

**SUBSTITUTE FOR
HOUSE BILL NO. 5463**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 80104, 80110, and 80112 (MCL 324.80104,
324.80110, and 324.80112), section 80104 as amended by 2014 PA 402
and sections 80110 and 80112 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,



1 attached to, or towed by a vessel, other than the operator.

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

3 (i) A sheriff.

4 (ii) A sheriff's deputy.

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

8 (iv) A village or township marshal.

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

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

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

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

20 (e) "Personal watercraft" means that term as defined in 40 CFR
21 1045.801.

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

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



1 vessel or to the left side of the vessel.

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

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

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

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

21 (i) "Probate court or family division disposition" means the
22 entry of a probate court order of disposition or family division
23 order of disposition for a child found to be within the provisions
24 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
25 712A.1 to 712A.32.

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



(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) ~~(o)~~ "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



1 established in section 2035.

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

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

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

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

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

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

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

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



(g) Complaints received by local law enforcement agencies regarding activities on the water body.

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

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

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

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

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

(4) ~~Upon~~ **On** preparation of the preliminary report **under subsection (3)**, the department shall provide a copy of the preliminary report to the ~~local~~ political subdivision ~~that has~~ waters subject to its jurisdiction for which the proposed special rules are being considered and shall schedule a public hearing in the vicinity of the water body to gather public input on the preliminary report and the need for **a special rules. Notice rule.** **The department shall provide notice** of the public hearing ~~shall be made~~ in a newspaper of general circulation in the area where the water body is located ~~7~~ not less than 10 ~~calendar~~ days before the hearing. At the public hearing, **any** interested ~~persons shall be~~ **person may comment** afforded an opportunity to present their views **person may comment** on the preliminary report and the need for **a special rules, rule,** either orally or in writing.



(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. 80112. (1) ~~Local~~**If a** political subdivisions that believe **subdivision believes** that ~~a special local ordinances of the type rule or temporary ordinance~~ authorized ~~by~~**under** this part ~~are~~**is** needed on waters subject to ~~their~~**the political subdivision's** jurisdiction, **the political subdivision** shall inform the department and request assistance. ~~All such requests shall~~**A request for a special rule or temporary ordinance must** be in the form of an official resolution approved by a majority of the governing body of the ~~concerned~~ political subdivision following a public hearing on the resolution. ~~Upon~~

(2) **On** receipt of a resolution under ~~this section,~~**subsection**



(1), the department shall proceed as required by sections 80110 and 80111 or section 80112a.

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 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 under section 80112 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.

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

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

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

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

(3) Within 10 days after receiving an application under subsection (2), the department shall review the application. If the application is complete, the department shall conduct an investigation and inquiry within 10 days into the need for a



1 temporary ordinance. If additional information is needed, the
2 department shall request the additional information. Within 10 days
3 after receiving the additional information, the department shall
4 conduct an investigation and inquiry into the need for a temporary
5 ordinance.

6 (4) Within 10 days after completing the investigation and
7 inquiry under subsection (3), if the department determines that
8 there is a need for a temporary ordinance, the department shall
9 propose a temporary ordinance that affects all boats or boat types
10 on the water body. If the department determines that there is not a
11 need for a temporary ordinance, the department shall notify the
12 political subdivision and provide the specific reasons for the
13 determination.

14 (5) A determination by the department under this section that
15 there is not a need for a temporary ordinance may be appealed by
16 the political subdivision to the director. The director shall make
17 the final agency decision on the need for a temporary ordinance.

18 (6) If the department determines there is a need for a
19 temporary ordinance, the department shall submit to the political
20 subdivision a proposed temporary ordinance. Notwithstanding any
21 charter provision or other provision of law, the proposed temporary
22 ordinance takes effect when both of the following requirements are
23 met, which must occur within 20 days after the department submits
24 the proposed temporary ordinance to the political subdivision:

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

27 (b) The political subdivision notifies the department of the
28 adoption.

29 (7) If the political subdivision fails to notify the

1 department of the adoption of the proposed temporary ordinance, the
2 proposed temporary ordinance is considered disapproved and no
3 further action shall be taken.

4 (8) A temporary ordinance expires 6 months after the
5 department is notified of the adoption of the temporary ordinance
6 under subsection (6). The temporary ordinance may not be extended
7 or renewed in consecutive years.

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