

**SUBSTITUTE FOR
HOUSE BILL NO. 5426**

A bill to promote the safe use of personal watercraft on the waters of this state; to provide for rules relative to the operation of personal watercraft; to impose certain safety requirements on operators of personal watercraft; to prescribe the duties and responsibilities of owners, operators, and dealers of personal watercraft; to prescribe the powers and duties of certain state departments; to provide for penalties; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "personal watercraft safety act".

3 Sec. 3. As used in this act:

4 (a) "Associated equipment" means any of the following that
5 are not radio equipment:

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1 (i) An original system, part, or component of a personal
2 watercraft at the time that boat was manufactured, or a similar
3 part or component manufactured or sold for replacement.

4 (ii) Repair or improvement of an original or replacement
5 system, part, or component.

6 (iii) An accessory or equipment for, or appurtenance to, a
7 personal watercraft.

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

10 (b) "Boating safety certificate" means the document issued
11 by the department under this act that certifies that the individ-
12 ual named in the document has successfully completed a boating
13 safety course and passed an examination approved and administered
14 as required under section 23.

15 (c) "Boating safety course" means a course that meets both
16 of the following requirements:

17 (i) Provides instruction on the safe operation of a personal
18 watercraft that meets or exceeds the minimum course content for
19 boating or personal watercraft education established by the
20 national association of state boating law administrators educa-
21 tion committee (October 1996).

22 (ii) Is approved by the department.

23 (d) "Channel" means either of the following:

24 (ii) The deepest part of a stream, bay, or straight through
25 which the main current flows.

26 (ii) The part of a body of water deep enough for navigation
27 through an area otherwise not suitable for navigation that is

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1 marked by a single or double line of navigational aids or range
2 markers.

3 (e) "Dealer" means a person or an authorized representative
4 of that person who annually purchases from a manufacturer, or who
5 is engaged in selling or manufacturing, 6 or more personal water-
6 craft that require certificates of number under part 801 of the
7 natural resources and environmental protection act, 1994 PA 451,
8 MCL 324.80101 to 324.80199.

9 (f) "Department" means the department of natural resources.

10 (g) "Director" means the director of the department of natu-
11 ral resources.

12 (h) "Manufacturer" means a person engaged in any of the
13 following:

14 (i) The manufacture, construction, or assembly of personal
15 watercraft or associated equipment.

16 (ii) The manufacture or construction of components for per-
17 sonal watercraft and associated equipment to be sold for subse-
18 quent assembly.

19 (iii) The importation of a personal watercraft or associated
20 equipment into the state for sale.

21 (i) "Operate" means to be in control of a personal water-
22 craft while the personal watercraft is under way and is not
23 docked or at anchor or secured in another way.

24 (j) "Operator" means the person who is in control or in
25 charge of a personal watercraft while that vessel is under way.

26 (k) "Owner" means a person who claims or is entitled to
27 lawful possession of a personal watercraft by virtue of that

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1 person's legal title or equitable interest in a personal
2 watercraft.

3 (l) "Peace officer" means 1 or both of the following:

4 (i) A law enforcement officer as that term is defined in
5 section 2 of the Michigan law enforcement officers training coun-
6 cil act, 1965 PA 203, MCL 28.602.

7 (ii) A deputy sheriff who is sworn to enforce water safety
8 laws, ordinances, or regulations in this state.

9 (m) "Person" means an individual, corporation, limited
10 liability company, partnership, association, governmental entity,
11 or other legal entity.

12 (n) "Personal watercraft" means a vessel that meets all of
13 the following requirements:

14 (i) Uses a motor-driven propeller or an internal combustion
15 engine powering a water jet pump as its primary source of
16 propulsion.

17 (ii) Is designed without an open load carrying area that
18 would retain water.

19 (iii) Is designed to be operated by 1 or more persons posi-
20 tioned on, rather than within, the confines of the hull.

