

PART 801

MARINE SAFETY

******* 324.80101 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80101.amended *******

324.80101. Definitions; A to C.

Sec. 80101. As used in this part:

(a) "Airboat" means a motorboat that is propelled, wholly or in part, by a propeller projecting above the water surface.

(b) "Anchored rafts" means all types of nonpowered rafts used for recreational purposes that are anchored seasonally on waters of this state.

(c) "Associated equipment" means any of the following that are not radio equipment:

(i) An original system, part, or component of a boat at the time that boat was manufactured, or a similar part or component manufactured or sold for replacement.

(ii) Repair or improvement of an original or replacement system, part, or component.

(iii) An accessory or equipment for, or appurtenance to, a boat.

(iv) A marine safety article, accessory, or equipment intended for use by a person on board a boat.

(d) "Boat" means a vessel.

(e) "Boat livery" means a business that holds a vessel for renting, leasing, or chartering.

(f) "Boating safety certificate" means any of the following:

(i) The document issued by the department under part 802 that certifies that the individual named in the document has successfully completed a boating safety course and passed an examination approved and administered as required under section 80212.

(ii) A document issued by the United States coast guard auxiliary or United States power squadron that certifies that the individual named in the document has successfully completed a United States coast guard auxiliary course concerning boating safety.

(iii) A written rental agreement provided to an individual named in the rental agreement entered into under section 44522 only on the date or dates indicated on the rental agreement while the named individual is operating a personal watercraft leased, hired, or rented from a boat livery.

(g) "Boating safety course" means a course that meets both of the following requirements:

(i) Provides instruction on the safe operation of a personal watercraft that meets or exceeds the minimum course content for boating or personal watercraft education established by the national association of state boating law administrators education committee (October 1996), a province of the commonwealth of Canada, or another country.

(ii) Is approved by the department.

(h) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(i) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt, or a probate court or family division disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 547, Imd. Eff. Jan. 3, 2005 ;-- Am. 2012, Act 120, Eff. Nov. 1, 2012

******* 324.80101.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80101.amended Definitions; A to C.

Sec. 80101.As used in this part:

(a) "Airboat" means a motorboat that is propelled, wholly or in part, by a propeller projecting above the water surface.

(b) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(c) "Anchored rafts" means all types of nonpowered rafts used for recreational purposes that are anchored seasonally on waters of this state.

(d) "Associated equipment" means any of the following that are not radio equipment:

(i) An original system, part, or component of a boat at the time that boat was manufactured, or a similar part or component manufactured or sold for replacement.

(ii) Repair or improvement of an original or replacement system, part, or component.

(iii) An accessory or equipment for, or appurtenance to, a boat.

(iv) A marine safety article, accessory, or equipment intended for use by a person on board a boat.

(e) "Boat" means a vessel.

(f) "Boat livery" means a business that holds a vessel for renting, leasing, or chartering.

(g) "Boating safety certificate" means any of the following:

(i) The document issued by the department under part 802 that certifies that the individual named in the document has successfully completed a boating safety course and passed an examination approved and administered as required under section 80212.

(ii) A document issued by the United States coast guard auxiliary or United States power squadron that certifies that the individual named in the document has successfully completed a United States coast guard auxiliary course concerning boating safety.

(iii) A written rental agreement provided to an individual named in the rental agreement entered into under section 44522 only on the date or dates indicated on the rental agreement while the named individual is operating a personal watercraft leased, hired, or rented from a boat livery.

(h) "Boating safety course" means a course that meets both of the following requirements:

(i) Provides instruction on the safe operation of a personal watercraft that meets or exceeds the minimum course content for boating or personal watercraft education established by the national association of state boating law administrators education committee (October 1996), a province of the commonwealth of Canada, or another country.

(ii) Is approved by the department.

(i) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(j) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt, or a probate court or family division disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 547, Imd. Eff. Jan. 3, 2005 ;-- Am. 2012, Act 120, Eff. Nov. 1, 2012 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

******* 324.80102 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80102.amended *******

324.80102 Definitions; D to L.

Sec. 80102. As used in this part:

(a) "Dealer" means a person and an authorized representative of that person who annually purchases from a manufacturer, or who is engaged in selling or manufacturing, 6 or more vessels that require certificates of number under this part.

(b) "Identification document" means any of the following:

(i) A valid Michigan operator's or chauffeur's license.

(ii) A valid driver's or chauffeur's license issued by an agency, department, or bureau of the United States or another state.

(iii) An official identification card issued by an agency, department, or bureau of the United States, this state, or another state.

(iv) An official identification card issued by a political subdivision of this state or another state.

(c) "Issuing authority" means the United States coast guard or a state that has a numbering system approved by the United States coast guard.

(d) "Law of another state" means a law or ordinance enacted by another state or by a local unit of government in another state.

(e) "Lifeboat" means a small boat designated and used solely for lifesaving purposes, and does not include a dinghy, tender, speedboat, or other type of craft that is not carried aboard a vessel for lifesaving purposes.

(f) "Long-term incapacitating injury" means an injury that causes serious impairment of a body function.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80102.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80102.amended Definitions; D to L.

Sec. 80102.As used in this part:

(a) "Dealer" means a person and an authorized representative of that person who annually purchases from a manufacturer, or who is engaged in selling or manufacturing, 6 or more vessels that require certificates of number under this part.

(b) "Identification document" means any of the following:

(i) A valid Michigan operator's or chauffeur's license.

(ii) A valid driver's or chauffeur's license issued by an agency, department, or bureau of the United States or another state.

(iii) An official identification card issued by an agency, department, or bureau of the United States, this state, or another state.

(iv) An official identification card issued by a political subdivision of this state or another state.

(c) "Issuing authority" means the United States coast guard or a state that has a numbering system approved by the United States coast guard.

(d) "Law of another state" means a law or ordinance enacted by any of the following:

(i) Another state.

(ii) A local unit of government in another state.

(iii) Canada or a province or territory of Canada.

(iv) A local unit of government in a province or territory of Canada.

(e) "Lifeboat" means a small boat designated and used solely for lifesaving purposes, and does not include a dinghy, tender, speedboat, or other type of craft that is not carried aboard a vessel for lifesaving purposes.

(f) "Long-term incapacitating injury" means an injury that causes serious impairment of a body function.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

324.80103 Definitions; M to O.

Sec. 80103. As used in this part:

(a) "Manufacturer" means a person engaged in any of the following:

(i) The manufacture, construction, or assembly of boats or associated equipment.

(ii) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(iii) The importation of a boat or associated equipment into the state for sale.

(b) "Marine law" means this part, a local ordinance adopted in conformity with this part, or a rule promulgated under this part.

(c) "Marine safety act" means former Act No. 303 of the Public Acts of 1967.

(d) "Marine safety program" means marine law enforcement, search and rescue operations, water safety education, recovery of drowned bodies, and boat livery inspections.

(e) "Michigan vehicle code" means Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(f) "Motorboat" means a vessel propelled wholly or in part by machinery.

(g) "Operate" means to be in control of a vessel while the vessel is under way and is not secured in some manner such as being docked or at anchor.

(h) "Operator" means the person who is in control or in charge of a vessel while that vessel is underway.

(i) "Owner" means a person who claims or is entitled to lawful possession of a vessel by virtue of that person's legal title or equitable interest in a vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80104 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80104.amended *******

324.80104 Definitions.

Sec. 80104. As used in this part:

(a) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(b) "assenger" means a person carried on board, attached to, or towed by a vessel, other than the operator.

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

(i) A sheriff.

(ii) A sheriff's deputy.

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

(iv) A village or township marshal.

(v) An officer of the police department of any municipality.

(vi) An officer of the Michigan state police.

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

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

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

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

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

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

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

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

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

(i) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a political subdivision of government.

(j) "Regatta", "boat race", "marine parade", "tournament", or "exhibition" means an organized water event of limited duration that is conducted according to a prearranged schedule.

(k) "Slow—no wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

(l) "Starboard" means right, and reference is to the starboard side of a vessel or to the right side of the vessel.

(m) "State aid" means payment made by the state to a county for the conduct of a marine safety program.

(n) "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 or federal agency successor to the United States coast guard.

(o) "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.

(p) "Use" means operate, navigate, or employ.

(q) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(r) "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.

(s) "Waterways account" means the waterways account established in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006 ;-- Am. 2012, Act 58, Eff. Nov. 1, 2012

Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

******* 324.80104.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80104.amended "Highly restricted personal information" defined; definitions; P to W.

Sec. 80104.As used in this part:

(a) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(b) "Passenger" means a person carried on board, attached to, or towed by a vessel, other than the operator.

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

(i) A sheriff.

(ii) A sheriff's deputy.

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

- (iv) A village or township marshal.
 - (v) An officer of the police department of any municipality.
 - (vi) An officer of the Michigan state police.
 - (vii) The director and conservation officers employed by the department.
- (d) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on watercraft operation and equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally-related information.
- (e) "Personal watercraft" means that term as defined in 40 CFR 1045.801.
- (f) "Political subdivision" means any county, metropolitan authority, municipality, or combination of those entities in this state. If a body of water is located in more than 1 political subdivision, all of the subdivisions shall act individually in order to comply with this part, except that if the problem is confined to a specific area of the body of water, only the political subdivision in which the problem waters lie shall act.
- (g) "Port" means left, and reference is to the port side of a vessel or to the left side of the vessel.
- (h) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
- (i) A violation or an attempted violation of section 80176(1), (3), (4), (5), (6), or (7), except that only 1 violation or attempted violation of section 80176(6), a local ordinance substantially corresponding to section 80176(6), or a law of another state substantially corresponding to section 80176(6), or a law of the United States substantially corresponding to section 80176(6) may be used as a prior conviction other than for enhancement purposes as provided in section 80178a(1)(b).
 - (ii) Negligent homicide, manslaughter, or murder resulting from the operation of a vessel or an attempt to commit any of those crimes.
 - (iii) Former section 73, 73b, or 171(1) of the marine safety act.
- (i) "Probate court or family division disposition" means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.
- (j) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a political subdivision of 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 state to a county for the conduct of a marine safety program.
- (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 or federal agency successor to the United States coast guard.

