



HOUSE BILL No. 6079

September 12, 1996, Introduced by Reps. Dalman, Jellema, Jamian, Pitoniak, McNutt and Middleton and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 80101, 80140, 80141, 80143, and 80146 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," as added by Act No. 58 of the Public Acts of 1995, being sections 324.80101, 324.80140, 324.80141, 324.80143, and 324.80146 of the Michigan Compiled Laws; and to add sections 80140a, 80140b, 80140c, 80140d, 80140e, 80140f, 80140g, 80140h, 80140i, and 80142a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 80101, 80140, 80141, 80143, and 80146
2 of Act No. 451 of the Public Acts of 1994, as added by Act No. 58
3 of the Public Acts of 1995, being sections 324.80101, 324.80140,
4 324.80141, 324.80143, and 324.80146 of the Michigan Compiled
5 Laws, are amended and sections 80140a, 80140b, 80140c, 80140d,

1 80140e, 80140f, 80140g, 80140h, 80140i, and 80142a are added to
2 read as follows:

3 Sec. 80101. As used in this part:

4 (a) "Anchored rafts" means all types of nonpowered rafts
5 used for recreational purposes that are anchored seasonally on
6 waters of this state.

7 (b) "Associated equipment" means any of the following that
8 are not radio equipment:

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

12 (ii) Repair or improvement of an original or replacement
13 system, part, or component.

14 (iii) An accessory or equipment for, or appurtenance to, a
15 boat.

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

18 (c) "Boat" means a vessel.

19 (d) "Boat livery" means a business that holds a vessel for
20 renting, leasing, or chartering.

21 (E) "BOATING SAFETY CERTIFICATE" MEANS A DOCUMENT ISSUED
22 UNDER THIS PART THAT CERTIFIES THAT THE INDIVIDUAL NAMED IN THE
23 CERTIFICATE HAS SUCCESSFULLY COMPLETED A BOATING SAFETY COURSE OR
24 A BOATING SAFETY EQUIVALENCY EXAMINATION. A BOATING SAFETY CER-
25 TIFICATE IS VALID IF IT HAS BEEN VALIDATED PURSUANT TO
26 SECTION 307B OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE

1 PUBLIC ACTS OF 1949, BEING SECTION 257.307B OF THE MICHIGAN
2 COMPILED LAWS.

3 (F) "BOATING SAFETY COURSE" MEANS A COURSE APPROVED BY THE
4 DEPARTMENT THAT PROVIDES INSTRUCTION ON THE SAFE OPERATION OF A
5 VESSEL.

6 (G) "BOATING SAFETY IDENTIFICATION CARD" MEANS A DOCUMENT
7 ISSUED UNDER THIS PART THAT CERTIFIES THAT THE INDIVIDUAL NAMED
8 ON THE CARD HAS SUCCESSFULLY COMPLETED A BOATING SAFETY COURSE OR
9 A BOATING SAFETY EQUIVALENCY EXAMINATION.

10 (H) "BOATING SAFETY LICENSE STICKER" MEANS A STICKER ISSUED
11 BY THE SECRETARY OF STATE TO A PERSON WHO HAS SUCCESSFULLY COM-
12 PLETED A BOATING SAFETY COURSE OR A BOATING SAFETY EQUIVALENCY
13 EXAMINATION.

14 (I) ~~(e)~~ "Controlled substance" means that term as defined
15 in section 7104 of the public health code, Act No. 368 of the
16 Public Acts of 1978, being section 333.7104 of the Michigan
17 Compiled Laws.

18 (J) ~~(f)~~ "Conviction" means a final conviction, the payment
19 of a fine, a plea of guilty or nolo contendere if accepted by the
20 court, a finding of guilt, or a probate court disposition on a
21 violation of this part, regardless of whether the penalty is
22 rebated or suspended.

