

SENATE BILL No. 1000

May 16, 2018, Introduced by Senator STAMAS and referred to the Committee on Oversight.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 504, 506, 511, 705, 4113, 8206, 43540a, 47102, 48735, 71507, 72118, 80205, and 81129 (MCL 324.504, 324.506, 324.511, 324.705, 324.4113, 324.8206, 324.43540a, 324.47102, 324.48735, 324.71507, 324.72118, 324.80205, and 324.81129), section 504 as amended by 2009 PA 47, section 705 as added by 1995 PA 60, section 4113 as amended by 2010 PA 302, section 8206 as added by 2001 PA 176, section 43540a as added by 2005 PA 116, section 47102 as added by 1995 PA 57, section 48735 as amended by 2003 PA 270, section 71507 as added by 1995 PA 58, section 72118 as added by 2016 PA 288, section 80205 as amended by 2012 PA 61, and section 81129 as amended by 2013 PA 249; and to repeal acts and parts of

acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 504. (1) The department shall promulgate rules to protect
2 and preserve lands and other property under its control from
3 depredation, damage, or destruction or wrongful or improper use or
4 occupancy.

5 (2) Subject to subsection ~~(4)~~, **(3)**, the department shall do
6 all of the following:

7 (a) Keep land under its control open to hunting unless the
8 department determines that the land should be closed to hunting
9 because of public safety, fish or wildlife management, or homeland
10 security concerns or as otherwise required by law.

11 (b) Manage land under its control to support and promote
12 hunting opportunities to the extent authorized by law.

13 (c) Manage land under its control to prevent any net decrease
14 in the acreage of such land that is open to hunting.

15 ~~—— (3) Subject to subsection (4), by April 1, 2010 and each year~~
16 ~~thereafter, the department shall submit to the legislature a report~~
17 ~~that includes all of the following:~~

18 ~~—— (a) The location and acreage of land under its control~~
19 ~~previously open to hunting that the department closed to hunting~~
20 ~~during the 1 year period ending the preceding March 1, together~~
21 ~~with the reasons for the closure.~~

22 ~~—— (b) The location and acreage of land under its control~~
23 ~~previously closed to hunting that the department opened to hunting~~
24 ~~during the 1 year period ending the preceding March 1 to compensate~~
25 ~~for land closed to hunting under subdivision (a).~~

1 (3) ~~(4) Subsections (2) and (3) do~~ **SUBSECTION (2) DOES** not
2 apply to commercial forestland as defined in section 51101.

3 (4) ~~(5)~~—This section does not authorize the department to
4 promulgate a rule that applies to commercial fishing except as
5 otherwise provided by law.

6 (5) ~~(6)~~—The department shall not promulgate or enforce a rule
7 that prohibits an individual who is licensed or exempt from
8 licensure under 1927 PA 372, MCL 28.421 to 28.435, from carrying a
9 pistol in compliance with that act, whether concealed or otherwise,
10 on property under the control of the department.

11 (6) ~~(7)~~—The department shall issue orders necessary to
12 implement rules promulgated under this section. ~~These~~ **THE** orders
13 shall be effective upon posting.

14 (7) ~~(8)~~—A person who violates a rule promulgated under this
15 section or an order issued under this section is responsible for a
16 state civil infraction and may be ordered to pay a civil fine of
17 not more than \$500.00.

18 Sec. 506. ~~(1)~~—A writing prepared, owned, used, in the
19 possession of, or retained by the department or the commission in
20 the performance of an official function shall be made available to
21 the public in compliance with the freedom of information act, ~~Act~~
22 ~~No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246~~
23 ~~of the Michigan Compiled Laws.~~ **1976 PA 442, MCL 15.231 TO 15.246.**

24 ~~(2) Before January 16 of each year in which a regular session~~
25 ~~of the legislature is held, the department shall make to the~~
26 ~~governor and the legislature a report covering the operation of the~~
27 ~~department of natural resources for the preceding biennial period.~~

1 ~~The report, if ordered by the department of management and budget,~~
2 ~~shall be printed and distributed in the manner and to the persons~~
3 ~~as the board directs. The report shall be made available to the~~
4 ~~public as prescribed in subsection (1).~~

