

**SUBSTITUTE FOR
SENATE BILL NO. 821**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1301, 2035, 44501, 44516, 44518, 44520, 44520a, and 44524 (MCL 324.1301, 324.2035, 324.44501, 324.44516, 324.44518, 324.44520, 324.44520a, and 324.44524), section 1301 as amended by 2011 PA 218, section 2035 as added and sections 44501 and 44518 as amended by 2004 PA 587, sections 44516, 44520, and 44524 as added by 1995 PA 57, and section 44520a as added by 2006 PA 183, and by adding section 44522a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1301. As used in this part:
- 2 (a) "Application period" means the period beginning when an

1 application for a permit is received by the state and ending when
2 the application is considered to be administratively complete under
3 section 1305 and any applicable fee has been paid.

4 (b) "Department" means the department, agency, or officer
5 authorized by this act to approve or deny an application for a
6 particular permit.

7 (c) "Director" means the director of the state department
8 authorized under this act to approve or deny an application for a
9 particular permit or the director's designee.

10 (d) "Permit" means a permit or operating license required by
11 any of the following sections or by rules promulgated thereunder,
12 or, in the case of section 9112, by an ordinance adopted
13 thereunder:

14 (i) Section 3104, floodplain alteration permit.

15 (ii) Section 3503, permit for use of water in mining iron ore.

16 (iii) Section 4105, sewerage system construction permit.

17 (iv) Section 6516, vehicle testing license.

18 (v) Section 6521, motor vehicle fleet testing permit.

19 (vi) Section 8310, restricted use pesticide dealer license.

20 (vii) Section 8310a, agricultural pesticide dealer license.

21 (viii) Section 8504, license to manufacture or distribute
22 fertilizer.

23 (ix) Section 9112, local soil erosion and sedimentation control
24 permit.

25 (x) Section 11509, solid waste disposal area construction
26 permit.

27 (xi) Section 11512, solid waste disposal area operating

1 license.

2 (xii) Section 11542, municipal solid waste incinerator ash
3 landfill operating license amendment.

4 (xiii) Section 11702, septage waste servicing license or septage
5 waste vehicle license.

6 (xiv) Section 11709, septage waste site permit.

7 (xv) Section 30104, inland lakes and streams project permit.

8 (xvi) Section 30304, state permit for dredging, filling, or
9 other activity in wetland. Permit includes an authorization for a
10 specific project to proceed under a general permit issued under
11 section 30312.

12 (xvii) Section 31509, dam construction, repair, or removal
13 permit.

14 (xviii) Section 32312, flood risk, high risk, or environmental
15 area permit.

16 (xix) Section 32503, permit for dredging and filling
17 bottomland.

18 (xx) Section 32603, permit for submerged log removal from Great
19 Lakes bottomlands.

20 (xxi) Section 35304, department permit for critical dune area
21 use.

22 (xxii) Section 36505, endangered species permit.

23 (xxiii) Section 41702, game bird hunting preserve license.

24 (xxiv) Section 42101, dog training area permit.

25 (xxv) Section 42501, fur dealer's license.

26 (xxvi) Section 42702, game dealer's license.

27 (xxvii) Section 44513, charter boat operating permit under

Senate Bill No. 821 as amended March 21, 2012

1 reciprocal agreement.

2 (xxviii) Section ~~44517~~, **44516**, boat livery operating permit.

3 (xxix) Section 45503, permit to take frogs for scientific use.

4 (xxx) Section 45902, game fish propagation license.

5 (xxxi) Section 45906, game fish import license.

6 (xxxii) Section 61525, oil or gas well drilling permit.

7 (xxxiii) Section 62509, brine, storage, or waste disposal well
8 drilling or conversion permit or test well drilling permit.

9 (xxxiv) Section 63103a, ferrous mineral mining permit.

10 (xxxv) Section 63514 or 63525, surface coal mining and
11 reclamation permit or revision of the permit, respectively.

12 (xxxvi) Section 63704, sand dune mining permit.

13 (xxxvii) Section 72108, use permits for Michigan trailway.

14 (xxxviii) Section 76109, sunken aircraft or watercraft abandoned
15 property recovery permit.

16 (xxxix) Section 76504, Mackinac Island motor vehicle and land
17 use permits.

18 (xxxx) Section 80159, buoy or beacon permit.

19 (e) "Processing deadline" means the last day of the processing
20 period.