23 Sec. 80140. (1) In order to protect the public interest in
24 the prudent and equitable use of the waters of this state and to
25 enhance the enjoyment of pleasure boating and other recreational
26 water sports on the waters of the state, the department shall

1 establish and pursue comprehensive educational programs designed
2 to advance boating and general water safety.

3 (2) The department shall ~~put into effect~~ ESTABLISH a pro-
4 gram to train ~~youthful~~ boat operators and shall issue a boating
5 safety certificate to those who satisfactorily complete the
6 program. For the purpose of ~~giving~~ PROVIDING the courses of
7 instruction and awarding boating safety certificates, the depart-
8 ment may designate as its agent any person it considers qualified
9 to act in this capacity. A ~~charge~~ FEE shall not be ~~made~~
10 CHARGED for any instruction given or for the award of boating
11 safety certificates TO INDIVIDUALS WHO ARE LESS THAN 17 YEARS OF
12 AGE.

13 SEC. 80140A. (1) EXCEPT AS PROVIDED IN THIS PART, AN INDI-
14 VIDUAL SHALL NOT OPERATE A VESSEL AS DEFINED IN SECTION 80104
15 UPON THE WATERS OF THIS STATE UNLESS THAT INDIVIDUAL HAS IN HIS
16 OR HER IMMEDIATE POSSESSION A BOATING SAFETY CERTIFICATE, IDENTI-
17 FICATION CARD, OR LICENSE STICKER ISSUED IN ACCORDANCE WITH THIS
18 PART.

19 (2) A PERSON SHALL NOT RECEIVE A BOATING SAFETY CERTIFICATE,
20 IDENTIFICATION CARD, OR LICENSE STICKER, UNLESS HE OR SHE HAS
21 SUCCESSFULLY COMPLETED A BOATING SAFETY COURSE OR A BOATING
22 SAFETY EQUIVALENCY EXAMINATION.

23 (3) A BOATING SAFETY CERTIFICATE, IDENTIFICATION CARD, OR
24 LICENSE STICKER IS VALID FOR THE LIFE OF THE PERSON WHO EARNED
25 THE CERTIFICATE, IDENTIFICATION CARD, OR LICENSE STICKER.

26 SEC. 80140B. THE FOLLOWING PERSONS AND VESSELS ARE EXEMPT
27 FROM THE REQUIREMENTS OF SECTION 80140A:

1 (A) A PERSON IN THE SERVICE OF THE ARMY, NAVY, OR MARINE
2 CORPS OF THE UNITED STATES WHO IS OPERATING AN OFFICIAL VESSEL OF
3 THE UNITED STATES. A PERSON WHO IS A CIVILIAN AND IN THE EMPLOY
4 OF THE ARMY, NAVY, OR MARINE CORPS OF THE UNITED STATES SHALL NOT
5 BE EXEMPT FROM THE REQUIREMENTS OF THIS PART.

6 (B) A PERSON WHO IS NOT A RESIDENT OF THIS STATE.

7 (C) A PERSON WHO HOLDS A VALID LICENSE TO OPERATE A CHARTER
8 BOAT UNDER PART 445.

9 (D) A RESIDENT OF THIS STATE WHO HOLDS A MICHIGAN BOATING
10 SAFETY CERTIFICATE ISSUED BY THE UNITED STATES COAST GUARD OR
11 POWER SQUADRON OR A COUNTY SHERIFF DEPARTMENT.

12 (E) A VESSEL THAT IS EXEMPT FROM REGISTRATION UNDER THIS
13 PART PURSUANT TO SECTION 80123.

14 SEC. 80140C. (1) ANY PERSON MAY OFFER A BOATING SAFETY
15 COURSE THAT IS APPROVED BY THE DEPARTMENT AND THAT COMPLIES WITH
16 THE RULES PROMULGATED BY THE DEPARTMENT.

17 (2) TO BE APPROVED BY THE DEPARTMENT, A BOATING SAFETY
18 COURSE SHALL MEET OR EXCEED THE GUIDELINES ESTABLISHED BY THE
19 NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS.