5 Sec. 511. The department may establish and collect fees for
6 the department of natural resources magazine, publications, and
7 related materials. Fees collected shall be credited to a separate
8 fund of the state treasury and shall be available for appropriation
9 to the department ~~of natural resources~~ and used to pay all direct
10 and indirect operating costs of the magazine and for the purchase
11 of other related publications and materials. The retained earnings
12 balance of the magazine at the end of the fiscal year shall not
13 fall below the retained earnings balance at the end of the prior
14 fiscal year. Any unexpended fees collected pursuant to this
15 section, along with any excess collections from prior fiscal years,
16 shall be carried over into subsequent fiscal years and shall be
17 available for appropriation for the purposes described in this
18 section. The magazine account shall receive an annual allocation of
19 interest earned by the state treasurer's common cash fund on cash
20 balances of the magazine ~~in accordance with~~ **PURSUANT TO** procedures
21 established by the state treasurer. Accounting records of the
22 magazine shall be maintained on an accrual basis ~~in accordance~~
23 **CONSISTENT** with generally accepted accounting principles, including
24 the establishment of separate asset, liability, and equity accounts
25 for the magazine. ~~On March 1 of each year, the department shall~~
26 ~~report to the appropriations committees of the house of~~
27 ~~representatives and senate and the house and senate fiscal agencies~~

1 ~~the status of the natural resources magazine program as of the end~~
2 ~~of the prior fiscal year.~~

3 Sec. 705. ~~(1)~~—An application for a grant or loan made under
4 this part shall be reviewed and prioritized by the department each
5 fiscal year.

6 ~~—— (2) Not less than 60 days prior to the end of each fiscal~~
7 ~~year, the department shall report the following information~~
8 ~~regarding the grants or loans made under this part to the governor~~
9 ~~and the legislature:~~

10 ~~—— (a) The name and address of each person to whom a grant or~~
11 ~~loan was issued during the reporting year.~~

12 ~~—— (b) The nature of the project that received a grant or loan~~
13 ~~during the reporting year.~~

14 ~~—— (c) The amount of money received by each person who received a~~
15 ~~grant or loan during the reporting year.~~

16 ~~—— (d) The county in which the project is located.~~

17 ~~—— (e) The number of new employment opportunities, if any, that~~
18 ~~resulted from grants or loans made during the reporting year.~~

19 ~~—— (f) The number of new employment opportunities, if any, that~~
20 ~~are expected to result from grants or loans that are anticipated in~~
21 ~~the next reporting year.~~

22 Sec. 4113. (1) The infrastructure construction fund is created
23 within the state treasury.

24 (2) The state treasurer may receive money or other assets from
25 any source for deposit into the fund. The state treasurer shall
26 direct the investment of the fund. The state treasurer shall credit
27 to the fund interest and earnings from fund investments.

1 (3) Money in the fund at the close of the fiscal year shall
 2 remain in the fund and shall not lapse to the general fund. **THE**
 3 **DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR AUDITING**
 4 **PURPOSES.**

5 (4) The department shall expend money from the fund, upon
 6 appropriation, only to administer this part and the safe drinking
 7 water act, 1976 PA 399, MCL 325.1001 to 325.1023, including all of
 8 the following:

9 (a) Maintenance of program data.

10 (b) Development of program-related databases and software.

11 (c) Compliance assistance, education, and training directly
 12 related to this part and the safe drinking water act, 1976 PA 399,
 13 MCL 325.1001 to 325.1023.

14 (d) Program administration activities.

15 ~~— (5) By January 1 of each year until January 1, 2016, the~~
 16 ~~department shall prepare and submit to the governor, the chairs of~~
 17 ~~the standing committees of the senate and house of representatives~~
 18 ~~with primary responsibility for issues related to natural resources~~
 19 ~~and the environment, and the chairs of the subcommittees of the~~
 20 ~~senate and house appropriations committees with primary~~
 21 ~~responsibility for appropriations to the department a report that~~
 22 ~~details the department's administration of the expedited review~~
 23 ~~process under section 4112 and the expedited review process under~~
 24 ~~section 4a of the safe drinking water act, 1976 PA 399, MCL~~
 25 ~~325.1004a, in the previous fiscal year. This report shall include,~~
 26 ~~at a minimum, all of the following as itemized for each expedited~~
 27 ~~review process:~~

