

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5463

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 80104 and 80110 (MCL 324.80104 and 324.80110),
section 80104 as amended by 2014 PA 402 and section 80110 as
amended by 2006 PA 237, and by adding section 80112a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80104. As used in this part:

2 (a) "Highly restricted personal information" means an
3 individual's photograph or image, ~~social security~~ **Social Security**
4 number, digitized signature, and medical and disability
5 information.

6 (b) "Passenger" means ~~a person~~ **an individual** carried on board,
7 attached to, or towed by a vessel, other than the operator.



(c) "Peace officer" means any of the following:

(i) A sheriff.

(ii) A sheriff's deputy.

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

(iv) A village or township marshal.

(v) An officer of the police department of ~~any~~**a** municipality.

(vi) An officer of the ~~Michigan~~**department of** state police.

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

(d) "Personal information" means information that identifies an individual, including an individual's driver ~~identification~~**license** number, name, address not including zip code, and telephone number, but does not include information on watercraft operation and equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other ~~behaviorally-~~**related-behaviorally related** information.

(e) "Personal watercraft" means that term as defined in 40 CFR 1045.801.

(f) "Political subdivision" means ~~any~~**a** county, metropolitan authority, municipality, or combination of those entities in this state. If a body of water is located in more than 1 political subdivision, all of the subdivisions shall act individually in order to comply with this part, except that if the problem is confined to a specific area of the body of water, only the political subdivision in which the problem waters lie shall act.

(g) "Port" means left, and reference is to the port side of a vessel or to the left side of the vessel.



1 (h) "Prior conviction" means a conviction for any of the
2 following, whether under a law of this state, a local ordinance
3 substantially corresponding to a law of this state, a law of the
4 United States substantially corresponding to a law of this state,
5 or a law of another state substantially corresponding to a law of
6 this state:

7 (i) A violation or an attempted violation of section 80176(1),
8 (3), (4), (5), (6), or (7), except that only 1 violation or
9 attempted violation of section 80176(6), a local ordinance
10 substantially corresponding to section 80176(6), or a law of
11 another state substantially corresponding to section 80176(6), or a
12 law of the United States substantially corresponding to section
13 80176(6) may be used as a prior conviction other than for
14 enhancement purposes as provided in section 80178a(1)(b).

15 (ii) Negligent homicide, manslaughter, or murder resulting from
16 the operation of a vessel or an attempt to commit any of those
17 crimes.

18 (iii) Former section 73, 73b, or 171(1) of the marine safety
19 act.

20 (i) "Probate court or family division disposition" means the
21 entry of a probate court order of disposition or family division
22 order of disposition for a child found to be within the provisions
23 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
24 712A.1 to 712A.32.

25 (j) "Prosecuting attorney", except as the context requires
26 otherwise, means the attorney general, ~~the~~ prosecuting attorney of
27 a county, or ~~the~~ attorney representing a political subdivision of
28 government.

29 (k) "Regatta", "boat race", "marine parade", "tournament", or



"exhibition" means an organized water event of limited duration that is conducted according to a prearranged schedule.

(l) "Slow-no wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

(m) "Starboard" means right, and reference is to the starboard side of a vessel or to the right side of the vessel.

(n) "State aid" means payment made by ~~the~~**this** state to a county for the conduct of a marine safety program.

(o) **"Temporary ordinance" means a type of local ordinance adopted by a political subdivision of this state under section 80112a that includes, but is not limited to, a local watercraft control or administrative rule.**

(p) ~~(e)~~ "Undocumented vessel" means a vessel that does not have, and is not required to have, a valid marine document issued by the United States ~~coast guard~~**Coast Guard** or federal agency successor to the United States ~~coast guard~~**Coast Guard**.

(q) ~~(p)~~ "Uniform inspection decal" means an adhesive-backed sticker created by the department that is color-coded to indicate the year that it expires and is attached to a vessel in the manner prescribed for decals in section 80122 when a peace officer inspects and determines that the vessel complies with this part.

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

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

(t) ~~(s)~~ "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.