(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.

(q) "Use" means operate, navigate, or employ.

(r) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(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.

(t) "Waterways account" means the waterways account established in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006 ;-- Am. 2012, Act 58, Eff. Nov. 1, 2012 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

324.80105 Application of part.

Sec. 80105. (1) This part applies to vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this state.

(2) This part, except where expressly indicated otherwise, does not apply to any of the following:

(a) Foreign vessels temporarily using waters subject to state jurisdiction.

(b) Military or public vessels of the United States, except recreational-type public vessels.

(c) A vessel whose owner is a state or political subdivision of a state, other than this state and its political subdivisions, that is used principally for governmental purposes and that is clearly identifiable as such.

(d) A ship's lifeboat.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80106 Administration of part; advisory representative.

Sec. 80106. The department shall be responsible for administration of this part except as otherwise provided in this part. The Michigan sheriffs' association shall designate an advisory representative to the department who shall transmit information, advice, and recommendations relative to county marine activities and assist in the coordination of state and county marine safety programs.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80107 Review of boating accidents, safety education programs, and policies.

Sec. 80107. The department shall review boating accidents on Michigan waters and study the development of marine safety education programs and other policies of state government relating to marine safety and shall consider changes to department policies and programs.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80108 Regulations of waterborne vehicles; exclusive diving, fishing, swimming or water ski areas; special local regulations.

Sec. 80108. The department may regulate the operation of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on the waters of this state. Where special regulations are determined necessary, the department may establish vessel speed limits; prohibit the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances; restrict the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances by day and hour; establish and designate areas restricted solely to boating, skin or scuba

diving, fishing, swimming, or water skiing; and prescribe any other regulations relating to the use or operation of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances that will assure compatible use of state waters and best protect the public safety. The department shall prescribe special local regulations in such a manner as to make the regulations uniform with other special local regulations established on other waters of this state insofar as is reasonably possible.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80108a Operation of airboat within certain distance of residence; limitation; exceptions.

Sec. 80108a. (1) A person shall not operate an airboat on the waters of this state within 450 feet of a residence between the hours of 11 p.m. and 6 a.m. at a speed in excess of the minimum speed required to maintain forward movement.

(2) Subsection (1) does not apply to any of the following:

(a) The operation of an airboat in an emergency when necessary to protect public safety.

(b) The operation of an airboat so as to free the airboat when it has run aground.

(c) The operation of an airboat for a governmental purpose if the airboat is clearly marked and identified as being used for a governmental purpose.

History: Add. 2008, Act 152, Imd. Eff. June 5, 2008

Compiler's Notes: Former MCL 324.80108a, which pertained to operation of airboat within certain distance of residence, was repealed by Act 547 of 2004, Eff. May 1, 2007.

324.80108[1] Lists of information; sale prohibited.

Sec. 80108. The department or any other state department or agency that maintains or collects lists of information as part of its duties or responsibilities under this act shall not sell any lists of information maintained or collected for the purpose of surveys, marketing, and solicitations.

History: Add. 2000, Act 194, Eff. Jan. 1, 2001 .

Compiler's Note: Section 80108, as added by Act 194 of 2000, was compiled as MCL 324.80108[1] to distinguish it from another section 80108, deriving from Act 58 of 1995 and pertaining to regulation of waterborne vehicles.

324.80109 Rules; subsection (1) inapplicable to special local rules.

Sec. 80109. (1) Except as provided in subsection (2), the department shall promulgate rules authorized by this part. The department shall publish the approved rules in a convenient form.

(2) Subsection (1) shall not apply to special local rules adopted pursuant to sections 80110 and 80111.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80110 Special rules for vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances; investigations and inquiries; preliminary report; notice of public hearing; presentation of views by interested persons; determination by department; proposal for local ordinance; appeal; "water body" defined.

Sec. 80110. (1) The department may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state to assure compatibility of uses and to protect public safety. If the department receives a resolution pursuant to section 80112, the department shall initiate an investigation and inquiry under this subsection.

(2) The department's investigation and inquiry under subsection (1) into whether special rules are needed on a particular water body shall include a consideration of all of the following:

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

(b) The profile of the water body, including local jurisdiction, size, geographic location, and amount of vessel traffic.

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

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

(e) Whether the proposed special rules would unreasonably interfere with normal navigational traffic.

(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.

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

(4) Upon preparation of the preliminary report, 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 special rules. Notice of the public hearing shall be made in a newspaper of general circulation in the area where the water body is located, not less than 10 calendar days before the hearing. At the public hearing, interested persons shall be afforded an opportunity to present their views on the preliminary report and the need for special rules, either orally or in writing.

(5) Within 90 days following the public hearing under subsection (4), if the department determines that there is a need for special rules 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 special rules, the department shall notify the political subdivision that has waters subject to its jurisdiction and shall provide the specific reasons for its determination.

(6) A determination by the department that there is not a need for special rules for a water body may be appealed to the commission by the political subdivision that has waters subject to its jurisdiction. The commission shall make the final agency decision on the need for special rules for a water body.

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

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2006, Act 237, Imd. Eff. June 26, 2006

324.80111 Proposed local ordinance; submission to governing body; approval or disapproval; enactment; enforcement.

Sec. 80111. A local ordinance proposed pursuant to section 80110 shall be submitted to the governing body of the political subdivision in which the water body subject to the proposed special rules is located. Within 60 calendar days, the governing body shall inform the department that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the department shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in

all respects to the local ordinance proposed by the department. After the local ordinance is enacted, the local ordinance shall be enforced as provided for in section 80113.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2006, Act 237, Imd. Eff. June 26, 2006

324.80112 Special local ordinances; request for assistance; form; receipt of resolution by department.

Sec. 80112. Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall 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 receipt of a resolution under this section, the department shall proceed as required by sections 80110 and 80111.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2006, Act 237, Imd. Eff. June 26, 2006

324.80113 Enforcement of local ordinances; existing rules; enactment of statutory provisions as ordinance.

Sec. 80113. (1) State, county, and local peace officers shall enforce local ordinances enacted in accordance with this part.

(2) All rules establishing special local watercraft controls promulgated under former 1967 PA 303 before March 17, 1986 shall remain in effect unless rescinded pursuant to sections 80108, 80110, 80111, and 80112.

(3) Local political subdivisions may enact as an ordinance any or all of sections 80101 to 80104, 80122 to 80124, 80126, 80140, 80141, 80144 to 80153, 80155, 80164, 80165, and 80166 to 80173.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; --Am. 2000, Act 215, Imd. Eff. June 27, 2000.

324.80114 Rules; violation; fine.

Sec. 80114.(1) The department may promulgate rules to establish performance or other safety standards relating to boat construction or the installation, use, or carriage of associated equipment.

(2) In order that a boat operator may pass unhindered from jurisdiction to jurisdiction, rules authorized by this section shall be identical to federal regulations for enforcement purposes. However, rules requiring the carrying or using of marine safety articles to meet uniquely hazardous conditions or circumstances within this state may be promulgated, if the rules for the safety articles are approved by the United States coast guard.

(3) A person who violates a rule promulgated to implement this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80114a Prohibition against operation of motorized vessel; exemption; marine exemption certificate; physician's attestation.

Sec. 80114a. (1) A marine law that prohibits the operation of a motorized vessel on a portion of the waterways of this state shall not be enforced against an individual who meets all of the following qualifications:

(a) The individual has a disability that prevents him or her from rowing or paddling a vessel.

(b) The individual has in his or her possession a marine exemption certificate.

(c) The individual is operating a noncommercial vessel at slow—no wake speed using an electric motor that is rated at 100 pounds of thrust or less.

(2) This section does not exempt an individual from compliance with any other marine law.

(3) An individual may obtain a marine exemption certificate from either the department or a sheriff's department by presenting a physician's attestation that the physician has examined the individual and determined that the individual has a disability that prevents him or her from rowing or paddling a vessel.

(4) The department shall develop and make available for use as prescribed in this section a physician's attestation form and a marine exemption certificate.

History: Add. 2008, Act 119, Imd. Eff. Apr. 29, 2008

324.80115 Disposition of revenues; credit to waterways account; appropriation; fees.

Sec. 80115. (1) The revenue received under this part shall be deposited in the state treasury. The revenue division, department of treasury, shall annually present to the department an accurate total of all the revenues collected, and shall then, except as provided in section 80124b, credit the revenues collected to the waterways account to be used as follows:

(a) 17.5% to implement part 781.

(b) 33.5% to implement part 791.

(c) 49% for water safety education programs and for the administration and enforcement of this part, including state aid to counties, and for no other purpose.

(2) Fees provided for in section 80124 shall not be appropriated for the inspection of vessels that carry passengers for hire and are regulated under part 445.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2003, Act 292, Imd. Eff. Jan. 8, 2004; -- Am. 2004, Act 587, Eff. Dec. 23, 2006

Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

324.80116 Boating safety program; compliance with rules; federal financial assistance.

Sec. 80116. The department shall do all things necessary to conduct a comprehensive boating safety program as provided in chapter 131 of part I of subtitle II of title 46 of the United States Code, 46 U.S.C. 13101 to 13110; to comply with rules promulgated under that act by the secretary of the department in which the coast guard is operating; and to accept federal financial assistance as provided in that act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80117 Marine safety program; state aid; formula; limitation on determination; use; statement of expenditures.

Sec. 80117. (1) Each county of the state is entitled to receive state aid as provided in this part. A county board of commissioners desiring to conduct a marine safety program shall submit to the department by December 31 of each year an estimate of authorized expenditures for the following calendar year, in the form and containing the information the department requires. The department shall review the entire request and may approve the county request for state aid. The department shall annually survey the marine safety program of each county to assist in determining the amount of state aid to be allocated to a county for its marine safety program. In making its annual determination of the amount of state aid to be allocated to a county, the department shall develop and employ a formula which shall include such factors as:

(a) The number of students to be trained in boating safety in any United States coast guard auxiliary, United States power squadron, or department-sponsored marine safety classes.

(b) The number of boat user days.

(c) The number of livery boats.