1 ~~—— (a) The number of requests for expedited review received by~~
 2 ~~the department.~~

3 ~~—— (b) The percentage and number of requests for expedited review~~
 4 ~~that were properly submitted.~~

5 ~~—— (c) The percentage and number of requests for expedited review~~
 6 ~~that were reviewed for completeness within statutory time frames.~~

7 ~~—— (d) The percentage and number of requests for expedited review~~
 8 ~~for which a final action was taken by the department within~~
 9 ~~statutory time frames. The type of final action shall be indicated.~~

10 ~~—— (e) The amount of revenue in the fund at the end of the fiscal~~
 11 ~~year.~~

12 Sec. 8206. (1) The agriculture pollution prevention fund is
 13 created in the state treasury.

14 (2) The state treasurer may receive money or other assets from
 15 any source for deposit into the fund, including state and federal
 16 revenues, gifts, bequests, and other donations. The state treasurer
 17 shall direct the investment of the fund and shall credit to the
 18 fund interest and earnings from fund investments.

19 (3) Money in the fund or in any account within the fund at the
 20 close of the fiscal year shall remain in the fund or account and
 21 shall not lapse to the general fund. **THE DEPARTMENT SHALL BE THE**
 22 **ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.**

23 (4) Money in the fund shall be expended, upon appropriation,
 24 only for 1 or more of the following:

25 (a) For payments, financial incentives, or reimbursement for
 26 rental payments for the implementation of conservation practices.

27 (b) For payments required under contracts entered into under

1 this part.

2 (c) For the purchase of conservation easements.

3 (d) For monitoring and enforcement of conservation easements.

4 (e) For awards to participants in conservation programs
5 established by the department under this part.

6 (f) For the promotion of conservation programs established by
7 the department under this part.

8 (g) Not more than 20% of the annual appropriations from the
9 fund for the administrative costs of the department in implementing
10 this part. As used in this subdivision, administrative costs
11 include, but are not limited to, costs incurred in doing 1 or more
12 of the following:

13 (i) Developing and implementing conservation programs.

14 (ii) Managing payments and financial incentives.

15 (iii) Monitoring and verifying the implementation of
16 conservation practices and enforcing contracts or agreements
17 concerning conservation practices.

18 (iv) Coordinating conservation programs with the United States
19 department of agriculture and other state agencies with
20 jurisdiction over conservation programs.

21 ~~—— (5) The department shall annually prepare and submit to the~~
22 ~~standing committees of the senate and house of representatives with~~
23 ~~jurisdiction over issues related to agriculture and the senate and~~
24 ~~house of representatives appropriations committees a report that~~
25 ~~includes all of the following:~~

26 ~~—— (a) The amount of money received by the fund during the~~
27 ~~previous fiscal year.~~

1 ~~—— (b) The expenditures of money from the fund during the~~
2 ~~previous fiscal year broken down by the categories listed in~~
3 ~~subsection (4) (a) to (g).~~

4 ~~—— (c) The balance of the fund on the date of the report.~~

5 ~~—— (d) The number of acres in which conservation practices have~~
6 ~~been implemented.~~

7 ~~—— (e) The number of acres in which conservation easements have~~
8 ~~been purchased or acquired.~~

9 Sec. 43540a. (1) Subject to subsection (4), by January 1,
10 2007, the department shall implement a program to distribute wild
11 game to people in need. The program shall be known as the sportsmen
12 against hunger program.

13 (2) Under the program, the department shall do all of the
14 following:

15 (a) Collect donations of legally taken game that complies with
16 all state and federal game laws, including any requirement that the
17 parts of the game be intact.

18 (b) Contract for processing the donated game.

19 (c) Distribute the processed game to food banks, soup
20 kitchens, and other charitable organizations that provide meals or
21 food to people free of charge.

22 (d) Promote the program through the license distribution
23 system and other means that will further the mission of the
24 program.

25 (3) Under the program, the department may request financial
26 donations to offset the cost of processing donated game. The
27 financial donations are tax deductible.

