person refuses the request of a peace officer to submit to
22 chemical tests, a test shall not be given without a court order.

23 (2) If a person refuses the request of a peace officer under
24 section ~~20d(1)~~ 81137(1) to submit to a chemical test, a written
25 report shall be forwarded to the secretary of state by the peace
26 officer. The report shall state that the officer had reasonable
27 grounds to believe that the person committed a violation

1 described in section ~~20d(1)~~ 81137(1) and that the person
2 refused to submit to a chemical test upon the request of the
3 peace officer and was advised of the consequences of the
4 refusal. The form of the report shall be prescribed and fur-
5 nished by the secretary of state.

6 Sec. ~~20f~~ 81139. (1) Upon receipt of a report made pursu-
7 ant to section ~~20e~~ 81138, the secretary of state shall immedi-
8 ately notify the person in a writing, mailed to the person's last
9 known address, that the report has been received and that within
10 14 days after the date of the notice the person may request an
11 administrative hearing as provided in section ~~20g~~ 81140.

12 (2) The notice shall specifically state that failure to
13 request a hearing within 14 days shall result in the suspension
14 of the person's right to operate an ORV and that the person is
15 not required to retain counsel for the hearing, although counsel
16 will be permitted to represent the person at the hearing.

17 Sec. ~~20g~~ 81140. (1) If a person who refuses to submit to
18 a chemical test pursuant to section ~~20e~~ 81138 does not request
19 an administrative hearing within 14 days after the date of notice
20 pursuant to section ~~20f~~ 81139, the secretary of state shall
21 suspend the person's right to operate an ORV for a period of 6
22 months, or for a second or subsequent refusal within a period of
23 7 years, for 1 year.

24 (2) If an administrative hearing is requested, the secretary
25 of state shall appoint a hearing officer to conduct the hearing.
26 Not less than 10 days' notice of the hearing shall be provided by
27 mail to the person submitting the request, to the peace officer

1 who filed the report under section ~~20e~~ 81138, and, if a
2 prosecuting attorney requests receipt of the notice, to the pros-
3 ecuting attorney of the county where the arrest was made. The
4 hearing officer may administer oaths and issue subpoenas for the
5 attendance of necessary witnesses, and may grant a reasonable
6 request for an adjournment. The hearing shall cover only the
7 following issues:

8 (a) Whether the peace officer had reasonable grounds to
9 believe that the person committed a crime described in
10 section ~~20d(1)~~ 81137(1).

11 (b) Whether the person was placed under arrest for a crime
12 described in section ~~20d(1)~~ 81137(1).

13 (c) Whether the person reasonably refused to submit to a
14 chemical test upon request of the officer.

15 (d) Whether the person was advised of his or her rights
16 under section ~~20e~~ 81136.

17 (3) An administrative hearing conducted under this section
18 is not a contested case for the purposes of chapter 4 of the
19 administrative procedures act of 1969, Act No. 306 of the Public
20 Acts of 1969, being sections 24.271 to 24.287 of the Michigan
21 Compiled Laws. The hearing shall be conducted in an impartial
22 manner. A final decision or order of a hearing officer shall be
23 made in writing or stated in the record, and shall include find-
24 ings of fact based exclusively on the evidence presented and mat-
25 ters officially noticed, and shall specify any sanction to be
26 imposed against the person involved. A copy of the final

1 decision or order shall be delivered or mailed immediately to the
2 person and the peace officer.

3 (4) After the administrative hearing, if the person is found
4 to have unreasonably refused to submit to a chemical test, the
5 secretary of state shall suspend the person's right to operate an
6 ORV for a period of 6 months, or for a second or subsequent
7 refusal within a period of 7 years, for 1 year. Within 60 days
8 after the final decision or order is issued by the hearing offi-
9 cer, the person may file a petition in the the circuit court of
10 the county in which the arrest was made to review the
11 suspension. The scope of the court's review shall be limited to
12 the issues provided in section 106 of Act No. 306 of the Public
13 Acts of 1969, being section 24.306 of the Michigan Compiled
14 Laws.

15 (5) The circuit court shall enter an order setting the cause
16 for hearing for a date certain that is not more than 60 days
17 after the date of the order. The order, ~~together with~~ a copy
18 of the petition, which shall include the person's full name, cur-
19 rent address, birth date, and driver's license number, and all
20 supporting affidavits ~~—~~ shall be served on the secretary of
21 state's office in Lansing not less than 50 days before the date
22 set for the hearing. The department shall cause a record to be
23 made of the proceedings held pursuant to subsection (2). The
24 record shall be prepared and transcribed in accordance with sec-
25 tion 86 of Act No. 306 of the Public Acts of 1969, being
26 section 24.286 of the Michigan Compiled Laws. Upon notification
27 of the filing of a petition for judicial review, the department

1 shall transmit to the court in which the petition was filed, not
2 less than 10 days before the matter is set for review, the origi-
3 nal or a certified copy of the official record of the
4 proceedings.

5 Sec. ~~20h~~ 81141. (1) A peace officer who has reasonable
6 cause to believe that a person was operating an ORV and that the
7 person by the consumption of intoxicating liquor may have
8 affected his or her ability to operate the ORV, may require the
9 person to submit to a preliminary chemical breath analysis.

10 (2) A peace officer may arrest a person based in whole or in
11 part upon the results of a preliminary chemical breath analysis.

12 (3) The results of a preliminary chemical breath analysis
13 shall be admissible in a criminal prosecution for a crime enumer-
14 ated in section ~~20e(1)~~ 81136(1) or in an administrative hearing
15 held under section ~~20g~~ 81140, solely to assist the court or
16 hearing officer in determining a challenge to the validity of an
17 arrest. This subsection does not limit the introduction of other
18 competent evidence offered to establish the validity of an
19 arrest.

20 (4) A person who submits to a preliminary chemical breath
21 analysis shall remain subject to the requirements of sections
22 ~~20e~~ 81136, ~~20d~~ 81137, ~~20e~~ 81138, ~~20f~~ 81139, and ~~20g~~
23 81140 for the purposes of chemical tests described in those
24 sections.

25 (5) A person who refuses to submit to a preliminary chemical
26 breath analysis upon a lawful request by a peace officer shall be
27 responsible for a civil infraction. A civil infraction under

1 this subsection shall be processed in the same manner as a civil
2 infraction under the ~~Michigan vehicle code, Act No. 300 of the~~
3 ~~Public Acts of 1949, being sections 257.1 to 257.923 of the~~
4 ~~Michigan Compiled Laws~~ CODE.

5 Sec. ~~201~~ 81142. A person whose right to operate an ORV
6 has been suspended pursuant to this ~~act~~ PART and who operates
7 an ORV is guilty of a misdemeanor, punishable by imprisonment for
8 not more than 90 days, or a fine of not more than \$1,000.00, or
9 both.

10 Sec. ~~21~~ 81143. (1) The operator of a vehicle involved in
11 an accident resulting in injuries to, or THE death of, a person,
12 or resulting in property damage in an estimated amount of \$100.00
13 or more, shall immediately, by the quickest available means of
14 communication, notify a state police officer, or the sheriff's
15 office of the county in which the accident occurred. The police
16 agency receiving the notice shall complete a report of the acci-
17 dent on forms prescribed by the director of the department of
18 state police and forward the report to the department of state
19 police and the department. ~~of natural resources.~~

20 (2) A medical facility to which a person injured in an acci-
21 dent involving an ORV is transported shall report the accident to
22 the department of state police.

23 (3) The department of state police, in cooperation with the
24 department, ~~of natural resources,~~ shall collect and evaluate
25 information concerning accidents involving ~~ORV's~~ ORVs.

26 (4) The operator of a vehicle involved in an accident upon
27 public or private property resulting in injury to or THE death of

1 a person shall immediately stop at the scene of an accident and
2 shall render to any person injured in the accident reasonable
3 assistance in securing medical aid or transportation.

4 Sec. ~~21a~~ 81144. If a peace officer has reasonable cause
5 to believe that a person was, at the time of an accident, the
6 operator of an ORV involved in the accident and was operating the
7 ORV while under the influence of an intoxicating liquor, a con-
8 trolled substance as defined in section 7104 of the public health
9 code, Act No. 368 of the Public Acts of 1978, ~~as amended,~~ being
10 section 333.7104 of the Michigan Compiled Laws, or a combination
11 of intoxicating liquor and a controlled substance, or was operat-
12 ing the ORV while his or her ability to operate an ORV was
13 impaired due to the consumption of intoxicating liquor, a con-
14 trolled substance, or a combination of intoxicating liquor and a
15 controlled substance, the peace officer may arrest the alleged
16 operator of the ORV without a warrant.

17 Sec. ~~22~~ 81145. (1) Law enforcement officers may issue
18 appearance tickets for violations of this ~~act~~ PART, pursuant to
19 sections 9a to 9g of chapter 4 of Act No. 175 of the Public Acts
20 of 1927, ~~as amended,~~ being sections 764.9a to 764.9g of the
21 Michigan Compiled Laws.

22 (2) In a proceeding for a violation of this ~~act~~ PART
23 involving prohibited operation or conduct, the registration
24 number or numbered decal or ~~VIN~~ VEHICLE IDENTIFICATION NUMBER
25 displayed on an ORV shall constitute prima facie evidence that
26 the owner of the vehicle was the person operating the vehicle at
27 the time of the offense; unless the owner identifies the operator

1 to law enforcement officials, the vehicle was reported as stolen
2 at the time of the violation, or that the vehicle was stolen or
3 not in use at the time of the violation.

4 Sec. ~~-23-~~ 81146. (1) An operator of an ORV, who is given by
5 hand, voice, emergency light, or siren a visual or audible signal
6 by a law enforcement officer acting in the lawful performance of
7 his OR HER duty, directing the operator to bring the vehicle to a
8 stop, and who ~~willfully~~ WILLFULLY fails to obey the signal by
9 increasing speed, extinguishing lights, or otherwise attempting
10 to flee or elude the officer, is guilty of a misdemeanor. The
11 officer giving the signal shall be in uniform, and the officer's
12 vehicle shall be easily identifiable as an official law enforce-
13 ment vehicle.

14 (2) The operator of a vehicle on the private premises of
15 another, when visibly hailed by the owner or the owner's autho-
16 rized agent, shall bring the vehicle to an immediate stop and
17 provide personal identification. Refusal to obey such a request
18 to stop or subsequent escape or attempt to escape is a
19 misdemeanor.

20 Sec. ~~-24-~~ 81147. (1) Except as otherwise provided in this
21 ~~act~~ PART, a person who violates a provision of this ~~act~~ PART
22 is guilty of a misdemeanor, punishable by imprisonment for not
23 more than 90 days, or a fine of not less than \$50.00 or more than
24 \$1,000.00, or both, for each violation of the ~~act~~ PART.

25 (2) On and after the date the civil procedures act is
26 enacted into law, a person who violates sections ~~-2c, 4, 5, 6,~~
27 ~~11, 12, 17a,~~ 81105, 81107, 81115, 81116, 81121, 81130, and

1 ~~20(b)~~ 81133(B), (c), (d), (f), (g), (h), (j), (l), and (m) is
2 responsible for a civil violation and subject to a civil penalty
3 of not more than \$500.00.

4 (3) A person shall not remove, deface, or destroy a sign or
5 marker placed by the department indicating the boundaries of an
6 ORV trail or area or that marks a route.

7 (4) In addition to the penalties otherwise provided under
8 this ~~act~~ PART, a court of competent jurisdiction may order a
9 person to restore, as nearly as possible, any land, water, stream
10 bank, streambed, or other natural or geographic formation damaged
11 by the violation of this ~~act~~ PART to the condition it was in
12 before the violation occurred.

13 (5) The department or any other peace officer may impound
14 the ORV of a person who violates a provision of this ~~act~~ PART
15 that is punishable as a misdemeanor or who causes damage to the
16 particular area in which the ORV was used in the commission of
17 the violation.

18 (6) Upon conviction of a person for violation of a provision
19 of this ~~act~~ PART that is punishable as a misdemeanor or any
20 other provision of this ~~act~~ PART that results in damage to the
21 particular area in which the ORV was used, a court of competent
22 jurisdiction may order an ORV and any personal property on the
23 ORV seized as a result of the violation returned to the owner or
24 upon recommendation of the local prosecuting attorney turned over
25 to the ~~director of the~~ department. If the ORV and any other
26 property is turned over to the ~~director of the~~ department, they
27 shall be disposed of in the manner provided for condemnation of

1 property in ~~Act No. 192 of the Public Acts of 1929, being~~
2 ~~sections 300.11 to 300.18 of the Michigan Compiled Laws~~

3 PART 16. The proceeds realized by the ~~director~~ DEPARTMENT
4 under this subsection shall first be used to restore areas dam-
5 aged by ORV use with the balance to be deposited in the ORV trail
6 improvement fund.

7 Sec. ~~24a~~ 81148. A person shall not have an ORV condemned
8 pursuant to section ~~24~~ 81147 if the trespass is the result of
9 an emergency situation.

10 Sec. ~~25~~ 81149. The department ~~of natural resources~~
11 shall conduct a survey to determine the total unrefunded gasoline
12 sales tax ~~moneys~~ MONEY it estimates to have been collected from
13 THE sale of gasoline relating to the nonhighway use of ORVs, and
14 shall submit a report to the legislature along with a recommenda-
15 tion as to the method by which the unrefunded gasoline sales tax
16 ~~moneys~~ MONEY estimated to have been collected shall be appro-
17 priated to benefit ORV users. The first survey shall be submit-
18 ted to the legislature prior to January 31, 1977 and every third
19 year thereafter. The department ~~of natural resources~~ shall
20 include in its budget requests information detailing survey
21 programs.

22 Sec. ~~25a~~ 81150. The department ~~of natural resources~~
23 shall disseminate information to its field officers and to state
24 and local law enforcement agencies on a uniform interpretation of
25 this ~~act~~ PART and each officer's duties and responsibilities in
26 enforcing this ~~act~~ PART.

1 ~~Sec. 26. This act shall not take effect until January 1,~~
 2 ~~1976.~~

3 ~~SNOWMOBILES~~

4 ~~Part 821. Snowmobiles~~

5 SNOWMOBILES

6 PART 821 SNOWMOBILES

7 Sec. ~~1~~ 82101. As used in this ~~act~~ PART:

8 (A) ~~(e)~~ "Conviction" means a final conviction, the payment
 9 of a fine, a plea of guilty or nolo contendere if accepted by the
 10 court, or a finding of guilt or probate court disposition on a
 11 violation of this ~~act~~ PART, regardless of whether the penalty
 12 is rebated or suspended.

13 (B) ~~(f)~~ "Dealer" means any person engaged in the sale,
 14 lease, or rental of snowmobiles as a regular business.

15 (C) ~~(t)~~ "Former section 15a" means section 15a OF FORMER
 16 ACT NO. 74 OF THE PUBLIC ACTS OF 1968, as constituted ~~before the~~
 17 ~~1993 amendatory act that added this subdivision~~ PRIOR TO MAY 1,
 18 1994.

19 (D) ~~(g)~~ "Highway or street" means the entire width between
 20 the boundary lines of every way publicly maintained if any part
 21 thereof is open to the use of the public for purposes of vehicu-
 22 lar travel.

23 (E) ~~(p)~~ "Law of another state" means a law or ordinance
 24 enacted by another state or by a local unit of government in
 25 another state.

26 (F) ~~(q)~~ "Long-term incapacitating injury" means an injury
 27 that causes a person to be in a comatose, quadriplegic,

1 hemiplegic, or paraplegic state, which state is likely to
2 continue for 1 year or more.

3 (G) ~~(c)~~ "Operate" means to ride in or on and be in actual
4 physical control of the operation of a snowmobile.

5 ~~(d) "Person" means an individual, partnership, corporation,~~
6 ~~the state and any of its agencies or subdivisions, and any body~~
7 ~~of persons whether incorporated or not.~~

8 (H) ~~(a)~~ "Operator" means any person who operates or is in
9 actual physical control of a snowmobile.

