

SUBSTITUTE FOR
HOUSE BILL NO. 5836

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 44522, 80141, and 80212 (MCL 324.44522, 324.80141, and 324.80212), section 44522 as amended by 2012 PA 294 and sections 80141 and 80212 as amended by 2012 PA 120; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 44522. (1) A boat livery shall not rent a personal
2 watercraft to any of the following:
- 3 (a) A person who is under 14 years of age.
- 4 (b) A person who does not display **TO THE BOAT LIVERY OWNER OR**
5 **THE OWNER'S AGENT, IF IT IS REQUIRED UNDER PART 802,** a ~~boater~~
6 **BOATING** safety certificate that is issued by the department ~~if~~

1 ~~required under part 802.~~

2 ~~—— (c) A person who is not required to obtain a boater safety~~
3 ~~certificate issued by the department under part 802 before~~
4 ~~operating a personal watercraft, OR THE UNITED STATES COAST GUARD~~
5 ~~AUXILIARY OR AN ELECTRONIC COPY, IN A FORMAT APPROVED BY THE~~
6 ~~DEPARTMENT OF SUCH A BOATING SAFETY CERTIFICATE, unless the person~~
7 ~~INDIVIDUAL obtains training in the safe use of a personal~~
8 ~~watercraft from the boat livery before the personal watercraft is~~
9 ~~rented. The department shall provide to boat liveries guidelines~~
10 ~~for the training required under this subdivision.~~

11 (2) A person who rents a personal watercraft from a boat
12 livery shall not permit an individual to operate the personal
13 watercraft if the individual has not obtained a boating safety
14 certificate as required under part 802.

15 (3) A boat livery shall provide a copy of the written rental
16 agreement to each individual who rents a personal watercraft from
17 the boat livery and who has obtained the training required under
18 subsection (1). The written rental agreement shall include all of
19 the following information:

20 (a) The name of the person who rents a personal watercraft
21 from the boat livery.

22 (b) The date or dates of the rental.

23 (4) The written rental agreement described under subsection
24 (3) is a valid boating safety certificate under part 802 only for
25 the person named in the certificate on the date or dates of the
26 rental of the personal watercraft.

27 (5) A person who rents a personal watercraft from a boat

1 livery is liable for any injury ~~occasioned by~~ **RESULTING FROM** the
2 negligent operation of the personal watercraft, whether the
3 negligence consists of a violation of the statutes of this state,
4 or the failure to observe the ordinary care in operation required
5 by the common law. ~~The~~ **IF THE PERSONAL WATERCRAFT IS OPERATED BY AN**
6 **INDIVIDUAL OTHER THAN THE PERSON WHO RENTS THE PERSONAL WATERCRAFT,**
7 **THE** person **WHO RENTS THE PERSONAL WATERCRAFT** is not liable **UNDER**
8 **THIS SUBSECTION** unless the personal watercraft is being ~~used~~
9 **OPERATED** with his or her expressed or implied consent. It ~~shall be~~
10 **IS** rebuttably presumed that the personal watercraft is being
11 operated with the ~~knowledge and~~ consent of the person if it is
12 ~~driven at the time of the injury~~ **OPERATED** by his or her son,
13 daughter, spouse, father, mother, brother, sister, or other
14 immediate member of the person's family.

15 (6) A person who violates subsection (1) or (2) is guilty of a
16 misdemeanor, punishable by imprisonment for not more than 90 days
17 or a fine of not less than \$100.00 or more than \$500.00, or both. A
18 person who violates subsection (1) or (2) twice within a 3-year
19 period is guilty of a misdemeanor punishable by imprisonment for
20 not more than 90 days or a fine of not more than \$1,000.00, or
21 both. A person who violates subsection (1) or (2) 3 or more times
22 within a 5-year period is guilty of a misdemeanor punishable by
23 imprisonment for not more than 90 days or a fine of not more than
24 \$2,000.00, or both.

25 (7) In addition to any penalty imposed under subsection (6),
26 upon a person's second or subsequent violation of subsection (1),
27 the court may issue an order impounding the personal watercraft

1 that was rented in violation of subsection (1) for not more than 1
 2 year. The cost of storage for an impoundment ordered under this
 3 subsection shall be paid by the owner of the personal watercraft.

4 Sec. 80141. (1) ~~Except as otherwise provided in this section,~~
 5 **IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2),** a person less
 6 than 12 years of age shall not operate a motorboat **THAT IS POWERED**
 7 **BY A MOTOR OR MOTORS TOTALING MORE THAN 6 HORSEPOWER** on the waters
 8 of this state unless ~~all~~ **BOTH** of the following ~~conditions~~
 9 **REQUIREMENTS** are met:

10 ~~—— (a) He or she has been issued and is in possession of a~~
 11 ~~boating safety certificate.~~

12 **(A) (b)**—He or she is under the direct supervision of a person
 13 on board the motorboat who is 16 years of age or older **AND WHO, IF**
 14 **BORN ON OR AFTER JULY 1, 1996, HAS BEEN ISSUED A BOATING SAFETY**
 15 **CERTIFICATE.**

16 **(B) (c)**—The motorboat he or she operates is powered by a motor
 17 or motors totaling no more than 35 horsepower.