1 (4) The department may contract for the administration of the
2 program by a nonprofit organization that is exempt from taxation
3 under section 501(c)(3) of the internal revenue code, 26 USC 501,
4 if the department determines that it is more efficient to do so.
5 Subject to section 43540c(9), payments under the contract shall be
6 adequate to cover the nonprofit organization's costs in
7 administering the program. Before entering such a contract, the
8 department shall issue a request for proposals. If the request for
9 proposals does not yield a bid that meets the requirements of this
10 section, ~~both of the following apply:~~

11 ~~—— (a) The **THE** department is not required to implement the~~
12 ~~sportsmen against hunger program.~~

13 ~~—— (b) The department shall, within 30 days, submit a report to~~
14 ~~the standing committees of the senate and house of representatives~~
15 ~~with primary responsibility for hunting issues. The report, as~~
16 ~~applicable, shall explain that no bids were received or shall~~
17 ~~specify why each bid received was unacceptable. The report shall~~
18 ~~also indicate whether the department intends to implement the~~
19 ~~sportsmen against hunger program.~~

20 (5) To qualify to enter a contract under subsection (4), a
21 nonprofit organization must have demonstrated a commitment to the
22 goals of the program and have at least 5 years of experience in
23 providing wild game or other food to people free of charge. The
24 contract shall require that the contracting nonprofit organization
25 do all of the following:

26 (a) Maintain a license under the charitable organizations and
27 solicitations act, 1975 PA 169, MCL 400.271 to 400.294.

1 (b) Maintain adequate staff to perform the tasks outlined in
2 the contract.

3 (c) Annually undergo an independent financial audit and
4 provide the audit information and report to ~~all of the~~
5 ~~following.~~ **THE DEPARTMENT.**

6 ~~— (i) The department.~~

7 ~~— (ii) The subcommittee of the senate appropriations committee~~
8 ~~and the subcommittee of the house of representatives appropriations~~
9 ~~committee with responsibility for the budget of the department.~~

10 ~~— (iii) The committees of the senate and house of~~
11 ~~representatives with primary responsibility for natural resources~~
12 ~~issues.~~

13 (6) As used in this section, "program" means the sportsmen
14 against hunger program created under subsection (1).

15 Sec. 47102. The department shall keep proper books of accounts
16 and records of its transactions, and also of all operations and
17 experiments in the discharge of the duties under this part. ~~and~~
18 ~~shall report biennially to the governor upon its operations and the~~
19 ~~practical results and success of the operations.~~

20 Sec. 48735. (1) Subject to subsection (2), a person shall not
21 take from any of the inland waters of this state any fish in any
22 manner for the purpose of fish culture or scientific investigation
23 without first obtaining a permit from the department, except that a
24 person who is operating a private fish pond may take fish from his
25 or her own pond for the purpose of propagation, scientific
26 investigation, or sale under part 459.

27 (2) The department may issue permits to possess live game fish

1 in public or private ponds, pools, or aquariums under rules and
2 regulations as the department prescribes. This subsection is
3 subject to subsection (5).

4 (3) The department may cause to be taken from the inland
5 waters of this state any species of fish for the purpose of
6 obtaining spawn for fish culture or scientific investigation or for
7 the protection of the inland waters from ecological damage or
8 imbalance. In addition, the department may cause to be taken from
9 the inland waters of this state species of fish that are not
10 required to maintain the fishery resources of the inland waters.
11 All fish taken under this subsection shall be taken under the
12 supervision of a deputy of the department appointed for that
13 purpose and in ~~accordance~~ **A MANNER CONSISTENT** with the regulations
14 of the department of agriculture **AND RURAL DEVELOPMENT**, and the
15 fish may be sold or transferred by the department.

16 (4) A person shall not import or bring any live game fish,
17 including viable eggs of any game fish, from outside of this state
18 except under a permit from the department or under part 459 and the
19 rules promulgated ~~in accordance with~~ **UNDER** that part. A person
20 shall not plant any spawn, fry, or fish of any kind in any of the
21 public waters of this state or any other waters under the
22 jurisdiction of this state without first obtaining a permit from
23 the department that states the species, number, and approximate
24 size or age of the spawn, fry, or fish to be planted and the name
25 and location of the waters where the spawn, fry, or fish shall be
26 planted. A permit is not required to plant spawn, fry, or fish
27 furnished by the federal or state government. This subsection is

1 subject to subsection (5).