21 (f) "Processing period" means the following time period after
22 the close of the application period, for the following permit, as
23 applicable:

24 (i) Twenty days for a permit under section 61525 or 62509.

25 (ii) Thirty days for a permit under section 9112<< >> OR
26 **44516**.

27 (iii) Thirty days after the department consults with the

1 underwater salvage and preserve committee created under section
2 76103, for a permit under section 76109.

3 (iv) Sixty days, for a permit under section 30104 for a minor
4 project as established by rule under section 30105(7) or for a
5 permit under section 32312.

6 (v) Sixty days or, if a hearing is held, 90 days for a permit
7 under section 35304.

8 (vi) Sixty days or, if a hearing is held, 120 days for a permit
9 under section 30104, other than a permit for a minor project as
10 established by rule under section 30105(7), or for a permit under
11 section 31509.

12 (vii) Ninety days for a permit under section 11512, a revision
13 of a surface coal mining and reclamation permit under section
14 63525, or a permit under section 72108.

15 (viii) Ninety days or, if a hearing is held, 150 days for a
16 permit under section 3104, 30304, or 32503 or an authorization for
17 a specific project to proceed under a general permit issued under
18 section 30312.

19 (ix) Ninety days after the close of the review or comment
20 period under section 32604, or if a public hearing is held, 90 days
21 after the date of the public hearing for a permit under section
22 32603.

23 (x) One hundred twenty days for a permit under section 11509,
24 11542, 63103a, 63514, or 63704.

25 (xi) One hundred fifty days for a permit under section 36505.
26 However, if a site inspection or federal approval is required, the
27 150-day period is tolled pending completion of the inspection or

1 receipt of the federal approval.

2 (xii) For any other permit, 150 days or, if a hearing is held,
3 90 days after the hearing, whichever is later.

4 Sec. 2035. (1) The waterways account is established as an
5 account within the legacy fund.

6 (2) The waterways account shall consist of both of the
7 following:

8 (a) All money in the Michigan state waterways fund, formerly
9 created in section 78110, the Michigan harbor development fund,
10 formerly created in section 78110, and the marine safety fund,
11 formerly created in section 80115, immediately prior to the
12 effective date of the amendatory act that added this section, which
13 money is hereby transferred to the waterways account.

14 (b) Revenue from the following sources:

15 (i) All revenue generated from watercraft registration fees
16 assessed on the ownership or operation of watercraft in the state,
17 of which not less than 49% shall be provided for law enforcement
18 and education.

19 (ii) All revenues derived from fees charged for the moorage of
20 watercraft at state-operated mooring facilities.

21 (iii) All revenues derived from fees charged for the use of
22 state-operated public access sites.

23 (iv) Transfers from the recreation improvement account.

24 (v) All tax revenue derived from the sale of diesel fuel in
25 this state that is used to generate power for the operation or
26 propulsion of vessels on the waterways of this state.

27 (vi) Other revenues as authorized by law.

1 (3) Money in the waterways account shall be expended, upon
 2 appropriation, only as provided in parts **445**, 781, 791, and 801 and
 3 for the administration of the waterways account, which may include
 4 payments in lieu of taxes on state owned lands purchased through
 5 the waterways account or through the former Michigan state
 6 waterways fund.

7 Sec. 44501. As used in this part:

8 (a) "Boat livery" means ~~either of the following:~~

9 ~~—— (i) A~~ **A** place of business or any location where a person rents
 10 ~~or leases any vessel~~ **OTHER THAN A NONMOTORIZED RAFT** to the general
 11 public for noncommercial use on the waters of this state.

12 ~~—— (ii) A~~ **BOAT LIVERY DOES NOT INCLUDE A** place where a person
 13 offers cabins, cottages, motel rooms, hotel rooms, or other similar
 14 rental ~~or leased units where a vessel is~~ **VESSELS ARE** furnished **ONLY**
 15 for the use of ~~the person renting or leasing the unit, but does not~~
 16 ~~include a single privately owned cabin or cottage leased or rented~~
 17 ~~to another where a vessel is furnished for the use of the person~~
 18 ~~renting or leasing the unit.~~ **PERSONS OCCUPYING THE UNITS.**

19 (b) "Carrying passengers for hire" or "carry passengers for
 20 hire" means the transporting of any ~~person~~ **INDIVIDUAL** on a vessel
 21 **OTHER THAN A NONMOTORIZED RAFT** for consideration ~~regardless of~~
 22 ~~whether the consideration is directly or indirectly paid to the~~
 23 owner of the vessel, the owner's agent, the operator of the vessel,
 24 or any other person who holds any interest in the vessel.

