

**SENATE 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:

**HB 5426, As Passed Senate, May 14, 1998**

House Bill No. 5426

2

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) "Boat livery" means that term as defined in section  
11 44501 of the natural resources and environmental protection act,  
12 1994 PA 451, MCL 324.44501.

13       (c) "Boating safety certificate" means either of the  
14 following:

15       (i) The document issued by the department under this act  
16 that certifies that the individual named in the document has suc-  
17 cessfully completed a boating safety course and passed an exami-  
18 nation approved and administered as required under section 23.

19       (ii) A document issued by the United States coast guard aux-  
20 iliary that certifies that the individual named in the document  
21 has successfully completed a United States coast guard auxiliary  
22 course concerning boating safety.

23       (iii) A written rental agreement provided to an individual  
24 named in the rental agreement entered into under section 44522 of  
25 the natural resources and environmental protection act, 1994 PA  
26 451, MCL 324.44522, only on the date or dates indicated on the

**HB 5426, As Passed Senate, May 14, 1998**

House Bill No. 5426

3

1 rental agreement while the named individual is operating a  
2 personal watercraft leased, hired, or rented from a boat livery.

3 (d) "Boating safety course" means a course that meets both  
4 of the following requirements:

5 (i) Provides instruction on the safe operation of a personal  
6 watercraft that meets or exceeds the minimum course content for  
7 boating or personal watercraft education established by the  
8 national association of state boating law administrators educa-  
9 tion committee (October 1996).

10 (ii) Is approved by the department.

11 (e) "Channel" means either of the following:

12 (i) The deepest part of a stream, bay, or straight through  
13 which the main current flows.

14 (ii) The part of a body of water deep enough for navigation  
15 through an area otherwise not suitable for navigation that is  
16 marked by a single or double line of navigational aids or range  
17 markers.

18 (f) "Dealer" means a person and an authorized representative  
19 of that person who annually purchases from a manufacturer, or who  
20 is engaged in selling or manufacturing, 6 or more personal water-  
21 craft that require certificates of number under part 801 of the  
22 natural resources and environmental protection act, 1994 PA 451,  
23 MCL 324.80101 to 324.80199.

24 (g) "Department" means the department of natural resources.

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

1       (i) "Manufacturer" means a person engaged in any of the  
2 following:

3       (i) The manufacture, construction, or assembly of personal  
4 watercraft or associated equipment.

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

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

10      (j) "Operate" means to be in control of a personal water-  
11 craft while the personal watercraft is under way and is not  
12 docked or at anchor or secured in another way.

13      (k) "Operator" means the person who is in control or in  
14 charge of a personal watercraft while that vessel is under way.

15      (l) "Owner" means a person who claims or is entitled to  
16 lawful possession of a personal watercraft by virtue of that  
17 person's legal title or equitable interest in a personal  
18 watercraft.

19      (m) "Peace officer" means 1 or both of the following:

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

23      (ii) A deputy who is authorized by a sheriff to enforce this  
24 act and who has satisfactorily completed at least 40 hours of law  
25 enforcement training, including training specific to this act.

26      (n) "Person" means an individual, corporation, limited  
27 liability company, partnership, association, governmental entity,  
or other legal entity.

**HB 5426, As Passed Senate, May 14, 1998**

House Bill No. 5426

5

1 (o) "Personal watercraft" means a vessel that meets all of  
2 the following requirements:

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

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

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

10 (p) "Political subdivision" means a county, metropolitan  
11 authority, municipality, or combination of those entities in this  
12 state.

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

15 (r) "Use" means operate, navigate, or employ.

16 (s) "Vessel" means every description of watercraft used or  
17 capable of being used as a means of transportation on water.

18 (t) "Waters of this state" means any waters within the ter-  
19 ritorial limits of this state, and includes those waters of the  
20 Great Lakes that are under the jurisdiction of this state.

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

23 Sec. 9. The department shall promulgate rules authorized by  
24 this act under the administrative procedures act of 1969, 1969 PA  
25 306, MCL 24.201 to 24.328. The department shall publish the  
26 approved rules in a convenient form.