10 (I) ~~(b)~~ "Owner" means any of the following:

11 (i) A person who holds the legal title to a snowmobile.

12 (ii) A vendee or lessee of a snowmobile ~~which~~ THAT is the
13 subject of an agreement for conditional sale or lease with the
14 right of purchase upon performance of the conditions stated in
15 the agreement and with an immediate right of possession vested in
16 the conditional vendee or lessee.

17 (iii) A person renting a snowmobile or having the exclusive
18 use of a snowmobile for more than 30 days.

19 (J) ~~(r)~~ "Probate court disposition" means the entry of a
20 probate court order of disposition for a child found to be within
21 the provisions of chapter XIIIA of Act No. 288 of the Public Acts
22 of 1939, being sections 712A.1 to 712A.28 of the Michigan
23 Compiled Laws.

24 (K) ~~(s)~~ "Prosecuting attorney", except as the context
25 ~~otherwise~~ requires OTHERWISE, means the attorney general, the
26 prosecuting attorney of a county, or the attorney representing a
27 local unit of government.

1 (l) ~~(j)~~ "Right-of-way" means that portion of a highway or
2 street less the roadway and any shoulder.

3 (M) ~~(h)~~ "Roadway" means that portion of a highway or
4 street improved, designated, or ordinarily used for vehicular
5 travel. If a highway or street includes 2 or more separate
6 roadways, the term roadway refers to any such roadway separately,
7 but not to all such roadways collectively.

8 ~~(i) "Department" means the department of state.~~

9 (N) ~~(k)~~ "Shoulder" means that portion of a highway or
10 street on either side of the roadway ~~which~~ THAT is normally
11 snowplowed for the safety and convenience of vehicular traffic.

12 (O) ~~(e)~~ "Snowmobile" means any motor-driven vehicle
13 designed for travel primarily on snow or ice of a type ~~which~~
14 THAT utilizes sled-type runners or skis, ~~or~~ an endless belt
15 tread, or any combination of these or other similar means of con-
16 tact with the surface upon which it is operated, ~~—~~ but is not a
17 vehicle ~~which~~ THAT must be registered under the Michigan vehi-
18 cle code, Act No. 300 of the Public Acts of 1949, ~~as amended,~~
19 being sections 257.1 to 257.923 of the Michigan Compiled Laws.

20 (P) ~~(l)~~ "Zone 1" means all of the ~~upper peninsula~~ UPPER
21 PENINSULA.

22 (Q) ~~(m)~~ "Zone 2" means all of that part of the ~~lower~~
23 ~~peninsula~~ LOWER PENINSULA north of a line beginning at and drawn
24 from a point on the Michigan-Wisconsin boundary line due west of
25 the westerly terminus of river road in Muskegon county; thence
26 due east to the westerly terminus of river road; thence north and
27 east along the center line of the river road to its intersection

1 with highway M-120; thence northeasterly and easterly along the
 2 center line of highway M-120 to the junction of highway M-20;
 3 thence easterly along the center line of M-20 to its junction
 4 with US-10 at the Midland-Bay county line; thence easterly along
 5 the center line of the "business route" of highway US-10 to the
 6 intersection of Garfield road in Bay county; thence north along
 7 the center line of Garfield road to the intersection of the
 8 Pinconning road; thence east along the center line of Pinconning
 9 road to the intersection of the Seven Mile road; thence north
 10 along the center of the Seven Mile road to the Bay-Arenac county
 11 line; thence north along the center line of the Lincoln School
 12 road (county road 25) in Arenac county to the intersection of
 13 highway M-61; thence east along the center line of highway M-61
 14 to the junction of highway US-23; thence northerly and easterly
 15 along the center line of highway US-23 to the center line of the
 16 Au Gres river; thence southerly along the center line of the
 17 river to its junction with Saginaw Bay of Lake Huron; thence
 18 north 78° east to the international boundary line between the
 19 United States and the Dominion of Canada.

20 (R) ~~(n)~~ "Zone 3" means all OF that part of the ~~lower~~
 21 ~~peninsula~~ LOWER PENINSULA south of the line described in ~~Zone~~
 22 ~~2~~ SUBDIVISION (Q).

23 ~~Sec. 1a. This act shall be known and may be cited as "the~~
 24 ~~Michigan snowmobile act".~~

25 Sec. ~~2~~ 82102. Snowmobiles are exempt from all taxes and
 26 fees imposed on vehicles under the ~~provisions of~~ MICHIGAN
 27 VEHICLE CODE, Act No. 300 of the Public Acts of 1949, ~~as~~

1 ~~amended~~ BEING SECTIONS 257.1 TO 257.923 OF THE MICHIGAN COMPILED
2 LAWS, and THE MOTOR VEHICLE ACCIDENT CLAIMS ACT, Act No. 198 of
3 the Public Acts of 1965, ~~as amended,~~ being sections 257.1101 to
4 ~~257.1132~~ 257.1133 of the MICHIGAN Compiled Laws. ~~of 1948.~~

5 Sec. ~~3~~ 82103. (1) Except as otherwise provided, a snowmo-
6 bile shall not be operated unless the owner first obtains a cer-
7 tificate of registration and a registration decal. The certifi-
8 cate of registration shall be secured at the time of purchase or
9 transfer of ownership. A certificate of registration or a regis-
10 tration decal is not required for a snowmobile operated exclu-
11 sively on lands owned or under the control of the snowmobile
12 owner or for a snowmobile used entirely in a safety education and
13 training program conducted by a certified snowmobile safety
14 instructor and authorized pursuant to section ~~4c~~ 82108.

15 (2) A person who is convicted of a violation of this section
16 shall be fined not more than \$50.00.

17 Sec. ~~3a~~ 82104. A certificate of registration or a regis-
18 tration decal is not required for a snowmobile ~~which~~ THAT is
19 exclusively operated in a special event of limited duration
20 ~~which is~~ conducted according to a prearranged schedule under a
21 permit from the governmental unit having jurisdiction.

22 Sec. ~~4~~ 82105. (1) The owner of each snowmobile requiring
23 registration by this state before operation of the snowmobile in
24 this state shall file an application for registration with the
25 department OF STATE on forms provided by the department OF
26 STATE. If the snowmobile was purchased from a retail dealer in
27 this state, application for initial registration shall be made

1 with the dealer at the point of sale. The dealer shall issue a
2 temporary registration permit in a form received from and
3 approved by the department OF STATE that is valid for 15 days
4 after the date of sale. Each retail dealer shall submit regis-
5 trations and fees to the department OF STATE not less than once
6 each week. The application shall be signed by the owner of the
7 snowmobile and shall be accompanied by a fee of \$15.00. Upon
8 receipt of the application in approved form, the department OF
9 STATE shall enter the application upon its records and issue to
10 the applicant a certificate of registration and decal. The cer-
11 tificate of registration shall contain the number awarded to the
12 snowmobile, the name and address of the owner, and other informa-
13 tion the department OF STATE considers necessary. The certifi-
14 cate of registration shall be pocket-size, shall accompany the
15 vehicle, shall be legible, and shall be made available for
16 inspection upon demand by a peace officer.

17 (2) The owner of a snowmobile at the time application for a
18 certificate of registration is made shall pay a fee of \$15.00 and
19 be issued a certificate of registration and a registration
20 decal. The certificate of registration and registration decal
21 authorizes the operation of the snowmobile for a 3-year period
22 ~~which~~ THAT begins on October 1 and expires on September 30 of
23 the third year. The certificate of registration and registration
24 decal may be renewed by payment of a fee of \$15.00 beginning
25 July 1 of the expiration year. The registration decal shall be
26 displayed as prescribed by rule promulgated by the department OF
27 STATE.

1 (3) The department OF STATE may destroy a record of a
2 certificate of registration 5 years after expiration of the
3 certificate.

4 Sec. ~~4a~~ 82106. (1) Except as otherwise provided in this
5 ~~act~~ PART, \$10.00 of the revenue received from the registration
6 fee under this ~~act~~ PART shall be deposited in the snowmobile
7 registration fee fund. From the revenues deposited in the snow-
8 mobile registration fee fund under this ~~act~~ PART, the legisla-
9 ture shall make an annual appropriation of not ~~to exceed~~ MORE
10 THAN \$3.00 from each registration fee collected during each
11 fiscal year to the department OF STATE for administration of the
12 registration provisions of this ~~act~~ PART and an annual appro-
13 priation to the department ~~of natural resources~~ of not less
14 than \$7.00 from each registration fee collected during each
15 fiscal year for purposes set forth in section ~~4b~~ 82107, \$2.00
16 of which shall be used for the state financial assistance program
17 for counties described in section ~~4b~~ 82107. Any money not
18 required for administration of the registration provisions of
19 this ~~act~~ PART shall be credited each year to the recreational
20 snowmobile trail improvement fund. Five dollars from each regis-
21 tration fee collected during each fiscal year shall be deposited
22 in the recreational snowmobile trail improvement fund and shall
23 be administered by the department ~~of natural resources~~ for the
24 purposes of planning, construction, maintenance, and acquisition
25 of trails and areas for the use of snowmobiles, or access to
26 those trails and areas, and basic snowmobile facilities.
27 Consideration shall be given in planning the expenditures of the

1 funds to providing recreational opportunities for bicyclists,
2 hikers, equestrians, and other nonconflicting recreational trail
3 users as ancillary benefits of the program.

4 (2) The ~~director of the~~ department ~~of natural resources~~
5 shall designate a state recreational trail coordinator and shall
6 maintain a comprehensive plan for implementing a statewide recre-
7 ational and snowmobile trails system. The comprehensive plan
8 shall be reviewed and updated each year by the ~~director of the~~
9 department. ~~of natural resources.~~

10 (3) The money appropriated under this section to the depart-
11 ment ~~of natural resources~~ for snowmobile trails and areas, for
12 access to those trails or areas, and for basic snowmobile facili-
13 ties may be expended for the acquisition, development, and main-
14 tenance on any land in the state. The money may be used to pur-
15 chase lands or secure easements, leases, permits, or other appro-
16 priate agreements permitting use of private property for snowmo-
17 bile trails, basic facilities, and areas which may be used by
18 bicyclists, hikers, equestrians, and other nonconflicting
19 off-season recreational trail users, if the easements, leases,
20 permits, or other agreements provide public access to the trail,
21 use areas, and support facilities.

22 (4) Recreational trail facilities or major improvements
23 shall not be constructed on private land unless a written agree-
24 ment in the form of an easement, lease, or permit for a public
25 trail right-of-way having a term of not less than 5 years is made
26 between the owner of the land and the department. ~~of natural~~
27 ~~resources.~~

1 (5) The money shall be expended in a manner and as part of
2 the overall plan of the department ~~of natural resources~~ for an
3 interconnecting network of statewide snowmobile trails and use
4 areas giving consideration to expected snowfall and availability
5 for use with adequate snow cover. Consideration shall be given
6 in the plan for alternative nonconflicting off-season recrea-
7 tional trail uses.

8 Sec. ~~4b~~ 82107. (1) The annual budget request of the
9 department ~~of natural resources, referred to in this section and~~
10 ~~section 4c as department,~~ shall include an amount for enforce-
11 ment of this ~~act~~ PART, for snowmobile safety education and
12 training programs, and for a state financial assistance program
13 provided for under this section.

14 (2) Each county of the state shall be entitled to receive
15 financial assistance from the state as provided in this section.
16 Each county in this state shall be encouraged to develop a snow-
17 mobile safety education and training program based on the cri-
18 teria set forth in section ~~4c~~ 82108. A county board of commis-
19 sioners desiring to conduct a snowmobile program shall submit to
20 the department by November 30 of each year an estimate of autho-
21 rized expenditures for the following calendar year, in a form and
22 containing the information which the department requires. The
23 department shall review the entire request and may approve the
24 county request for financial assistance. The department shall
25 annually survey the state financial assistance program to assist
26 in determining the amount of financial assistance to be allocated
27 to a county for its snowmobile program.

1 (3) The amount of financial assistance from the state to be
2 allocated to a county pursuant to this section shall be deter-
3 mined by the department. The department shall evaluate each
4 request from a county for financial assistance and may give pri-
5 ority to counties where, in the determination of the department,
6 a greater need for financial assistance exists. The department
7 shall review the county's statement of authorized expenditures
8 actually incurred and if satisfied shall provide financial
9 assistance in an amount not to exceed 75% of the county's esti-
10 mated authorized expenditures for the past calendar year. If the
11 county's authorized expenditures actually incurred for the past
12 calendar year exceeded the county's estimated authorized expendi-
13 tures, the department may provide financial assistance in excess
14 of 75% of the county's estimated authorized expenditures but not
15 in excess of 75% of the county's authorized expenditures actually
16 incurred. Financial assistance allocated to a county under this
17 section shall be used exclusively for the conduct of the county
18 snowmobile program as provided by this ~~act~~ PART and the rules
19 promulgated under this ~~act~~ PART. Within 90 days after the
20 close of each calendar year, a county board of commissioners
21 shall submit to the department a statement of authorized expendi-
22 tures actually incurred, on a form and containing the information
23 the department requires. A county submitting a statement or sup-
24 plement to the statement ~~which~~ THAT is received subsequent to
25 the 90-day period shall not be eligible for financial
26 assistance.

1 (4) The department of treasury shall periodically audit the
2 county records pertaining to this program to assure the proper
3 disposition of ~~these moneys~~ THE MONEY in accordance with this
4 section and rules ~~which are~~ promulgated ~~pursuant to~~ UNDER
5 this section. If the audit discloses a refund of state aid
6 ~~moneys~~ MONEY is due the state, the county treasurer, within 30
7 days of the completion of the audit, shall send to the department
8 the amount of the refund due the state, which the ~~director~~
9 DEPARTMENT shall return to the state treasury.

10 (5) The department and the county sheriffs shall cooperate
11 in the conduct of the program. The county sheriffs shall main-
12 tain records and submit reports in form and containing informa-
13 tion as the department may require.

14 (6) The department may promulgate rules to implement this
15 section. ~~pursuant to the administrative procedures act of 1969,~~
16 ~~Act No. 306 of the Public Acts of 1969, as amended, being sec-~~
17 ~~tions 24.201 to 24.328 of the Michigan Compiled Laws.~~

18 Sec. ~~4c~~ 82108. (1) The department shall design by May 1,
19 1995 the minimum content of a comprehensive snowmobile safety
20 education and training program, which shall include the prepara-
21 tion and dissemination of snowmobile information and safety
22 advice to the public and training of operators. The content of
23 the program shall include provision for the training of youthful
24 operators at least 12 but less than 17 years of age and for the
25 issuance of snowmobile safety certificates to those who success-
26 fully complete the training provided under the program. A person
27 less than 17 years of age who successfully completes a training

1 program shall carry the safety certificate on his or her person
2 whenever operating a snowmobile in this state. The department
3 and the counties shall encourage persons 17 years of age or over
4 to take the program.

5 (2) The minimum content of a snowmobile safety education and
6 training program shall include the following:

7 (a) Description of the snowmobile and its main parts.

8 (b) Description of machine controls, safety and operating
9 procedures, and loading and towing procedures.

10 (c) General content of snowmobile and highway laws and
11 rules.

12 (d) Safety hazards of operation, including possible hearing
13 damage, and environmental consequences of snowmobile use.

14 (e) Performance and written tests.

15 (f) Familiarization with the snowmobile trail system in this
16 state.

17 (3) The fee charged by a county for a training program shall
18 be not more than \$5.00.

19 (4) ~~-(3)-~~ In implementing a program ~~-which-~~ THAT is estab-
20 lished pursuant to this section, the department shall cooperate
21 with private organizations and associations, private and public
22 corporations, schools, and local governmental units. The depart-
23 ment shall consult with the department of state police and county
24 sheriffs in regard to subject matter of a training program and
25 performance testing that leads to certification of snowmobile
26 operators. However, a county may expand the course content
27 beyond the minimum requirements established by subsection (2).