18 ~~—— (2) Except as otherwise provided in this section, a person 12~~
 19 ~~through 15 years of age may operate a motorboat on the waters of~~
 20 ~~this state only if that person complies with either of the~~
 21 ~~following:~~

22 ~~—— (a) He or she is accompanied by at least 1 person 16 years of~~
 23 ~~age or older.~~

24 ~~—— (b) He or she is in possession of a boating safety certificate~~
 25 ~~issued after he or she has satisfactorily completed a department~~
 26 ~~approved course in boating safety.~~

27 ~~—— (3) A person operating a motorboat as described in this~~

1 ~~section shall present the boating safety certificate issued to him~~
2 ~~or her upon the demand of any peace officer.~~

3 ~~—— (4) This section does not apply to the operation of a~~
4 ~~motorboat that is powered by a motor or motors totaling no more~~
5 ~~than 6 horsepower.~~

6 (2) ~~(5) Beginning July 1, 2012, a person who is~~ **SUBJECT TO**
7 **SUBSECTION (4), A PERSON** born on or after July 1, 1996 shall not
8 operate a motorboat **THAT IS POWERED BY A MOTOR OR MOTORS TOTALING**
9 **MORE THAN 6 HORSEPOWER** on the waters of this state unless the
10 person has been issued and ~~is in possession of a boating safety~~
11 certificate.

12 (3) **A PERSON OPERATING OR SUPERVISING THE OPERATION OF A**
13 **MOTORBOAT AS DESCRIBED IN THIS SECTION SHALL PRESENT THE BOATING**
14 **SAFETY CERTIFICATE ISSUED TO HIM OR HER OR, AT THE PERSON'S OPTION,**
15 **AN ELECTRONIC COPY, IN A FORMAT APPROVED BY THE DEPARTMENT, OF A**
16 **BOATING SAFETY CERTIFICATE ISSUED TO HIM OR HER, UPON THE DEMAND OF**
17 **A PEACE OFFICER WHO IDENTIFIES HIMSELF OR HERSELF AS A PEACE**
18 **OFFICER.**

19 (4) **AN INDIVIDUAL WHO, UNDER SUBSECTION (3), DISPLAYS AN**
20 **ELECTRONIC COPY OF HIS OR HER BOATING SAFETY CERTIFICATE USING AN**
21 **ELECTRONIC DEVICE IS NOT PRESUMED TO HAVE CONSENTED TO A SEARCH OF**
22 **THE ELECTRONIC DEVICE. THIS STATE, AN EMPLOYEE OF THIS STATE, A**
23 **PEACE OFFICER, OR AN ENTITY EMPLOYING THE PEACE OFFICER IS NOT**
24 **LIABLE FOR DAMAGE TO OR LOSS OF AN ELECTRONIC DEVICE THAT OCCURS AS**
25 **A RESULT OF THE PEACE OFFICER'S VIEWING AN ELECTRONIC COPY OF A**
26 **BOATING SAFETY CERTIFICATE AS PROVIDED IN THIS SECTION, REGARDLESS**
27 **OF WHETHER THE PEACE OFFICER WAS IN POSSESSION OF THE ELECTRONIC**

1 **DEVICE AT THE TIME THE DAMAGE OR LOSS OCCURRED.**

2 Sec. 80212. (1) The department shall issue a boating safety
3 certificate to each individual who successfully completes a boating
4 safety course as described in section 80211 and passes an
5 examination prescribed by the department.

6 (2) The department shall consider the number of examinations
7 that are administered under this section when calculating the state
8 aid to counties under section 80117.

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

15 **(4) THE DEPARTMENT OF NATURAL RESOURCES SHALL DEVELOP AND, IN**
16 **CONJUNCTION WITH THE DEPARTMENT OF STATE POLICE, IMPLEMENT A**
17 **PROCESS USING THE L.E.I.N., OR ANY OTHER APPROPRIATE SYSTEM THAT**
18 **LIMITS ACCESS TO LAW ENFORCEMENT, TO ALLOW LAW ENFORCEMENT AGENCIES**
19 **OF THIS STATE TO VERIFY THAT AN INDIVIDUAL HAS OBTAINED A BOATING**
20 **SAFETY CERTIFICATE.**

21 **(5) AS USED IN THIS SECTION, "L.E.I.N." MEANS THE LAW**
22 **ENFORCEMENT INFORMATION NETWORK REGULATED UNDER THE C.J.I.S. POLICY**
23 **COUNCIL ACT, 1974 PA 163, MCL 28.211 TO 28.215.**

24 Enacting section 1. Section 80210 of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.80210, is
26 repealed.

27 Enacting section 2. This amendatory act takes effect 90 days

1 after the date it is enacted into law.

2 Enacting section 3. This amendatory act does not take effect
3 unless all of the following bills of the 99th Legislature are
4 enacted into law:

5 (a) House Bill No. 5988.

6 (b) House Bill No. 5989.