(u) ~~(t)~~ "Waterways account" means the waterways account established in section 2035.



1 Sec. 80110. (1) ~~The~~ **Except as provided under section 80112a,**
 2 **the** department may initiate ~~investigations~~ **an investigation** and
 3 ~~inquiries~~ **inquiry** into the need for ~~a special rules~~ **rule** for the
 4 use of vessels, water skis, water sleds, aquaplanes, surfboards, or
 5 other similar contrivances on any of the waters of this state to
 6 assure compatibility of uses and to protect public safety. If the
 7 department receives a resolution ~~pursuant to~~ **under** section 80112,
 8 the department shall initiate an investigation and inquiry under
 9 this subsection.

10 (2) The department's investigation and inquiry under
 11 subsection (1) into whether ~~a special rules are~~ **rule is** needed on a
 12 ~~particular water body shall~~ **must** include ~~a~~ consideration of all of
 13 the following:

14 (a) Whether the activities subject to the proposed ~~special~~
 15 ~~rules~~ **rule** pose any issues of safety to life or property.

16 (b) The profile of the water body, including ~~local~~ **the name of**
 17 **the political subdivision with** jurisdiction, size, geographic
 18 location, and amount of vessel traffic.

19 (c) The current and historical depth of the water body,
 20 including whether there is an established lake level. ~~for the water~~
 21 ~~body.~~

22 (d) Whether any ~~identifiable~~ special problems or conditions
 23 exist on the water body for the activities subject to the proposed
 24 ~~special rules,~~ **rule**, such as rocks, pier heads, swimming areas,
 25 public access sites, shallow waters, and submerged obstacles.

26 (e) Whether the proposed ~~special rules~~ **rule** would unreasonably
 27 interfere with normal navigational traffic.

28 (f) Whether user conflicts exist on the water body.

29 (g) Complaints received by local law enforcement agencies



1 regarding activities on the water body.

2 (h) The status of any accidents that have occurred on the
3 water body.

4 (i) Historical uses of the water body and potential future
5 uses of the water body.

6 (j) Whether the water body is public or private.

7 (k) Whether existing law adequately regulates the activities
8 subject to the proposed ~~special rules~~. **rule**.

9 (3) Following completion of the department's investigation and
10 inquiry **under subsection (1)**, the department shall prepare a
11 preliminary report that includes the department's evaluation of the
12 items listed in subsection (2) and ~~the department's a~~ preliminary
13 recommendation as to whether **a special ~~rules are~~ rule is** needed for
14 the water body.

15 (4) ~~Upon~~ **On** preparation of the preliminary report **under**
16 **subsection (3)**, the department shall provide a copy of the
17 preliminary report to the ~~local~~ political subdivision ~~that has~~
18 ~~waters subject to its jurisdiction for which the proposed special~~
19 ~~rules are being considered and shall schedule a public hearing in~~
20 the vicinity of the water body to gather public input on the
21 preliminary report and the need for **a special ~~rules~~ rule**. ~~Notice~~ **rule**.
22 **The department shall provide notice** of the public hearing ~~shall be~~
23 ~~made~~ in a newspaper of general circulation in the area where the
24 water body is located, ~~not less than 10 calendar days before the~~
25 hearing. At the public hearing, **any** interested ~~persons shall be~~
26 ~~afforded an opportunity to present their views~~ **person may comment**
27 on the preliminary report and the need for **a special ~~rules~~ rule**,
28 either orally or in writing.

29 (5) Within 90 days ~~following~~ **after** the public hearing under



subsection (4), if the department determines that ~~there is a need~~
~~for a~~ special ~~rules~~ **rule is needed** for the water body, the
 department shall propose a local ordinance or appropriate changes
 to a local ordinance. If the department determines that ~~there is~~
~~not a need for a~~ special ~~rules~~, **rule is not needed**, the department
 shall notify the political subdivision ~~that has waters subject to~~
~~its jurisdiction and shall provide the specific reasons for its~~ **the**
 determination.