1 (5) ~~(4)~~ The department may designate any person it ~~deems~~
 2 CONSIDERS qualified to provide course instruction and to award
 3 snowmobile safety certificates.

4 (6) ~~(5)~~ A person less than 17 years of age who fails to
 5 have a safety certificate on his or her person is subject to a
 6 fine of not more than \$25.00.

7 (7) ~~(6)~~ A person who has a valid safety certificate from
 8 another state or province shall not be required to complete the
 9 safety education and training program in this state.

10 Sec. ~~4d~~ 82109. (1) From the money appropriated to the
 11 department ~~of natural resources~~ from the recreational snowmo-
 12 bile trail improvement fund for the purpose of planning, con-
 13 structing, maintaining, and acquiring trails and areas for the
 14 use of snowmobiles, or access to those trails and areas, and
 15 basic snowmobile facilities, an amount of not less than 40% but
 16 not more than 80% shall be allocated upon application to
 17 ~~counties, townships, cities, villages,~~ LOCAL UNITS OF
 18 GOVERNMENT and nonprofit incorporated snowmobile clubs and organ-
 19 izations considered eligible by the department ~~of natural~~
 20 ~~resources~~ because of the interest of the nonprofit incorporated
 21 club or association in snowmobile activities, under rules promul-
 22 gated by the department. ~~of natural resources.~~

23 (2) Allocations for snowmobile trail maintenance costs shall
 24 be according to a formula promulgated by the state recreational
 25 trail coordinator which shall provide an amount up to 100% of the
 26 actual cost of maintaining the trail per year. An allocation
 27 shall not be made for a trail unless the trail is available for

1 snowmobile use and is approved by the department. ~~of natural~~
2 ~~resources.~~ An allocation for the cost of leasing of land and the
3 acquisition of easements, permits, or other agreements, and for
4 trail liability insurance may equal 100% of incurred expense.
5 Money available for development shall be distributed on a 100%
6 grant basis, 75% at the time of approval but not later than
7 April 1 of the year of development and 25% upon completion of the
8 development. A development shall be commenced the same year the
9 funds are distributed. An application may include a request for
10 leasing land or acquiring easements, permits, or other agreements
11 for the use of land, and for funds for development or maintenance
12 of trails. Trail specifications shall be prescribed by the
13 department. ~~of natural resources.~~

14 (3) Signs shall not be provided under this section unless
15 the snowmobile trails meet minimum state snowmobile trail con-
16 struction standards and are funded for snowmobile season
17 maintenance. A snowmobile organization or association may apply
18 to the department ~~of natural resources~~ on forms prescribed by
19 the department ~~of natural resources~~ for signs or funds for
20 signs on or before a date determined by the department. ~~of natu-~~
21 ~~ral resources.~~

22 (4) Upon application by a ~~county, city, village, township,~~
23 LOCAL UNIT OF GOVERNMENT or nonprofit incorporated snowmobile
24 clubs and organizations, the department ~~of natural resources~~
25 may allocate up to 100% of the cost of initial signs of snowmo-
26 bile routes ~~which~~ THAT connect authorized trails or ~~which~~
27 THAT offer entrance to or exit from trails leading to the

1 ~~county, city, village, or township~~ LOCAL UNIT OF GOVERNMENT.

2 An application shall be submitted to the department ~~of natural~~
3 ~~resources~~ on a form prescribed by the department. ~~of natural~~
4 ~~resources.~~

5 (5) Allocations under this section shall remain available
6 until expended if a contract or commitment has been entered into
7 under this section.

8 (6) The department OF STATE and THE department ~~of natural~~
9 ~~resources~~ shall include in their annual budget requests informa-
10 tion detailing their snowmobile programs.

11 Sec. ~~4e~~ 82110. (1) The recreational snowmobile trail
12 improvement fund is created in the state treasury. The fund
13 shall receive money as provided by law and from any gifts or con-
14 tributions to the fund. The state treasurer shall direct the
15 investment of the fund. Interest and earnings from the fund
16 shall be credited to the fund. The fund shall be administered by
17 the department ~~of natural resources~~ and shall be used solely
18 for the improvement of snowmobile trails and other nonconflicting
19 recreational purposes.

20 (2) Five dollars of each fee collected under section ~~4~~
21 82105, \$9.00 of each fee collected under section ~~10~~ 82118, and
22 not less than 80% of the revenue from the fees collected under
23 sections ~~6~~ 82114 and ~~7~~ 82115 shall be deposited in the fund.

24 (3) The department ~~of natural resources~~ shall promulgate
25 rules for the administration of the fund. ~~pursuant to the admin-~~
26 ~~istrative procedures act of 1969, Act No. 306 of the Public Acts~~

1 ~~of 1969, as amended, being sections 24.201 to 24.328 of the~~
2 ~~Michigan Compiled Laws.~~

3 (4) All funds allocated under this ~~act~~ PART shall be for
4 projects ~~which~~ THAT are open to the public.

5 (5) Any money remaining in the recreational snowmobile trail
6 improvement fund at the end of a fiscal year shall not be cred-
7 ited to or revert to the general fund but shall remain in the
8 fund and shall be carried over in the fund to the next and suc-
9 ceeding fiscal years and shall only be used for the purposes
10 stated in this section.

11 Sec. ~~4f~~ 82111. (1) The snowmobile registration fee fund
12 is created in the state treasury. The fund shall receive money
13 as provided by law and from any gifts or contributions to the
14 fund. The state treasurer shall direct the investment of the
15 fund. Interest and earnings from the fund shall be credited to
16 the fund.

17 (2) Money deposited in the general fund pursuant to
18 section ~~4a~~ 82106 as of ~~the effective date of the amendatory~~
19 ~~act that added this section~~ MAY 1, 1994 is transferred to the
20 snowmobile registration fee fund. Money remaining in the snowmo-
21 bile registration fee fund at the end of a fiscal year shall
22 remain in the fund and shall be carried over in the fund to the
23 next and succeeding fiscal years and shall only be used for the
24 purposes stated in this ~~act~~ PART.

25 Sec. ~~4g~~ 82112. (1) The ~~natural resources commission~~
26 DEPARTMENT, in consultation with the snowmobile advisory board,
27 shall conduct a review of the effectiveness of operation of the

1 snowmobile program by the forestry division of the department ~~of~~
2 ~~natural resources~~ and submit a written report to the house and
3 senate committees that consider natural resources and conserva-
4 tion legislation by July 1, 1996.

5 (2) The review shall include, but not be limited to, consid-
6 eration of the following:

7 (a) The manner in which trail improvement funds and snowmo-
8 bile registration fee funds are spent and whether the spending is
9 in accordance with this ~~act~~ PART.

10 (b) The manner in which the grant process has been imple-
11 mented and to whom grants have been awarded during the time of
12 the review.

13 (c) Establishment and maintenance of the snowmobile trails
14 system.

15 (d) Long-term planning pertaining to the trails system.

16 (e) Contract grooming of snowmobile trails versus grooming
17 of trails by employees of the department.

18 Sec. ~~5~~ 82113. (1) The owner of a snowmobile having been
19 issued a certificate of registration for the snowmobile shall
20 attach in a permanent manner to each side of the forward half of
21 the snowmobile the registration decal assigned to that
22 snowmobile.

23 (2) Not earlier than 90 days before the expiration date of a
24 certificate, a registration decal or other device may be issued
25 indicating that the certificate of registration is in full force
26 and effect.

1 (3) A certificate of registration shall expire pursuant to
2 section ~~4~~ 82105.

3 (4) The department OF STATE may award a certificate of
4 number directly or may authorize a person to act as its agent for
5 the awarding of a certificate of number.

6 (5) Records of the department OF STATE made or kept pursuant
7 to this ~~act~~ PART shall be made available to the public in com-
8 pliance with the freedom of information act, Act No. 442 of the
9 Public Acts of 1976, being sections 15.231 to 15.246 of the
10 Michigan Compiled Laws.

11 Sec. ~~6~~ 82114. (1) The owner of a snowmobile shall notify
12 the department OF STATE within 15 days if the snowmobile is
13 destroyed or abandoned, or is sold, or an interest in the snowmo-
14 bile is transferred either wholly or in part to another person,
15 or if the owner's address no longer conforms to the address
16 appearing on the certificate of registration. The notice shall
17 consist of a surrender of the certificate of registration on
18 which the proper information shall be noted on a place to be
19 provided. If the surrender of the certificate of registration is
20 by reason of the snowmobile being destroyed or abandoned, the
21 department OF STATE shall cancel the certificate of registration
22 and enter that fact in the records of the department OF STATE,
23 and the number may be then reassigned. The department OF STATE
24 may destroy the record of a surrendered certificate of registra-
25 tion 1 year after its surrender.

26 (2) If the surrender of the certificate of registration is
27 by reason of a change of address on the part of the owner, the

1 new address shall be recorded by the department OF STATE and a
2 certificate of registration bearing that information shall be
3 returned to the owner.

4 (3) The transferee of a snowmobile registered under this
5 ~~act~~ PART, within 15 days after acquiring the snowmobile, shall
6 apply to the department OF STATE for issuance of a new certifi-
7 cate of registration for the snowmobile, giving his or her name,
8 address, and the previous registration number of the snowmobile
9 and pay to the department OF STATE the fee prescribed in section
10 ~~4~~ 82105. Upon receipt of the application and fee, the depart-
11 ment OF STATE shall issue a new certificate of registration for
12 the snowmobile to the new owner. Unless the application is made
13 and the fee paid within 15 days of transfer of ownership, the
14 snowmobile is without certificate of registration, and a person
15 shall not operate the snowmobile until a valid certificate of
16 registration is issued.

17 (4) If a certificate of registration is lost, mutilated, or
18 illegible, the owner of the snowmobile shall obtain a duplicate
19 of the certificate of registration upon application and payment
20 of a fee of \$5.00.

21 (5) If a valid registration decal is lost, mutilated, or
22 illegible, the owner of the snowmobile may obtain a replacement
23 registration decal upon submission of proof of registration and
24 payment of a fee of \$5.00.

25 Sec. ~~7~~ 82115. A dealer or manufacturer, upon application
26 to the department OF STATE upon forms provided by it, may obtain
27 certificates of registration for use in the testing or

1 demonstrating of snowmobiles upon payment of \$10.00 for each of
2 the first 2 registration certificates. Additional certificates
3 as the dealer may require may be issued at a cost of \$5.00 each
4 and used by the applicant only in the testing or demonstrating of
5 snowmobiles by temporary placement of the registration decal on
6 the snowmobile being tested or demonstrated. Any 1 certificate
7 issued pursuant to this section may be used on only 1 snowmobile
8 at any given time. The temporary placement of registration
9 decals shall be as prescribed by this ~~act~~ PART or rules promul-
10 gated under this ~~act~~ PART.

11 Sec. ~~8~~ 82116. (1) A snowmobile ~~which~~ THAT is manufac-
12 tured after December 1, 1972 for sale in this state shall have an
13 identifying number ~~which~~ THAT is stamped into the frame of the
14 snowmobile or into a plate affixed to the frame and is unique
15 from an identifying number on any other snowmobile. The number
16 shall be stamped in a place where it is easily visible with a
17 minimum of physical effort and it shall be termed the vehicle
18 number. A manufacturer shall furnish to a requesting police
19 agency, to the department OF STATE, and to the department ~~of~~
20 ~~natural resources,~~ information as to the location of vehicle
21 numbers on snowmobiles it produces. The vehicle number shall be
22 printed on the certificate of registration issued by the depart-
23 ment OF STATE to the owner.

24 (2) Possession of a snowmobile with an altered, defaced, or
25 obliterated vehicle number is a misdemeanor, punishable by
26 imprisonment for not more than 1 year, or by a fine of not more
27 than \$1,000.00, or both.

1 Sec. ~~9~~ 82117. (1) A dealer shall maintain in safe
2 operating condition all snowmobiles ~~—~~ rented, leased, or fur-
3 nished by him or her. The dealer ~~—~~ OR the dealer's agents or
4 employees shall explain the operation of the snowmobile being
5 rented, leased, or furnished and, if the dealer ~~—~~ OR the
6 dealer's agent or employee believes the person to whom the snow-
7 mobile is to be rented, leased, or furnished is not competent to
8 operate the snowmobile with competency to himself or herself and
9 to the safety of others, the dealer shall refuse to rent, lease,
10 or furnish the ~~same~~ SNOWMOBILE. By October 15, 1994, the
11 department ~~of natural resources~~ shall furnish each dealer with
12 a safety education checklist of not more than 1 page in length
13 ~~which~~ THAT the dealer shall distribute to each person who pur-
14 chases, rents, or leases a snowmobile from that dealer.

15 (2) Any dealer renting, leasing, or furnishing any snowmo-
16 bile shall carry a policy of liability insurance subject to
17 limits exclusive of interests and costs, with respect to such
18 snowmobile, as follows: \$20,000.00 because of bodily injury to
19 or death of 1 person in any 1 accident and subject to ~~said~~ THAT
20 limit for 1 person, \$40,000.00 because of bodily injury to or
21 death of 2 or more persons in any 1 accident, and \$10,000.00
22 because of injury to or destruction of property of others in any
23 1 accident; ~~—~~ or, in the alternative, ANY DEALER RENTING, LEAS-
24 ING, OR FURNISHING ANY SNOWMOBILE SHALL demand and be shown proof
25 that the person renting, leasing, or being furnished a snowmobile
26 carries liability policy of at least the type and coverage as
27 specified in this subsection.

1 Sec. ~~10~~ 82118. (1) In addition to registration of a
2 snowmobile pursuant to section ~~4~~ 82105 or registration in
3 another state or province, beginning October 1, 1994, a person
4 who desires to operate a snowmobile in this state shall purchase
5 a Michigan snowmobile trail permit sticker. The Michigan snowmo-
6 bile trail permit issued under this section shall be valid for a
7 period of 1 year which begins on October 1 and ends on the fol-
8 lowing September 30. The fee for the permit ~~shall be~~ IS
9 \$10.00. Fifty cents of the fee shall be retained by the depart-
10 ment ~~of natural resources~~ for administrative costs. Fifty
11 cents of the fee shall be retained by the agent selling the
12 permit. Nine dollars of the fee shall be credited to the recrea-
13 tional snowmobile trail improvement fund created in section ~~4e~~
14 82110.

15 (2) The trail permit sticker shall be permanently affixed to
16 the forward half of the snowmobile.

17 (3) The department ~~of natural resources~~ may contract with
18 a person to act as an agent of the department OF STATE for the
19 purpose of issuing Michigan snowmobile trail permits. The
20 department OF STATE shall sell the permits to agents in bulk.
21 Agents may obtain a refund from the department ~~of natural~~
22 ~~resources~~ for any permits that are not sold.

23 (4) An agent who uses or allows the use of a permit by
24 anyone except the snowmobile user to whom the permit is sold is
25 guilty of a misdemeanor, punishable by a fine of \$50.00 for each
26 instance of such use or allowed use.

1 (5) The department OF STATE may suspend a certificate of
2 registration when the department OF STATE determines that the
3 required fee has not been paid and remains unpaid after reason-
4 able notice or demand. In addition to the required fee, a \$10.00
5 penalty shall be assessed and collected against any person who
6 tenders an insufficient check or draft in payment of the fee.

7 (6) A person who fails to secure a permit under this section
8 is responsible for a civil infraction and subject to a fine of
9 \$50.00 plus court costs.