25 (c) "Charter boat" means a vessel **OTHER THAN A NONMOTORIZED**
 26 **RAFT** that is rented ~~or leased or offered for rent or lease to carry~~
 27 passengers for hire if the owner or the owner's agent retains

1 possession, command, and control of the vessel.

2 (d) "Class A vessel" means a vessel, except a sailboat, that
3 carries for hire on navigable waters not more than 6 passengers.

4 (e) "Class B vessel" means a vessel, except a sailboat, that
5 carries for hire on inland waters not more than 6 passengers.

6 (f) "Class C vessel" means a vessel, except a sailboat, that
7 carries for hire on inland waters more than 6 passengers.

8 (g) "Class D vessel" means a vessel that is propelled
9 primarily by a sail or sails and carries for hire on navigable
10 waters not more than 6 passengers or carries passengers for hire on
11 inland waters.

12 (h) "Class E vessel" means a vessel that carries not more than
13 6 passengers for hire and meets either of the following
14 requirements:

15 (i) Is utilized primarily as a river-drift boat that is
16 propelled primarily by hand.

17 (ii) Is a vessel that is 18 feet or less in length operated
18 primarily on a river or tributary to the Great Lakes, Lake St.
19 Clair, or their connecting waterways.

20 (i) "Equipment" means a system, part, or component of a vessel
21 as originally manufactured, or a system, part, or component
22 manufactured or sold for replacement, repair, or improvement of a
23 system, part, or component of a vessel; an accessory or equipment
24 for, or appurtenance to, a vessel; or a marine safety article,
25 accessory, or equipment intended for use by a ~~person~~ **AN INDIVIDUAL**
26 on board a vessel; but does not include radio equipment.

27 (j) "Inland waters" means all waters of this state, except

1 navigable waters.

2 (k) "Livery boat" means a vessel, **OTHER THAN A NONMOTORIZED**
 3 **RAFT**, which is **RENTED OR** offered for rent ~~or lease by the boat~~
 4 ~~livery or boat owner or his or her agent or is rented or leased~~
 5 ~~from~~ **BY** a boat livery or a boat owner or his or her agent ~~and~~ **IF**
 6 the boat livery or boat owner or his or her agent relinquishes **OR**
 7 **OFFERS TO RELINQUISH** complete physical control of the vessel to the
 8 renter ~~or lessee, except the boat livery or owner retains~~ **WHILE**
 9 **RETAINING** legal title to the vessel.

10 (l) "Navigable waters" means those waters of the state over
 11 which this state and the United States coast guard exercise
 12 concurrent jurisdiction, including the Great Lakes and waters
 13 connected to the Great Lakes, to the upstream limit of navigation
 14 as determined by the United States ~~department of the army corps of~~
 15 engineers.

16 (m) "Operate", **WHEN USED WITH REFERENCE TO A VESSEL**, means to
 17 start any propulsion engine or to physically control the motion,
 18 direction, or speed of a ~~THE~~ vessel.

19 (n) "Owner", **WHEN USED IN REFERENCE TO A VESSEL**, means a
 20 person who claims lawful possession of a ~~THE~~ vessel by virtue of
 21 legal title or an equitable interest in a vessel that entitles that
 22 person to possession of the vessel.

23 (o) "Passenger" means a ~~person~~ **AN INDIVIDUAL** carried on board
 24 a charter boat except either of the following:

25 (i) The owner of the vessel or the owner's agent.

26 (ii) The pilot and members of the crew of the vessel who have
 27 not contributed consideration for their transportation either

1 before, during, or after the voyage.

2 (p) "Peace officer" means ~~every~~ ~~A~~ sheriff or sheriff's deputy;
3 village or township marshal; officer of the police department of
4 any city, village, or township; ~~any~~ officer of the Michigan state
5 police; or ~~any~~ other police officer or law enforcement officer who
6 is trained and certified pursuant to the commission on law
7 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, and
8 includes the director and conservation officers employed by the
9 department.