21 (o) "Political subdivision" means a county, metropolitan
22 authority, municipality, or combination of those entities in this
23 state.

24 (p) "Slow--no wake speed" means the use of a vessel at a
25 very slow speed so that the resulting wake or wash is minimal.

26 (q) "Use" means operate, navigate, or employ.

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1 (r) "Vessel" means every description of watercraft used or
2 capable of being used as a means of transportation on water.

3 (s) "Waters of this state" means any waters within the ter-
4 ritorial limits of this state, and includes those waters of the
5 Great Lakes that are under the jurisdiction of this state.

6 Sec. 5. (1) This act applies to personal watercraft and
7 associated equipment used on the waters of this state.

8 (2) Except where expressly indicated otherwise, this act
9 does not apply to a personal watercraft that is all of the
10 following:

11 (a) Owned by a state or political subdivision of a state
12 other than this state and its political subdivisions.

13 (b) Used principally for governmental purposes.

14 (c) Clearly marked and identifiable as personal watercraft
15 that is used principally for governmental purposes.

16 Sec. 7. Except as otherwise provided in this act, the
17 department is responsible for the administration of this act.

18 Sec. 9. The department shall promulgate rules authorized by
19 this act under the administrative procedures act of 1969, 1969 PA
20 306, MCL 24.201 to 24.328. The department shall publish the
21 approved rules in a convenient form.

22 Sec. 11. (1) Except as otherwise provided in this section,
23 a person shall not operate a personal watercraft on the waters of
24 this state unless each person 12 years of age or older riding on
25 or being towed behind the personal watercraft is wearing a type
26 I, type II, or type III personal flotation device as described in
27 R 281.1234 of the Michigan administrative code.

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1 (2) A person shall not operate a personal watercraft on the
2 waters of this state unless each person on board the personal
3 watercraft who is less than 12 years of age is wearing a type I
4 or type II personal flotation device as described in R 281.1234
5 of the Michigan administrative code.

6 (3) A person shall not operate a personal watercraft on the
7 waters of this state unless each person on board the personal
8 watercraft is wearing a personal flotation device that is not
9 inflatable.

 [(4) A person shall not operate a personal watercraft on the
waters of this state if a child who is under 7 years of age is on
board or being towed behind the personal watercraft unless the child
is in the company of his or her parent or another person who is 18
years of age or older.]

10 [(5)] While operating a personal watercraft equipped by the
11 manufacturer with a lanyard-type engine cutoff switch on the
12 waters of this 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 personal watercraft.

15 [(6)] A person shall not operate a personal watercraft on the
16 waters of this state during the period that begins 1 hour before
17 sunset and ends at 9 a.m. As used in this subsection, "sunset"
18 means that time as determined by the national weather service.

19 [(7)] A person operating a personal watercraft on the waters
20 of this state shall not cross within 150 feet behind another
21 vessel, unless the person is operating the personal watercraft at
22 slow--no wake speed.

23 [(8)] A person shall not operate a personal watercraft on the
24 waters of this state where the water depth is less than 2 feet,
25 as determined by vertical measurement.

26 [(9)] A person shall operate a personal watercraft in a
27 reasonable and prudent manner. A maneuver that unreasonably or

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1 unnecessarily endangers life, limb, or property, including but
2 not limited to all of the following, constitutes reckless opera-
3 tion of a personal watercraft under section 17:

4 (a) Weaving through congested vessel traffic.

5 (b) Jumping the wake of another vessel unreasonably or
6 unnecessarily close to the other vessel or when visibility around
7 the other vessel is obstructed.

8 (c) Swerving at the last possible moment to avoid a
9 collision.

10 [(10)] A person shall not operate a personal watercraft on the
11 waters of this state carrying more persons than the personal
12 watercraft is designed to carry.

13 [(11)] A violation of subsection [(10)] is prima facie evidence
14 of reckless operation of a watercraft under section 17.