10 Sec. ~~+2-~~ 82119. A person shall not operate a snowmobile
11 upon a public highway, land used as an airport or street, or on a
12 public or private parking lot not specifically designated for the
13 use of snowmobiles except under the following conditions and
14 circumstances:

15 (a) A snowmobile may be operated on the right-of-way of a
16 public highway, except a limited access highway, if it is oper-
17 ated at the extreme right of the open portion of the right-of-way
18 and with the flow of traffic on the highway. However, a snowmo-
19 bile may be operated on the right-of-way of a public highway
20 against the flow of traffic if the right-of-way is a snowmobile
21 trail designated by the ~~director~~ DEPARTMENT in the plan devel-
22 oped pursuant to section ~~4a(2)-~~ 82106(2) and is approved by the
23 state transportation department and the department. ~~of natural~~
24 ~~resources.~~ Snowmobiles operated on the right-of-way of a public
25 highway, as provided in this subdivision, shall travel single
26 file and shall not be operated abreast except when overtaking and
27 passing another snowmobile. In the absence of a posted

1 snowmobile speed limit, a snowmobile operated on the right-of-way
2 of a public highway, as provided in this subdivision, shall be
3 limited to the speed limit posted on the public highway.

4 (b) A snowmobile may be operated on the roadway or shoulder
5 when necessary to cross a bridge or culvert if the snowmobile is
6 brought to a complete stop before entering onto the roadway or
7 shoulder and the driver yields the right-of-way to an approaching
8 vehicle on the highway.

9 (c) In a court action in this state where competent evidence
10 demonstrates that a vehicle ~~which~~ THAT is permitted to be oper-
11 ated on a highway pursuant to the Michigan vehicle code, Act
12 No. 300 of the Public Acts of 1949, ~~as amended,~~ being sections
13 257.1 to 257.923 of the Michigan Compiled Laws, is in a collision
14 with a snowmobile on a roadway, the driver of the snowmobile
15 involved in the collision shall be considered prima facie
16 negligent.

17 (d) A snowmobile may be operated across a public highway
18 other than a limited access highway, at right angles to the
19 highway, for the purpose of getting from ~~one~~ 1 area to another
20 when the operation can be done in safety and another vehicle is
21 not crossing the highway at the same time in the same general
22 area. An operator shall bring his or her snowmobile to a com-
23 plete stop before proceeding across the public highway and shall
24 yield the right-of-way to all oncoming traffic.

25 (e) Snowmobiles may be operated on a highway in a county
26 road system ~~which~~ THAT is not normally snowplowed for
27 vehicular traffic ~~and~~ and on the plowed right-of-way or shoulder

1 when no right-of-way exists on a snowplowed highway in the county
2 road system, outside the corporate limits of a city or village,
3 ~~which~~ THAT is designated and marked for snowmobile use by the
4 county road commission having jurisdiction. Upon the request of
5 a county road commission ~~which~~ THAT has designated all county
6 roads outside the corporate limits of a city or village for snow-
7 mobile use, the state transportation department shall erect at
8 county road commission expense and SHALL maintain, in accordance
9 with the Michigan manual of uniform traffic control devices stan-
10 dards, the basic snowmobile sign unit together with a supplemen-
11 tal panel stating "permitted on right-of-way or shoulder of all
12 (county name) roads-Act 74 of P.A. 1968" at the
13 county line on all state trunk line highways and county roads.

14 (f) A duly constituted law enforcement officer of a ~~city,~~
15 ~~village, township, county,~~ LOCAL UNIT OF GOVERNMENT or the state
16 may authorize use of a snowmobile on a public highway or street
17 within his or her jurisdiction when an emergency occurs and con-
18 ventional motor vehicles cannot be used for transportation due to
19 snow or other extreme highway conditions.

20 (g) A snowmobile may be operated on a ~~street or~~ highway OR
21 STREET for a special event of limited duration conducted accord-
22 ing to a prearranged schedule only under permit from the govern-
23 mental unit having jurisdiction. The event may be conducted on
24 the frozen surface of public waters only under permit from the
25 department. ~~of natural resources.~~

26 (h) A city or village by ordinance may designate 1 or more
27 specific public highways or streets within its jurisdiction as

1 egress and ingress routes for the use of snowmobiles. A city or
2 village acting under the authority of this subdivision shall
3 erect and maintain, in accordance with the Michigan manual of
4 uniform traffic control devices standards, a sign unit giving
5 proper notice ~~thereof~~ OF THE DESIGNATION.

6 Sec. ~~12a~~ 82120. (1) A parent or legal guardian shall not
7 permit his or her child who is less than 12 years of age to oper-
8 ate a snowmobile without the direct supervision of an adult
9 except on land owned or under the control of the parent or legal
10 guardian.

11 (2) A person who is at least 12 but less than 17 years of
12 age may operate a snowmobile if 1 of the following conditions
13 exist:

14 (a) The person is under the direct supervision of a person
15 who is 21 years of age or older.

16 (b) The person has in his or her immediate possession a
17 snowmobile safety certificate issued pursuant to a program con-
18 ducted under section ~~4b~~ 82107.

19 (c) The person is on land owned or under the control of his
20 or her parent or legal guardian.

21 (d) The person possesses a snowmobile safety certificate
22 issued to the person under the authority of a law of another
23 state or province of Canada.

24 (3) A person who is operating a snowmobile pursuant to sub-
25 section (2)(b) shall present the snowmobile safety certificate to
26 any peace officer upon demand.

1 (4) Notwithstanding section ~~+2-~~ 82119, an operator who is
2 less than 12 years of age shall not cross a highway or street.
3 An operator who is at least 12 years of age but less than 17
4 years of age may cross a highway or street only if he or she has
5 a valid snowmobile safety certificate in his or her immediate
6 possession.

7 (5) The owner of a snowmobile shall not permit the snowmo-
8 bile to be operated contrary to this section.

9 (6) When the judge of a juvenile court determines that a
10 person who is less than 17 years of age has violated this ~~act~~
11 PART, the judge shall immediately report the determination to the
12 department. ~~of natural resources.~~ The ~~director of the~~ depart-
13 ment ~~of natural resources~~ upon receiving a notice of a determi-
14 nation pursuant to this subsection may suspend the snowmobile
15 safety certificate without a hearing.

16 Sec. ~~+2-~~ 82121. A snowmobile shall not be used to hunt,
17 pursue, worry, or kill a wild bird or animal.

18 Sec. ~~+3-~~ 82122. (1) A snowmobile shall not be operated
19 unless it has at least 1 headlight, 1 taillight, and adequate
20 brakes capable, ~~of 1 of the following~~ while the snowmobile
21 travels on packed snow and carries an operator who weighs 175
22 pounds or more, ~~—~~ OF stopping the snowmobile in not more than
23 40 feet from an initial steady speed of 20 miles per hour ~~—~~ or
24 OF locking the snowmobile's traction belt or belts.

25 (2) A person shall not sell or offer to sell in this state
26 ~~—~~ a snowmobile manufactured after July 1, 1978, unless it meets
27 the minimum safety standards for snowmobile product certification

1 of the snowmobile safety and certification committee's
 2 November 23, 1976, volume 3, safety standards for snowmobiles for
 3 product certification, including detailed standard supplement and
 4 test specifications and procedures, covering machine sound
 5 levels, seats, controls, brake systems, fuel systems, shields and
 6 guards, electrical systems and lighting, reflectors, handgrips,
 7 and general hazard requirements. Proof of compliance with ~~the~~
 8 ~~requirements of~~ this section shall be in the form of certifica-
 9 tion by a qualified independent testing company ~~which~~ THAT is
 10 not affiliated with the manufacturer and is approved by the
 11 department. ~~of natural resources.~~

12 Sec. ~~13b~~ 82123. A person operating or riding on a snowmo-
 13 bile shall wear a crash helmet on his or her head. Crash helmets
 14 shall be approved by the United States department of
 15 transportation. This section ~~shall~~ DOES not apply to a person
 16 riding on or operating a snowmobile on his or her own private
 17 property.

18 Sec. ~~14~~ 82124. (1) Any ~~city, village, or township~~
 19 MUNICIPALITY may pass an ordinance regulating the operation of
 20 snowmobiles if the ordinance meets substantially the minimum
 21 requirements of this ~~act~~ PART. A ~~city, village, township, or~~
 22 ~~county~~ LOCAL UNIT OF GOVERNMENT may not adopt an ordinance
 23 ~~which~~ THAT:

24 (a) Imposes a fee for a license.

25 (b) Specifies accessory equipment to be carried on the
 26 snowmobile.

1 (c) Requires a snowmobile operator to possess a motor
2 vehicle ~~driver's~~ DRIVER license.

3 (d) Restricts operation of a snowmobile on the frozen sur-
4 face of public waters or on lands owned by or under the control
5 of the state except pursuant to section ~~14a~~ 82125.

6 (2) A board of county road commissioners, a county board of
7 commissioners, and a county have no duty to maintain any highway
8 under their jurisdiction in a condition reasonably safe and con-
9 venient for the operation of snowmobiles.

10 (3) Beginning on ~~the effective date of the 1993 amendatory~~
11 ~~act that added this subsection~~ OCTOBER 19, 1993, a board of
12 county road commissioners, a county board of commissioners, and a
13 county are immune from tort liability for injuries or damages
14 sustained by any person arising in any way out of the operation
15 or use of a snowmobile on maintained or unmaintained highways,
16 shoulders, and rights-of-way over which the board of county road
17 commissioners, the county board of commissioners, or the county
18 has jurisdiction. The immunity provided by this subsection does
19 not apply to actions which constitute gross negligence. Gross
20 negligence is defined as conduct so reckless as to demonstrate a
21 substantial lack of concern for whether an injury results.

22 Sec. ~~14a~~ 82125. (1) ~~As used in this section "commission"~~
23 ~~means natural resources commission.~~ (2) The ~~commission~~
24 DEPARTMENT may promulgate rules ~~in accordance with Act No. 306~~
25 ~~of the Public Acts of 1969, as amended, being sections 24.201 to~~
26 ~~24.315 of the Compiled Laws of 1948,~~ to govern the operation and
27 conduct of snowmobiles, speed limits, AND the times when a

1 snowmobile may be used and to establish and designate areas where
2 snowmobiles may be used in a manner ~~which~~ THAT will ~~insure~~
3 ENSURE compatible use and best protection of the safety and gen-
4 eral welfare of the public on the frozen surface of public
5 waters.

6 (2) ~~(3)~~ The department, ~~of natural resources~~ on its own
7 initiative ~~or~~ or upon receipt of a certified resolution of the
8 governing body of a political subdivision, may initiate investi-
9 gations into the need for special rules to govern the operation
10 of snowmobiles on the frozen surface of public waters. ~~When~~ IF
11 controls for an activity are ~~deemed~~ CONSIDERED necessary, or
12 amendment or repeal of an existing rule is required, the
13 ~~commission~~ DEPARTMENT shall prepare a rule for consideration at
14 a public hearing. Notice of the public hearing shall be ~~made~~
15 PUBLISHED in a newspaper of general circulation in the area where
16 the rules are to be imposed, amended, or repealed, at least 10
17 days before the hearing.

18 (4) After a hearing is held pursuant to subsection (3), the
19 proposed rule shall be submitted to the governing body of the
20 political subdivision in which the affected frozen waters lie.
21 The governing body shall inform the department that it approves
22 or disapproves of the proposed rule within 30 days after receiv-
23 ing the rule from the department. ~~of natural resources.~~ If the
24 governing body disapproves the proposed rule, further action
25 shall not be taken. If the governing body approves the proposed
26 rule, it may enact an ordinance ~~which shall be~~ THAT IS
27 identical to the proposed rule and the ~~commission~~ DEPARTMENT

1 shall promulgate the rule. An ordinance enacted pursuant to this
2 subsection ~~shall~~ IS not ~~be~~ effective until the proposed rule
3 is promulgated and effective. ~~in accordance with Act No. 306 of~~
4 ~~the Public Acts of 1969, as amended.~~

5 (5) An ordinance ~~which~~ THAT is the same as a rule ~~which~~
6 THAT is suspended by the legislature ~~,~~ or amended or repealed
7 by the ~~commission,~~ DEPARTMENT shall likewise be suspended,
8 amended, or repealed. The governing body, by majority vote, may
9 repeal the ordinance at any time.

10 (6) Local law enforcement officers may enforce ordinances
11 enacted pursuant to this section, and state and county enforce-
12 ment officers shall enforce rules ~~which~~ THAT are promulgated
13 pursuant to this section.

14 Sec. ~~45~~ 82126. (1) A person shall not operate a snowmo-
15 bile under any of the following circumstances:

16 (a) At a rate of speed greater than is reasonable and proper
17 having due regard for conditions then existing.

18 (b) In a forest nursery, planting area, or public lands
19 posted or reasonably identifiable as an area of forest reproduc-
20 tion when growing stock may be damaged or posted or reasonably
21 identifiable as a natural dedicated area ~~which~~ THAT is in zone
22 2 or zone 3.

23 (c) On the frozen surface of public waters within 100 feet
24 of a person, including a skater, not in or upon a snowmobile or
25 within 100 feet of a fishing shanty or shelter except at the min-
26 imum speed required to maintain forward movement of the
27 snowmobile or on an area which has been cleared of snow for

1 skating purposes unless the area is necessary for access to the
2 public water.

3 (d) Without a muffler in good working order and in constant
4 operation from which noise emission at 50 feet at right angles
5 from vehicle path under full throttle does not exceed 86 DBA,
6 decibels on the "a" scale, on a sound meter having characteris-
7 tics defined by American standards association S1, 4-1966
8 "general purpose sound meter". A snowmobile manufactured after
9 July 1, 1977, and sold or offered for sale in this state shall
10 not exceed 78 decibels of sound pressure at 50 feet as measured
11 under the 1974 society of automobile engineers code J-192a. This
12 subdivision does not apply to a snowmobile ~~which~~ THAT is being
13 used in an organized race on a course which is used solely for
14 racing.

15 (e) Within 100 feet of a dwelling between 12 midnight and 6
16 a.m., at a speed greater than the minimum required to maintain
17 forward movement of the snowmobile.

18 (f) In an area on which public hunting is permitted during
19 the regular November firearm deer season from 7 a.m. to 11
20 a.m. and from 2 p.m. to 5 p.m., except during an emergency, for
21 law enforcement purposes, to go to and from a permanent residence
22 or a hunting camp otherwise inaccessible by a conventional
23 wheeled vehicle, or for the conduct of necessary work functions
24 involving land and timber survey, communication and transmission
25 line patrol, and timber harvest operations, or on the person's
26 own property or property under the person's control or as an
27 invited guest.

1 (g) While transporting on the snowmobile a bow, unless
2 unstrung, or a firearm, unless unloaded and securely encased or
3 equipped with, and made inoperative by, a manufactured keylocked
4 trigger housing mechanism.

5 (h) On or across a cemetery or burial ground.

6 (i) Within 100 feet of a slide, ski, or skating area except
7 when traveling on a country road right-of-way pursuant to section
8 ~~12~~ 82119 or a ~~department of natural resources designated and~~
9 ~~funded~~ snowmobile trail THAT IS DESIGNATED AND FUNDED BY THE
10 DEPARTMENT. A snowmobile may enter such an area for the purpose
11 of servicing the area or for medical emergencies.

12 (j) On a railroad or railroad right-of-way. This prohibi-
13 tion shall not apply to railroad personnel, public utility per-
14 sonnel, law enforcement personnel while in the performance of
15 their duties, a railroad or railroad right-of-way rendered inop-
16 erable by the removal or partial removal of the railroad tracks,
17 and persons using, between December 1, 1992 and March 31, 1993,
18 between December 1, 1993 and March 31, 1994, and between
19 December 1, 1994 and March 31, 1995, a demonstration snowmobile
20 trail located on a state owned railroad right-of-way operated by
21 the Detroit and Mackinaw railway company, or on a railroad
22 right-of-way owned by the Detroit and Mackinaw railway company
23 connecting to a state owned railroad right-of-way operated by the
24 Detroit and Mackinaw railway company, between Gaylord and
25 Frederic, which also meets the conditions imposed in
26 subsections (2) and (3).

1 (2) The demonstration snowmobile trail shall be constructed,
2 operated, and maintained by a person other than the person owning
3 the railroad right-of-way and the person operating the railroad
4 pursuant to terms of a lease agreement under which the person
5 operating the trail agrees to do all of the following:

6 (a) Indemnify the person owning the railroad right-of-way
7 and the person operating the railroad against any claims associ-
8 ated with or arising from the construction, maintenance, opera-
9 tion, and use of the trail.