20 (3) AN INDIVIDUAL WHO IS 17 YEARS OF AGE OR OLDER SHALL BE
21 CHARGED THE PRICE OF THE MATERIALS FOR THE BOATING SAFETY COURSE
22 OR BOATING SAFETY EQUIVALENCY EXAMINATION.

23 (4) AN INDIVIDUAL WHO IS 17 YEARS OF AGE OR OLDER MAY BE
24 CHARGED FOR THE INSTRUCTION TIME RECEIVED DURING THE BOATING
25 SAFETY COURSE.

1 (5) AS USED IN THIS SECTION, "PERSON" MEANS AN INDIVIDUAL,
2 PARTNERSHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR
3 OTHER LEGAL ENTITY.

4 SEC. 80140D. (1) THE DEPARTMENT MAY OFFER A VIDEO OR HOME
5 STUDY BOATING SAFETY COURSE. AN INDIVIDUAL IS NOT CONSIDERED TO
6 HAVE SUCCESSFULLY COMPLETED A VIDEO OR HOME STUDY BOATING SAFETY
7 COURSE UNLESS HE OR SHE HAS ALSO SUCCESSFULLY COMPLETED A BOATING
8 SAFETY EQUIVALENCY EXAMINATION.

9 (2) THE DEPARTMENT MAY OFFER A BOATING SAFETY EQUIVALENCY
10 EXAMINATION THAT CAN BE TAKEN IN LIEU OF A BOATING SAFETY
11 COURSE. IF AN INDIVIDUAL SUCCESSFULLY COMPLETES A BOATING SAFETY
12 EQUIVALENCY EXAMINATION, HE OR SHE IS ENTITLED TO A BOATING
13 SAFETY CERTIFICATE OR IDENTIFICATION CARD.

14 SEC. 80140E. UPON SUCCESSFUL COMPLETION OF A DEPARTMENT
15 APPROVED BOATING SAFETY COURSE OR A BOATING SAFETY EQUIVALENCY
16 EXAMINATION, AN INDIVIDUAL SHALL RECEIVE FROM THE PERSON WHO
17 OFFERED THE COURSE OR EXAMINATION EITHER A BOATING SAFETY CERTIF-
18 ICATE OR IDENTIFICATION CARD.

19 SEC. 80140F. (1) AN INDIVIDUAL WHO OPERATES A VESSEL ON THE
20 WATERS OF THIS STATE SHALL DISPLAY HIS OR HER BOATING SAFETY CER-
21 TIFICATE OR IDENTIFICATION CARD OR LICENSE STICKER UPON THE
22 DEMAND OF ANY PEACE OFFICER WHO IDENTIFIES HIMSELF OR HERSELF AS
23 A PEACE OFFICER.

24 (2) A PEACE OFFICER SHALL NOT STOP A VESSEL SOLELY FOR THE
25 PURPOSE OF DETERMINING WHETHER THE OPERATOR HAS IN HIS OR HER
26 POSSESSION A BOATING SAFETY CERTIFICATE, IDENTIFICATION CARD, OR
27 LICENSE STICKER.

1 SEC. 80140G. THE PARENT OF A MINOR IS RESPONSIBLE FOR A
2 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF
3 NOT MORE THAN \$100.00 IF ALL OF THE FOLLOWING APPLY:

4 (A) THE PARENT HAS CUSTODY OF THE MINOR.

5 (B) THE MINOR VIOLATES THIS PART.

6 (C) THE PARENT KNEW THAT THE MINOR WOULD VIOLATE THIS PART
7 OR THE PARENT ACTS TO FURTHER THE VIOLATION.