15 [(12)] A person operating a personal watercraft in excess of
16 the speeds established under part 801 of the natural resources
17 and environmental protection act, 1994 PA 451, MCL 324.80101 to
18 324.80199, is guilty of reckless operation of a personal water-
19 craft under section 17.

20 [(13)] This section does not apply to a performer engaged in a
21 professional exhibition or a person preparing to participate or
22 participating in a regatta, race, marine parade, tournament, or
23 exhibition held in compliance with section 80164 of the natural
24 resources and environmental protection act, 1994 PA 451, MCL
25 324.80164, under a permit issued by the department and at the
26 time and place specified in the permit.

[Sec. 13. A person shall not operate a personal watercraft in
this state in a deltaic wetland system in a lake that is greater
than 161 square miles and less than 164 square miles in area.]

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1 Sec. 15. The owner of a personal watercraft is liable for
2 any injury occasioned by the negligent operation of the personal
3 watercraft, whether the negligence consists of a violation of the
4 statutes of this state, or in the failure to observe the ordinary
5 care in the operation that the rules of the common law require.
6 The owner is not liable unless the personal watercraft is being
7 used with his or her expressed or implied consent. It shall be
8 rebuttably presumed that the personal watercraft is being oper-
9 ated with the knowledge and consent of the owner if it is driven
10 at the time of the injury by his or her son, daughter, spouse,
11 father, mother, brother, sister, or other immediate member of the
12 owner's family.

13 Sec. 17. (1) If a person carelessly and heedlessly operates
14 a personal watercraft upon the waters of this state in disregard
15 of the rights or safety of others, without due caution and cir-
16 cumspection, or at a rate of speed or in a manner that endangers
17 or is likely to endanger a person or property, that person is
18 guilty of reckless operation of a personal watercraft and is
19 subject to the penalties described in subsection (2) or (3), or
20 both, as applicable.

21 (2) Upon a person's conviction under this section, the court
22 may issue an order prohibiting the person from operating a per-
23 sonal watercraft on the waters of this state for a period of not
24 more than 2 years and shall order the person to participate in
25 and complete a boating safety course. An order issued pursuant
26 to this subsection is in addition to any other penalty authorized
27 under section 39 or subsection (3).

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1 (3) A person who violates this section twice within a 3-year
2 period is guilty of a misdemeanor punishable by imprisonment for
3 not more than 30 days or a fine of \$1,000.00, or both. A person
4 who violates this section 3 or more times within a 5-year period
5 is guilty of a misdemeanor punishable by imprisonment for not
6 more than 90 days or a fine of not more than \$2,000.00, or both.

7 Sec. 19. (1) Except when traveling at slow--no wake speed,
8 a person who operates a personal watercraft on 1 of the Great
9 Lakes that is under the jurisdiction of this state shall maintain
10 a distance of 150 feet from the shoreline.

11 (2) Except as provided in subsection (4), a person who oper-
12 ates a personal watercraft or a person who is being towed by a
13 personal watercraft on a water sled, kite, surfboard, parachute,
14 tube, water ski, or similar equipment on the waters of this state
15 shall maintain a distance of not less than 100 feet from a dock,
16 raft, or buoyed or occupied bathing or swimming area, a person in
17 the water or on the water in a personal flotation device, or a
18 vessel moored, anchored, drifting, or sitting in dead water.

19 (3) Except as provided in subsection (4), a personal water-
20 craft shall not be operated within 200 feet of a buoyed diver's
21 flag unless the personal watercraft is involved in tendering the
22 diving operation.

23 (4) Subsections (2) and (3) do not apply under either of the
24 following conditions:

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

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3 (b) The personal watercraft being operated or the person
4 being towed is in a navigable channel not otherwise posted.

5 Sec. 21. Except as provided in sections 29 and 33, an indi-
6 vidual who is required to complete a boating safety course under
7 this act shall not operate a personal watercraft upon the waters
8 of this state unless that individual has in his or her immediate
9 possession a boating safety certificate.

