

HOUSE BILL No. 5836

April 18, 2018, Introduced by Rep. Marino and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 44522, 80141, 80212, 80213, and 80221 (MCL 324.44522, 324.80141, 324.80212, 324.80213, and 324.80221), section 44522 as amended by 2012 PA 294, sections 80141 and 80212 as amended by 2012 PA 120, and sections 80213 and 80221 as added by 2000 PA 229; 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 BOATING**

1 **SAFETY CERTIFICATE THAT IS ISSUED BY THE UNITED STATES COAST GUARD**
2 **AUXILIARY**, a ~~boater~~-**BOATING** safety certificate that is issued by
3 the department, ~~if required under part 802.~~

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

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

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

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

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

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

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

16 (6) A person who violates subsection (1) or (2) is guilty of a
17 misdemeanor, punishable by imprisonment for not more than 90 days
18 or a fine of not less than \$100.00 or more than \$500.00, or both. A
19 person who violates subsection (1) or (2) twice within a 3-year
20 period is guilty of a misdemeanor punishable by imprisonment for
21 not more than 90 days or a fine of not more than \$1,000.00, or
22 both. A person who violates subsection (1) or (2) 3 or more times
23 within a 5-year period is guilty of a misdemeanor punishable by
24 imprisonment for not more than 90 days or a fine of not more than
25 \$2,000.00, or both.

26 (7) In addition to any penalty imposed under subsection (6),
27 upon a person's second or subsequent violation of subsection (1),

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

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

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

13 **(A)** ~~(b)~~ He or she is under the direct supervision of a person
 14 on board the motorboat who is 16 years of age or older.

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

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

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

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

26 ~~—— (3) A person operating a motorboat as described in this~~
 27 ~~section shall present the boating safety certificate issued to him~~

1 ~~or her upon the demand of any peace officer.~~

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

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

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

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

27 Sec. 80212. (1) The department shall issue a boating safety

1 certificate to each individual who successfully completes a boating
2 safety course as described in section 80211 and passes an
3 examination prescribed by the department.

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

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

13 (4) **AN OPERATOR OR CHAUFFEUR OR THE HOLDER OF AN OFFICIAL**
14 **STATE PERSONAL IDENTIFICATION CARD MAY INDICATE ON THE LICENSE OR**
15 **THE CARD IN A PLACE DESIGNATED BY THE SECRETARY OF STATE THAT HE OR**
16 **SHE HAS BEEN ISSUED A BOATING SAFETY CERTIFICATE. THE SECRETARY OF**
17 **STATE SHALL DEVELOP AND SHALL, IN CONJUNCTION WITH THE DEPARTMENT**
18 **OF NATURAL RESOURCES AND THE DEPARTMENT OF STATE POLICE, IMPLEMENT**
19 **A PROCESS USING THE L.E.I.N., OR ANY OTHER APPROPRIATE SYSTEM THAT**
20 **LIMITS ACCESS TO LAW ENFORCEMENT, TO ALLOW LAW ENFORCEMENT AGENCIES**
21 **OF THIS STATE TO VERIFY THAT AN INDIVIDUAL HAS OBTAINED A BOATING**
22 **SAFETY CERTIFICATE. THE SECRETARY OF STATE SHALL ALSO DEVELOP AND**
23 **MAINTAIN A DATABASE OF ALL INDIVIDUALS WHO CHOOSE TO INDICATE ON**
24 **THEIR LICENSE OR OFFICIAL STATE PERSONAL IDENTIFICATION CARD THAT**
25 **THEY HAVE RECEIVED A BOATING SAFETY CERTIFICATE, AND SHALL PROVIDE**
26 **THE DEPARTMENT WITH ACCESS TO THAT DATABASE. THIS SUBSECTION**
27 **APPLIES TO AN INDIVIDUAL WHOSE OPERATOR'S LICENSE CONTAINS A**

1 GRADUATED LICENSING DESIGNATION.

2 (5) AS USED IN THIS SECTION:

3 (A) "CHAUFFEUR" MEANS A PERSON TO WHOM A CHAUFFEUR'S LICENSE
4 HAS BEEN ISSUED UNDER SECTION 310 OF THE MICHIGAN VEHICLE CODE,
5 1949 PA 300, MCL 257.310.

6 (B) "L.E.I.N." MEANS THE LAW ENFORCEMENT INFORMATION NETWORK
7 REGULATED UNDER THE C.J.I.S. POLICY COUNCIL ACT, 1974 PA 163, MCL
8 28.211 TO 28.215.