(d) Program effectiveness measured by comparing the existing rate of compliance with current statutes to the acceptable rate of compliance determined by the department.

(e) The number and type of boat access areas requiring a county marine safety program.

(f) The water area of the county.

(2) A determination of the amount of state aid allocated to a county under this part shall not be based, wholly or in part, upon the number of vessels within that county that are stopped or inspected under section 80166.

(3) State aid allocated to a county under this part shall be used exclusively for the conduct of the county marine safety program as provided by this part and rules promulgated under this part. Within 90 days after the close of each calendar year, a county board of commissioners shall submit to the department a statement of authorized expenditures actually incurred, in the form and containing the information that the department requires. A county that provides the department with statements or supplements to statements subsequent to the 90-day period is not eligible for state aid under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80118 Allocation of state aid to counties.

Sec. 80118. The amount of state aid to be allocated to a county pursuant to this part shall be determined by the department in the manner the department determines is appropriate. The department shall review the county's statement of authorized expenditures actually incurred and if satisfied shall provide state aid in an amount not to exceed 3/4 of the county's estimated authorized expenditures for the past calendar year. If the county's authorized expenditures actually incurred for the past calendar year exceed the county's estimated authorized expenditures for that calendar year, the department, if it considers it to be in the best interests of the state and adequate funds have been appropriated by the legislature for state aid to counties, may provide state aid in excess of 3/4 of the county's estimated authorized expenditures for that calendar year, but not in excess of 3/4 of the county's authorized expenditures actually incurred. If the amount appropriated by the legislature for state aid to counties is insufficient to pay the full amount to which the counties are entitled, the department shall reduce the allocations proportionate to the shortfall of revenue among all state and local programs for which waterways account money was appropriated.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2004, Act 587, Eff. Dec. 23, 2006

Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

324.80119 Marine safety program; audits of county records; refunds to state.

Sec. 80119. Annually the department of the treasury shall audit the county records pertaining to the marine safety program to assure the proper disposition of this money in accordance with this part and rules promulgated under this part. If the audit reveals that a refund of state aid money is due to the state, the county treasurer, within 30 days of the completion of the audit, shall send to the department the amount of the refund due to the state, which the department shall return to the waterways account to be used for the purpose described in section 80115(1)(c).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2004, Act 587, Eff. Dec. 23, 2006

Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

324.80120 Marine safety program; cooperation with county sheriffs; records; reports.

Sec. 80120. The department and the county sheriffs shall cooperate in the conduct of the marine safety program. The county sheriffs shall maintain records and submit reports in a form and containing information as the department may require.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80121 Rules.

Sec. 80121. The department may promulgate rules as may be necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80122 Conditions to operation of vessels; violation; fine.

Sec. 80122.(1) Except as otherwise provided in this part, a person shall not operate or give permission for the operation of a vessel of any length on the waters of this state unless the fees prescribed in section 80124 for the vessel are paid, the certificate of number assigned to the vessel is on board and is in full force and effect, and, except for the following, the identifying number and decal are displayed on each side of the forward half of the vessel in accordance with this part and the rules promulgated by the department under this part:

(a) A decal and identifying numbers for a wooden hull and historic vessel as that term is defined in section 80124 may be displayed in the manner described in section 80126(2).

(b) A decal for an inflatable boat may be displayed on the transom of the boat.

(2) If a vessel is actually numbered in another state of principal use in accordance with a federally approved numbering system, it is in compliance with the numbering requirements of this state while it is temporarily being used in this state. This subsection applies to a vessel for which a valid temporary certificate is issued to the vessel's owner by the issuing authority of the state in which the vessel is principally used.

(3) If a vessel is removed to this state as the new state of principal use, a number awarded by any other issuing authority is valid for not more than 60 days before numbering is required by this state.

(4) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80123 Exemption.

Sec. 80123. (1) The owner of a vessel is not required to pay a fee and a vessel is not required to be numbered and to display a decal under this part if the vessel is 1 or more of the following:

(a) Used temporarily on the waters of this state and the owner and the vessel are from a country other than the United States.

(b) A vessel that is owned by the United States, used in the public service for purposes other than recreation, and clearly identifiable as such a vessel.

(c) A vessel's lifeboat.

(d) An all-terrain vehicle not used as a vessel.

(e) A raft, sailboard, surfboard, or swim float.

(f) A vessel 16 feet or less, propelled by hand either with oars or paddles, and not used for rental or other commercial purposes.

(g) A nonmotorized canoe or kayak not used for rental or other commercial purposes.

(2) The owner of a vessel documented by the United States coast guard or a federal agency that is the successor to the United States coast guard shall comply with this part, including the payment of fees as provided in this part. However, the vessel shall not be required to display numbers under this part.

(3) This part does not prohibit the numbering of an undocumented vessel pursuant to this part upon request by the owner, even though the vessel is exempt from the numbering requirements of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80124 Application for certificate of number; certificate of title; 15-day permit; fee; "the length of vessel" defined; tax exemption; issuance; delinquent fee or tax; penalty; retention of certificate of number on shore; contents of lease or rental agreement; painting or attaching number; assigning block of numbers; federally documented vessel; decal; issuance of original certificate of number, numbering renewal decal, or other renewal device; numbering system; registration; issuance of certificate of number; historic vessel; refund to owner of nonmotorized canoe or kayak; refund and computation of fee.

Sec. 80124. (1) Except as otherwise provided in this section, the owner of a vessel required, pursuant to sections 80122 and 80123, to be numbered and to display a decal shall file an application for a certificate of number with the secretary of state. The secretary of state shall prescribe and furnish certificate of title application forms. If a vessel requiring a certificate of title under part 803 is sold by a dealer, that dealer shall combine the application for a certificate of number that is signed by the vessel owner with the application for a certificate of title. The dealer shall obtain the certificate of number in the name of the owner. The application for a certificate of number shall include a

certification. The owner of the vessel shall sign the application or, if the application is filed electronically, provide information requested by the secretary of state to verify the owner's identity. A person shall not file an application for a certificate of number that contains false information. A dealer who fails to submit an application as required by this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(2) A dealer who submits an application for a certificate of number as provided in subsection (1) may issue to the owner of the vessel a 15-day permit, on forms prescribed by the secretary of state, for the use of the vessel while the certificate of number is being issued.

(3) A dealer may issue a 15-day permit, on a form prescribed by the secretary of state, for the use of a vessel purchased in this state and delivered to the purchaser for removal to a place outside of this state, if the purchaser certifies by his or her signature that the vessel will be registered and primarily used and stored outside of this state and will not be returned to this state by the purchaser for use or storage. A certificate of number shall not be issued for a vessel holding a permit under this subsection.

(4) A 15-day permit issued under subsection (2) or (3) shall not be renewed or extended.

(5) A person shall operate or permit the operation of a vessel for which a 15-day permit has been issued under this section only if the permit is valid and displayed on the vessel as prescribed by rule promulgated by the department under this part.

(6) Except as otherwise provided in this section, an applicant shall pay the following fee at the time of application:

(a) A 15-day permit issued under subsection (3).....	\$ 10.00
(b) Nonpowered vessels, other than nonmotorized canoes or kayaks.....	9.00
(c) Nonmotorized canoes or kayaks.....	5.00
(d) Motorboats less than 12 feet in length.....	14.00
(e) Motorboats 12 feet or over but less than 16 feet in length.....	17.00
(f) Motorboats 16 feet or over but less than 21 feet in length.....	42.00
(g) Motorboats 21 feet or over but less than 28 feet in length.....	115.00
(h) Motorboats 28 feet or over but less than 35 feet in length.....	168.00
(i) Motorboats 35 feet or over but less than 42 feet in length.....	244.00
(j) Motorboats 42 feet or over but less than 50 feet in length.....	280.00
(k) Motorboats 50 feet in length or over.....	448.00
(l) Pontoon vessels regardless of size.....	23.00
(m) Motorized canoes regardless of size.....	14.00
(n) Vessels licensed under part 473.....	15.00

(o) Vessels carrying passengers for hire that are in compliance with part 445, or under federal law; and vessels carrying passengers and freight or freight only and owned within this state or hailing from a port within this state.....45.00

(7) As used in this section, "the length of a vessel" means the distance from end to end over the deck, excluding the longitudinal upward or downward curve of the deck, fore and aft. For a pontoon boat, length of a vessel means the length of its deck, fore and aft.

(8) Payment of the fee specified in this section exempts the vessel from the tax imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(9) Upon receipt of an initial application for a certificate of number in approved form and payment of the required fee, the secretary of state shall enter the information upon the official records and issue to the applicant a certificate of number containing the number awarded to the vessel, the name and address of the owner, and other information that the secretary of state determines necessary. The secretary of state shall issue a certificate of number that is pocket size and legible. Except as provided in subsection (13), a person operating a vessel shall present that vessel's certificate of number to a peace officer upon the peace officer's request.

(10) If a check or draft payable to the secretary of state under this part is not paid on its first presentation, the fee or tax is delinquent as of the date the draft or check was tendered. The person tendering the check or draft remains liable for the payment of the fee or tax and a penalty.

(11) Upon determining that a fee or tax required by this part has not been paid and remains unpaid after reasonable notice and demand, the secretary of state may suspend a certificate of number.

(12) If a person who tenders a check or draft described in subsection (10) fails to pay the fee or tax for which the check or draft was tendered within 15 days after the secretary of state gives him or her notice that the check or draft described in subsection (10) was not paid on its first presentation, the secretary of state shall assess and collect a penalty of \$5.00 or 20% of the check or draft, whichever is larger, in addition to the fee or tax.

(13) The owner or authorized agent of the owner of a vessel less than 26 feet in length that is leased or rented to a person for noncommercial use for not more than 24 hours may retain, at the place from which the vessel departs or returns to the possession of the owner or the owner's representative, the certificate of number for that vessel if a copy of the lease or rental agreement is on the vessel. Upon the demand of a peace officer, the operator shall produce for inspection either the certificate of number or a copy of the lease or rental agreement for that vessel. The lease or rental agreement shall contain each of the following:

- (a) The vessel number that appears on the certificate of number.
- (b) The period of time for which the vessel is leased or rented.
- (c) The signature of the vessel's owner or that person's authorized agent.
- (d) The signature of the person leasing or renting the vessel.