(6) A determination by the department **under this section** that
~~there is not a need for a~~ special ~~rules~~ **rule is not needed** for a
the water body may be appealed to the ~~commission~~ **director** by the
 political subdivision. ~~that has waters subject to its jurisdiction.~~
 The ~~commission~~ **director** shall make the final agency decision on ~~the~~
~~need for whether a~~ special ~~rules~~ **rule is needed** for ~~a the~~ water
 body.

(7) As used in this section, "water body" includes all or a
 portion of a water body.

Sec. 80112a. (1) If a political subdivision believes a
temporary ordinance is needed for the use of vessels on a water
body subject to its jurisdiction, the political subdivision may
submit an application and a resolution for a temporary ordinance to
the department.

(2) An application for a temporary ordinance under this
 section must contain all of the following information:

(a) The resolution and a copy of the public notice that lists
 the adoption of the resolution on the agenda.

(b) The information required under section 80110(2).

(c) The circumstances that justify a temporary ordinance
 rather than a special rule under section 80110.



1 (d) A complete list of all local ordinances, regulations, and
2 rules concerning the water body and how the ordinances,
3 regulations, and rules are enforced.

4 (e) If the temporary ordinance is approved, how the political
5 subdivision will provide for and fund the public notice of the
6 temporary ordinance, including, but not limited to, buoy placement
7 and signage.

8 (f) If the temporary ordinance is approved, how the political
9 subdivision will enforce the temporary ordinance.

10 (g) Any other information the political subdivision believes
11 is relevant or necessary.

12 (3) Within 10 days after receiving an application under
13 subsection (2), the department shall review the application. If the
14 application is complete, the department shall conduct an
15 investigation and inquiry within 10 days into the need for a
16 temporary ordinance. If additional information is needed, the
17 department shall request the additional information. Within 10 days
18 after receiving the additional information, the department shall
19 conduct an investigation and inquiry into the need for a temporary
20 ordinance.

21 (4) Within 10 days after completing the investigation and
22 inquiry under subsection (3), if the department determines that
23 there is a need for a temporary ordinance, the department shall
24 propose a temporary ordinance that affects all boats or boat types
25 on the water body. If the department determines that there is not a
26 need for a temporary ordinance, the department shall notify the
27 political subdivision and provide the specific reasons for the
28 determination.

29 (5) A determination by the department under this section that

1 there is not a need for a temporary ordinance may be appealed by
2 the political subdivision to the director. The director shall make
3 the final agency decision on the need for a temporary ordinance.

4 (6) If the department determines there is a need for a
5 temporary ordinance, the department shall submit to the political
6 subdivision a proposed temporary ordinance. Notwithstanding any
7 charter provision or other provision of law, the proposed temporary
8 ordinance takes effect when both of the following requirements are
9 met, which must occur within 30 days after the department submits
10 the proposed temporary ordinance to the political subdivision:

11 (a) The governing body of the political subdivision adopts the
12 ordinance at a public meeting.

13 (b) The political subdivision notifies the department of the
14 adoption.

15 (7) If the political subdivision fails to notify the
16 department of the adoption of the proposed temporary ordinance, the
17 proposed temporary ordinance is considered disapproved and no
18 further action shall be taken.

19 (8) A temporary ordinance expires 6 months after the
20 department is notified of the adoption of the temporary ordinance
21 under subsection (6). The temporary ordinance may be extended or
22 renewed in consecutive years only if the political subdivision is
23 going through the process of adopting a proposed special rule under
24 sections 80110 and 80111, and the public hearing required under
25 section 80110(4) has occurred.

26 (9) If the department determines that a special rule is not
27 needed under section 80110(5), and the director denies the appeal
28 under section 80110(6), the political subdivision may not extend or
29 renew a temporary ordinance in consecutive years under subsection



1 (8) .

2 (10) As used in this section, "water body" includes all or a
3 portion of a water body.

4 Enacting section 1. This amendatory act does not take effect
5 unless all of the following bills of the 100th Legislature are
6 enacted into law:

7 (a) House Bill No. 5401.

8 (b) House Bill No. 5402.