8 SEC. 80140H. (1) THE DEPARTMENT SHALL PROMULGATE RULES PUR-
9 SUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306
10 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF
11 THE MICHIGAN COMPILED LAWS, FOR THE EXAMINATION OF AN APPLICANT'S
12 PHYSICAL AND MENTAL QUALIFICATIONS TO OPERATE A VESSEL IN A
13 MANNER THAT DOES NOT JEOPARDIZE THE SAFETY OF PERSONS OR PROPER-
14 TY, AND SHALL ASCERTAIN WHETHER FACTS EXIST THAT WOULD BAR THE
15 ISSUANCE OF A BOATING SAFETY CERTIFICATE, IDENTIFICATION CARD, OR
16 LICENSE STICKER.

17 (2) AN EXAMINER WHO CONDUCTS AN EXAMINATION UNDER THIS PART
18 SHALL NOT INVESTIGATE FACTS OTHER THAN THOSE FACTS DIRECTLY PER-
19 TAINING TO THE ABILITY OF THE APPLICANT TO SAFELY OPERATE A
20 VESSEL OR FACTS DECLARED BY THE DEPARTMENT TO BE PREREQUISITE TO
21 THE ISSUANCE OF A BOATING SAFETY CERTIFICATE, IDENTIFICATION
22 CARD, OR LICENSE STICKER UNDER THIS PART.

23 SEC. 80140I. (1) AN INDIVIDUAL WHO VIOLATES THIS PART SHALL
24 PARTICIPATE IN A BOATING SAFETY EDUCATION PROGRAM.

25 (2) PARTICIPATION IN A BOATING SAFETY EDUCATION PROGRAM IS
26 IN ADDITION TO ANY OTHER PENALTIES IMPOSED BY THIS PART.

1 Sec. 80141. (1) Except as otherwise provided in
2 ~~subsection (4)~~ THIS PART, a person less than ~~+2-~~ 14 years of
3 age shall not operate a motorboat on the waters of this state
4 unless all of the following conditions are met:

5 (A) HE OR SHE IS IN POSSESSION OF A BOATING SAFETY CERTIFI-
6 CATE OR IDENTIFICATION CARD ISSUED IN ACCORDANCE WITH SECTION
7 80140E.

8 (B) ~~(a)~~ He or she is under the direct supervision of a
9 person on board the motorboat who is ~~+6-~~ 17 years of age or
10 older.

11 (C) ~~(b)~~ The motorboat he or she operates is powered by a
12 motor or motors totaling no more than 35 horsepower.

13 (2) Except as otherwise provided in subsection (4), a person
14 ~~+2-~~ 14 through ~~+5-~~ 16 years of age may operate a motorboat on
15 the waters of this state only if that person ~~complies with~~
16 ~~either of the following: (a) He or she is accompanied by at~~
17 ~~least 1 person 16 years of age or older. (b) He or she is in~~
18 possession of a boating safety certificate OR IDENTIFICATION CARD
19 issued after he or she has satisfactorily completed a department
20 approved ~~course in~~ boating safety COURSE.

21 (3) A person ~~+2-~~ 14 through ~~+5-~~ 16 years of age operating
22 a motorboat pursuant to subsection ~~(2)(b)~~ (2) shall present the
23 boating safety certificate OR IDENTIFICATION CARD issued to him
24 or her upon the demand of any peace officer.

25 (4) This section does not apply to the operation of a motor-
26 boat that is powered by a motor or motors totaling no more than 6
27 horsepower.

1 SEC. 80142A. A PERSON SHALL NOT OPERATE A VESSEL ON THE
2 WATERS OF THIS STATE UNLESS THE VESSEL IS EQUIPPED WITH 3 PYRO-
3 TECHNIC VISUAL DISTRESS SIGNALS THAT ARE SUITABLE FOR BOTH DAY
4 AND NIGHT USE.

5 Sec. 80143. (1) A person shall not operate a personal
6 watercraft on the waters of the state unless each person riding
7 on or being towed behind the vessel is wearing a ~~type I, type~~
8 ~~II, or~~ type III personal flotation device as described in
9 R 281.1234 of the Michigan administrative code.