(14) Upon receipt of a certificate of number for a vessel, the owner of that vessel shall paint on or attach in a permanent manner to each side of the forward half of the vessel the number identified in the certificate of number, in the manner prescribed by rules promulgated by the department. The secretary of state shall assign to the owner of vessels for rent or lease a block of numbers sufficient to number consecutively all of that owner's rental or lease vessels. The owner shall maintain the numbers in a legible condition. A vessel documented by the United States coast guard or a federal agency that is the successor to the United States coast guard is not required to display numbers under this part but shall display a decal indicating payment of the fee prescribed in subsection (6), and shall otherwise be in compliance with this part. This subsection does not apply to a nonpowered vessel 12 feet or less in length.

(15) Upon receipt of an application for a certificate of number in an approved form and payment of the fee required by this part, the secretary of state shall issue a decal that indicates that the vessel is numbered in compliance with this part. The decal shall be color-coded and dated to identify the year of its expiration. The department shall promulgate a rule or rules to establish the manner in which the decal is to be displayed. A person who operates a vessel in violation of a rule promulgated to implement this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(16) A decal is valid for a 3-year period that begins on April 1 and expires on March 31 of the third year. An original certificate of number may be issued up to 90 days before April 1. A numbering renewal decal or other renewal device may be issued up to 90 days before the expiration of a certificate.

(17) Upon receipt of a request for renewal of a decal and payment of the fee prescribed in subsection (6), the secretary of state shall issue to the applicant a decal as provided in subsection (15). A person who operates a vessel for which no decal was issued as required under this section or for which a decal has expired is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(18) The numbering system adopted under this part shall be in accordance with the standard system of numbering established by the secretary of the department in which the United States coast guard operates.

(19) An agency of this state, a political subdivision of this state, or a state supported college or university of this state that owns a vessel that is required to be numbered under this part shall register that vessel and upon payment of either of the following shall receive from the secretary of state a certificate of number for that vessel:

(a) A fee of \$3.00 for a vessel that is not used for recreational, commercial, or rental purposes.

(b) The fee required under subsection (6) for a vessel that is used for recreational, commercial, or rental purposes.

(20) The secretary of state shall, upon receipt of payment of the fee required under subsection (19), issue a certificate of number for each vessel subject to subsection (19).

(21) A vessel that is 30 years of age or older and not used other than in club activities, exhibitions, tours, parades, and other similar activities is a historic vessel. The secretary of state shall make available to the public application forms for certificates of number for historic vessels and, upon receipt of a completed application form and fee, shall number a historic vessel as a historic vessel. The fee for the numbering of a historic vessel is 1/3 of the otherwise applicable fee specified in subsection (6).

(22) The secretary of state shall refund to the owner of a vessel registered under this part all of the registration fee paid for that vessel under this section if all of the following conditions are met during the period for which the registration fee was paid:

(a) The owner transfers or assigns title or interest in the registered vessel before placing the decal issued under subsection (15) on the vessel.

(b) The owner surrenders the unused decal to the secretary of state within 30 days after the date of transfer or assignment.

(23) The secretary of state shall refund to the surviving spouse of a deceased vessel owner the registration fee paid under this part, prorated on a monthly basis, upon receipt of the decal issued under subsection (15) or evidence satisfactory to the secretary of state that the decal issued under subsection (15) has been destroyed or voided.

(24) If the secretary of state computes a fee under this part that results in a figure other than a whole dollar amount, the secretary of state shall round the figure to the nearest whole dollar.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2007, Act 8, Imd. Eff. May 11, 2007 ;-- Am. 2012, Act 28, Imd. Eff. Feb. 23, 2012 ;-- Am. 2012, Act 294, Imd. Eff. Aug. 1, 2012

324.80124a Great Lakes protection specialty watercraft decal.

Sec. 80124a. (1) Subject to subsection (4), the secretary of state shall make available for purchase an annual Great Lakes protection specialty watercraft decal. The Great Lakes protection specialty watercraft decal shall be designed by the secretary of state and shall depict some aspect of the Great Lakes or of Great Lakes water quality.

(2) The Great Lakes protection specialty watercraft decal shall be sold for \$35.00. Revenues from the sale of Great Lakes specialty watercraft decals shall be expended as provided for in section 80124b.

(3) The secretary of state may establish the appropriate placement of Great Lakes protection specialty watercraft decals on watercraft so as not to create confusion for law enforcement officers with decals required under section 80124.

(4) The secretary of state shall discontinue sales of Great Lakes protection specialty watercraft decals under subsection (1) if the secretary of state is unable to sell at least 2,000 decals in the fiscal year ending September 30, 2005 and at least 500 decals in each fiscal year thereafter.

History: Add. 2003, Act 293, Imd. Eff. Jan. 8, 2004.

324.80124b Great Lakes protection specialty watercraft decal; use of money received from sale; definitions.

Sec. 80124b. (1) Money received by the secretary of state from the sale of each Great Lakes protection specialty watercraft decal under section 80124a shall be used as follows:

(a) \$10.00 shall be retained by the secretary of state for use in creating and distributing the decal.

(b) \$25.00 shall be forwarded to the state treasurer for deposit into the Michigan Great Lakes protection fund to be used for research on aquatic nuisance species, for public education of the threat of aquatic nuisance species, and for efforts to eradicate aquatic nuisance species from the Great Lakes and other waters of the state.

(2) As used in this section:

(a) "Aquatic nuisance species" means that term as it is defined in section 3101.

(b) "Michigan Great Lakes protection fund" means the Michigan Great Lakes protection fund created in section 32905.

History: Add. 2003, Act 294, Imd. Eff. Jan. 8, 2004.

324.80125 Notice of destruction, abandonment, or sale of vessel; transfer of vessel; change of address; surrender of certificate; cancellation of certificate and reassignment of number; certificate for replacement vessel; refund; recording new address and returning certificates; application for transfer of certificate; fees; duration of certificate; duplicate certificate.

Sec. 80125. (1) The owner of a vessel shall notify the secretary of state within 15 days if the vessel is destroyed, abandoned, or sold; if an interest in the vessel is transferred, either wholly or in part, to another person; or if the owner's address no longer conforms to the address appearing on the certificate of number. The notice shall consist of a surrender of the certificate of number, on which the proper information shall be noted on a place to be provided on the certificate. When the surrender of the certificate is due to the vessel being destroyed or abandoned, the secretary of state shall cancel the certificate and enter that fact in the secretary of state's records, and the number may be reassigned.

(2) The owner of a destroyed vessel, upon proper application, may receive a new certificate of number, valid for the remainder of the numbering period, for a replacement vessel, if all of the following conditions are met:

(a) The replacement vessel is owned by the same person who owned the destroyed vessel.

(b) The owner of the replacement vessel pays additional fees, if required under section 80124, due to the change in vessel size or classification.

(c) Payment of a \$2.00 application fee.

(3) If the fees required for the replacement vessel under section 80124 are less than the fees that were required for the destroyed vessel, the owner of the vessel shall not receive a refund.

(4) If the surrender of the certificate of number is due to a change of the owner's address, the new address shall be recorded by the secretary of state and a certificate of number bearing that information shall be returned to the owner.

(5) The transferee of a vessel registered under this part, within 15 days after acquisition of the vessel, shall make application to the secretary of state for transfer to the transferee of the certificate of number issued to the vessel. The transferee shall provide his or her name, address, and the number of the vessel and pay to the secretary of state a transfer fee of \$2.00. The registration fee for the certificate of number shall be 2/3 the fee provided in section 80124 if the transferred certificate of number would have remained valid for 1 year or less. The registration fee for the certificate of number shall be 1/3 the fee provided in section 80124 if the transferred certificate of number would have remained valid for more than 1 year but less than 2 years. An additional registration fee shall not be assessed if the transferred registration would have remained valid for 2 or more years. Unless the application is made and the fee paid within 15 days after acquisition of the vessel, the vessel shall be considered to be without certificate of number and a person shall not operate the vessel until a certificate is issued. Upon receipt of the application and appropriate fees, the secretary of state shall transfer the certificate of number issued for the vessel to the new owner. The certificate of number shall be valid for a 3-year period.

(6) If a certificate of number is lost, mutilated, or illegible, the owner of the vessel shall obtain a duplicate of the certificate upon application and payment of a fee of \$2.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80126 Dealer certificates of number and dealer decals.

Sec. 80126. (1) A dealer shall apply for and obtain from the secretary of state dealer certificates of number and dealer decals for each vessel of the dealer that is tested, demonstrated, or otherwise operated. Upon receipt of an application in a form approved by the secretary of state and payment of \$30.00 for each set of dealer certificates of number and dealer decals, the secretary of state shall issue to the applicant the dealer certificates of number and dealer decals. A single dealer certificate of number and dealer decal issued pursuant to this section may be used on only 1 vessel at a time.

(2) The operator of a vessel governed by this section shall do each of the following:

(a) Maintain the dealer certificate of number on board the vessel.

(b) Upon demand of a peace officer, display the dealer certificate of number.

(c) Permanently or temporarily display the identifying number and dealer decal on the vessel in accordance with rules promulgated by the department under this part.

(3) A person shall not operate a vessel numbered under this section unless the dealer is on board the vessel or the operator has the written authorization of the dealer to operate the vessel. A person shall not use a vessel numbered under this section for commercial purposes that include the rental of the vessel or the carrying of passengers for hire on the vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80127 Payment of fee by credit card or check.

Sec. 80127. The secretary of state may accept payment by a credit card or check in lieu of cash of a fee required under this part. The secretary of state shall determine which major credit cards may be utilized, provided, however, that the fee received shall not be less than 100% of the applicable fee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80128 Secretary of state; certificate of number.

Sec. 80128. The secretary of state may award any certificate of number directly or may authorize any person to act as his or her agent for the awarding of a certificate of number.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80129 Maintenance of records; availability to the public.

Sec. 80129. Records maintained under this part, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this part and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

324.80130 Commercial lookup service; disposition of fees; computerized central file; purpose; creation; maintenance; providing records to nongovernmental person or entity; payment; admissibility in evidence.