10 (q) "Personal watercraft" means a vessel that meets all of the
11 following requirements:

12 (i) Uses a motor-driven propeller or an internal combustion
13 engine powering a water jet pump as its primary source of
14 propulsion.

15 (ii) Is designed without an open load carrying area that would
16 retain water.

17 (iii) Is designed to be operated by 1 or more ~~persons~~
18 **INDIVIDUALS** positioned on, rather than within, the confines of the
19 hull.

20 (r) "Pilot's license" means a vessel operator's license issued
21 by the United States coast guard or other federal agency, or a
22 license issued by the department to an operator of a charter boat
23 that is operated on inland waters.

24 (s) "Training or instructional purposes" means the teaching of
25 any ~~person~~ **INDIVIDUAL** in the handling and navigation of a vessel or
26 the techniques of waterskiing.

27 (t) "Vessel" means every description of watercraft, other than

1 a seaplane, used or capable of being used as a means of
2 transportation on water irrespective of the method of operation or
3 propulsion.

4 (u) "Waters of the state" means any waters within the
5 territorial limits of this state and includes those waters of the
6 Great Lakes which are under the jurisdiction of this state.

7 (v) "Waterways account" means the waterways account of the
8 Michigan conservation and recreation legacy fund provided for in
9 section 2035.

10 Sec. 44516. (1) ~~The owner of a boat livery shall make an~~
11 ~~application to the sheriff of the county in which the livery is~~
12 ~~located for inspection of its livery boats and equipment. A BOAT~~
13 **LIVERY SHALL NOT RENT A MOTORIZED LIVERY BOAT UNLESS THE LIVERY**
14 **BOAT HAS A CURRENT INSPECTION DECAL, PLATE, OR TAB AS PROVIDED**
15 **UNDER SECTION 44518.**

16 (2) **A PERSON SHALL NOT OPERATE A BOAT LIVERY EXCEPT AS**
17 **AUTHORIZED BY A PERMIT ISSUED PURSUANT TO PART 13. THE OWNER OF A**
18 **BOAT LIVERY SHALL SUBMIT AN APPLICATION FOR A BOAT LIVERY PERMIT TO**
19 **THE SHERIFF'S DEPARTMENT OF THE COUNTY WHERE THE BOAT LIVERY IS**
20 **LOCATED.** ~~The application shall be made on a form provided by the~~
21 ~~department and~~ **FOR A BOAT LIVERY PERMIT shall include ALL OF THE**
22 **FOLLOWING:**

23 (a) The boat livery name.

24 (b) The mailing address of the boat livery.

25 (c) The location of the boat livery.

26 (d) The waters of the state on which the boat livery rents
27 vessels.

1 (e) The number and types of livery boats available for rent.

2 (3) FOR EACH MOTORIZED LIVERY BOAT, EXCEPT A CLASS E VESSEL,
3 THAT IS MORE THAN 20 FEET IN LENGTH AND IS TO BE RENTED OR OFFERED
4 FOR RENT BY A BOAT LIVERY FOR USE ON NAVIGABLE WATERS, AN
5 APPLICATION FOR A BOAT LIVERY PERMIT SHALL BE ACCOMPANIED BY THE
6 SAME INSPECTION FEE THAT WOULD BE REQUIRED UNDER SECTION 44511 IF
7 THAT VESSEL WERE A CHARTER BOAT. FEES COLLECTED UNDER THIS
8 SUBSECTION SHALL BE FORWARDED TO THE DEPARTMENT AND DEPOSITED IN
9 THE MARINE SAFETY SUBACCOUNT OF THE WATERWAYS ACCOUNT. THE
10 DEPARTMENT SHALL EXPEND THE MONEY, UPON APPROPRIATION, TO DEVELOP
11 AND MAINTAIN THE EDUCATION AND ENFORCEMENT PROGRAM PROVIDED FOR IN
12 SECTION 44513 (2) .