10 (b) Provide liability insurance in the amount of
11 \$2,000,000.00 naming the person owning the railroad right-of-way
12 and the person operating the railroad as named insureds.

13 (c) Meet any other obligations or provisions considered
14 appropriate by the person owning the railroad right-of-way
15 including, but not limited to, the payment of rent that the
16 person owning the railroad right-of-way or the person operating
17 the railroad is authorized to charge under this ~~act~~ PART and
18 the meeting of all construction, operating, and maintenance con-
19 ditions imposed by the person owning the railroad right-of-way
20 and the person operating the railroad regarding the demonstration
21 snowmobile trail project.

22 (3) The demonstration snowmobile trail shall be clearly
23 demarcated by fencing and signing and shall occupy the outer edge
24 of the railroad right-of-way, as far from the edge of the rail-
25 road tracks as possible, but in any case not closer than 20 feet
26 from the edge of the railroad tracks unless topography or other
27 natural or manmade features require the trail to lie within 20

1 feet of the edge of those railroad tracks. The design of the
2 trail, including the location of fencing and signing, shall be
3 included upon plan sheets by the person constructing, operating,
4 and maintaining the trail, and shall be approved in writing by
5 the person owning the right-of-way and the person operating the
6 railroad. Signing shall conform to specifications issued by the
7 department ~~of natural resources~~ to its snowmobile trail opera-
8 tor grantees.

9 (4) The state transportation department, in cooperation with
10 the Detroit and Mackinaw railway company and the person operating
11 the demonstration snowmobile trail, shall conduct a study each
12 year during development, construction, and operation of the trail
13 to evaluate the demonstration snowmobile trail project, and to
14 examine the feasibility and desirability of broadening statutory
15 authority to establish snowmobile trails on functional railroad
16 rights-of-way in Michigan. The findings of each study shall be
17 summarized in a report to the legislature to be submitted not
18 later than September 1 of 1993, 1994, and 1995.

19 (5) Notwithstanding section ~~11(c) and~~ 82101, for purposes
20 of this section, "operate" means to cause to function, run, or
21 manage.

22 (6) A person shall not alter, deface, damage, or remove a
23 snowmobile trail sign or control device.

24 Sec. ~~15a~~ 82127. (1) A person shall not operate a snowmo-
25 bile in this state if either of the following applies:

26 (a) The person is under the influence of intoxicating liquor
27 or a controlled substance, or both.

1 (b) The person has a blood alcohol content of 0.10% or more
2 by weight of alcohol.

3 (2) The owner of a snowmobile or a person in charge or in
4 control of a snowmobile shall not authorize or knowingly permit
5 the snowmobile to be driven or operated by a person who is under
6 the influence of intoxicating liquor or a controlled substance,
7 or both, or who has a blood alcohol content of 0.10% or more by
8 weight of alcohol.

9 (3) A person shall not operate a snowmobile when, due to the
10 consumption of an intoxicating liquor or a controlled substance,
11 or both, the person's ability to operate the snowmobile is visi-
12 bly impaired. If a person is charged with violating subsection
13 (1), a finding of guilty under this subsection may be rendered.

14 (4) A person who operates a snowmobile under the influence
15 of intoxicating liquor or a controlled substance, or both, or
16 with a blood alcohol content of 0.10% or more by weight of alco-
17 hol, and by the operation of that snowmobile causes the death of
18 another person is guilty of a felony punishable by imprisonment
19 for not more than 15 years, or a fine of not less than \$2,500.00
20 or more than \$10,000.00, or both.

21 (5) A person who operates a snowmobile under the influence
22 of intoxicating liquor or a controlled substance, or both, or
23 with a blood alcohol content of 0.10% or more by weight of alco-
24 hol, and by the operation of that snowmobile causes a long-term
25 incapacitating injury to another person is guilty of a felony
26 punishable by imprisonment for not more than 5 years, or a fine
27 of not less than \$1,000.00 or more than \$5,000.00, or both.

1 Sec. ~~+5b-~~ 82128. (1) If a person is convicted of violating
2 section ~~+5a(+)-~~ 82127(1), the following apply:

3 (a) Except as otherwise provided in subdivisions (b) and
4 (c), the person is guilty of a misdemeanor and may be punished by
5 1 or more of the following:

6 (i) Community service for not more than 45 days.

7 (ii) Imprisonment for not more than 90 days.

8 (iii) A fine of not less than \$100.00 or more than \$500.00.

9 (b) If the violation occurs within 7 years of a prior con-
10 viction, the person shall be sentenced to both a fine of not less
11 than \$200.00 or more than \$1,000.00 and either of the following:

12 (i) Community service for not less than 10 days or more than
13 90 days, and may be imprisoned for not more than 1 year.

14 (ii) Imprisonment for not less than 48 consecutive hours or
15 more than 1 year, and may be sentenced to community service for
16 not more than 90 days.

17 (c) If the violation occurs within 10 years of 2 or more
18 prior convictions, the person is guilty of a felony and shall be
19 sentenced to imprisonment for not less than 1 year or more than 5
20 years, or a fine of not less than \$500.00 or more than \$5,000.00,
21 or both.

22 (2) A term of imprisonment imposed under subsection
23 (1)(b)(ii) shall not be suspended.

24 (3) A person sentenced to perform service to the community
25 under this section shall not receive compensation and shall reim-
26 burse the state or appropriate local unit of government for the
27 cost of supervision incurred by the state or local unit of

1 government as a result of the person's activities in that service
2 if ordered by the court.

3 (4) In addition to the sanctions prescribed under
4 subsection (1) and section ~~+5a(4)~~ 82127(4) and (5), the court
5 may, pursuant to the code of criminal procedure, Act No. 175 of
6 the Public Acts of 1927, being sections 760.1 to 776.21 of the
7 Michigan Compiled Laws, order the person to pay the costs of the
8 prosecution. The court shall also impose sanctions under section
9 ~~-26-~~ 82142.

10 (5) A person who is convicted of violating section ~~+5a(2)~~
11 82127(2) is guilty of a misdemeanor, punishable by imprisonment
12 for not more than 90 days, or a fine of not less than \$100.00 or
13 more than \$500.00, or both.

14 (6) As used in this section, "prior conviction" means a con-
15 viction for a violation of section ~~+5a(1)~~ 82127(1), (4), or
16 (5), FORMER SECTION 15A(1), (4), OR (5) OF ACT NO. 74 OF THE
17 PUBLIC ACTS OF 1968, or former section 15a, a local ordinance
18 substantially corresponding to section ~~+5a(1)~~ 82127(1) or
19 former section 15a, or a law of another state substantially cor-
20 responding to section ~~+5a(1)~~ 82127(1), (4), or (5) or former
21 section 15a.

22 Sec. ~~+5e-~~ 82129. (1) If a person is convicted of violating
23 section ~~+5a(3)~~ 82127(3), the following apply:

24 (a) Except as otherwise provided in subdivisions (b) and
25 (c), the person is guilty of a misdemeanor punishable by 1 or
26 more of the following:

1 (i) Community service for not more than 45 days.

2 (ii) Imprisonment for not more than 90 days.

3 (iii) A fine of not more than \$300.00.

4 (b) If the violation occurs within 7 years of 1 prior con-
5 viction, the person shall be sentenced to both a fine of not less
6 than \$200.00 or more than \$1,000.00, and either of the
7 following:

8 (i) Community service for not less than 10 days or more than
9 90 days, and may be sentenced to imprisonment for not more than 1
10 year.

11 (ii) Imprisonment for not more than 1 year, and may be sen-
12 tenced to community service for not more than 90 days.

13 (c) If the violation occurs within 10 years of 2 or more
14 prior convictions, the person shall be sentenced to both a fine
15 of not less than \$200.00 or more than \$1,000.00, and either of
16 the following:

17 (i) Community service for a period of not less than 10 days
18 or more than 90 days, and may be sentenced to imprisonment for
19 not more than 1 year.

20 (ii) Imprisonment for not more than 1 year, and may be sen-
21 tenced to community service for not more than 90 days.

22 (2) In addition to the sanctions prescribed in subsection
23 (1), the court may, pursuant to the code of criminal procedure,
24 Act No. 175 of the Public Acts of 1927, being sections 760.1 to
25 776.21 of the Michigan Compiled Laws, order the person to pay the
26 costs of the prosecution. The court shall also impose sanctions
27 under section ~~26~~ 82142.

1 (3) A person sentenced to perform service to the community
 2 under this section shall not receive compensation ~~—~~ and shall
 3 reimburse the state or appropriate local unit of government for
 4 the cost of supervision incurred by the state or local unit of
 5 government as a result of the person's activities in that service
 6 as ordered by the court.

7 (4) As used in this section, "prior conviction" means a con-
 8 viction for a violation of section ~~+5a(+)~~ 82127(1), (3), (4),
 9 or (5), SECTION 15A(1), (3), (4), OR (5) OF ACT NO. 74 OF THE
 10 PUBLIC ACTS OF 1968, or former section 15a, a local ordinance
 11 substantially corresponding to section ~~+5a(+)~~ 82127(1) or (3)
 12 or former section 15a, or a law of another state substantially
 13 corresponding to section ~~+5a(+)~~ 82127(1), (3), (4), or (5) or
 14 former section 15a.

15 Sec. ~~+5d~~ 82130. (1) If the prosecuting attorney intends
 16 to seek an enhanced sentence under section ~~+5b~~ 82128 or ~~+5c~~
 17 82129 based upon the defendant having 1 or more prior convic-
 18 tions, the prosecuting attorney shall include on the complaint
 19 and information filed in district court, circuit court,
 20 recorder's court, municipal court, or probate court a statement
 21 listing the defendant's prior convictions.

22 (2) A prior conviction shall be established at sentencing by
 23 1 or more of the following:

24 (a) An abstract of conviction.

25 (b) An admission by the defendant.

26 (3) A person who is convicted of an attempted violation of
 27 section ~~+5a(+)~~ 82127(1) or (3) or a local ordinance

1 substantially corresponding to section ~~+5a(+)~~ 82127(1) or (3)
2 shall be punished as if the offense had been completed.

3 (4) When issuing an order under this ~~act~~ PART, the secre-
4 tary of state and the court shall treat a conviction of an
5 attempted violation of section ~~+5a(+)~~ 82127(1) or (3), FORMER
6 SECTION 15A(1) OR (3) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, a
7 local ordinance substantially corresponding to section ~~+5a(+)~~
8 82127(1) or (3), or a law of another state substantially corre-
9 sponding to section ~~+5a(+)~~ 82127(1) or (3) the same as if the
10 offense had been completed.

11 Sec. ~~+5e~~ 82131. (1) A person shall not operate a snowmo-
12 bile without displaying a lighted headlight and a lighted
13 taillight.

14 (2) This section does not apply to a snowmobile of a model
15 year 25 years old or older.

16 Sec. ~~+6~~ 82132. The operator of a snowmobile involved in
17 an accident resulting in injuries to or THE death of any person
18 ~~—~~ or property damage in an estimated amount of \$100.00 or more
19 shall immediately by the quickest means of communication notify a
20 state police officer or officers, ~~or~~ the sheriff's office of
21 the county in which the accident occurred, or ~~to~~ the office of
22 the police department of the ~~municipality~~ LOCAL UNIT OF
23 GOVERNMENT in which the accident occurred. The police agency
24 receiving the notice shall complete a report of the accident on
25 forms prescribed by the director of the department of state
26 police and forward the report to the department of state police
27 within 14 days after the date of the accident. The department of

1 state police shall forward a copy of all snowmobile accident
2 reports to the department ~~of natural resources~~ within 14 days
3 after receipt of the accident report.

4 Sec. ~~17~~ 82133. ~~Any~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
5 PART, A person who violates ~~the provisions of this act~~ PART
6 is guilty of a misdemeanor.

7 Sec. ~~17a~~ 82134. (1) A peace or police officer may issue
8 appearance tickets for violations of this ~~act~~ PART pursuant to
9 sections 9a to 9e of chapter 4 of THE CODE OF CRIMINAL PROCEDURE,
10 Act No. 175 of the Public Acts of 1927, ~~as added,~~ being sec-
11 tions 764.9a to 764.9e of the MICHIGAN Compiled Laws. ~~of 1948.~~

12 (2) In a proceeding for a violation of this ~~act~~ PART
13 involving prohibited operation or conduct, the registration
14 number displayed on a snowmobile constitutes prima facie evidence
15 that the owner of the snowmobile was the person operating the
16 snowmobile at the time of the offense.

17 Sec. ~~17b~~ 82135. An operator of a snowmobile who is given
18 by hand, voice, emergency light, or siren a visual or audible
19 signal by a peace, police, or conservation officer ~~—~~ acting in
20 the lawful performance of his OR HER duty, directing the operator
21 to bring his OR HER snowmobile to a stop, and who ~~wilfully~~
22 WILLFULLY fails to obey the direction by increasing his OR HER
23 speed ~~—~~ OR extinguishing his OR HER lights, or WHO otherwise
24 attempts to flee or elude the officer, is guilty of a
25 misdemeanor. The officer giving the signal shall be in uniform.
26 A vehicle or snowmobile which is used by an officer at night for

1 purposes of enforcing this ~~act~~ PART shall be identified as an
2 official law enforcement vehicle or snowmobile.

3 ~~Sec. 18. This act shall take effect on September 1, 1968.~~

4 Sec. ~~19~~ 82136. (1) A peace officer, without a warrant,
5 may arrest a person if the peace officer has reasonable cause to
6 believe that the person was, at the time of an accident, the
7 operator of a snowmobile involved in the accident in this state
8 while in violation of section ~~15a(1)~~ 82127(1), (3), (4), or (5)
9 or a local ordinance substantially corresponding to section
10 ~~15a(1)~~ 82127(1) or (3).

11 (2) A peace officer who has reasonable cause to believe that
12 a person was operating a snowmobile and that, by the consumption
13 of intoxicating liquor, the person may have affected his or her
14 ability to operate a snowmobile ~~—~~ may require the person to
15 submit to a preliminary chemical breath analysis. The following
16 ~~provisions~~ apply with respect to a preliminary chemical breath
17 analysis:

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

20 (b) The results of a preliminary chemical breath analysis
21 are admissible in a criminal prosecution for a crime enumerated
22 in section ~~27(1)~~ 82143(1) or in an administrative hearing
23 solely to assist the court or hearing officer in determining a
24 challenge to the validity of an arrest. This subdivision does
25 not limit the introduction of other competent evidence offered to
26 establish the validity of an arrest.

1 (c) A person who submits to a preliminary chemical breath
2 analysis remains subject to the requirements of sections ~~27-~~
3 82143 to ~~30-~~ 82146 for the purposes of chemical tests described
4 in those sections.

5 (d) A person who refuses to submit to a preliminary chemical
6 breath analysis upon a lawful request by a peace officer is
7 guilty of a misdemeanor.

8 Sec. ~~20-~~ 82137. (1) The following ~~provisions~~ apply with
9 respect to a chemical test and analysis of a person's blood,
10 urine, or breath, other than a preliminary chemical breath
11 analysis:

12 (a) The amount of alcohol or presence of a controlled sub-
13 stance, or both, in an operator's blood at the time alleged as
14 shown by chemical analysis of the person's blood, urine, or
15 breath is admissible into evidence in any civil or criminal
16 proceeding.

17 (b) A person arrested for a crime described in
18 section ~~27(1)-~~ 82143(1) shall be advised of all of the
19 following:

20 (i) That if the person takes a chemical test of his or her
21 blood, urine, or breath administered at the request of a peace
22 officer, the person has the right to demand that someone of the
23 person's own choosing administer 1 of the chemical tests; that
24 the results of the test are admissible in a judicial proceeding
25 as provided under this ~~act~~ PART and shall be considered with
26 other competent evidence in determining the innocence or guilt of
27 the defendant; and that the person is responsible for obtaining a

1 chemical analysis of a test sample obtained pursuant to the
2 person's own request.