Sec. 80130. (1) The secretary of state may provide a commercial lookup service of records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b, through October 1, 2015.

(2) To provide an individual, historical boating record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(3) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(4) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1997, Act 102, Imd. Eff. Aug. 7, 1997 ;-- Am. 2005, Act 174, Imd. Eff. Oct. 12, 2005 ;-- Am. 2009, Act 100, Imd. Eff. Sept. 30, 2009 ;-- Am. 2011, Act 90, Imd. Eff. July 15, 2011

324.80130a Disclosure of information prohibited; exceptions.

Sec. 80130a. (1) Except as provided in this section and section 80130c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity considered satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 80130c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this act may be disclosed to any person by the secretary of state as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of watercraft and operator safety or watercraft theft; watercraft emissions; watercraft product alterations, recalls, or advisories; performance monitoring of watercraft; watercraft research activities including survey research; and the removal of nonowner records from the original records of watercraft manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court, administrative agency, or self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded watercraft.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(j) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

324.80130b Resale or redisclosure of personal information; maintenance of records; duration; availability for inspection.

Sec. 80130b. (1) An authorized recipient of personal information may resell or redisclose the information for any use permitted under section 80130a. An authorized recipient of an individual record or records under section 81114a may resell or redisclose personal information for any purpose.

(2) Any authorized recipient who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

324.80130c Furnishing list of information to federal, state, or local governmental agency; contract for sale of list of information; insertion of safeguard in agreement or contract; resale or redisclosure of information; disclosure of list based on watercraft operations or sanctions to nongovernmental agency.

Sec. 80130c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 80130a(3). The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the permissible purposes described in section 80130a(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on watercraft operation or sanctions to a nongovernmental agency, including an individual.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 194, Eff. Jan. 1, 2001.

324.80130d Prohibited conduct; violations as felony; penalties.

Sec. 80130d. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 80130a or 80130c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than \$1,500.00 or more than \$7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

History: Add. 1997, Act 102, Imd. Eff. Aug. 7, 1997.

324.80131 Violation of part or ordinance; record of charge or citation; forwarding abstracts or report to secretary of state; statement; certification; noncompliance; public inspection; basis for issuing order; transmitting and entering order of reversal; modifying requirements.

Sec. 80131. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this part or of a local ordinance corresponding to this part regulating the operation of vessels.

(2) Within 14 days after a conviction, forfeiture of bail, entry of a civil infraction determination, or default judgment upon a charge of, or citation for, violating this part or a local ordinance corresponding to this part regulating the operation of vessels, except as provided in subsection (11), the municipal judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the record of the court for the case. The abstract shall be certified to be true and correct by signature, stamp, or facsimile signature by the person required to prepare the abstract. If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this part, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state and shall include all of the following:

- (a) The name, address, and date of birth of the person charged or cited.
- (b) The date and nature of the violation.
- (c) The type of vessel operated at the time of the violation.
- (d) The date of the conviction, finding, forfeiture, judgment, or determination.
- (e) Whether bail was forfeited.
- (f) Any order issued by the court pursuant to this part.
- (g) Other information considered necessary to the secretary of state.

(4) As used in subsections (5) to (7), "felony in which a vessel was used" means a felony during the commission of which the person operated a vessel and while operating the vessel presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

- (a) The vessel was used as an instrument of the felony.
- (b) The vessel was used to transport a victim of the felony.
- (c) The vessel was used to flee the scene of the felony.
- (d) The vessel was necessary for the commission of the felony.

(5) If a person is charged with a felony in which a vessel was used, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court: "You are charged with the commission of a felony in which a vessel was used. If you are convicted and the judge finds that the conviction is for a felony in which a vessel was used, as defined in section 80131 of the natural resources and environmental protection act, the secretary of state will order you not to operate a vessel on the waters of this state.".

(6) If a child is accused of an act the nature of which constitutes a felony in which a vessel was used, the prosecuting attorney or juvenile court shall include the following statement on the petition filed in the probate court: "You are accused of an act the nature of which constitutes a felony in which a vessel was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a vessel was used, as defined in section 80131 of the natural resources and environmental protection act, the secretary of state will order you not to operate a vessel on the waters of this state."

(7) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (5) or (6) is a felony in which a vessel was used, the clerk of the court shall forward an abstract of the court record of that conviction or adjudication to the secretary of state.

(8) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name and title of the person required to forward abstracts.

(b) The court for which the certification is filed.

(c) The time period covered by the certification.

(d) The following statement: "I certify that all abstracts required by section 80131 of the natural resources and environmental protection act for the period _____ through _____ have been forwarded to the secretary of state."

(e) Other information the secretary of state considers necessary.

(f) The signature of the person required to forward abstracts.

(9) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(10) Except as provided in subsection (11), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office, and the abstracts shall be open for public inspection during the office's usual business hours. The secretary of state shall enter each abstract upon the boating record of the person to whom it pertains and shall record the information in a manner that makes the information available to peace officers through the law enforcement information network.

(11) The court shall not submit, and the secretary of state shall discard and not enter on the boating record, an abstract for a conviction or civil infraction determination for a violation of this part that could not be the basis for the secretary of state's issuance of an order not to operate a vessel on the waters of this state. The secretary of state shall discard and not enter on the boating record an abstract for a bond forfeiture that occurred outside this state.

(12) The secretary of state shall inform the court of the violations of this part that are used by the secretary of state as the basis for issuance of an order not to operate a vessel on the waters of this state.

(13) If a conviction or civil infraction determination is reversed upon appeal, the court shall transmit a copy of the order of reversal to the secretary of state, and the secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(14) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If

the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 80168, the form of the written notice and report shall be as prescribed by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80132 Applicability of §§ 324.80134 and 324.80135; applicability of section.

Sec. 80132. (1) Sections 80134 and 80135 apply to a vessel operated on waters subject to the jurisdiction of this state when the vessel is either of the following:

- (a) Operated by its operator for recreational purposes.
- (b) Required to be numbered in this state.

(2) This section does not apply to a vessel required to have a certificate of inspection under chapter I of title 46 of the Code of Federal Regulations.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80133 Casualty involving vessel; assistance to injured persons.

Sec. 80133. (1) The operator of a vessel involved in a collision, accident, or other casualty, and the operator of any other vessel, to the extent that he or she can do so without serious danger to his or her own vessel, crew, and passengers, shall render reasonable assistance to a person affected by the collision, accident, or other casualty, including the transporting of the injured person to a physician or surgeon for medical or surgical treatment, if it is apparent that treatment is necessary or when requested by the injured person.

(2) A person who complies with subsection (1), or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of the person assisted, is not liable for civil damages as a result of the rendering of assistance, or for an act or omission in providing or arranging towage, medical treatment, or other assistance, if the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80134 Casualties involving vessels; exchange of identification.

Sec. 80134. In the case of collision, accident, or other casualty involving a vessel, the operator shall stop his or her vessel and give his or her name and address and identification of his or her vessel, and the name and address of the owner of the vessel if he or she is not the operator, to the operator or occupants of any other vessel involved or to the owner or his or her agents of any property damaged by the accident.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80134a Accident involving serious impairment of body function or death; remaining at scene of accident; violation as felony; “serious impairment of a body function” defined.

Sec. 80134a. (1) The operator of a vessel who knows or who has reason to believe that he or she has been involved in an accident resulting in serious impairment of a body function or death of a person shall immediately stop his or her vessel at the scene of the accident and shall remain there until the requirements of sections 80133 and 80134 are fulfilled.

(2) Except as provided in subsection (3), a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or by a fine of not more than \$5,000.00, or both.

(3) A person who violates subsection (1) following an accident caused by that person that results in the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(4) As used in this section, “serious impairment of a body function” means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: Add. 2003, Act 231, Eff. Apr. 1, 2004.

324.80135 Casualty involving vessel; report.

Sec. 80135. (1) In the case of collision, accident, or other casualty involving a vessel, the operator shall report the collision, accident, or other casualty to the nearest peace officer, state police post, or the sheriff of the county in which the collision, accident, or other casualty occurred.

(2) A report of a collision, accident, or other casualty involving a vessel that is made to a peace officer other than the sheriff of the county in which the collision, accident, or other casualty occurred shall be reported without delay by the peace officer to the sheriff of the county in which the collision, accident, or other casualty occurred.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80136 Peace officer receiving report or investigating casualty involving vessel; report to department and county sheriff; form and contents.

Sec. 80136. A peace officer receiving a report or investigating the collision, accident, or other casualty involving a vessel shall prepare and submit within 15 days a complete report thereof to the department and the sheriff of the county where the collision, accident, or other casualty involving a vessel occurred, in a form and containing such information as the department may require.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80137 Casualty reports involving vessel; use; fee; copies; admissibility in court.

Sec. 80137. All collision, accident, or other casualty reports involving a vessel shall be without prejudice and shall be for the information of the department. Any person upon the payment of \$2.00 to the department shall be furnished a copy of the report. The report required in section 80136 is not admissible in a court.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80138 Transmission of information for analytical or statistical purposes.

Sec. 80138. In accordance with a request by an authorized official or agency of the United States or by the department, information compiled or otherwise available to the secretary of state and the department under this part shall be transmitted to the official or agency of the United States or to the department for analytical and statistical purposes.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80139 Rules.

Sec. 80139. The department shall promulgate rules to establish a state vessel collision, accident, or other casualty reporting system in conformity with that established by the United States coast guard.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80140 Educational programs; establishment; youthful boat operators training program; certificates of completion; information to be included in program.

Sec. 80140. (1) In order to protect the public interest in the prudent and equitable use of the waters of this state and to enhance the enjoyment of pleasure boating and other recreational water sports on the waters of the state, the department shall establish and pursue comprehensive educational programs designed to advance boating and general water safety.

(2) The department shall put into effect a program to train youthful boat operators and shall issue a boating safety certificate to those who satisfactorily complete the program. For the purpose of giving the courses of instruction and awarding boating safety certificates, the department may designate as its agent any person it considers qualified to act in this capacity. A charge shall not be made for any instruction given or for the award of boating safety certificates.