**HB 5426, As Passed Senate, May 14, 1998**

House Bill No. 5426

6

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

7       (2) A person shall not operate a personal watercraft on the  
8 waters of this state unless each person on board or being towed  
9 by the personal watercraft who is less than 12 years of age is  
10 wearing a type I or type II personal flotation device as  
11 described in R 281.1234 of the Michigan administrative code.

12       (3) A person shall not operate a personal watercraft on the  
13 waters of this state unless each person on board the personal  
14 watercraft is wearing a personal flotation device that is not  
15 inflatable.

16       (4) A person shall not operate a personal watercraft on the  
17 waters of this state if a child who is under 7 years of age is on  
18 board or being towed behind the personal watercraft unless the  
19 child is in the company of his or her parent or guardian or a  
20 designee of the parent or guardian.

21       (5) While operating a personal watercraft equipped by the  
22 manufacturer with a lanyard-type engine cutoff switch on the  
23 waters of this state, a person shall have the lanyard attached to  
24 his or her person, clothing, or personal flotation device as is  
25 appropriate for the personal watercraft.

26       (6) A person shall not operate a personal watercraft on the  
27 waters of this state during the period that begins 1 hour before

1 sunset and ends at 8 a.m. As used in this subsection, "sunset"  
2 means that time as determined by the national weather service.

3 (7) A person operating a personal watercraft on the waters  
4 of this state shall not cross within 150 feet behind another  
5 vessel, other than a personal watercraft, unless the person is  
6 operating the personal watercraft at slow--no wake speed.

7 (8) A person shall not operate a personal watercraft on the  
8 waters of this state where the water depth is less than 2 feet,  
9 as determined by vertical measurement, unless 1 or both of the  
10 following circumstances exist:

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

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

11 (9) A person shall operate a personal watercraft in a rea-  
12 sonable and prudent manner. A maneuver that unreasonably or  
13 unnecessarily endangers life, limb, or property, including but  
14 not limited to all of the following, constitutes reckless opera-  
15 tion of a personal watercraft under section 17:

16 (a) Weaving through congested vessel traffic.

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

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

22 (10) A person shall not operate a personal watercraft on the  
23 waters of this state carrying more persons than the personal  
24 watercraft is designed to carry.

25 (11) A violation of subsection (10) is prima facie evidence  
26 of reckless operation of a watercraft under section 17.

1       (12) A person operating a personal watercraft in excess of  
2 the speeds established under part 801 of the natural resources  
3 and environmental protection act, 1994 PA 451, MCL 324.80101 to  
4 324.80199, is guilty of reckless operation of a personal water-  
5 craft under section 17.

6       (13) This section does not apply to a performer engaged in a  
7 professional exhibition or a person preparing to participate or  
8 participating in a regatta, race, marine parade, tournament, or  
9 exhibition held in compliance with section 80164 of the natural  
10 resources and environmental protection act, 1994 PA 451, MCL  
11 324.80164, under a permit issued by the department and at the  
12 time and place specified in the permit.

13       Sec. 13. (1) A person shall not operate a personal watercraft  
14 in the waters of this state outside of a channel or in an area where  
15 aquatic rooted vegetation is visible above the surface of the water  
16 in the deltaic wetlands of a lake that is  
17 greater than 32 square miles and less than 144 square miles in  
18 area.

19       (2) A person who violates subsection (1) is responsible for a  
20 state civil infraction punishable by a fine of \$25.00.

21       Sec. 19. (1) Except when traveling at slow--no wake speed  
22 perpendicular to the shoreline, a person who operates a personal  
23 watercraft on 1 of the Great Lakes that is under the jurisdiction  
24 of this state shall maintain a distance of 200 feet from the  
25 shoreline.