3 (ii) That if the person refuses the request of a peace offi-
4 cer to take a test described in subparagraph (i), the test shall
5 not be given without a court order, but the peace officer may
6 seek to obtain such a court order.

7 (iii) That the person's refusal of the request of a peace
8 officer to take a test described in subparagraph (i) will result
9 in issuance of an order that the person not operate a
10 snowmobile.

11 (2) A sample or specimen of urine or breath shall be taken
12 and collected in a reasonable manner. Only a licensed physician,
13 or a licensed nurse or medical technician under the direction of
14 a licensed physician, qualified to withdraw blood and acting in a
15 medical environment, may withdraw blood at the request of a peace
16 officer for the purpose of determining the amount of alcohol or
17 presence of a controlled substance, or both, in a person's blood,
18 as provided in this subsection. A qualified person who withdraws
19 or analyzes blood, or assists in the withdrawal or analysis, in
20 accordance with this ~~act~~ PART is not liable for a crime or
21 civil damages predicated on the act of withdrawing or analyzing
22 blood and related procedures unless the withdrawal or analysis is
23 performed in a negligent manner.

24 (3) A rule relating to a chemical test for alcohol or a con-
25 trolled substance promulgated under the Michigan vehicle code,
26 Act No. 300 of the Public Acts of 1949, being sections 257.1 to

1 257.923 of the Michigan Compiled Laws, applies to a chemical test
2 administered under this ~~act~~ PART.

3 Sec. ~~21~~ 82138. (1) A chemical test described in section
4 ~~20~~ 82137 shall be administered at the request of a peace offi-
5 cer having reasonable grounds to believe the person has committed
6 a crime described in section ~~27(1)~~ 82143(1). A person who
7 takes a chemical test administered at the request of a peace
8 officer, as provided in section ~~20~~ 82137, shall be given a rea-
9 sonable opportunity to have someone of the person's own choosing
10 administer 1 of the chemical tests described in section ~~20~~
11 82137 within a reasonable time after the person's detention, and
12 the results of the test are admissible and shall be considered
13 with other competent evidence in determining the innocence or
14 guilt of the defendant. If the person charged is administered a
15 chemical test by someone of the person's own choosing, the person
16 charged is responsible for obtaining a chemical analysis of the
17 test sample.

18 (2) If, after an accident, the operator of a snowmobile
19 involved in an accident is transported to a medical facility and
20 a sample of the operator's blood is withdrawn at that time for
21 the purpose of medical treatment, the results of a chemical anal-
22 ysis of that sample ~~is~~ ARE admissible in any civil or criminal
23 proceeding to show the amount of alcohol or presence of a con-
24 trolled substance, or both, in the person's blood at the time
25 alleged, regardless of whether the person had been offered or had
26 refused a chemical test. The medical facility or person
27 performing the chemical analysis shall disclose the results of

1 the analysis to a prosecuting attorney who requests the results
2 for use in a criminal prosecution as provided in this
3 subsection. A medical facility or person disclosing information
4 in compliance with this subsection is not civilly or criminally
5 liable for making the disclosure.

6 (3) If, after an accident, the operator of a snowmobile
7 involved in an accident is deceased, a sample of the decedent's
8 blood shall be withdrawn in a manner directed by the medical
9 examiner for the purpose of determining the amount of alcohol or
10 the presence of a controlled substance, or both, in the
11 decedent's blood. The medical examiner shall give the results of
12 the chemical analysis of the sample to the law enforcement agency
13 investigating the accident, and that agency shall forward the
14 results to the department of state police.

15 Sec. ~~22~~ 82139. (1) The provisions of sections ~~20~~ 82137
16 and ~~21~~ 82138 relating to chemical testing do not limit the
17 introduction of any other competent evidence bearing upon the
18 question of whether a person was impaired by, or under the influ-
19 ence of, intoxicating liquor or a controlled substance, or both,
20 or whether the person had a blood alcohol content of 0.10% or
21 more by weight of alcohol.

22 (2) If a chemical test described in sections ~~20~~ 82137 and
23 ~~21~~ 82138 is administered, the results of the test shall be made
24 available to the person charged or the person's attorney upon
25 written request to the prosecution, with a copy of the request
26 filed with the court. The prosecution shall furnish the results
27 at least 2 days before the day of the trial. The results of the

1 test shall be offered as evidence by the prosecution in that
2 trial. Failure to fully comply with the request bars the admis-
3 sion of the results into evidence by the prosecution.

4 Sec. ~~23~~ 82140. (1) Except in a prosecution relating
5 solely to a violation of section ~~+5a(1)(b)~~ 82127(1)(B), the
6 amount of alcohol in the driver's blood at the time alleged as
7 shown by chemical analysis of the person's blood, urine, or
8 breath gives rise to the following presumptions:

9 (a) If there was at the time 0.07% or less by weight of
10 alcohol in the defendant's blood, it shall be presumed that the
11 defendant's ability to operate a snowmobile was not impaired due
12 to the consumption of intoxicating liquor and that the defendant
13 was not under the influence of intoxicating liquor.

14 (b) If there was at the time in excess of 0.07% but less
15 than 0.10% by weight of alcohol in the defendant's blood, it
16 shall be presumed that the defendant's ability to operate a snow-
17 mobile was impaired within the provisions of section ~~+5a(3)~~
18 82127(3) due to the consumption of intoxicating liquor.

19 (c) If there was at the time 0.10% or more by weight of
20 alcohol in the defendant's blood, it shall be presumed that the
21 defendant was under the influence of intoxicating liquor.

22 (2) A person's refusal to submit to a chemical test as pro-
23 vided in sections ~~20~~ 82137 and ~~21~~ 82138 is admissible in a
24 criminal prosecution for a crime described in section ~~27(1)~~
25 82143(1) only for the purpose of showing that a test was offered
26 to the defendant, but not as evidence in determining innocence or

1 guilt of the defendant. The jury shall be instructed
2 accordingly.

3 Sec. ~~-25-~~ 82141. (1) Before accepting a plea of guilty or
4 nolo contendere under section ~~+5a-~~ 82127 or a local ordinance
5 substantially corresponding to section ~~+5a(+)-~~ 82127(1), (2), or
6 (3), the court shall advise the accused of the maximum possible
7 term of imprisonment and the maximum possible fine that may be
8 imposed for the violation.

9 (2) Before imposing sentence, other than court-ordered oper-
10 ating sanctions, for a violation of section ~~+5a(+)-~~ 82127(1),
11 (3), (4), or (5) or a local ordinance substantially corresponding
12 to section ~~+5a(+)-~~ 82127(1) or (3), the court shall order the
13 person to undergo screening and assessment by a person or agency
14 designated by the office of substance abuse services to determine
15 whether the person is likely to benefit from rehabilitative serv-
16 ices, including alcohol or drug education or treatment programs.
17 As part of the sentence, the court may order the person to par-
18 ticipate in and successfully complete 1 or more appropriate reha-
19 bilitative programs. The person shall pay for the costs of the
20 screening, assessment, and rehabilitative services.

21 Sec. ~~-26-~~ 82142. (1) Immediately upon acceptance by the
22 court of a plea of guilty or nolo contendere or upon entry of a
23 verdict of guilty for a violation of section ~~+5a(+)-~~ 82127(1),
24 (3), (4), or (5) or a local ordinance substantially corresponding
25 to section ~~+5a(+)-~~ 82127(1) or (3), whether or not the person is
26 eligible to be sentenced as a multiple offender, the court shall
27 consider all prior convictions established under section ~~+5d-~~

1 82130, except those convictions that, upon motion by the
2 defendant, are determined by the court to be constitutionally
3 invalid, and shall impose the following sanctions:

4 (a) For a conviction under section ~~+5a(4)~~ 82127(4) or (5),
5 the court shall order, without an expiration date, that the
6 person not operate a snowmobile.

7 (b) For a conviction under section ~~+5a(1)~~ 82127(1) or a
8 local ordinance substantially corresponding to section ~~+5a(1)~~
9 82127(1):

10 (i) If the court finds that the person has no prior convic-
11 tions within 7 years for a violation of section ~~+5a(1)~~
12 82127(1), (3), (4), or (5), FORMER SECTION 15A(1), (3), (4), OR
13 (5) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, or former
14 section 15a or another snowmobile substance abuse offense or that
15 the person has 1 prior conviction within 7 years for a violation
16 of section ~~+5a(3)~~ 82127(3), FORMER SECTION 15A(3) OF ACT NO. 74
17 OF THE PUBLIC ACTS OF 1968, a local ordinance substantially cor-
18 responding to section ~~+5a(3)~~ 82127(3), or a law of another
19 state substantially corresponding to section ~~+5a(3)~~ 82127(3),
20 the court shall order that the person not operate a snowmobile
21 for not less than 6 months or more than 2 years and shall require
22 that the person take and successfully complete the snowmobile
23 safety education and training program before operating a
24 snowmobile.

25 (ii) If the court finds that the person has 1 or more prior
26 convictions within 7 years for a violation of section ~~+5a(1)~~
27 82127(1), (4), or (5), FORMER SECTION 15A(1), (4), OR (5) OF ACT

1 NO. 74 OF THE PUBLIC ACTS OF 1968, or former section 15a, a local
2 ordinance substantially corresponding to section ~~+5a(+)~~
3 82127(1) or former section 15a, or a law of another state sub-
4 stantially corresponding to section ~~+5a(+)~~ 82127(1), (4), or
5 (5) or former section 15a, or that the person has 2 or more prior
6 convictions within 10 years for a violation of section ~~+5a(+)~~
7 82127(1), (3), (4), or (5), FORMER SECTION 15A(1), (3), (4), OR
8 (5) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, or former
9 section 15a, or another snowmobile substance abuse offense, the
10 court shall order, without an expiration date, that the person
11 not operate a snowmobile.

12 (c) For a conviction under section ~~+5a(3)~~ 82127(3) or a
13 local ordinance substantially corresponding to section ~~+5a(3)~~
14 82127(3):

15 (i) If the court finds that the convicted person has no
16 prior conviction within 7 years for a violation of section
17 ~~+5a(+)~~ 82127(1), (3), (4), or (5), FORMER SECTION 15A(1), (3),
18 (4), OR (5) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, former
19 section 15a, or another snowmobile substance abuse offense, the
20 court shall order that the person not operate a snowmobile for
21 not less than 90 days or more than 1 year.

22 (ii) If the court finds that the person has 1 prior convic-
23 tion within 7 years for a violation of section ~~+5a(+)~~ 82127(1),
24 (3), (4), or (5), FORMER SECTION 15A(1), (3), (4), OR (5) OF ACT
25 NO. 74 OF THE PUBLIC ACTS OF 1968, former section 15a, or another
26 snowmobile substance abuse offense, the court shall order that

1 the person not operate a snowmobile for not less than 6 months or
2 more than 2 years.

3 (iii) If the court finds that the person has 2 or more prior
4 convictions within 10 years for a violation of section ~~+5a(+)~~
5 82127(1), (3), (4), or (5), FORMER SECTION 15A(1), (3), (4), OR
6 (5) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, former section 15a,
7 or another snowmobile substance abuse offense, the court shall
8 order, without an expiration date, the person not to operate a
9 snowmobile.

10 (2) As used in this section, "another snowmobile substance
11 abuse offense" means a local ordinance substantially correspond-
12 ing to section ~~+5a(+)~~ 82127(1) or (3) or a law of another state
13 substantially corresponding to section ~~+5a(+)~~ 82127(1), (3),
14 (4), or (5).

15 Sec. ~~-27-~~ 82143. (1) A person who operates a snowmobile is
16 considered to have given consent to chemical tests of his or her
17 blood, breath, or urine for the purpose of determining the amount
18 of alcohol or presence of a controlled substance, or both, in his
19 or her blood in all of the following circumstances:

20 (a) The person is arrested for a violation of section
21 ~~+5a(+)~~ 82127(1), (3), (4), or (5) or a local ordinance substan-
22 tially corresponding to section ~~+5a(+)~~ 82127(1) or (3).

23 (b) The person is arrested for negligent homicide, man-
24 slaughter, or murder resulting from the operation of a snowmo-
25 bile, and the peace officer had reasonable grounds to believe
26 that the person was operating the snowmobile while impaired by,
27 or under the influence of, intoxicating liquor or a controlled

1 substance, or both, or while having a blood alcohol content of
2 0.10% or more by weight of alcohol.

3 (2) A person who is afflicted with hemophilia, diabetes, or
4 a condition requiring the use of an anticoagulant under the
5 direction of a physician shall not be considered to have given
6 consent to the withdrawal of blood.

7 (3) A chemical test described in subsection (1) shall be
8 administered as provided in sections ~~20~~ 82137 and ~~21~~ 82138.

9 Sec. ~~28~~ 82144. (1) If a person refuses the request of a
10 peace officer to submit to a chemical test offered pursuant to
11 section ~~20~~ 82137 or ~~21~~ 82138, a test shall not be given with-
12 out a court order, but the officer may seek to obtain the court
13 order.

14 (2) If a person refuses a chemical test offered pursuant to
15 section ~~20~~ 82137 or ~~21~~ 82138, or submits to the chemical test
16 and the test reveals a blood alcohol content of 0.10% or more by
17 weight of alcohol, the peace officer who requested the person to
18 submit to the test shall immediately forward a written report to
19 the secretary of state. The report shall state that the officer
20 had reasonable grounds to believe that the person had committed a
21 crime described in section ~~27(1)~~ 82143(1), and either that the
22 person has refused to submit to the test upon the request of the
23 peace officer and has been advised of the consequences of the
24 refusal or that the test revealed a blood alcohol content of
25 0.10% or more by weight of alcohol. The form of the report shall
26 be prescribed and furnished by the secretary of state.

1 Sec. ~~-29-~~ 82145. (1) If a person refuses to submit to a
2 chemical test pursuant to section ~~-28-~~ 82144, the peace officer
3 shall immediately notify the person in writing that within 14
4 days of the date of the notice the person may request a hearing
5 as provided in section ~~-30-~~ 82146. The form of the notice shall
6 be prescribed and furnished by the secretary of state.

7 (2) The notice shall specifically state that failure to
8 request a hearing within 14 days will result in issuance of an
9 order that the person not operate a snowmobile. The notice shall
10 also state that there is not a requirement that the person retain
11 counsel for the hearing, though counsel is permitted to represent
12 the person at the hearing.

13 Sec. ~~-30-~~ 82146. (1) If a person who refuses to submit to a
14 chemical test pursuant to section ~~-28-~~ 82144 does not request a
15 hearing within 14 days of the date of notice pursuant to section
16 ~~-29-~~ 82145, the secretary of state shall issue an order that the
17 person not operate a snowmobile for 6 months or, for a second or
18 subsequent refusal within 7 years, for 1 year.

19 (2) If a hearing is requested, the secretary of state shall
20 hold the hearing in the same manner and under the same conditions
21 as provided in section 322 of the Michigan vehicle code, Act
22 No. 300 of the Public Acts of 1949, being section 257.322 of the
23 Michigan Compiled Laws. A person shall not order a hearing offi-
24 cer to make a particular finding on any issue enumerated under
25 subdivisions (a) to (d). Not less than 5 days' notice of the
26 hearing shall be mailed to the person requesting the hearing, to
27 the peace officer who filed the report under section ~~-28-~~ 82144,

1 and, if the prosecuting attorney requests receipt of the notice,
2 to the prosecuting attorney of the county where the arrest was
3 made. The hearing officer may administer oaths, issue subpoenas
4 for the attendance of necessary witnesses, and grant a reasonable
5 request for an adjournment. Not more than 1 adjournment shall be
6 granted to a party, and the length of an adjournment shall not
7 exceed 14 days. A hearing under this subsection shall be sched-
8 uled to be held within 45 days after the date of arrest and,
9 except for delay attributable to the unavailability of the
10 defendant, a witness, or material evidence or to an interlocutory
11 appeal or exceptional circumstances, but not for delay attribut-
12 able to docket congestion, shall be finally adjudicated within
13 77 days after the date of arrest. The hearing shall cover only
14 the following issues:

15 (a) Whether the peace officer had reasonable grounds to
16 believe that the person had committed a crime described in sec-
17 tion ~~27(1)~~ 82143(1).