(3) The department shall include in its educational programs under this section all of the following:

(a) Information on proper marine fueling techniques.

(b) Information on the problems that marine fuel spillage may cause to water bodies.

(c) Information on how and where to report a marine fuel spill.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; --Am. 2004, Act 95, Imd. Eff. May 7, 2004.

324.80141. Operation of motorboat by person less than 12 years of age; operation of motorboat by person 12 through 15 years of age; operation of motorboat by person on or after July 1, 1996.

Sec. 80141. (1) Except as otherwise provided in this section, a person less than 12 years of age shall not operate a motorboat on the waters of this state unless all of the following conditions are met:

- (a) He or she has been issued and is in possession of a boating safety certificate.
- (b) He or she is under the direct supervision of a person on board the motorboat who is 16 years of age or older.
- (c) The motorboat he or she operates is powered by a motor or motors totaling no more than 35 horsepower.

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

- (a) He or she is accompanied by at least 1 person 16 years of age or older.
 - (b) He or she is in possession of a boating safety certificate issued after he or she has satisfactorily completed a department approved course in boating safety.
- (3) A person operating a motorboat as described in this section shall present the boating safety certificate issued to him or her upon the demand of any peace officer.
- (4) This section does not apply to the operation of a motorboat that is powered by a motor or motors totaling no more than 6 horsepower.

(5) Beginning July 1, 2012, a person who is born on or after July 1, 1996 shall not operate a motorboat on the waters of this state unless the person has been issued and is in possession of a boating safety certificate.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2012, Act 120, Eff. Nov. 1, 2012

324.80142 Wearing of personal flotation device by child required; exception; "charter boat" and "class C vessel" defined; violation; fine.

Sec. 80142. (1) Except as provided in subsection (3), a person shall not operate a vessel on the waters of this state unless each person in an open deck area on board the vessel who is less than 6 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.

(2) A parent or guardian of a child less than 6 years of age who accompanies that child on board a vessel that is not a charter boat described in subsection (3) shall ensure that the child is wearing a personal flotation device that complies with this section.

(3) This section does not apply to a charter boat bearing either of the following:

(a) A valid certificate of inspection issued by the United States coast guard that verifies the charter boat's compliance with subchapter H or subchapter T of the code of federal regulations, 46 C.F.R. 70.01-1 to 80.40 and 175.01-1 to 185.30-30.

(b) A valid certificate of inspection issued by the department for a class C vessel that is greater than 45 feet in length.

(4) As used in this section, "charter boat" and "class C vessel" mean those terms as defined in section 44501.

(5) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996.

324.80143 Barge; lights; number; placement; position; barges moored together; limitation; order to move moored vessel; violation as misdemeanor; penalty; costs; definitions.

Sec. 80143. (1) The owner of a barge shall place his or her name, address, and telephone number on a prominent place on the hull of the barge in letters that are light-reflective, in a contrasting color to the hull, and not less than 6 inches in height.

(2) In addition to the other lighting requirements of this chapter and subject to subsection (3), the operator of a barge shall ensure that the barge is properly lit with 4 or more white lights during the period from sunset to sunrise and as practicable during all periods of limited visibility if any of the following apply:

- (a) The barge projects into a restricted channel or into a channel established by buoys.
- (b) The barge is moored so that it reduces the available navigable width of a channel.
- (c) The barge is not parallel to the bank or dock to which it is moored.
- (d) The barge is moored as part of a group of 2 or more barges.

(3) The lights on a barge described in subsection (1) shall be placed as follows if either of the following applies:

(a) If the barge or group formation of barges is positioned so that vessels may navigate on 1 or more sides of the barge or group formation of barges, the lights shall be displayed on each outside corner of the barge or group formation of barges.

(b) If the barge projects from a group formation of barges, the lights shall be displayed on the corners of the projecting barge that are outboard of the group.

(4) Lights used under this section shall meet the requirements of R 281.1233 of the Michigan administrative code and shall be positioned in such a manner and be of sufficient intensity as to be visible from any direction for at least 1 nautical mile at night under clear conditions.

(5) A group of barges shall not be moored together if the total width of those barges would exceed 82 feet.

(6) The department or a local authority may order a vessel moored in violation of this section that poses a hazard to navigation to be immediately moved and, if the vessel is not moved as ordered, may move or cause the vessel to be moved, with the owner subject to the payment of costs under subsection (8).

(7) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$10,000.00, or both. For purposes of this subsection, each 24-hour period that a violation exists constitutes a separate violation.

(8) The court shall order a person convicted of violating this section to pay the actual and reasonable costs incurred by this state or a local unit of government in moving a vessel under subsection (6).

(9) As used in this section:

(a) "Barge" means a flat-bottomed displacement vessel that is used to carry cargo or as a work platform, whether or not it operates under its own power.

(b) "Operator" includes a person in command of a barge while it is moored.

History: Add. 2012, Act 59, Eff. Nov. 1, 2012

Compiler's Notes: Former MCL 324.80143, which pertained to requirements for operation of personal watercraft, was repealed by Act 263 of 1998, Eff. Mar. 23, 1999.

324.80143a. Carrying, storing, maintaining, and using marine safety equipment onboard vessel; violation as civil infraction; fine.

Sec. 80143a. A person who operates a vessel, or the owner of a vessel who operates or causes or permits the vessel to be operated, on the waters of this state shall carry, store, maintain, and use marine safety equipment onboard the vessel as required by the department. A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

History: Add. 2012, Act 58, Eff. Nov. 1, 2012

324.80144 Operation of vessels; rules; violation; fine.

Sec. 80144.(1) When vessels are being operated in such a manner as to make collision imminent or likely, the following apply:

(a) When 2 vessels are approaching each other head-on, or nearly so, the operator of each shall cause his or her vessel to pass on the port side of the other.

(b) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessel, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

(c) When 2 vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when 1 vessel is overtaking another, the operator of the vessel that has the other on his or her own port side shall hold his or her course and speed, and the operator of the vessel that has the other on his or her own starboard side shall give way to the other by directing his or her course to starboard so as to cross the stern of the other vessel or, if necessary to do so, shall slacken his or her speed, stop, or reverse.

(d) When a motorboat and a vessel under sail are proceeding in a manner that involves a risk of collision, the operator of the motorboat shall give way to the vessel under sail.

(e) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in a manner that involves risk of collision, the operator of the motorboat shall give way to the other vessel.

(f) When, by any of the rules provided in this section, the operator of a vessel is required to give way to the other, the operator of the other vessel shall maintain his or her direction and speed.

(2) This section does not relieve the operator of a vessel otherwise privileged by this section from the duty to operate with due regard for the safety of all persons using the waters of this state.

(3) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80145 Operation of vessels; speed; interference with use of waters by others; violation; fine.

Sec. 80145. A person operating or propelling a vessel upon the waters of this state shall operate it in a careful and prudent manner and at such a rate of speed so as not to endanger unreasonably the life or property of any person. A person shall not operate any vessel at a rate of speed greater than will permit him or her, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. A person shall not operate a vessel in a manner so as to interfere unreasonably with the lawful use by others of any waters. A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80146 Maximum or unlimited motorboat speed; rules; maximum motorboat speed where limits not established; exceptions; resolution requesting reduction in maximum speed limit; conditions requiring slow—no wake speed or minimum speed; violation; fine; exceptions; waiver.

Sec. 80146.(1) The department may promulgate rules to establish maximum motorboat speed limits or to allow unlimited motorboat speed on the waters of this state.

(2) On waters of this state for which a motorboat speed limit is not established under subsection (1), on any waters for which the department has not established an unlimited motorboat speed limit, or on any waters for which stricter speed restrictions are not established pursuant to an act, a maximum speed limit of 55 miles per hour is established, except in an emergency and except for authorized peace and conservation officers when engaged in official duties. The maximum speed limit of 55 miles per hour does not apply to the Great Lakes and Lake St. Clair, except for an area within 1 mile of the shoreline measured at a right angle from the shoreline. Upon receipt of a resolution by the governing body of a local unit of government having jurisdiction over waters of this state requesting a reduction in the maximum speed limit on those waters, the department, pursuant to sections 80108 to 80113, may establish a maximum speed limit not to exceed 40 miles per hour on those waters.

(3) A person shall not operate a motorboat on the waters of this state at a speed greater than slow—no wake speed or the minimum speed necessary for the motorboat to maintain forward movement when within 100 feet of the shoreline where the water depth is less than 3 feet, as determined by vertical measurement, except in navigable channels not otherwise posted.

(4) A person who violates subsection (2) or (3) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00, unless 1 of the following conditions exists:

(a) The requirements of this section have been waived as described under subsection (5).

(b) The person violates this section in a manner that constitutes reckless operation of a motorboat as described in section 80147.

(5) The department may waive the requirements of this section and section 80156 for marine events authorized by the department under section 80164.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80147 Reckless operation of vessels; penalty.

Sec. 80147. (1) If a person carelessly and heedlessly operates a vessel upon the waters of this state in disregard of the rights or safety of others, without due caution and circumspection, or at a rate of speed or in a manner that endangers or is likely to endanger a person or property, that person is guilty of reckless operation of a vessel and is subject to the penalties described in subsection (3).

(2) If a person, while being towed on water skis, a water sled, a surfboard, or a similar contrivance upon the waters of this state, carelessly and heedlessly navigates, steers, or controls himself or herself in disregard of the rights or safety of others or without due caution and circumspection and in a manner that endangers or is likely to endanger a person or property, then that person is guilty of reckless operation of the contrivance that he or she controls is subject to the penalties described in subsection (3).

(3) Upon a person's conviction under this section, the court may issue an order prohibiting that person from operating a vessel on the waters of this state for a period of not more than 2 years. Upon a person's subsequent conviction under this section, the court shall order that person to participate in and complete a marine safety educational program approved by the department. An order issued pursuant to this subsection is in addition to any other penalty authorized under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80148 Operating motorboat at more than slow--no wake speed; prohibitions; exceptions.

