

# HOUSE BILL No. 5426

December 9, 1997, Introduced by Reps. Callahan, Bogardus, DeHart, Anthony, Jellema, Wojno, Hale, LaForge and Mans and referred to the Committee on Conservation, Environment and Recreation.

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:

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) "Boater safety certificate" means the certificate issued  
11 by the department under part 801 of the natural resources and  
12 environmental protection act, 1994 PA 451, MCL 324.80101 to  
13 324.80199.

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

20 (d) "Department" means the department of natural resources.

21 (e) "Director" means the director of the department of natu-  
22 ral resources.

23 (f) "Manufacturer" means a person engaged in any of the  
24 following:

25 (i) The manufacture, construction, or assembly of personal  
26 watercraft or associated equipment.

1       (ii) The manufacture or construction of components for  
2 personal watercraft and associated equipment to be sold for  
3 subsequent assembly.

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

6       (g) "Operate" means to be in control of a personal water-  
7 craft while the personal watercraft is under way and is not  
8 docked or at anchor or secured in another way.

9       (h) "Operator" means the person who is in control or in  
10 charge of a personal watercraft while that vessel is under way.

11       (i) "Owner" means a person who claims or is entitled to  
12 lawful possession of a personal watercraft by virtue of that  
13 person's legal title or equitable interest in a personal  
14 watercraft.

15       (j) "Peace officer" means any of the following:

16       (i) A sheriff.

17       (ii) A sheriff's deputy.

18       (iii) A deputy who is authorized by a sheriff to enforce  
19 this act and who has satisfactorily completed at least 40 hours  
20 of law enforcement training, including training specific to  
21 part 801 of the natural resources and environmental protection  
22 act, 1994, PA 451, MCL 324.80101 to 324.80199.

23       (iv) A village or township marshal.

24       (v) An officer of the police department of a municipality.

25       (vi) An officer of the Michigan state police.

26       (vii) The director and conservation officers employed by the  
27 department.

1 (k) "Person" means an individual, corporation, limited  
2 liability company, partnership, association, governmental entity,  
3 or other legal entity.

4 (l) "Personal watercraft" means a vessel that meets all of  
5 the following requirements:

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

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

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

13 (m) "Personal watercraft safety certificate" means a docu-  
14 ment issued by the department under this act that certifies that  
15 the individual named in the certificate has successfully com-  
16 pleted a personal watercraft safety course.

17 (n) "Personal watercraft safety course" means a course that  
18 provides instruction on the safe operation of a personal water-  
19 craft that meets or exceeds the minimum course content for per-  
20 sonal watercraft education established by the national associa-  
21 tion of state boating law administrators education committee  
22 (October 1996) and that is approved by the department. Personal  
23 watercraft safety course includes an examination approved by the  
24 department under section 23.

25 (o) "Political subdivision" means a county, metropolitan  
26 authority, municipality, or combination of those entities in this  
27 state.

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

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

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

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

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

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

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

16 (b) Used principally for governmental purposes.

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

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

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

25 Sec. 11. (1) A person shall not operate a personal water-  
26 craft on the waters of this state unless each person riding on or  
27 being towed behind the personal watercraft is wearing a type I,

1 type II, or type III personal flotation device as described in  
2 R 281.1234 of the Michigan administrative code.

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

8 (3) A person shall not operate a personal watercraft on the  
9 waters of this state during the period that begins 1/2 hour  
10 before sunset and ends 1/2 hour after sunrise. As used in this  
11 subsection, "sunset" and "sunrise" mean those times as determined  
12 by the national weather service.

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

18 (a) Weaving through congested vessel traffic.

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

22 (c) Swerving at the last possible moment to avoid a  
23 collision.

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

1 (6) A violation of subsection (5) is prima facie evidence of  
2 reckless operation of a watercraft under section 17.

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.

6 (8) 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 part 801 of  
10 the natural resources and environmental protection act, 1994 PA  
11 451, MCL 324.80164, under a permit issued by the department and  
12 at the time and place specified in the permit.

13 Sec. 13. (1) The department shall promulgate rules to  
14 establish maximum personal watercraft speed limits.

15 (2) A person operating a personal watercraft in excess of  
16 the speeds established under this section is guilty of reckless  
17 operation of a personal watercraft under section 17.