10 Sec. 23. (1) In order to protect the public interest in the
11 prudent and equitable use of the waters of this state and to
12 enhance the enjoyment of pleasure boating and other recreational
13 water sports on the waters of this state, the department shall
14 establish and pursue comprehensive educational programs designed
15 to advance boating safety.

16 (2) The department shall put into effect a program to train
17 boat operators and shall issue a boating safety certificate to
18 those who satisfactorily complete the program. For the purpose
19 of giving the courses of instruction and awarding boating safety
20 certificates, the department may designate as its agent any
21 person it considers qualified to act in this capacity. [The
department or its agent may offer a video or home study boating
safety course.] A charge
22 shall not be made [] for the award of
23 boating safety certificates. [A charge of not more than \$30.00 per
person shall be made for a boating safety course.]

24 Sec. 25. (1) The department shall issue a boating safety
25 certificate to each individual who successfully completes a boat-
26 ing safety course as described in section 23 and passes an

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1 examination. The examination shall be administered in person and
2 proctored by the department or an agent of the department.

3 (2) Beginning on the effective date of this act, the depart-
4 ment shall consider the number of examinations that are adminis-
5 tered or proctored under this section when calculating the state
6 aid to counties under section 80117 of the natural resources and
7 environmental protection act, 1994 PA 451, MCL 324.80117.

8 (3) The department shall not issue a boating safety certifi-
9 cate to an individual unless the individual has successfully com-
10 pleted a boating safety course and passed an examination as
11 described in subsection (1). A boating safety certificate issued
12 under this section is valid, unless revoked, for the life of the
13 person who earned the certificate.

14 Sec. 27. (1) Except as provided under sections 31 and 33,
15 an individual who is required to complete a boating safety course
16 under this act and who operates a personal watercraft on the
17 waters of this state shall display his or her boating safety cer-
18 tificate upon the demand of a peace officer who identifies him-
19 self or herself as a peace officer.

20 (2) A person shall display only his or her own boating
21 safety certificate upon the demand of a peace officer under sub-
22 section (1).

23 (3) A person shall not display a fraudulent boating safety
24 certificate to a peace officer under subsection (1).

25 (4) A peace officer shall not stop a personal watercraft
26 solely for the purpose of determining whether the operator has in
27 his or her possession a boating safety certificate.

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1 Sec. 29. The director may by written authorization modify
2 or suspend the boating safety certificate requirements under this
3 act if the modification or suspension of those certificate
4 requirements is for individuals engaged in a marine event autho-
5 rized by the director or for which the director receives a copy
6 of a United States coast guard authorization.

7 Sec. 31. (1) Except as provided in subsection (2), a person
8 under the age of 16 shall not use a personal watercraft on the
9 waters of this state.

10 (2) A person who is 12 or more and less than 16 years of age
11 may use a personal watercraft on the waters on this state if
12 before the effective date of this act he or she obtained a boat-
13 ing safety certificate.

14 (3) A person who was born after December 31, 1978 shall not
15 operate a personal watercraft upon the waters of this state
16 unless he or she first obtains a boating safety certificate.

17 (4) Not more than 5 years after this act takes effect, the
18 graduated age provisions of this section shall be reviewed by the
19 appropriate committee of both houses of the legislature to ascer-
20 tain the effect, if any, these provisions have had upon the safe
21 operation of personal watercraft upon the waters of this state.

22 (5) The owner of a personal watercraft or a person having
23 charge over or control of a personal watercraft shall not autho-
24 rize or knowingly permit the personal watercraft to be operated
25 in violation of this section.

26 (6) This section does not apply to a performer engaged in a
27 professional exhibition or a person preparing to participate or

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1 participating in a regatta, race, marine parade, tournament, or
2 exhibition held in compliance with section 80164 of the natural
3 resources and environmental protection act, 1994 PA 451, MCL
4 324.80164, under a permit issued by the department and at the
5 time and place specified in the permit.