18 (b) Whether the person was placed under arrest for a crime
19 described in section ~~27(1)~~ 82143(1).

20 (c) If the person refused to submit to the test upon the
21 request of the officer, whether the refusal was reasonable.

22 (d) Whether the person was advised of his or her rights
23 under section ~~20~~ 82137.

24 (3) The hearing officer shall make a record of proceedings
25 held pursuant to subsection (2). The record shall be prepared
26 and transcribed in accordance with section 86 of the
27 administrative procedures act of 1969, Act No. 306 of the Public

1 Acts of 1969, being section 24.286 of the Michigan Compiled
2 Laws. Upon notification of the filing of a petition for judicial
3 review pursuant to section ~~34~~ 82150 and not less than 10 days
4 before the matter is set for review, the hearing officer shall
5 transmit to the court in which the petition is filed the original
6 or a certified copy of the official record of the proceedings.
7 The parties to the proceedings for judicial review may stipulate
8 that the record be shortened. A party unreasonably refusing to
9 stipulate to a shortened record may be taxed by the court in
10 which the petition is filed for the additional costs. The court
11 may permit subsequent corrections to the record.

12 (4) After a hearing, if the person who requested the hearing
13 does not prevail, the secretary of state shall order that the
14 person not operate a snowmobile for 6 months or, for a second or
15 subsequent refusal within 7 years, for 1 year. The person may
16 file a petition in the circuit court of the county in which the
17 arrest was made to review the order as provided in section ~~34~~
18 82150. If after the hearing the person who requested the hearing
19 prevails, the peace officer who filed the report under
20 section ~~28~~ 82144 may, with the consent of the prosecuting
21 attorney, file a petition in the circuit court of the county in
22 which the arrest was made to review the determination of the
23 hearing officer as provided in section ~~34~~ 82150.

24 Sec. ~~31~~ 82147. (1) Notwithstanding a court order issued
25 under section ~~15a(1)~~ 82127(1), (3), (4), or (5), FORMER
26 SECTION 15A(1), (3), (4), OR (5) OF ACT NO. 74 OF THE PUBLIC ACTS
27 OF 1968, sections ~~24~~ 82141 to ~~26~~ 82142, or a local ordinance

1 substantially corresponding to section ~~+5a(1)~~ 82127(1) or (3),
2 or sections ~~-24-~~ 82141 to ~~-26-~~ 82142, if a court has not ordered
3 a person not to operate a snowmobile as authorized by this ~~act~~
4 PART, the secretary of state shall issue an order that the person
5 not operate a snowmobile as follows:

6 (a) For not less than 90 days or more than 1 year, upon
7 receiving a record of the conviction of the person for a viola-
8 tion of section ~~+5a(3)~~ 82127(3), FORMER SECTION 15A(3) OF ACT
9 NO. 74 OF THE PUBLIC ACTS OF 1968, a local ordinance substan-
10 tially corresponding to section ~~+5a(3)~~ 82127(3), or a law of
11 another state substantially corresponding to section ~~+5a(3)~~
12 82127(3), if the person has no prior convictions within 7 years
13 for a violation of section ~~+5a(1)~~ 82127(1), (3), (4), or (5),
14 FORMER SECTION 15A(1), (3), (4), OR (5) OF ACT NO. 74 OF THE
15 PUBLIC ACTS OF 1968, or former section 15a, a local ordinance
16 substantially corresponding to section ~~+5a(1)~~ 82127(1) or (3)
17 or former section 15a, or a law of another state substantially
18 corresponding to section ~~+5a(1)~~ 82127(1), (3), (4), or (5) or
19 former section 15a.

20 (b) A violation of section 324, 413, or 414 of the Michigan
21 penal code, Act No. 328 of the Public Acts of 1931, being
22 sections 750.324, 750.413, and 750.414 of the Michigan Compiled
23 Laws; or a violation of section 1 of Act No. 214 of the Public
24 Acts of 1931, being section 752.191 of the Michigan Compiled
25 Laws.

26 (c) For not less than 6 months or more than 2 years, if the
27 person has the following convictions within a 7-year period,

1 whether under the law of this state, a local ordinance
2 substantially corresponding to a law of this state, or a law of
3 another state substantially corresponding to a law of this
4 state:

5 (i) One conviction under section ~~+5a(1)~~ 82127(1), FORMER
6 SECTION 15A(1) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, or
7 former section 15a.

8 (ii) Two convictions under section ~~+5a(3)~~ 82127(3), FORMER
9 SECTION 15A(3) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, or
10 former section 15a.

11 (iii) One conviction under section ~~+5a(1)~~ 82127(1) OR
12 FORMER SECTION 15A(1) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968
13 and 1 conviction under section ~~+5a(3)~~ 82127(3), FORMER
14 SECTION 15A(3) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, or
15 former section 15a.

16 (iv) One conviction under section ~~+5a(4)~~ 82127(4) or (5)
17 OR FORMER SECTION 15A(4) OR (5) OF ACT NO. 74 OF THE PUBLIC ACTS
18 OF 1968 followed by 1 conviction under section ~~+5a(3)~~ 82127(3)
19 OR FORMER SECTION 15A(3) OF ACT NO. 74 OF THE PUBLIC ACTS OF
20 1968.

21 (2) If the secretary of state receives records of more than
22 1 conviction or probate court disposition of a person resulting
23 from the same incident, a suspension shall be imposed only for
24 the violation to which the longest period of suspension applies
25 under this section.

26 Sec. ~~-32~~ 82148. (1) Upon receipt of the appropriate
27 records of conviction, the secretary of state shall issue an

1 order with no expiration date that the person not operate a
 2 snowmobile to a person having any of the following convictions,
 3 whether under a law of this state, a local ordinance substan-
 4 tially corresponding to a law of this state, or a law of another
 5 state substantially corresponding to a law of this state:

6 (a) Two convictions of a felony involving the use of a snow-
 7 mobile within 7 years.

8 (b) Any combination of 2 convictions within 7 years for 1 or
 9 more of the following:

10 (i) A violation of section ~~+5a(1)~~ 82127(1), FORMER
 11 SECTION 15A(1) OF ACT NO. 74 OF THE PUBLIC ACTS OF 1968, or
 12 former section 15a.

13 (ii) A violation of section ~~+5a(4)~~ 82127(4) or (5) OR
 14 FORMER SECTION 15A(4) OR (5) OF ACT NO. 74 OF THE PUBLIC ACTS OF
 15 1968.

16 (c) One conviction under section ~~+5a(4)~~ 82127(4) or (5) OR
 17 FORMER SECTION 15A(4) OR (5) OF ACT NO. 74 OF THE PUBLIC ACTS OF
 18 1968.

19 (d) Any combination of 3 convictions within 10 years for a
 20 violation of section ~~+5a(1)~~ 82127(1), (3), (4), or (5), FORMER
 21 SECTION 15A(1), (3), (4), OR (5) OF ACT NO. 74 OF THE PUBLIC ACTS
 22 OF 1968, or former section 15a.

23 (2) The secretary of state shall issue an order with no
 24 expiration date that a person not operate a snowmobile notwith-
 25 standing a court order issued under section ~~+5a~~ 82127, sections
 26 ~~-24~~ 82141 to ~~-26~~ 82142, or a local ordinance substantially
 27 corresponding to section ~~+5a~~ 82127 or sections ~~-24~~ 82141 to

1 ~~26~~ 82142. The secretary of state shall not terminate an
2 indefinite order issued under this ~~act~~ PART until both of the
3 following occur:

4 (a) The later of the following:

5 (i) The expiration of not less than 1 year after the order
6 was issued.

7 (ii) The expiration of not less than 5 years after the date
8 of a subsequent issuance of an indefinite order occurring within
9 7 years after the date of a prior order.

10 (b) The person meets the requirements of the department OF
11 STATE.

12 (3) Multiple convictions or probate court dispositions
13 resulting from the same incident shall be treated as a single
14 violation for purposes of issuance of an order under this
15 section.

16 (4) A person who is aggrieved by the issuance of an order by
17 the secretary of state under this section may request a hearing
18 with the secretary of state. The hearing shall be requested
19 within 14 days after issuance of an order under this section by
20 the secretary of state. If a hearing is requested, the secretary
21 of state shall hold the hearing in the same manner and under the
22 same conditions as provided in section 322 of the Michigan vehi-
23 cle code, Act No. 300 of the Public Acts of 1949, being
24 section 257.322 of the Michigan Compiled Laws.

25 (5) The hearing officer shall make a record of proceedings
26 held pursuant to subsection (2). The record shall be prepared
27 and transcribed in accordance with section 86 of the

1 administrative procedures act of 1969, Act No. 306 of the Public
2 Acts of 1969, being section 24.286 of the Michigan Compiled
3 Laws. Upon notification of the filing of a petition for judicial
4 review pursuant to section ~~34~~ 82150 and not less than 10 days
5 before the matter is set for review, the hearing officer shall
6 transmit to the court in which the petition is filed the original
7 or a certified copy of the official record of the proceedings.
8 The parties to the proceedings for judicial review may stipulate
9 that the record be shortened. A party unreasonably refusing to
10 stipulate to a shortened record may be taxed by the court in
11 which the petition is filed for the additional costs. The court
12 may permit subsequent corrections to the record.

13 (6) Judicial review of an administrative sanction under this
14 section is governed by the law in effect at the time the offense
15 was committed or attempted.

16 Sec. ~~33~~ 82149. (1) If a person is charged with, or con-
17 victed of, a violation of section ~~15a(1)~~ 82127(1), (2), (3),
18 (4), or (5), FORMER SECTION 15A(1), (2), (3), (4), OR (5) OF ACT
19 NO. 74 OF THE PUBLIC ACTS OF 1968, or a local ordinance substan-
20 tially corresponding to section ~~15a(1)~~ 82127(1), (2), or (3),
21 and the person fails to answer a citation or a notice to appear
22 in court, or for any matter pending, or fails to comply with an
23 order or judgment of the court, including, but not limited to,
24 paying all fines, costs, and crime victim's rights assessments,
25 the court shall immediately give notice by first-class mail sent
26 to the person's last known address that if the person fails to
27 appear within 7 days after the notice is issued or fails to

1 comply with the order or judgment of the court, including, but
2 not limited to, paying all fines, costs, and crime victim's
3 rights assessments, within 14 days after the notice is issued,
4 the secretary of state will issue an order with no expiration
5 date that the person not operate a snowmobile. If the person
6 fails to appear within the 7-day period or fails to comply with
7 the order or judgment of the court, including, but not limited
8 to, paying all fines, costs, and crime victim rights assessments,
9 within the 14-day period, the court shall immediately inform the
10 secretary of state who shall immediately issue the order and send
11 a copy to the person by personal service or first-class mail sent
12 to the person's last known address.

13 (2) An order imposed under subsection (1) remains in effect
14 until both of the following occur:

15 (a) The court informs the secretary of state that the person
16 has appeared before the court and that all matters relating to
17 the violation are resolved.

18 (b) The person has paid to the court a \$25.00 administrative
19 order processing fee.

20 Sec. ~~34~~ 82150. (1) A person who is aggrieved by a final
21 determination of the secretary of state under this ~~act~~ PART may
22 petition for a review of the determination in the circuit court
23 in the county where the person was arrested. The petition shall
24 be filed within 63 days after the determination is made except
25 that, for good cause shown, the court may allow the petition to
26 be filed within 182 days after the determination is made. As
27 provided in section ~~30~~ 82146, a peace officer who is aggrieved

1 by a determination of a hearing officer in favor of a person who
2 requested a hearing under section ~~30~~ 82146 may, with the con-
3 sent of the prosecuting attorney, petition for review of the
4 determination in the circuit court in the county where the arrest
5 was made. The petition shall be filed within 63 days after the
6 determination is made except that, for good cause shown, the
7 court may allow the petition to be filed within 182 days after
8 the determination is made.

9 (2) The circuit court shall enter an order setting the cause
10 for hearing for a day certain that is not more than 63 days after
11 the date of the order. The order, a copy of the petition, which
12 shall include the person's full name, current address, and birth
13 date, and all supporting affidavits shall be served on the secre-
14 tary of state's office in Lansing not less than 20 days before
15 the date set for the hearing. If the person is seeking a review
16 of the record prepared pursuant to section ~~30~~ 82146, the serv-
17 ice upon the secretary of state shall be made not less than 50
18 days before the date set for the hearing.

19 (3) Except as provided in subsections (4) and (6), the court
20 may take testimony and examine all the facts and circumstances
21 incident to the order that the person not operate a snowmobile.
22 The court may affirm, modify, or set aside the order. The order
23 of the court shall be duly entered, and the petitioner shall file
24 a certified copy of the order with the secretary of state's
25 office in Lansing within 7 days after entry of the order.

26 (4) In reviewing a determination under section ~~30~~ 82146,
27 the court shall confine its consideration to a review of the

1 record prepared pursuant to section ~~30~~ 82146 to determine
2 whether the hearing officer properly determined the issues enu-
3 merated in section ~~30~~ 82146.

4 (5) In reviewing a determination resulting in issuance of an
5 order under section ~~32(1)(b)~~ 82148(1)(B), (c), or (d), the
6 court shall confine its consideration to a review of the record
7 prepared pursuant to section ~~32~~ 82148. The court shall set
8 aside the determination of the secretary of state only if sub-
9 stantial rights of the petitioner have been prejudiced because
10 the determination is any of the following:

11 (a) In violation of the ~~Constitution~~ CONSTITUTION of the
12 United States, the state constitution of 1963, or a statute.

13 (b) In excess of the statutory authority or jurisdiction of
14 the secretary of state.

15 (c) Made upon unlawful procedure resulting in material prej-
16 udice to the petitioner.

17 (d) Not supported by competent, material, and substantial
18 evidence on the whole record.

19 (e) Arbitrary, capricious, or clearly an abuse or unwar-
20 ranted exercise of discretion.

21 (f) Affected by other substantial and material error of
22 law.

23 (6) This section does not apply to an order issued by the
24 secretary of state pursuant to a court order issued as part of
25 the sentence for a conviction under section ~~15a~~ 82127, sections
26 ~~24~~ 82141 to ~~26~~ 82142 or a local ordinance substantially
27 corresponding to section ~~15a(1)~~ 82127(1), (2), or (3).

1 Sec. ~~35~~ 82151. (1) Within 63 days after the
2 determination, a person who is aggrieved by a final determination
3 of the secretary of state under this ~~act~~ PART may petition the
4 circuit court for the county in which the conviction or determi-
5 nation resulting in issuance of the order that the person not
6 operate a snowmobile for an order staying the order. Except as
7 provided in subsection (2), the court may enter an ex parte order
8 staying the order subject to terms and conditions prescribed by
9 the court until the determination of an appeal to the secretary
10 of state or of an appeal or a review by the circuit court, or for
11 a lesser time that the court considers proper.

12 (2) The court shall not enter an ex parte order staying the
13 order if the order is based upon a claim of undue hardship.

14 Sec. ~~36~~ 82152. (1) A person who is ordered not to operate
15 a snowmobile and who has been notified of the order by personal
16 service or first-class mail shall not operate a snowmobile. A
17 person shall not knowingly permit a snowmobile owned by the
18 person to be operated by a person who is subject to such an
19 order. A person who violates this subsection is guilty of a mis-
20 demeanor punishable as follows:

21 (a) By imprisonment for not more than 90 days or by a fine
22 of not more than \$500.00, or both.