18 Sec. 15. (1) The owner of a personal watercraft is liable  
19 for any injury occasioned by the negligent operation of the per-  
20 sonal watercraft, whether the negligence consists of a violation  
21 of the statutes of this state, or in the failure to observe the  
22 ordinary care in the operation that the rules of the common law  
23 require. The owner is not liable unless the personal watercraft  
24 is being used with his or her expressed or implied consent. It  
25 shall be presumed that the personal watercraft is being operated  
26 with the knowledge and consent of the owner if it is driven at  
27 the time of the injury by his or her son, daughter, spouse,

1 father, mother, brother, sister, or other immediate member of the  
2 owner's family.

3 (2) The owner of a personal watercraft shall not permit an  
4 individual to operate the owner's personal watercraft if the  
5 individual has not obtained a personal watercraft safety certifi-  
6 cate as required under section 21.

7 Sec. 17. (1) If a person carelessly and heedlessly operates  
8 a personal watercraft upon the waters of this state in disregard  
9 of the rights or safety of others, without due caution and cir-  
10 cumspection, or at a rate of speed or in a manner that endangers  
11 or is likely to endanger a person or property, that person is  
12 guilty of reckless operation of a personal watercraft and is  
13 subject to the penalties described in subsection (2).

14 (2) Upon a person's conviction under this section, the court  
15 may issue an order prohibiting the person from operating a per-  
16 sonal watercraft on the waters of this state for a period of not  
17 more than 2 years. Upon a person's conviction under this sec-  
18 tion, the court shall order the person to participate in and com-  
19 plete a personal watercraft safety course. An order issued pur-  
20 suant to this subsection is in addition to any other penalty  
21 authorized under this act.

22 Sec. 19. If a person operates a personal watercraft at an  
23 immoderate rate of speed or in a careless, reckless, or negligent  
24 manner, but not willfully or wantonly, and injures so as to crip-  
25 ple or cause the death of another, the person is guilty of a mis-  
26 demeanor and shall be imprisoned for not more than 2 years or  
27 fined not more than \$2,000.00, or both.



1       Sec. 21. (1) Except when traveling at slow--no wake speed,  
2 a person who operates a personal watercraft on 1 of the Great  
3 Lakes that is under the jurisdiction of this state shall maintain  
4 a distance of 150 feet from the shoreline.

5       (2) A person who operates a personal watercraft on the  
6 waters of this state or a person who is being towed on a water  
7 sled, kite, surfboard, parachute, tube, water ski, or similar  
8 equipment shall maintain a distance of not less than 200 feet  
9 from a dock, raft, or buoyed or occupied bathing or swimming  
10 area, a person in the water or on the water in a personal flota-  
11 tion device, or a vessel moored or anchored, unless the vessel  
12 being operated or the person being towed is proceeding at a  
13 slow--no wake speed or the operator of the vessel is picking up  
14 or dropping off a water skier.

15       Sec. 23. (1) Beginning on January 1, 2001, except as pro-  
16 vided in subsection (2) and section 29, an individual shall not  
17 operate a personal watercraft upon the waters of this state  
18 unless that individual has in his or her immediate possession a  
19 personal watercraft safety certificate.

20       (2) A person who is not a resident of this state is exempt  
21 from the requirements of subsection (1).

22       (3) A person shall not receive a personal watercraft safety  
23 certificate unless he or she has successfully completed a per-  
24 sonal watercraft safety course.

25       (4) A personal watercraft safety certificate is valid for  
26 the life of the person who earned the certificate.

1       Sec. 25. (1) The department shall do all of the following:

2       (a) Establish a personal watercraft safety course and issue  
3 a personal watercraft safety certificate to each individual who  
4 has completed a personal watercraft safety course.

5       (b) Maintain a list of individuals to whom a personal water-  
6 craft safety certificate has been issued. The list shall include  
7 the individual's name, address, date of birth, and the person  
8 from whom the individual received a personal watercraft safety  
9 course.

10       (c) Develop an examination that tests an individual's knowl-  
11 edge of personal watercraft safety.

12       (d) Make available the examination described in subdivision  
13 (c) to each person who offers a personal watercraft safety course  
14 upon the request of the person.