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

15 (3) A person shall not operate a personal watercraft on the
16 waters of the state between the hours from sunset to sunrise.

17 (4) A personal watercraft shall at all times be operated in
18 a reasonable and prudent manner. Maneuvers that unreasonably or
19 unnecessarily endanger life, limb, or property, including, but
20 not limited to, weaving through congested vessel traffic, jumping
21 the wake of another vessel unreasonably or unnecessarily close to
22 the other vessel or when visibility around the other vessel is
23 obstructed, and swerving at the last possible moment to avoid a
24 collision, constitute reckless operation of a vessel, as provided
25 in section 80147.

26 (5) A person shall not operate a personal watercraft on the
27 waters of the state carrying more persons than the vessel is

1 designed to carry. Carrying more persons than the vessel is
2 designed to carry is prima facie evidence of reckless operation
3 of a watercraft under section 80147.

4 (6) A person operating a personal watercraft on the waters
5 of ~~the~~ THIS state shall maintain a distance of 100 feet from
6 any dock, raft or buoyed or occupied bathing area or shall not
7 cross within 150 feet behind another vessel, other than a per-
8 sonal watercraft, that is traveling at a speed greater than
9 slow--no wake speed.

10 (7) A person ~~under the age of 12~~ LESS THAN 14 YEARS OF AGE
11 shall not operate a personal watercraft on the waters of the
12 state. A person ~~12~~ 14 through ~~15~~ 16 years of age may operate
13 a personal watercraft on the waters of the state only when
14 ~~accompanied by a person 16 years of age or older or without~~
15 ~~adult supervision when~~ in possession of a VALID boating safety
16 certificate OR IDENTIFICATION CARD in compliance with section
17 80141.

18 (8) The owner of a personal watercraft or a person having
19 charge over or control of a personal watercraft shall not autho-
20 rize or knowingly permit the personal watercraft to be operated
21 in violation of subsection (7).

22 (9) This section does not apply to a performer engaged in a
23 professional exhibition or a person preparing to participate or
24 participating in a regatta, race, marine parade, tournament, or
25 exhibition held in compliance with this part.

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

4 (2) On waters of this state for which a motorboat speed
5 limit is not established under subsection (1), on any waters for
6 which the department has not established an unlimited motorboat
7 speed limit, or on any waters for which stricter speed restric-
8 tions are not established pursuant to an act, a maximum speed
9 limit of 55 miles per hour is established, except in an emergency
10 and except for authorized peace and conservation officers when
11 engaged in official duties. The maximum speed limit of 55 miles
12 per hour shall not apply to the Great Lakes and Lake St. Clair,
13 except for an area within 1 mile of the shoreline measured at a
14 right angle from the shoreline. Upon receipt of a resolution by
15 the governing body of a local unit of government having jurisdic-
16 tion over waters of this state requesting a reduction in the max-
17 imum speed limit on those waters, the department, pursuant to
18 sections 80108 to 80113, may establish a maximum speed limit not
19 to exceed 40 miles per hour on those waters.

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

26 (4) A PERSON SHALL NOT OPERATE A MOTORBOAT ON THE WATERS OF
27 THIS STATE AT A SPEED GREATER THAN SLOW--NO WAKE SPEED OR THE

1 MINIMUM SPEED NECESSARY FOR THE MOTORBOAT TO MAINTAIN FORWARD
2 MOVEMENT WHEN WITHIN 100 FEET OF ANOTHER MOTORBOAT.

3 (5) ~~-(4)-~~ A person operating a motorboat in violation of
4 this section is guilty of reckless operation of a motorboat pun-
5 ishable as provided in section 80171.

6 (6) ~~-(5)-~~ The department may waive this section and section
7 80156 for marine events authorized by the department under sec-
8 tion 80164.

9 Section 2. This amendatory act shall not take effect unless
10 Senate Bill No. _____ or House Bill No. 6020 (request
11 no. 03671'95 a) of the 88th Legislature is enacted into law.