2 (5) A permit under subsection (2) or (4) does not include a
3 genetically engineered variant of a fish species identified in the
4 permit unless the genetically engineered variant is specifically
5 identified in the permit. A permit under subsection (2) or (4) may
6 be limited to a genetically engineered fish.

7 (6) A ~~permit~~ **PERMITTEE** under this section shall ~~be exhibited~~
8 **EXHIBIT THE PERMIT** upon the request of any law enforcement officer.

9 ~~— (7) The department shall annually report to the legislature~~
10 ~~all fish sold or transferred pursuant to this part.~~

11 Sec. 71507. (1) The proceeds of the bonds issued under part
12 713 shall be deposited into the fund.

13 (2) The state treasurer shall direct the investment of the
14 fund. Except as otherwise may be required by the resolution
15 authorizing the issuance of the bonds in order to maintain the
16 exclusion from gross income of the interest paid on the bonds or to
17 comply with state or federal law, interest and earnings from
18 investment of the proceeds of any bond issue shall be allocated in
19 the same proportion as earned on the investment of the proceeds of
20 the bond issue.

21 (3) Except as otherwise may be required by the resolution
22 authorizing the issuance of the bonds in order to maintain the
23 exclusion from gross income of the interest paid on the bonds or to
24 comply with state or federal law, all repayments of principal and
25 interest earned under a loan program provided in this part shall be
26 credited to the appropriate restricted subaccounts of the fund and
27 used for the purposes authorized for the use of bond proceeds

1 deposited in that subaccount or to pay debt service on any
2 obligation issued which pledges the loan repayments and the
3 proceeds of which are deposited in that subaccount.

4 (4) The unencumbered balance in the fund at the close of the
5 fiscal year shall remain in the fund and shall not revert to the
6 general fund.

7 (5) The department shall annually submit to the governor, the
8 committees of the house of representatives and the senate with
9 jurisdiction pertaining primarily to natural resources and the
10 environment, and the appropriations committees of the house of
11 representatives and the senate a list of all projects that are
12 recommended to be funded under this part. This list shall be
13 submitted to the legislature not later than February 15 of each
14 year. This list shall also be submitted before any request for
15 supplemental appropriation of bond funds. The list shall include
16 the name, address, and telephone number of the eligible recipient
17 or participant; the nature of the eligible project; the county in
18 which the eligible project is located; an estimate of the total
19 cost of the eligible project; and other information considered
20 pertinent by the department. The estimated cost of eligible local
21 public recreation projects on the list for each year in which there
22 is a limitation on borrowing under section ~~71503(5)~~ **71503(7)** shall
23 not exceed 1/3 of the amount authorized for local public recreation
24 projects under section 71508(1)(b). ~~and (c).~~

25 (6) The legislature shall appropriate prospective or actual
26 bond proceeds for projects proposed to be funded. Appropriations
27 shall be carried over to succeeding fiscal years until the project

1 for which the funds are appropriated is completed.

2 ~~—— (7) Not later than December 31 of each year, the department~~
3 ~~shall report to the governor, the committees of the house of~~
4 ~~representatives and the senate with jurisdiction pertaining~~
5 ~~primarily to natural resources and the environment, and the~~
6 ~~committees of the house of representatives and the senate on~~
7 ~~appropriations for the department a list of the projects financed~~
8 ~~under this part. The list shall include the name, address, and~~
9 ~~telephone number of the recipient or participant; the nature of the~~
10 ~~project; the amount of money received; the county in which the~~
11 ~~project is located; and other information considered pertinent by~~
12 ~~the department.~~

13 Sec. 72118. (1) The department shall make a comprehensive
14 inventory of forest roads that are state roads. The department
15 shall divide the state into 5 regions and complete the inventory in
16 regional phases. The Upper Peninsula shall be a separate region or
17 regions. The department shall inventory the 2 most northerly
18 regions in the Lower Peninsula by December 31, 2017. The department
19 shall inventory the remaining regions by December 31, 2018. The
20 inventory shall meet both of the following requirements:

21 (a) Identify the location, condition, and development level of
22 the forest roads.