13 (4) AFTER A SHERIFF'S DEPARTMENT RECEIVES AN APPLICATION FOR A
14 BOAT LIVERY PERMIT AND ANY FEE REQUIRED UNDER SUBSECTION (3), THE
15 COUNTY SHERIFF OR A DEPUTY SHERIFF SHALL INSPECT THE BOAT LIVERY'S
16 MOTORIZED LIVERY BOATS AND ASSOCIATED EQUIPMENT. THE PURPOSE OF THE
17 INSPECTION IS TO DETERMINE IF THE MOTORIZED LIVERY BOATS AND THEIR
18 ASSOCIATED EQUIPMENT MEET THE MINIMUM SAFETY STANDARDS ESTABLISHED
19 UNDER RULES PROMULGATED UNDER THIS PART. A BOAT LIVERY PERMIT SHALL
20 NOT BE ISSUED IF ANY OF THE FOLLOWING APPLY:

21 (A) EVERY LIVERY BOAT OF THE BOAT LIVERY IS REQUIRED TO BE
22 INSPECTED AND EACH LIVERY BOAT, OR ITS ASSOCIATED EQUIPMENT, FAILS
23 INSPECTION.

24 (B) THE BOAT LIVERY IS OTHERWISE IN VIOLATION OF THE
25 REQUIREMENTS OF THIS PART OR RULES PROMULGATED UNDER THIS PART.

26 (5) A BOAT LIVERY OWNER SHALL ENSURE THAT A BOAT LIVERY PERMIT
27 ISSUED UNDER THIS SECTION IS PROMINENTLY DISPLAYED ON THE SITE OF

1 THE BOAT LIVERY. THE PERMIT EXPIRES ON MAY 31 OF THE YEAR FOLLOWING
2 THE YEAR IN WHICH THE PERMIT IS ISSUED.

3 (6) IF A COUNTY DOES NOT RECEIVE STATE AID UNDER SECTION 80117
4 TO CONDUCT A MARINE SAFETY PROGRAM, THE DEPARTMENT AND A
5 CONSERVATION OFFICER SHALL EXERCISE THE POWERS AND PERFORM THE
6 DUTIES OF THE COUNTY SHERIFF'S DEPARTMENT AND A SHERIFF OR DEPUTY
7 SHERIFF UNDER THIS SECTION AND SECTION 44518. HOWEVER, THE
8 DEPARTMENT OF NATURAL RESOURCES SHALL FURNISH BOAT LIVERY PERMIT
9 APPLICATION FORMS, BLANK BOAT LIVERY PERMITS, REGISTRATION DECALS,
10 AND INSPECTION DECALS, PLATES, OR TABS TO THE SHERIFF'S DEPARTMENT.

11 Sec. 44518. (1) ~~An inspecting officer, designated by the~~
12 ~~department,~~ THE SHERIFF OF THE COUNTY WHERE A BOAT LIVERY IS
13 LOCATED OR A DEPUTY SHERIFF shall affix or cause to be affixed AN
14 INSPECTION DECAL, PLATE, OR TAB to each ~~and every~~ MOTORIZED livery
15 boat that ~~meets the minimum safety standards established under~~
16 ~~rules promulgated under this part an~~ PASSES THE INSPECTION UNDER
17 SECTION 44516.

18 (2) AN inspection decal, plate, or tab ~~furnished by the~~
19 ~~department which bears~~ UNDER SUBSECTION (1) EXPIRES ON MAY 31 OF
20 THE YEAR FOLLOWING THE YEAR IN WHICH THE DECAL, PLATE, OR TAB IS
21 ISSUED. THE INSPECTION DECAL, PLATE, OR TAB SHALL BEAR all of the
22 following information:

23 (a) The maximum number of persons permitted to be carried
24 aboard the ~~vessel.~~ MOTORIZED LIVERY BOAT.

25 (b) The maximum horsepower of a motor permitted to be used on
26 the ~~vessel.~~ MOTORIZED LIVERY BOAT.

27 (c) Other information as the department may reasonably

1 require.

2 (3) ~~(2) Each A~~ boat livery owner shall pay a fee of ~~\$2.00~~ to
 3 the ~~inspecting officer~~ **SHERIFF OR DEPUTY SHERIFF A FEE OF \$2.00** for
 4 each decal, plate, or tab affixed to the livery boats. The
 5 ~~inspecting officer shall forward all fees collected under this~~
 6 ~~subsection~~ **UNDER SUBSECTION (1) TO A LIVERY BOAT OTHER THAN A**
 7 **LIVERY BOAT DESCRIBED IN SECTION 44516(3). FEES COLLECTED UNDER**
 8 **THIS SUBSECTION SHALL BE FORWARDED AS FOLLOWS:**

9 (A) **EXCEPT AS PROVIDED IN SUBDIVISION (B),** to the treasurer of
 10 the county in which the fee is collected to be credited for the
 11 purpose of reimbursing the sheriff's department for expenses
 12 incurred ~~pursuant to~~ **UNDER** this part. If the ~~inspecting officer is~~
 13 ~~a conservation officer, fees collected under this section shall be~~
 14 ~~forwarded~~

15 (B) **IF, PURSUANT TO SECTION 44516(6), A CONSERVATION OFFICER**
 16 **PERFORMS THE INSPECTION,** to the department of treasury to be
 17 credited to the **MARINE SAFETY SUBACCOUNT OF THE** waterways account.