6 Sec. 33. (1) Except as provided in subsection (2), the cer-
7 tification requirements prescribed in sections 21 and 31 do not
8 apply to a person who is not a resident of this state

9 (2) Beginning 3 years after the effective date of this act,
10 a person who is not a resident of this state shall operate a per-
11 sonal watercraft on the waters of this state only if he or she
12 has 1 of the following in his or her possession:

13 (a) A boating safety certificate.

14 (b) A certificate issued by his or her state of residence
15 that reflects education and training that is substantially simi-
16 lar to the education and training required to obtain a boating
17 safety certificate under this act.

18 (c) A certificate showing that he or she has successfully
19 completed a course that meets the requirement prescribed in sec-
20 tion 3(d)(i).

[(3) The certificate requirements prescribed in sections 21 and
31 do not apply to an individual who is operating a personal
watercraft that is on loan from a dealer of new or used personal
watercraft for a period of 7 consecutive days after the individual
takes possession of the personal watercraft if both of the following
conditions are satisfied:

(a) The individual displays a written document reflecting the
date of the loan.

(b) The name, address, and telephone number of the dealer upon
the demand of a peace officer who identifies himself or herself as a
peace officer.]

21 Sec. 35. (1) A dealer of a new or used personal watercraft
22 shall advise each person who buys a personal watercraft from the
23 dealer of the sources of boating safety courses in the area.

24 (2) A dealer who violates this section is responsible for a
25 state civil infraction and is liable for a civil fine in the
26 amount of \$100.00.

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1 Sec. 37. (1) The department shall create and make available
2 to dealers of personal watercraft both of the following:

3 (a) A document that summarizes the laws that pertain exclu-
4 sively to personal watercraft.

5 (b) A document that summarizes the safety features of per-
6 sonal watercraft. This document may be a generic document and
7 shall not represent the safety features of a particular style or
8 brand of personal watercraft.

9 (2) A dealer shall provide a copy of each of the documents
10 described in subsection (1) to each person who buys a personal
11 watercraft from the dealer. A dealer who violates this subsec-
12 tion is responsible for a state civil infraction and is liable
13 for a civil fine in the amount of \$100.00.

14 Sec. 39. Unless otherwise specified in this act, a person
15 who violates this act is guilty of a misdemeanor, punishable by
16 imprisonment for not more than 15 days or a fine of not more than
17 \$100.00, or both. In addition, a person who violates this act
18 may be required to participate in and complete a boating safety
19 course.

20 Sec. 41. (1) Not later than April 30, 2000, the secretary
21 of state shall begin tracking individual offenses of this act.

22 (2) In order to accomplish the tracking requirement
23 described in subsection (1), the secretary of state shall do both
24 of the following:

25 (a) Pursue and implement a comprehensive technology system.

26 (b) Work cooperatively with the appropriate departments of
27 this state.

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1 Sec. 43. Peace officers shall enforce this act. If a
2 person has received a citation for a violation of a certification
3 requirement prescribed in section 21, 31, or 33, the court shall
4 waive any fine and costs upon receipt, not more than 10 days
5 after the citation is issued, of proof of certification by a law
6 enforcement agency that the person, before the appearance date on
7 the citation, produced a valid boating safety certificate or
8 other certification described in section 33, as applicable, that
9 was valid on the date the violation occurred.

10 Sec. 45. Except as otherwise provided in this act, a per-
11 sonal watercraft operator shall comply with part 801 of the natu-
12 ral resources and environmental protection act, 1994 PA 451, MCL
13 324.80101 to 324.80199.

14 Enacting section 1. This act takes effect May 22, 1998.

15 Enacting section 2. Section 80143 of the natural resources
16 and environmental protection act, 1994 PA 451, MCL 324.80143, is
17 repealed.