23 (b) Determine types of motorized and nonmotorized use
24 currently restricted on each forest road segment and the seasons
25 during which those uses are currently restricted.

26 (2) Beginning when the inventory for a region is completed or
27 required to be completed, whichever occurs first, all of the

1 following apply:

2 (a) The forest roads within that region shall be open to
3 motorized use by the public unless designated otherwise by the
4 department ~~pursuant to section 504(7)~~. **BY ORDER ISSUED UNDER**
5 **SECTION 504**. However, beginning on the effective date of the
6 amendatory act that added this section, forest roads in the Upper
7 Peninsula shall be open to motorized use by the public unless
8 designated otherwise ~~pursuant to section 504(7)~~. **BY ORDER ISSUED**
9 **UNDER SECTION 504**.

10 (b) If a timber harvest is planned for a particular area in
11 that region, the department shall evaluate whether the timber
12 harvest activity offers the opportunity to connect existing forest
13 roads and trails in that area.

14 (c) The department shall not newly restrict a road or trail in
15 that region from being used to access public land unless the
16 department has provided each local unit of government in which the
17 public land is located written notice that includes the reason for
18 the restriction. This subdivision does not apply to a restriction
19 imposed to protect public health or safety in an emergency
20 situation.

21 (3) The department shall annually post to its website the
22 total miles of forest roads open to motorized use in all
23 inventoried regions and a map or maps of those forest roads.

24 Sec. 80205. (1) A person shall not operate a personal
25 watercraft on the waters of this state unless each person riding on
26 or being towed behind the personal watercraft is wearing a type I,
27 type II, or type III personal flotation device as described in R

1 281.1234 of the Michigan ~~administrative code~~. **ADMINISTRATIVE CODE.**

2 (2) A person shall not operate a personal watercraft on the
3 waters of this state unless each person on board the personal
4 watercraft is wearing a personal flotation device that is not
5 inflatable.

6 (3) A person shall not operate a personal watercraft on the
7 waters of this state if a child who is under 7 years of age is on
8 board or being towed behind the personal watercraft unless the
9 child is in the company of his or her parent or guardian or a
10 designee of the parent or guardian.

11 (4) While operating a personal watercraft equipped by the
12 manufacturer with a lanyard-type engine cutoff switch on the waters
13 of this state, a person shall have the lanyard attached to his or
14 her person, clothing, or personal flotation device as is
15 appropriate for the personal watercraft.

16 (5) A person shall not operate a personal watercraft on the
17 waters of this state during the period that begins at sunset and
18 ends at 8 a.m. As used in this subsection, "sunset" means that time
19 as determined by the ~~national weather service~~. **NATIONAL WEATHER**
20 **SERVICE.**

21 (6) A person operating a personal watercraft on the waters of
22 this state shall not cross within 150 feet behind another vessel,
23 other than a personal watercraft, unless the person is operating
24 the personal watercraft at slow-no wake speed. A person who
25 violates this subsection is responsible for a state civil
26 infraction and may be ordered to pay a civil fine of not more than
27 \$500.00.

1 (7) A person shall not operate a personal watercraft on the
2 waters of this state where the water depth is less than 2 feet, as
3 determined by vertical measurement, unless 1 or both of the
4 following circumstances exist:

5 (a) The personal watercraft is being operated at slow-no wake
6 speed.

7 (b) The personal watercraft is being docked or launched.

8 (8) A person who violates subsection (7) is responsible for a
9 state civil infraction and may be ordered to pay a civil fine of
10 not more than \$500.00.

11 (9) A person shall operate a personal watercraft in a
12 reasonable and prudent manner. A maneuver that unreasonably or
13 unnecessarily endangers life, limb, or property, including, but not
14 limited to, all of the following, constitutes reckless operation of
15 a personal watercraft under section 80208:

16 (a) Weaving through congested vessel traffic.

17 (b) Jumping the wake of another vessel unreasonably or
18 unnecessarily close to the other vessel or when visibility around
19 the other vessel is obstructed.