18 Sec. 44520. (1) The owner of a boat livery shall not rent ~~or~~
 19 ~~lease~~ a livery boat more than 20 feet in length to be used on
 20 navigable water ~~until~~ **EXCEPT PURSUANT TO** a written rental contract
 21 ~~or lease agreement has been made between the boat livery owner and~~
 22 the renter. ~~or lessee.~~

23 (2) A boat livery owner ~~or his or her designated~~
 24 ~~representative~~ **OR AGENT OF THE OWNER** shall not ~~permit a livery boat~~
 25 ~~to depart the premises of the boat livery if:~~ **RELINQUISH PHYSICAL**
 26 **CONTROL OF ANY LIVERY BOAT TO THE PERSON RENTING THE LIVERY BOAT OR**
 27 **SOMEONE IN THAT PERSON'S PARTY IF ANY OF THE FOLLOWING APPLY:**

1 (a) The equipment required pursuant to rules promulgated under
2 this part is not aboard the livery boat.

3 (b) The livery boat contains a number of ~~persons~~**INDIVIDUALS**
4 in excess of the maximum number approved for the livery boat and
5 ~~indicated on the inspection decal, plate, or tab affixed to the~~
6 ~~livery boat.~~**REQUIRED TO BE DISPLAYED UNDER SUBSECTION (4).**

7 (c) The livery boat is equipped with a motor with a horsepower
8 rating in excess of the maximum horsepower approved for the livery
9 boat and indicated on the inspection decal, plate, or tab affixed
10 to the livery boat.

11 **(3) THE INDIVIDUAL RENTING A LIVERY BOAT, OR AN INDIVIDUAL IN**
12 **THE RENTER'S PARTY, IS NOT RESPONSIBLE FOR A VIOLATION OF A RULE**
13 **DESCRIBED IN SUBSECTION (2) (A) IF THE LIVERY BOAT OR EQUIPMENT WAS**
14 **IN VIOLATION WHEN THE OWNER RELINQUISHED POSSESSION OF THE LIVERY**
15 **BOAT TO THE RENTER OR THE INDIVIDUAL IN THE RENTER'S PARTY.**

16 **(4) A LIVERY BOAT SHALL DISPLAY THE MAXIMUM NUMBER OF PERSONS**
17 **AND MAXIMUM WEIGHT OF PERSONS, GEAR, AND OTHER ITEMS THE LIVERY**
18 **BOAT IS CAPABLE OF SAFELY CARRYING UNDER NORMAL CONDITIONS. THE**
19 **INFORMATION MAY BE DISPLAYED ON THE INSPECTION DECAL, PLATE, OR TAB**
20 **REQUIRED FOR A MOTORIZED LIVERY BOAT; ON A MANUFACTURER'S PLATE,**
21 **DECAL, PLATE, OR TAB; OR BY OTHER MEANS.**

22 Sec. 44520a. (1) An owner of a nonmotorized livery boat is not
23 liable for an injury to or the death of a user of the nonmotorized
24 livery boat resulting from a risk inherent in the use or operation
25 of a nonmotorized livery boat.

26 (2) An owner of a nonmotorized livery boat shall post in
27 conspicuous locations a notice specifying that a user of the

1 nonmotorized livery boat accepts the risk inherent in the use or
2 operation of a nonmotorized livery boat.

3 (3) As used in this section:

4 (a) "Owner of a nonmotorized livery boat" means the person who
5 owns the nonmotorized livery boat, the boat livery that rents ~~r~~
6 leases, ~~or~~ furnishes the nonmotorized livery boat for use, or an
7 employee or agent of the owner or boat livery.

8 (b) "Risk inherent in the use or operation of a nonmotorized
9 livery boat" means a danger or condition that is an integral part
10 of the use or operation of a nonmotorized livery boat ~~that~~ **AND** is
11 limited to 1 or more of the following:

12 (i) Wave or other water motion.