15       (2) For the purpose of giving personal watercraft safety  
16 courses of instruction and awarding personal watercraft safety  
17 certificates, the department may designate as its agent any  
18 person it considers qualified to act in this capacity. A charge  
19 shall not be made for any instruction given or for the award of  
20 personal watercraft safety certificates.

21       (3) A person who offers a personal watercraft safety course  
22 shall notify the department of the name, address, and date of  
23 birth of each individual who successfully completes the person's  
24 personal watercraft safety course not more than 30 days after the  
25 individual successfully completes the course, along with the name  
26 and address of the person who offered the course.

1       Sec. 27. (1) Except as provided under section 31, an  
2 individual who operates a personal watercraft on the waters of  
3 this state shall display his or her personal watercraft safety  
4 certificate or boater safety certificate, as applicable, upon the  
5 demand of a peace officer who identifies himself or herself as a  
6 peace officer.

7       (2) A person shall display only his or her own personal  
8 watercraft safety certificate or boater safety certificate under  
9 subsection (1).

10       (3) A person shall not display a fraudulent personal water-  
11 craft safety certificate or boater safety certificate under sub-  
12 section (1).

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

16       Sec. 29. The director may by written authorization modify  
17 or suspend the personal watercraft safety certificate require-  
18 ments under this act if the modification or suspension of those  
19 certificate requirements is for individuals engaged in a marine  
20 event authorized by the director or for which the director  
21 receives a copy of a United States coast guard authorization.

22       Sec. 31. (1) A person under the age of 16 shall not use a  
23 personal watercraft on the waters of this state.

24       (2) A person who is 16 or more but less than 19 years of age  
25 may use a personal watercraft upon the waters of this state if he  
26 or she obtains a personal watercraft safety certificate, or

1 before the effective date of this act, he or she obtains a  
2 boating safety certificate.

3 (3) 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 this section.

7 (4) 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 section 80164 of part 801 of  
11 the natural resources and environmental protection act, 1994 PA  
12 451, MCL 324.80164, under a permit issued by the department and  
13 at the time and place specified in the permit.

14 Sec. 33. (1) The secretary of state shall not issue an  
15 original or renewed registration of a personal watercraft to a  
16 person unless the person has obtained and displays to the secre-  
17 tary of state a personal watercraft safety certificate.

18 (2) A dealer shall not issue a registration for a personal  
19 watercraft or a 15-day temporary permit under section 80124 of  
20 part 801 of the natural resources and environmental protection  
21 act, 1994 PA 451, MCL 324.80124, unless the person to whom the  
22 personal watercraft is to be registered obtains and displays to  
23 the dealer a personal watercraft safety certificate.

24 Sec. 35. A dealer of a new or used personal watercraft  
25 shall advise each person who buys a personal watercraft from the  
26 dealer of both of the following:

1 (a) The secretary of state or the dealer shall not issue a  
2 personal watercraft registration as described in section 33  
3 unless the person applying for registration obtains and displays  
4 a personal watercraft safety certificate.

5 (b) The sources of personal watercraft safety courses in the  
6 area.

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

9 (a) A document that summarizes the marine safety laws that  
10 pertain exclusively to personal watercraft.

11 (b) A document that summarizes the safety features of per-  
12 sonal watercraft. This document may be a generic document and  
13 shall not represent the safety features of a particular style or  
14 brand of personal watercraft.

15 (2) A dealer shall provide a copy of each of the documents  
16 described in subsection (1) to each person who buys a personal  
17 watercraft from the dealer.

18 Sec. 39. Unless otherwise specified in this act, a person  
19 who violates this act is guilty of a misdemeanor, punishable by  
20 imprisonment for not more than 90 days or a fine of not more than  
21 \$500.00, or both. In addition, a person who violates this act  
22 may be required to participate in and complete a personal water-  
23 craft safety course.

24 Sec. 41. Except as otherwise provided in this act, a per-  
25 sonal watercraft operator shall comply with part 801 of the natu-  
26 ral resources and environmental protection act, 1994 PA 451, MCL  
27 324.80101 to 324.80199.

1 Enacting section 1. This act takes effect March 1, 1998.

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