9 (C) "LICENSE" MEANS THAT TERM AS DEFINED IN SECTION 25 OF THE
10 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.25.

11 (D) "OFFICIAL STATE PERSONAL IDENTIFICATION CARD" MEANS AN
12 OFFICIAL STATE PERSONAL IDENTIFICATION CARD AS PROVIDED FOR UNDER
13 1972 PA 222, MCL 28.291 TO 28.300.

14 (E) "OPERATOR" MEANS A PERSON TO WHOM AN OPERATOR'S LICENSE
15 HAS BEEN ISSUED UNDER SECTION 310 OF THE MICHIGAN VEHICLE CODE,
16 1949 PA 300, MCL 257.310.

17 Sec. 80213. (1) An individual who is required to complete a
18 boating safety course under this part and who operates a personal
19 watercraft on the waters of this state shall display his or her
20 boating safety certificate **OR, AT THE INDIVIDUAL'S OPTION, AN**
21 **ELECTRONIC COPY OF THE BOATING SAFETY CERTIFICATE IF ISSUED BY THE**
22 **DEPARTMENT** upon the demand of a peace officer who identifies
23 himself or herself as a peace officer. **NOT LATER THAN MARCH 31,**
24 **2019, THE DEPARTMENT SHALL DEVELOP THE MEANS TO ALLOW AN INDIVIDUAL**
25 **TO DISPLAY AN ELECTRONIC COPY OF HIS OR HER BOATING SAFETY**
26 **CERTIFICATE ISSUED BY THE DEPARTMENT.**

27 ~~———— (2) A person shall display only his or her own boating safety~~

1 ~~certificate upon the demand of a peace officer under subsection~~
 2 ~~(1).~~

3 ~~— (3) A person shall not display a fraudulent boating safety~~
 4 ~~certificate to a peace officer under subsection (1).~~

5 (2) ~~(4)~~ A peace officer shall not stop a personal watercraft
 6 solely for the purpose of determining whether the operator has in
 7 his or her possession a **EITHER OF THE FOLLOWING:**

8 (A) A boating safety certificate.

9 (B) **AN ELECTRONIC COPY OF A BOATING SAFETY CERTIFICATE ISSUED**
 10 **BY THE DEPARTMENT.**

11 (3) **AN INDIVIDUAL WHO, UNDER SUBSECTION (1), DISPLAYS AN**
 12 **ELECTRONIC COPY OF HIS OR HER BOATING SAFETY CERTIFICATE ISSUED BY**
 13 **THE DEPARTMENT USING AN ELECTRONIC DEVICE IS NOT PRESUMED TO HAVE**
 14 **CONSENTED TO A SEARCH OF THE ELECTRONIC DEVICE. THIS STATE, AN**
 15 **EMPLOYEE OF THIS STATE, A PEACE OFFICER, OR AN ENTITY EMPLOYING THE**
 16 **PEACE OFFICER IS NOT LIABLE FOR DAMAGE TO OR LOSS OF AN ELECTRONIC**
 17 **DEVICE THAT OCCURS AS A RESULT OF THE PEACE OFFICER'S VIEWING AN**
 18 **ELECTRONIC COPY OF A BOATING SAFETY CERTIFICATE UNDER SUBSECTION**
 19 **(1), REGARDLESS OF WHETHER THE PEACE OFFICER WAS IN POSSESSION OF**
 20 **THE ELECTRONIC DEVICE AT THE TIME THE DAMAGE OR LOSS OCCURRED.**

21 Sec. 80221. Peace officers shall enforce this part. If a
 22 person has received a citation for a violation of a certification
 23 requirement prescribed in section ~~80210, 80213~~ or 80215, the
 24 court shall waive any fine and costs upon receipt, not more than 10
 25 days after the citation is issued, of proof of certification by a
 26 law enforcement agency that the person, before the appearance date
 27 on the citation, produced a valid boating safety certificate, or

1 ~~other certification described in section 80216, as applicable, **AN**~~
2 **ELECTRONIC COPY THEREOF**, that was valid on the date the violation
3 occurred.

4 Enacting section 1. Section 80210 of the natural resources and
5 environmental protection act, 1994 PA 451, MCL 324.80210, is
6 repealed.

7 Enacting section 2. This amendatory act takes effect 90 days
8 after the date it is enacted into law.