13 (ii) Weather conditions.

14 (iii) Contact or maneuvers necessary to avoid contact with
15 another vessel or a manmade object in or near the water.

16 (iv) Contact or maneuvers necessary to avoid contact with rock,
17 sand, vegetation, or other natural objects in or near the water.

18 (v) Malfunction of equipment, except for equipment owned by
19 the owner of a nonmotorized livery boat.

20 (vi) Failure to use or wear a personal flotation device or to
21 have lifesaving equipment available, except if the owner of a
22 nonmotorized livery boat failed to provide the personal flotation
23 device or lifesaving equipment when required by law ~~or regulation~~
24 to do so.

25 (vii) The actions of a vessel operator, except if the owner of
26 a nonmotorized livery boat ~~leased or~~ rented the livery boat to an
27 operator who the owner knew or in the exercise of reasonable care

1 should have known was disqualified by law ~~or regulation~~ from
2 operating the livery boat.

3 (viii) Having **ON BOARD** a number of persons ~~in excess of~~ **OR**
4 **WEIGHT OF PERSONS, GEAR, AND OTHER ITEMS THAT EXCEEDS** the maximum
5 ~~number~~ approved for the livery boat, ~~on board,~~ except ~~if~~ **IN ANY OF**
6 **THE FOLLOWING CIRCUMSTANCES:**

7 (A) **IF** the owner of a nonmotorized livery boat knowingly
8 allowed the livery boat to leave the boat livery's premises with a
9 number of persons ~~in excess of the maximum weight or number~~ **OR**
10 **WEIGHT OF PERSONS, GEAR, AND OTHER ITEMS ON BOARD THAT EXCEEDS THE**
11 **MAXIMUM** approved for the livery boat ~~on board~~ or did not properly
12 inform the user of the maximum weight or number of persons approved
13 for the livery boat.

14 (B) **IF A NONMOTORIZED LIVERY BOAT DID NOT DISPLAY THE MAXIMUM**
15 **NUMBER OF PERSONS OR MAXIMUM WEIGHT OF PERSONS, GEAR, OR OTHER**
16 **ITEMS PERMITTED TO BE CARRIED ON BOARD AS REQUIRED UNDER SECTION**
17 **44520 WHEN THE BOAT LIVERY OWNER RELINQUISHED PHYSICAL CONTROL OF**
18 **THE LIVERY BOAT TO THE RENTER OR AN INDIVIDUAL IN THE RENTER'S**
19 **PARTY.**

20 (c) "User of the nonmotorized livery boat" means ~~a person~~ **AN**
21 **INDIVIDUAL** who participates in the use or operation of the
22 nonmotorized livery boat regardless of whether the ~~person~~
23 **INDIVIDUAL** rented ~~or leased~~ the nonmotorized livery boat.

24 **SEC. 44522A. IN ADDITION TO INSPECTIONS CONDUCTED FOR PURPOSES**
25 **OF SECTION 44516 OR UNDER SECTION 80166, A PEACE OFFICER MAY**
26 **INSPECT ANY LIVERY BOAT AT A BOAT LIVERY. THE PEACE OFFICER SHALL**
27 **GIVE THE OWNER OF THE BOAT LIVERY AT LEAST 72 HOURS' ADVANCE NOTICE**

1 OF AN INSPECTION UNDER THIS SECTION AND SHALL CONDUCT THE
2 INSPECTION AT A REASONABLE TIME.

3 Sec. 44524. (1) A person who violates this part or a rule
4 promulgated under this part is guilty of a misdemeanor ~~—~~punishable
5 by imprisonment for not more than 1 year ~~—~~or a fine of not more
6 than \$1,000.00, or both.

7 (2) When a vessel is operated in violation of section 44502,
8 44509, or ~~44514,~~**44516(1) OR (2)**, the vessel may be seized as
9 evidence, and upon conviction of the owner, the vessel may be
10 condemned and confiscated in the same manner as provided for under
11 part 16.

12 (3) A peace officer may issue an appearance ticket to any
13 person violating this part or a rule promulgated under this part.

14 Enacting section 1. Sections 44514 and 44517 of the natural
15 resources and environmental protection act, 1994 PA 451, MCL
16 324.44514 and 324.44517, are repealed.

17 Enacting section 2. This amendatory act takes effect January
18 1, 2013.