Sec. 80148. (1) Subject to the exceptions described in subsection (2), a person shall not operate a motorboat at more than slow--no wake speed if any of the following circumstances exist:

(a) A person is located on or in the bow of the motorboat, and that motorboat is not manufactured to provide bow seating.

(b) A person or a portion of a person's body extends beyond the exterior port or starboard walls of the hull of the motorboat.

(2) This section does not apply to either of the following:

(a) A person engaged in the operation of a sailboat that is not being powered by a motor.

(b) A person on board a vessel who is attempting to anchor, moor, dock, or otherwise secure the vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80149 Operation of vessels in counter-clockwise fashion; distance between persons being towed and other objects; exception; violation as misdemeanor; violation as civil infraction; fine.

Sec. 80149.(1) A person operating a vessel on the waters of this state in areas not marked by well defined channels, canals, rivers, or stream courses shall operate the vessels in a counter-clockwise fashion to the extent that it is reasonably possible. These persons and persons being towed on water skis or on a water sled, kite, surfboard, or similar contrivance shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when the vessel is proceeding at a slow—no wake speed or when water skiers are being picked up or dropped off, if that operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state. Except as otherwise provided in subsection (2), a person who violates this section is guilty of a misdemeanor.

(2) A person who violates this section while on any of the following bodies of water in this state is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00:

(a) The Great Lakes.

(b) Lake St. Clair.

(c) The St. Clair river.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80150 Operation of vessels; prohibited in certain areas.

Sec. 80150. A person shall not operate a vessel on any of the waters of this state within a lawfully authorized restricted area clearly marked by buoys, beacons, or other distinguishing devices as being prohibited to vessels.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80151 Towing of persons; prohibited time; violation; fine.

Sec. 80151.(1) A person operating a vessel shall not have in tow or otherwise be assisting in the propulsion of a person on water skis or on a water sled, surfboard, or other similar contrivance during the period of 1 hour after sunset to 1 hour prior to sunrise.

(2) A person shall not permit himself or herself to be towed on water skis or on a water sled, surfboard, or similar contrivance in violation of this part.

(3) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80152. Towing or assisting person prohibited; exceptions; violation; fine; subsections (1) and (3) inapplicable under certain conditions; standards; rules; certification; information to be provided; specification of bodies of water for use in practice.

Sec. 80152. (1) Except as otherwise provided in this section, a person shall not operate a vessel on the waters of this state while towing or otherwise assisting a person being towed unless both of the following conditions are met:

(a) A person capable of communicating to the vessel operator the condition and needs of the person being towed or assisted is on board the vessel and positioned to observe the person being towed or assisted.

(b) The person being towed is wearing the proper type I, type II, or type III personal flotation device, as applicable. The wearing of an inflatable personal flotation device does not satisfy this requirement.

(2) A person who violates subsection (1) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

(3) A person shall not permit himself or herself to be towed or otherwise assisted by a vessel on the waters of this state unless he or she complies with the conditions listed in subsection (1).

(4) A person who violates subsection (3) who is 16 years of age or older is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

(5) Subsections (1) and (3) do not apply to any of the following:

(a) A person who operates or who is towed by a vessel used by a ski school in the giving of instructions or a vessel used in sanctioned ski tournaments, competitions, expositions, or trials if the vessel is equipped with a 170-degree wide-angle rearview mirror affixed in a manner that will permit the operator to observe the progress of the person being towed.

(b) A person being towed by a motorboat less than 16 feet in length that is actually operated by the person being towed if the vessel is constructed to be incapable of carrying the operator in or on the motorboat.

(c) A vessel operator or the person being towed if the vessel operator is towing a person preparing for a specific water ski tournament and if all of the following conditions are met:

(i) The vessel operator is certified as provided in subsection (6).

(ii) The person being towed is certified as provided in subsection (7).

(iii) Towing is conducted so that, on average, not more than 1 vessel approaches within 300 feet of the towing vessel during any 5-minute period.

(iv) The vessel is equipped with all of the following:

(A) A center-mounted tow pylon.

(B) A large clear rearview mirror capable of allowing the vessel operator to distinguish hand signals at a distance of 75 feet.

(C) Markings that identify the vessel as a vessel that is being operated in conformance with this subdivision.

(6) The department shall adopt standards for water ski tournament boat operation established by U.S.A. water ski in "Trained Boat Driver Program", April 1997, and by the American water ski association in "Drivers' Policy Manual". However, the department may promulgate rules providing for alternative standards under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall certify each individual who satisfies the standards described in this subsection as a tournament water ski vessel operator and issue proof of that certification to the individual.

(7) The department shall adopt standards for tournament water skiers established by the Michigan water ski association in "Guidelines for Training Permit Eligibility", proposed revision 125 of 1996. However, the department may promulgate rules providing for alternative standards under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall certify each individual who satisfies the standards described in this subsection as a tournament water skier and issue proof of that certification to the individual.

(8) The Michigan water ski association shall provide annually to the department and the Michigan sheriffs association both of the following:

(a) A list of the individuals whom the organization considers qualified for tournament water skiing.

(b) The names of not more than 3 bodies of water on which each of those individuals may be authorized to practice for tournament water skiing.

(9) The department shall specify the body or bodies of water upon which a water skier may practice upon each certificate issued under subsection (7).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1999, Act 19, Imd. Eff. Apr. 30, 1999 ;-- Am. 2012, Act 58, Eff. Nov. 1, 2012

324.80153 Vessels; use of portions unintended for occupancy prohibited; exceptions.

Sec. 80153. Any occupant or operator of any vessel under way on the waters of this state shall not sit, stand, or walk upon any portion of the vessel not specially designed for that purpose, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80154 Interference with operation of vessel by nonoccupant.

Sec. 80154. A person not in a boat shall not intentionally rock, tip, jostle, or otherwise interfere with the operation of any vessel, except under supervised training.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80155 Divers; marking point of submergence; distance from diver's flag.

Sec. 80155. Any person diving or submerging in any of the waters of this state with the aid of a diving suit or other mechanical diving device shall place a buoy or boat in the water at or near the point of submergence. The buoy or boat shall bear a red flag not less than 14 inches by 16 inches with a 3-1/2 inch white stripe running from 1 upper corner to a diagonal lower corner. The flag shall be in place only while actual diving operations are in progress. A vessel shall not be operated within 200 feet of a buoyed diver's flag unless it is involved in tendering the diving operation. A person diving shall stay within a surface area of 100 feet of the diver's flag.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80156 Motorboat; muffler or underwater exhaust system required; maximum sound levels; test and maximum decibel levels; new motorboat to comply with prescribed sound levels; exceptions; "dB(A)" defined; violation as misdemeanor; penalty.

Sec. 80156. (1) Subject to subsection (2), a person shall not operate a motorboat on the waters of this state unless the motorboat is equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005 or a sound level in excess of 75 dB(A) when subjected to a shoreline sound level measurement procedure as described by SAE J1970. The operator of a motorboat shall present the motorboat for a sound level test as prescribed by SAE J2005 upon the request of a peace officer. If a motorboat is equipped with more than 1 motor or engine, the test shall be performed with all motors or engines operating. To determine whether a person is violating this subsection, a peace officer may measure sound levels pursuant to procedures prescribed in SAE J1970, issued 1991-92.

(2) The department may by rule establish a motorboat sound level test and set a maximum decibel level or levels permitted for motorboat operation that replace the tests and maximum decibel levels permitted under subsection (1). If a test and maximum decibel level or levels are established pursuant to this subsection, all of the following apply:

(a) A person shall not operate a motorboat on the waters of this state if the motorboat produces sound levels that exceed the maximum decibel level or levels established under this subsection.

(b) The operator of a motorboat shall present the motorboat for the sound level test established pursuant to this subsection upon the request of a peace officer.

(c) A motorboat equipped with more than 1 motor or engine shall be tested with all motors or engines operating.

(3) A person shall not manufacture, sell, or offer for sale a motorboat for use on the waters of this state unless that motorboat is equipped and maintained with an effective muffler or underwater exhaust system that complies with the applicable sound levels permitted under subsection (1) or (2).

(4) Subsections (1) and (2) do not apply to any of the following:

(a) A motorboat tuning up or testing for or participating in official trials for speed records or a sanctioned race conducted pursuant to a permit issued by an appropriate unit of government.

(b) A motorboat being operated by a boat or marine engine manufacturer for the purpose of testing or development.

(c) A motorboat that qualifies as an historic vessel.

(5) As used in this section, "dB(A)" means decibels on the "A" scale on a sound meter having characteristics of a general purpose sound meter as defined by American national standards institute S1.4-1983.

(6) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days and a fine of not less than \$100.00 or more than \$500.00. Additionally, before putting the motorboat back in use, a person who violates this section is required to install an effective muffler or underwater exhaust system that meets the requirements of this section on the motorboat in violation at his or her expense.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 1996, Act 274, Imd. Eff. June 17, 1996.

324.80157 Liability of vessel owner for negligent operation; presumption of consent to use.

Sec. 80157. The owner of a vessel is liable for any injury occasioned by the negligent operation of the vessel, whether the negligence consists of a violation of the statutes of this state, or in the failure to observe such ordinary care in the operation as the rules of the common law require. The owner is not liable unless the vessel is being used with his or her expressed or implied consent. It shall be presumed that the vessel is being operated with the knowledge and consent of the owner if it is driven at the time of the injury by his or her son, daughter, spouse, father, mother, brother, sister, or other immediate member of the owner's family.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80158 Responsibility of vessel owner for damage caused by vessel wake.

Sec. 80158. The owner of any vessel operated upon the waters of this state is personally responsible for any damage to life or property resulting from a wake or swell created by the negligent operation or propulsion of the vessel, if the vessel is being operated with his or her consent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80159 Buoys or beacons; permit for placement; application; revocation; removal.