20 (c) Waiting until the last possible moment before swerving to
21 avoid a collision.

22 (10) A person shall not operate a personal watercraft on the
23 waters of this state carrying more persons than the personal
24 watercraft is designed to carry.

25 (11) A violation of subsection (10) is prima facie evidence of
26 reckless operation of a watercraft under section 80208.

27 (12) A person operating a personal watercraft in excess of the

1 speeds established under part 801 is guilty of reckless operation
2 of a personal watercraft under section 80208.

3 (13) This section does not apply to a performer engaged in a
4 professional exhibition or a person preparing to participate or
5 participating in a regatta, race, marine parade, tournament, or
6 exhibition held in compliance with section 80164 under a permit
7 issued by the department and at the time and place specified in the
8 permit.

9 ~~(14) The department shall annually prepare and submit to the~~
10 ~~standing committees of the senate and house of representatives with~~
11 ~~primary jurisdiction over marine safety issues an accident report~~
12 ~~related to the use of personal watercraft, the types of personal~~
13 ~~flotation devices that were being used, and the injuries that~~
14 ~~resulted.~~

15 Sec. 81129. (1) Subject to ~~subsections (2), (3), and~~
16 **SUBSECTION** (17), a parent or legal guardian of a child less than 16
17 years of age shall not permit the child to operate an ORV unless
18 the child is under the direct visual supervision of an adult and
19 the child has an ORV safety certificate in his or her immediate
20 possession.

21 (2) Subject to subsection (17), a parent or legal guardian of
22 a child less than 12 years of age shall not permit the child to
23 operate an ATV with 4 or more wheels unless the child is not less
24 than 10 years of age and is on private land owned by a parent or
25 legal guardian of the child. This subsection does not apply to the
26 operation of an ATV used in agricultural operations.

27 (3) A parent or legal guardian of a child less than 16 years

1 of age shall not permit the child to operate a 3-wheeled ATV.

2 (4) Subject to ~~subsections (5), (6), and~~ **SUBSECTION** (17), the
3 owner or person in charge of an ORV shall not knowingly permit the
4 vehicle to be operated by a child less than 16 years of age unless
5 the child is under the direct visual supervision of an adult and
6 the child has an ORV safety certificate in his or her immediate
7 possession.

8 (5) Subject to subsection (17), the owner or person in charge
9 of an ATV with 4 or more wheels shall not knowingly permit the
10 vehicle to be operated by a child less than 12 years of age unless
11 the child is not less than 10 years of age and is on private land
12 owned by a parent or legal guardian of the child. This subsection
13 does not apply to the operation of an ATV used in agricultural
14 operations.

15 (6) The owner or person in charge of a 3-wheeled ATV shall not
16 knowingly permit the vehicle to be operated by a child less than 16
17 years of age.

18 (7) The owner or person in charge of an ORV shall not
19 knowingly permit the vehicle to be operated by an individual who is
20 incompetent to operate the vehicle because of mental or physical
21 disability.

22 (8) The department shall implement a comprehensive program for
23 the training of ORV operators and the preparation and dissemination
24 of ORV information and safety advice to the public. The program
25 shall provide for the training of youthful operators and for the
26 issuance of ORV safety certificates to those who successfully
27 complete the training and may include separate instruction for each

1 type of ORV.

2 (9) In implementing a program under subsection (8), the
3 department shall cooperate with private organizations and
4 associations, private and public corporations, the department of
5 education, the department of state, and local governmental units.
6 The department shall consult with ORV and environmental
7 organizations and associations in regard to the subject matter of a
8 training program and performance testing that leads to
9 certification of ORV operators.

10 (10) The department may designate a qualified individual to
11 provide course instruction and to award ORV safety certificates.

12 (11) The department may promulgate rules to implement
13 subsections (8) to (10) and (17).

14 (12) Subject to ~~subsections (13), (14), and~~ **SUBSECTION** (17), a
15 child who is less than 16 years of age shall not operate an ORV
16 unless the child is under the direct visual supervision of an adult
17 and the child has an ORV safety certificate in his or her immediate
18 possession.

