

Act No. 116
Public Acts of 1998
Approved by the Governor
June 9, 1998

Filed with the Secretary of State
June 9, 1998

EFFECTIVE DATE: 91st day after final adjournment of 1998 Regular Session

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

**Introduced by Reps. Callahan, Bogardus, DeHart, Anthony, Jellema, Wojno, Hale, LaForge and Mans
Reps. Agee, Baade, Birkholz, Bodem, Brater, Brewer, Cassis, Crissman, Dalman, DeVuyt, Dobb,
Kelly, Kukuk, Law, London, McBryde, Middleton, Richner, Rocca, Scott and Vaughn named co-sponsors**

ENROLLED HOUSE BILL No. 5426

AN ACT 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:

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

Sec. 3. As used in this act:

(a) “Associated equipment” means any of the following that are not radio equipment:

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

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

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

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

(b) “Boat livery” means that term as defined in section 44501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.44501.

(c) “Boating safety certificate” means either of the following:

(i) The document issued by the department under this act that certifies that the individual named in the document has successfully completed a boating safety course and passed an examination approved and administered as required under section 23.

(ii) A document issued by the United States coast guard auxiliary that certifies that the individual named in the document has successfully completed a United States coast guard auxiliary course concerning boating safety.

(iii) A written rental agreement provided to an individual named in the rental agreement entered into under section 44522 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.44522, only on the date or dates indicated on the rental agreement while the named individual is operating a personal watercraft leased, hired, or rented from a boat livery.

- (d) "Boating safety course" means a course that meets both of the following requirements:
- (i) Provides instruction on the safe operation of a personal watercraft that meets or exceeds the minimum course content for boating or personal watercraft education established by the national association of state boating law administrators education committee (October 1996).
 - (ii) Is approved by the department.
- (e) "Channel" means either of the following:
- (i) The deepest part of a stream, bay, or straight through which the main current flows.
 - (ii) The part of a body of water deep enough for navigation through an area otherwise not suitable for navigation that is marked by a single or double line of navigational aids or range markers.
- (f) "Dealer" means a person and an authorized representative of that person who annually purchases from a manufacturer, or who is engaged in selling or manufacturing, 6 or more personal watercraft that require certificates of number under part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.
- (g) "Department" means the department of natural resources.
- (h) "Director" means the director of the department of natural resources.
- (i) "Manufacturer" means a person engaged in any of the following:
- (i) The manufacture, construction, or assembly of personal watercraft or associated equipment.
 - (ii) The manufacture or construction of components for personal watercraft and associated equipment to be sold for subsequent assembly.
 - (iii) The importation of a personal watercraft or associated equipment into the state for sale.
- (j) "Operate" means to be in control of a personal watercraft while the personal watercraft is under way and is not docked or at anchor or secured in another way.
- (k) "Operator" means the person who is in control or in charge of a personal watercraft while that vessel is under way.
- (l) "Owner" means a person who claims or is entitled to lawful possession of a personal watercraft by virtue of that person's legal title or equitable interest in a personal watercraft.
- (m) "Peace officer" means 1 or both of the following:
- (i) A law enforcement officer as that term is defined in section 2 of the Michigan law enforcement officers training council act, 1965 PA 203, MCL 28.602.
 - (ii) A deputy who is authorized by a sheriff to enforce this act and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this act.
- (n) "Person" means an individual, corporation, limited liability company, partnership, association, governmental entity, or other legal entity.
- (o) "Personal watercraft" means a vessel that meets all of the following requirements:
- (i) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.
 - (ii) Is designed without an open load carrying area that would retain water.
 - (iii) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.
- (p) "Political subdivision" means a county, metropolitan authority, municipality, or combination of those entities in this state.
- (q) "Slow—no wake speed" means the use of a vessel at a very slow speed so that the resulting wake or wash is minimal.
- (r) "Use" means operate, navigate, or employ.
- (s) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.
- (t) "Waters of this state" means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.

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

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

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

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

(3) A person shall not operate a personal watercraft on the waters of this state unless each person on board the personal watercraft is wearing a personal flotation device that is not 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 guardian or a designee of the parent or guardian.

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

(6) A person shall not operate a personal watercraft on the waters of this state during the period that begins 1 hour before sunset and ends at 8 a.m. As used in this subsection, "sunset" means that time as determined by the national weather service.

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

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

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

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

(9) A person shall operate a personal watercraft in a reasonable and prudent manner. A maneuver that unreasonably or unnecessarily endangers life, limb, or property, including but not limited to all of the following, constitutes reckless operation of a personal watercraft under section 17:

(a) Weaving through congested vessel traffic.

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

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

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

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

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

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

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

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

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

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

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

(4) Subsection (2) does not apply under either of the following conditions:

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

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

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

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

(2) The department shall put into effect a program to train boat operators and shall issue a boating safety certificate to those who satisfactorily complete the program. For the purpose of giving the courses of instruction and awarding boating safety certificates, the department may designate as its agent any 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 shall not be made for any instruction given or for the award of boating safety certificates by any of the following:

(a) The department or another state agency.

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

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

(2) Beginning on the effective date of this act, the department shall consider the number of examinations that are administered or proctored under this section when calculating the state aid to counties under section 80117 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80117.

(3) The department shall not issue a boating safety certificate to an individual unless the individual has successfully completed a boating safety course and passed an examination as described in subsection (1). A boating safety certificate issued under this section is valid, unless revoked, for the life of the person who earned the certificate.

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

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

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

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

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

(5) The owner of a personal watercraft or a person having charge over or control of a personal watercraft shall not authorize or knowingly permit the personal watercraft to be operated in violation of this section.

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

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

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

(a) A boating safety certificate.

(b) A certificate issued by his or her state of residence that reflects education and training that is substantially similar to the education and training required to obtain a boating safety certificate under this act.

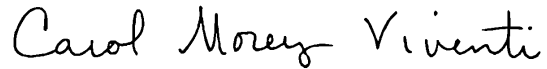
(c) A certificate showing that he or she has successfully completed a course that meets the requirement prescribed in section 3(d)(i).

Sec. 45. Except as otherwise provided in this act, a personal watercraft operator shall comply with part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199.

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



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.