23 (b) For a second or subsequent violation punishable under
24 this subsection, by imprisonment for not more than 1 year or a
25 fine of not more than \$1,000.00, or both.

26 (2) Upon receiving a record of the conviction or probate
27 court disposition of a person upon a charge of unlawful operation

1 of a snowmobile while the person is subject to an order not to
2 operate a snowmobile, the secretary of state shall immediately
3 extend the length of the order for an additional like period.

4 (3) If the secretary of state receives records of more than
5 1 conviction or probate court disposition resulting from the same
6 incident, all of the convictions or probate court dispositions
7 shall be treated as a single violation for purposes of extending
8 the length of an order under subsection (2).

9 (4) If a person is convicted of violating subsection (1),
10 the court shall order cancellation of the certificate of regis-
11 tration for the snowmobile, unless the snowmobile was stolen or
12 permission to use the snowmobile was not knowingly given. The
13 secretary of state shall not issue a certificate of registration
14 for a snowmobile whose registration is canceled until after the
15 expiration of 90 days after the cancellation.

16 Sec. ~~37~~ 82153. (1) When a person is convicted under sec-
17 tion ~~36(1)~~ 82152(1), the snowmobile, if it is owned by that
18 person, shall be ordered impounded for not less than 30 or more
19 than 120 days from the date of judgment.

20 (2) An order of impoundment issued pursuant to subsection
21 (1) is valid throughout the state. Any peace officer may execute
22 the impoundment order. The order shall include the implied con-
23 sent of the owner of the snowmobile to the storage for insurance
24 coverage purposes.

25 (3) The owner of a snowmobile impounded pursuant to this
26 section is liable for expenses incurred in the removal and
27 storage of the snowmobile whether or not the snowmobile is

1 returned to him or her. The snowmobile shall be returned to the
2 owner only if the owner pays the expenses for removal and
3 storage. If redemption is not made or the snowmobile is not
4 returned as provided in this section within 30 days after the
5 time set in the impoundment order for return of the snowmobile,
6 the snowmobile shall be considered abandoned.

7 (4) Nothing in this section affects the rights of a condi-
8 tional vendor, chattel mortgagee, or lessor of a snowmobile reg-
9 istered in the name of another person as owner who becomes
10 subject to this ~~act~~ PART.

11 Sec. ~~38~~ 82154. A conviction based on a plea of nolo con-
12 tendere shall be treated in the same manner as a conviction based
13 on a plea of guilty or a finding of guilt for all purposes under
14 this ~~act~~ PART.

15 Sec. ~~39~~ 82155. Whether of definite or indefinite length,
16 an order not to operate a snowmobile does not expire until the
17 person subject to the order pays an administrative order process-
18 ing fee of \$125.00 to the secretary of state. The state trea-
19 surer shall deposit \$10.00 of the fee in the drunk driving pre-
20 vention equipment and training fund created under section 625h(1)
21 of the Michigan vehicle code, Act No. 300 of the Public Acts of
22 1949, being section 257.625h of the Michigan Compiled Laws, and
23 \$30.00 in the drunk driving casflow assistance fund created
24 under section 625h(5) of Act No. 300 of the Public Acts of 1949,
25 being section 257.625h of the Michigan Compiled Laws. The state
26 treasurer shall allocate the balance of the fee to the department

1 of state for the administration of orders issued under this ~~act~~
2 PART.

3 Sec. ~~40~~ 82156. In order to provide an individual, histor-
4 ical snowmobiling record, the secretary of state shall create and
5 maintain a central file that includes the name of each person who
6 is convicted of an offense, who fails to comply with an order or
7 judgment issued, or against whom an order is entered under this
8 ~~act~~ PART OR FORMER ACT NO. 74 OF THE PUBLIC ACTS OF 1968. A
9 certified copy of an order, record, or paper maintained in this
10 record is admissible in evidence in like manner as the original
11 and is prima facie proof of the facts stated in the original.

12 Sec. ~~41~~ 82157. (1) Each district judge and each clerk of
13 a court of record shall keep a full record of every case in which
14 a person is charged with or cited for a violation of this ~~act~~
15 PART or FORMER ACT NO. 74 OF THE PUBLIC ACTS OF 1968 OR of a
16 local ordinance corresponding to this ~~act~~ PART OR FORMER ACT
17 NO. 74 OF THE PUBLIC ACTS OF 1968 regulating the operation of
18 snowmobiles.

19 (2) Within 14 days after a conviction, forfeiture of bail,
20 entry of a civil infraction determination, or default judgment
21 upon a charge of, or citation for, violating this ~~act~~ PART or a
22 local ordinance corresponding to this ~~act~~ PART regulating the
23 operation of snowmobiles, except as provided in subsection (11),
24 the district judge or clerk of the court of record shall prepare
25 and immediately forward to the secretary of state an abstract of
26 the record of the court for the case. The abstract shall be
27 certified to be true and correct by signature, stamp, or

1 facsimile signature by the person required to prepare the
2 abstract. If a city or village department, bureau, or person is
3 authorized to accept a payment of money as a settlement for a
4 violation of a local ordinance corresponding to this ~~act~~ PART,
5 the city or village department, bureau, or person shall send a
6 full report of each case in which a person pays any amount of
7 money to the city or village department, bureau, or person to the
8 secretary of state upon a form prescribed by the secretary of
9 state.

10 (3) The abstract or report required under this section shall
11 be made upon a form furnished by the secretary of state and shall
12 include all of the following:

13 (a) The name, address, and date of birth of the person
14 charged or cited.

15 (b) The date and nature of the violation.

16 (c) The type of snowmobile operated at the time of the
17 violation.

18 (d) The date of the conviction, finding, forfeiture, judg-
19 ment, or determination.

20 (e) Whether bail was forfeited.

21 (f) Any order issued by the court pursuant to this ~~act~~
22 PART.

23 (g) Other information considered necessary to the secretary
24 of state.

25 (4) As used in subsections (5) to (7), "felony in which a
26 snowmobile was used" means a felony during the commission of
27 which the person operated a snowmobile and while operating the

1 snowmobile presented real or potential harm to persons or
2 property and 1 or more of the following circumstances existed:

3 (a) The snowmobile was used as an instrument of the felony.

4 (b) The snowmobile was used to transport a victim of the
5 felony.

6 (c) The snowmobile was used to flee the scene of the
7 felony.

8 (d) The snowmobile was necessary for the commission of the
9 felony.

10 (5) If a person is charged with a felony in which a snowmo-
11 bile was used, the prosecuting attorney shall include the follow-
12 ing statement on the complaint and information filed in district
13 or circuit court: "You are charged with the commission of a
14 felony in which a snowmobile was used. If you are convicted and
15 the judge finds that the conviction is for a felony in which a
16 snowmobile was used, as defined in section ~~41~~ 82157 of ~~Act~~
17 ~~No. 74 of the Public Acts of 1968, being section 257.1541 of the~~
18 ~~Michigan Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL
19 PROTECTION ACT, the secretary of state will order you not to
20 operate a snowmobile in this state."

21 (6) If a child is accused of an act the nature of which con-
22 stitutes a felony in which a snowmobile was used, the prosecuting
23 attorney or juvenile court shall include the following statement
24 on the petition filed in the probate court: "You are accused of
25 an act the nature of which constitutes a felony in which a snow-
26 mobile was used. If the accusation is found to be true and the
27 judge or referee finds that the nature of the act constitutes a

1 felony in which a snowmobile was used, as defined in section ~~4~~
2 82157 of ~~Act No. 74 of the Public Acts of 1968, being~~
3 ~~section 257.1541 of the Michigan Compiled Laws~~ THE NATURAL
4 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, the secretary of
5 state will order you not to operate a snowmobile in this
6 state.".

7 (7) If the judge or juvenile court referee determines as
8 part of the sentence or disposition that the felony for which the
9 defendant was convicted or adjudicated and with respect to which
10 notice was given pursuant to subsection (5) or (6) is a felony in
11 which a snowmobile was used, the clerk of the court shall forward
12 an abstract of the court record of that conviction or adjudica-
13 tion to the secretary of state.

14 (8) Every person required to forward abstracts to the secre-
15 tary of state under this section shall certify for the period
16 from January 1 through June 30 and for the period from July 1
17 through December 31 that all abstracts required to be forwarded
18 during the period have been forwarded. The certification shall
19 be filed with the secretary of state not later than 28 days after
20 the end of the period covered by the certification. The certifi-
21 cation shall be made upon a form furnished by the secretary of
22 state and shall include all of the following:

23 (a) The name and title of the person required to forward
24 abstracts.

25 (b) The court for which the certification is filed.

26 (c) The time period covered by the certification.

1 (d) The following statement: "I certify that all abstracts
2 required by section ~~41~~ 82157 of ~~Act No. 74 of the Public Acts~~
3 ~~of 1968, MCL 257.1541, MSA 9.3200(21)~~ THE NATURAL RESOURCES AND
4 ENVIRONMENTAL PROTECTION ACT, for the period _____ through _____
5 have been forwarded to the secretary of state."

6 (e) Other information the secretary of state considers
7 necessary.

8 (f) The signature of the person required to forward
9 abstracts.

10 (9) The failure, refusal, or neglect of a person to comply
11 with this section constitutes misconduct in office and is grounds
12 for removal from office.

13 (10) Except as provided in subsection (11), the secretary of
14 state shall keep all abstracts received under this section at the
15 secretary of state's main office, and the abstracts shall be open
16 for public inspection during the office's usual business hours.
17 The secretary of state shall enter each abstract upon the snowmo-
18 biling record of the person to whom it pertains and shall record
19 the information in a manner that makes the information available
20 to peace officers through the law enforcement information
21 network.

22 (11) The court shall not submit, and the secretary of state
23 shall discard and not enter on the snowmobiling record, an
24 abstract for a conviction or civil infraction determination for a
25 violation of this ~~act~~ PART that could not be the basis for the
26 secretary of state's issuance of an order not to operate a
27 snowmobile in this state. The secretary of state shall discard

1 and not enter on the snowmobiling record an abstract for a bond
2 forfeiture that occurred outside this state.

3 (12) The secretary of state shall inform the court of the
4 violations of this ~~act~~ PART that are used by the secretary of
5 state as the basis for issuance of an order not to operate a
6 snowmobile in this state.

7 (13) If a conviction or civil infraction determination is
8 reversed upon appeal, the court shall transmit a copy of the
9 order of reversal to the secretary of state, and the secretary of
10 state shall enter the order in the proper book or index in con-
11 nection with the record of the conviction or civil infraction
12 determination.

13 (14) The secretary of state may permit a city or village
14 department, bureau, person, or court to modify the requirement as
15 to the time and manner of reporting a conviction, civil infrac-
16 tion determination, or settlement to the secretary of state if
17 the modification will increase the economy and efficiency of col-
18 lecting and utilizing the records. If the permitted abstract of
19 court record reporting a conviction, civil infraction determina-
20 tion, or settlement originates as a part of the written notice to
21 appeal, authorized in section ~~17a~~ 82134, the form of the writ-
22 ten notice and report shall be as prescribed by the secretary of
23 state.

24 Sec. ~~42~~ 82158. (1) The operator or person in charge of a
25 snowmobile being used or operated in this state, who is by hand,
26 voice, emergency light or siren, or a visual or audible signal
27 ~~—~~ directed to bring his or her snowmobile to a stop by any

1 peace, police, or conservation officer who is in uniform and
2 empowered to enforce ~~the provisions of~~ this ~~act~~ PART or the
3 provisions of a local ordinance or rules established under this
4 ~~act~~ PART, shall immediately bring the snowmobile to a stop or
5 maneuver it in a manner that permits the officer to come
6 alongside. A vehicle or snowmobile ~~which~~ THAT is used by an
7 officer at night for purposes of enforcing this ~~act~~ PART shall
8 be identified as an official law enforcement vehicle or
9 snowmobile. The operator or person in charge of the snowmobile
10 and any other person on board shall give his or her correct name
11 and address, exhibit the certificate of registration awarded for
12 the snowmobile, and submit to a reasonable inspection of the
13 snowmobile and to a reasonable inspection and test of the equip-
14 ment of the snowmobile.

15 (2) A person who ~~willfully~~ WILLFULLY fails to obey the
16 direction by increasing his or her speed ~~—~~ OR extinguishing his
17 or her lights, or WHO otherwise attempts to flee or elude the
18 officer, is guilty of a misdemeanor.

19 (3) A person who is detained for a violation of this ~~act~~
20 PART or of a local ordinance substantially corresponding to a
21 provision of this ~~act~~ PART and who furnishes a peace officer
22 false, forged, fictitious, or misleading verbal or written infor-
23 mation identifying the person as another person is guilty of a
24 misdemeanor.

25 (4) A peace officer who observes a violation by a person of
26 this ~~act~~ PART or of a local ordinance or rule established under
27 this ~~act~~ PART may arrest the person without a warrant.

1 Sec. ~~43~~ 82159. If a person is arrested without a warrant
 2 for any of the following, the arrested person shall be taken,
 3 without unreasonable delay, before a magistrate or judge who is
 4 within the county in which the offense charged is alleged to have
 5 been committed, who has jurisdiction of the offense, and who is
 6 nearest or most accessible with reference to the place where the
 7 arrest is made:

8 (a) The person is arrested upon a charge of negligent
 9 homicide.

10 (b) The person is arrested under section ~~15a~~ 82127 or a
 11 local ordinance substantially corresponding to section ~~15a~~
 12 82127. If in the existing circumstances it does not appear that
 13 releasing the person pending the issuance of a warrant will con-
 14 stitute a public menace, the arresting officer may proceed as
 15 provided by section ~~17a~~ 82134.

16 SEC. 90106. (1) THE FOLLOWING ACTS THAT ARE CODIFIED IN
 17 ARTICLE III, CHAPTER 4, ENTITLED RECREATION, ARE REPEALED:

18	<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>MICHIGAN COMPILED LAWS SECTIONS</u>
19	326	1965	299.121 TO 299.127
20	316	1965	299.111 TO 299.116
21	221	1987	318.531 TO 318.541
22	327	1988	318.551 TO 318.560
23	329	1988	318.571 TO 318.586
24	27	1993	299.131 TO 299.144
25	225	1964	318.231 TO 318.233
26	323	1976	317.171 TO 317.181

1	201	1953	300.201
2	149	1960	318.301 TO 318.314
3	48	1952	322.601 TO 322.608
4	130	1994	318.331 TO 318.337
5	57	1993	322.821 TO 322.826
6	173	1929	299.51 TO 299.57
7	355	1927	318.61 TO 318.67
8	201	1958	318.201 TO 318.208
9	22	1907	318.91 TO 318.93
10	45	1943	318.101 TO 318.102
11	20	1955	318.71 TO 318.72
12	70	1957	318.121 TO 318.122
13	54	1909	318.81 TO 318.84
14	320	1947	281.501 TO 281.511
15	125	1959	281.531 TO 281.538
16	187	1964	281.521 TO 281.523
17	79	1988	281.1251 TO 281.1268
18	66	1952	281.541 TO 281.543
19	303	1967	281.1001 TO 281.1199
20	160	1976	281.1201 TO 281.1223
21	319	1975	257.1601 TO 257.1626
22	74	1968	257.1501 TO 257.1543

1 (2) THE FOLLOWING ACTS AND PARTS OF ACTS ARE NOT CODIFIED IN
 2 THIS ACT BUT ARE REPEALED:

3	<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>MICHIGAN COMPILED LAWS SECTIONS</u>
4	257	1968	318.351 TO 318.362
5	108	1969	318.371 TO 318.387

6 Section 2. This amendatory act shall not take effect unless
 7 all of the following bills of the 88th Legislature are enacted
 8 into law:

9 (a) Senate Bill No. _____ or House Bill No. 4351 (request
 10 no. 02005'95).

11 (b) Senate Bill No. _____ or House Bill No. 4350 (request
 12 no. 02005'95 a).

13 (c) Senate Bill No. _____ or House Bill No. 4348 (request
 14 no. 02006'95).