19 (13) Subject to subsection (17), a child who is less than 12
20 years of age shall not operate an ATV with 4 or more wheels unless
21 the child is not less than 10 years of age and is on private land
22 owned by a parent or legal guardian of the child. This subsection
23 does not apply to the operation of an ATV ~~used~~ in agricultural
24 operations.

25 (14) A child who is less than 16 years of age shall not
26 operate a 3-wheeled ATV.

27 (15) Subject to subsection (17), when operating an ORV, a

1 child who is less than 16 years of age shall present the ORV safety
2 certificate to a peace officer upon demand.

3 (16) Notwithstanding any other provision of this section, an
4 operator who is less than 12 years of age shall not cross a street,
5 county road, or highway. An operator who is not less than 12 years
6 of age but less than 16 years of age may cross a street, county
7 road, or highway or operate an ORV pursuant to section 81131(9) if
8 the operator has an ORV safety certificate in his or her immediate
9 possession and meets any other requirements under this section for
10 operation of the vehicle.

11 (17) The requirement that a child possess an ORV safety
12 certificate to operate an ORV, and the requirement that a child who
13 is less than 12 years of age not operate an ATV with 4 or more
14 wheels unless the child is not less than 10 years of age and is on
15 private land owned by a parent or legal guardian of the child, do
16 not apply if all of the following requirements are met:

17 (a) The child is participating in an organized ORV riding or
18 racing event held on land not owned by this state.

19 (b) The child's parent or legal guardian has provided the
20 event organizer with written permission for the child to
21 participate in the event.

22 (c) The event organizer has not less than \$500,000.00
23 liability insurance coverage for the event.

24 (d) A physician or physician's assistant licensed or otherwise
25 authorized under part 170 or 175 of the public health code, 1978 PA
26 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a
27 paramedic or emergency medical technician licensed under part 209

1 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979,
2 is present at the site of the event or available on call.

3 (e) The event is at all times under the direct visual
4 supervision of adult staff of the event organizer and a staff
5 member serves as a flagger to warn participants if another
6 participant is injured or an ORV is inoperable in the ORV operating
7 area.

8 (f) Fencing or another means of crowd control is used to keep
9 spectators out of the ORV operating area.

10 (g) If the event is on a closed course, dust is controlled in
11 the ORV operating area and the riding surface in the ORV operating
12 area is otherwise properly prepared.

13 (h) Three-wheeled ATVs are not used by participants.

14 (i) Any ATVs used by participants are equipped with a side
15 step bar or comparable safety equipment and with a tether kill
16 switch, and the tether is used by all participants.

17 (j) Each participant in the event wears a crash helmet
18 approved by the United States department of transportation, a
19 protective long-sleeved shirt or jacket, long pants, boots, and
20 protective gloves.

21 (k) Any other applicable requirements of this part or rules
22 promulgated under this part are met.

23 (18) If a child less than 16 years of age participates and is
24 injured in an organized ORV riding or racing event, the organizer
25 of the event shall, within 30 days after the event, submit to the
26 department a report on a form developed by the department. The
27 report shall include all of the following information, as

1 applicable:

2 (a) Whether any participant less than 16 years of age was
3 killed or suffered an injury resulting in transportation to a
4 hospital as a result of an ORV accident at the event.

5 (b) The age of the child.

6 (c) Whether the child had been issued an ORV safety
7 certificate.

8 (d) The type of ORV operated.

9 (e) A description of the accident and injury.

10 ~~— (19) By December 31 of each year, the department shall submit~~
11 ~~to the legislature a report that summarizes reports received under~~
12 ~~subsection (18) during the preceding calendar year. In the report,~~
13 ~~the department may recommend amendments to this part to improve the~~
14 ~~safety of children less than 16 years of age participating in~~
15 ~~organized ORV riding or racing events.~~

16 (19) ~~(20)~~ The requirements of this section are in addition to
17 any applicable requirements of section 81131(13).

18 Enacting section 1. Sections 2521, 20112b, 32614, and 81149 of
19 the natural resources and environmental protection act, 1994 PA
20 451, MCL 324.2521, 324.20112b, 324.32614, and 324.81149, are
21 repealed.

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