26       (2) Except as provided in subsection (4), a person who oper-  
27 ates a personal watercraft or a person who is being towed by a  
28 personal watercraft on a water sled, kite, surfboard, parachute,  
29 tube, water ski, or similar equipment on the waters of this state  
30 shall maintain a distance of not less than 100 feet from a dock,



1 raft, or buoyed or occupied bathing or swimming area, a person in  
2 the water or on the water in a personal flotation device, or a  
3 vessel moored, anchored, drifting, or sitting in dead water.

4 (3) A person who operates a personal watercraft or a person  
5 who is being towed by a personal watercraft on a water sled,  
6 kite, surfboard, parachute, tube, water ski, or similar equipment  
7 on the waters of this state shall maintain a distance of not less  
8 than 200 feet from a submerged diver, vessel engaged in underwa-  
9 ter diving activities, or a flotation device displaying the  
10 international diving insignia.

11 (4) Subsection (2) does not apply under either of the fol-  
12 lowing conditions:

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

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

18 Sec. 21. An individual who is required to complete a boat-  
19 ing safety course under this act shall not operate a personal  
20 watercraft upon the waters of this state unless that individual  
21 has in his or her immediate possession a boating safety  
22 certificate.

23 Sec. 23. (1) In order to protect the public interest in the  
24 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 this state, the department shall

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

3       (2) The department shall put into effect a program to train  
4 boat operators and shall issue a boating safety certificate to  
5 those who satisfactorily complete the program. For the purpose  
6 of giving the courses of instruction and awarding boating safety  
7 certificates, the department may designate as its agent any  
8 person it considers qualified to act in this capacity. The  
9 department or its agent may offer a video or home study boating  
10 safety course. A charge shall not be made for any instruction  
11 given or for the award of boating safety certificates by any of  
12 the following:

13       (a) The department or another state agency.

14       (b) A law enforcement agency of this state or of a political  
15 subdivision of this state.

16       Sec. 25. (1) The department shall issue a boating safety  
17 certificate to each individual who successfully completes a boat-  
18 ing safety course as described in section 23 and passes an  
19 examination. The examination shall be administered in person and  
20 proctored by the department or an agent of the department.

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

26       (3) The department shall not issue a boating safety  
27 certificate to an individual unless the individual has

**HB 5426, As Passed Senate, May 14, 1998**

HB 5426 as amended May 13, 1998

11

1 successfully completed a boating safety course and passed an  
2 examination as described in subsection (1). A boating safety  
3 certificate issued under this section is valid, unless revoked,  
4 for the life of the person who earned the certificate.

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

11       Sec. 31. (1) Except as provided in subsection (2), a person  
12 under the age of 14 shall not use a personal watercraft on the  
13 waters of this state.

14       (2) A person who is 12 or more and less than 14 years of age  
15 before January 1, 1999 may use a personal watercraft on the  
16 waters of this state if before January 1, 1999 he or she obtained  
17 a boating safety certificate.

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

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

26       (5) The owner of a personal watercraft or a person having  
27 charge over or control of a personal watercraft shall not

1 authorize or knowingly permit the personal watercraft to be  
2 operated in violation of this section.

3       (6) This section does not apply to a performer engaged in a  
4 professional exhibition or a person preparing to participate or  
5 participating in a regatta, race, marine parade, tournament, or  
6 exhibition held in compliance with section 80164 of the natural  
7 resources and environmental protection act, 1994 PA 451, MCL  
8 324.80164, under a permit issued by the department and at the  
9 time and place specified in the permit.

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

13       (2) Beginning 1 year after the effective date of this act, a  
14 person who is not a resident of this state shall operate a per-  
15 sonal watercraft on the waters of this state only if he or she  
16 has 1 of the following in his or her possession:

17       (a) A boating safety certificate.

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

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

25       Sec. 45. Except as otherwise provided in this act, a per-  
26 sonal watercraft operator shall comply with part 801 of the

**HB 5426, As Passed Senate, May 14, 1998**

HB 5426 as amended May 13, 1998

13

1 natural resources and environmental protection act, 1994 PA 451,

2 MCL 324.80101 to 324.80199.

3 Enacting section 1. The personal watercraft safety act is  
repealed effective 5 years after the date of its enactment.