Sec. 80159. A person shall not place a beacon or buoy, other than a mooring buoy, in the waters of this state except as authorized by a permit issued by the department pursuant to part 13. The department may issue a permit for the placing of buoys or beacons in the waters of this state to mark obstruction to navigation, to designate bathing areas, to designate vessel anchorages, or for any other purpose if it will promote safety or navigation. An application for a permit shall contain information required by the department. If buoys or beacons are placed in the waters of this state without a permit having been issued, the department may order their removal. If, in the judgment of the department, buoys or beacons authorized by the department are found to be improperly placed, the reason for their placement no longer exists, or the buoys or beacons do not conform to the uniform system of marking established by state regulation, the department may revoke the permit authorizing their placement and may order their removal. Revocation of permits and orders of removal shall be by written notice to the person placing the buoys or beacons or to the person to whom the permit was issued at his or her last known address, directing the removal within a specified time. The person to whom the notice is directed shall remove the buoys or beacons in accordance with the instructions. If the person fails to remove the buoys or beacons within the specified time, the department may cause their removal, and the cost and expense of the removal shall be charged against the person authorized to place the buoys or beacons or, where authorization has not been granted, the person placing such buoys or beacons and shall be recoverable through any court of competent jurisdiction.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; --Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

324.80160 Buoys or beacons; uniform marking system.

Sec. 80160. The department shall establish a uniform waterway marking system for the marking of all buoys and beacons authorized by this part to be placed in the waters of this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80161 Buoys or beacons; compliance with federal law or regulations; permits.

Sec. 80161. Sections 80159 and 80160 do not exempt any person from compliance with applicable federal law or regulation, and sections 80159 and 80160 do not require the securing of a state revocable permit if a permit therefor has been obtained from an authorized agency of the United States.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80162 Buoys or beacons; use as moorings; moving, removal or damaging.

Sec. 80162. A person shall not moor or fasten a vessel to a lawfully placed buoy or beacon, except mooring buoys, or willfully move, remove, or damage such a buoy or beacon.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80163 Anchored raft or other item or material; relocation or removal as navigation hazard; costs; failure to pay; lien.

Sec. 80163. (1) If an anchored raft or other item or material, whether floating free or attached to the bottomland or a shoreline, presents a hazard to navigation, the department or a peace officer with jurisdiction over the body of water where the anchored raft or other item or material is located may relocate or remove it or may order its relocation or removal.

(2) The person who owns or who caused a navigational hazard that is relocated or removed under subsection (1) is liable to pay the actual and reasonable costs of relocation or removal. The department or the law enforcement agency with jurisdiction over the body of water where the navigational hazard was located may send written notice of the relocation or removal under subsection (1) and the associated costs to the person determined to own or to have caused the navigational hazard. If the owner or person who caused the navigational hazard fails to pay the costs within 30 days of the date the written notice is mailed, the costs may become a lien against the person's property.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2010, Act 101, Imd. Eff. June 22, 2010

324.80164 Regattas; rules; permit; authorization; applications.

Sec. 80164. The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions, or trials for those events, on any waters of this state. The department shall promulgate and may amend rules concerning the conduct of such marine events. Whenever a regatta, motorboat or other boat race, marine parade, tournament, or exhibition, or trials for those events, is proposed to be held, the person in charge of the event, at least 30 days prior to the event, shall file an application with the department for permission to hold the regatta, motorboat or other boat race, marine parade, tournament, exhibition, or trials. The application shall set forth the date, time, and location where it is proposed to hold the regatta, motorboat or other boat race, marine parade, tournament, or exhibition, and it shall not be conducted without the written authorization of the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80164a Personal flotation device and throwable flotation device; exception from requirements.

Sec. 80164a. The requirements for having a personal flotation device and a throwable flotation device in a vessel do not apply to a person in a racing shell or rowing scull.

History: Add. 2010, Act 298, Imd. Eff. Dec. 16, 2010

324.80165 Regattas, races, or trials; compliance with federal law or regulation; permit; waiver.

Sec. 80165. Section 80164 does not exempt a person from compliance with an applicable federal law or regulation, and it shall not be construed to require the securing of a state permit if a permit for an event, exhibition, or trial described in section 80164 has been obtained from an authorized agency of the United States. The department in its permit may waive the provisions of sections 80122, 80144, 80146, 80149, 80151, 80152, and 80156, as well as the registration provisions of the laws of this state, and any of the rules promulgated by the department under this part, to the extent that they apply to vessels participating in races, regattas, or trials sanctioned by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80166. Peace officers; stopping of vessels; duty of operator; reasonable suspicion; furnishing false information as misdemeanor; arrest without warrant.

Sec. 80166. (1) Upon the direction of a peace officer acting in the lawful performance of his or her duty, the operator of a vessel moving on the waters of this state shall immediately bring the vessel to a stop or maneuver it in a manner that permits the peace officer to come beside the vessel. The operator of the vessel shall do the following upon the request of the peace officer:

(a) Provide his or her correct name and address.

(b) Exhibit the certificate of number awarded for the vessel.

(c) If the vessel does not bear a decal described in section 80166a or an equivalent decal issued by or on behalf of another state, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.

(2) A peace officer shall not stop and inspect a vessel bearing the decal described in section 80166a or an equivalent decal issued by or on behalf of another state during the period the decal remains in effect unless that peace officer has a reasonable suspicion that the vessel or the vessel's operator is in violation of a marine law or is otherwise engaged in criminal activity.

(3) A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who furnishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.

(4) A peace officer who observes a marine law violation or the commission of a crime may immediately arrest the person without a warrant or issue to the person a written or verbal warning.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2002, Act 636, Imd. Eff. Dec. 23, 2002 ;-- Am. 2012, Act 62, Eff. Nov. 1, 2012

324.80166a Agreement with United States coast guard.

Sec. 80166a. (1) The department may enter into an agreement with the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary to provide for vessel safety checks of a vessel and its equipment. An agreement entered into under this subsection shall not preclude the department, or any peace officer within his or her jurisdiction, from performing an inspection of a vessel or the vessel's equipment for enforcement purposes or courtesy purposes.

(2) An agreement entered into under this section shall specify that the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary shall provide the department with a sufficient number of vessel safety check decals for conservation officers and those counties that participate in the marine safety program. In addition to any other information that is included on a vessel safety check decal, each vessel safety check decal shall bear the likeness of the state seal of Michigan. The vessel safety check decal shall display the year in which the decal was issued and during which it is valid.

(3) Upon the completion of an inspection of a vessel or the vessel's equipment by a peace officer, the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary, the peace officer or person performing the inspection shall affix to the vessel the vessel safety check decal provided for in this section.

History: Add. 2002, Act 636, Imd. Eff. Dec. 23, 2002 .

324.80167 Arrest without warrant; cases in which arrested person arraigned by magistrate or judge.

Sec. 80167. If a person is arrested without a warrant for any of the following, the arrested person shall, without unreasonable delay, be arraigned by a magistrate or judge who is within the county in which the offense charged is alleged to have been committed, who has jurisdiction of the offense, and who is nearest or most accessible with reference to the place where the arrest is made:

(a) The person is arrested upon a charge of negligent homicide.

(b) The person is arrested under section 80176(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 80176(1) or (3).

(c) The person is arrested under section 80147 or a local ordinance substantially corresponding to section 80147. If in the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed as provided by section 80168.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80168 Arrest without warrant; notice to appear in court; time; place; appearance; acceptance of pleas.

Sec. 80168. (1) When a person is arrested without a warrant for a violation of this part punishable as a misdemeanor, or of a provision of any local ordinance or rule established in conformity with this part, under conditions not referred to in section 80167, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of the person, the offense charged, and the time and place when and where the person shall appear in court. If the arrested person so demands, he or she shall be arraigned by a magistrate or a district court judge as provided in section 80167 in lieu of being given the notice.

(2) The time specified in the notice to appear shall be within a reasonable time after the arrest unless the person arrested demands an earlier hearing.

(3) The place specified in the notice to appear shall be before a magistrate or a district court judge who is within the township or county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense.

(4) Appearance may be made in person, by representation, or by mail. When appearance is made by representation or mail, the magistrate or the district court judge may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him or her. The magistrate or the district court judge, by giving notice 5 days prior to the date of appearance, may require appearance in person at the time and place designated in the notice.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80169 Arrest without warrant; nonresidents; recognizance; receipt and summons; failure to appear; deposit of money; report; embezzlement.

Sec. 80169.(1) If a person not a resident of this state is arrested without a warrant for a violation of this part under conditions not referred to under section 80167, the officer making the arrest, upon demand of the arrested person, shall immediately take the person for arraignment by a magistrate or a district court judge in the vicinity to answer to the complaint made against him or her. If a magistrate or a district court judge is not available or an immediate trial cannot be had, the person arrested may recognize to the officer for his or her appearance by leaving with him or her not more than \$200.00.

(2) The officer making the arrest shall give a receipt to the person arrested for the money deposited with him or her under subsection (1), together with a written summons as provided in section 80168.

(3) If the offender fails to appear as required, the deposit shall be forfeited as in other cases of default in bail, in addition to any other penalty provided in this part.

(4) Not more than 48 hours after taking a deposit under this section, the officer shall deposit the money with the magistrate or the district court judge named in the notice to appear, together with a report stating the facts relating to the arrest. Failure to make the report and deposit the money is embezzlement of public money.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80170 Violation by officer, magistrate, or district court judge as misconduct in office; removal from office; applicability and construction of §§ 324.80168 and 324.80169.

Sec. 80170. (1) Any officer, magistrate, or district court judge violating section 80168 or 80169 is guilty of misconduct in office and is subject to removal from office.

(2) Sections 80168 and 80169 govern all peace officers in making arrests without a warrant for violations of this part and do not prevent the execution of a warrant for the arrest of the person as in other cases of misdemeanors when it may be necessary.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80171 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80171.amended *******

324.80171 Violation of part; penalties.

Sec. 80171. Unless otherwise specified under this part, a violation of this part or rules promulgated under this part is a misdemeanor. A political subdivision having adopted a local ordinance in conformity with this part may provide that any violation of the ordinance is a misdemeanor. Any person convicted of reckless operation of a vessel as defined in section 80147, or of operating a vessel while under the influence of intoxicating liquor or narcotic drugs, in addition to any other penalty, may be refused by the court having jurisdiction of the violation the right of operating any vessel on any of the waters of this state for a period of not more than 2 years.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80171.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80171.amended Violation of part or rules; penalties.

Sec. 80171. Unless otherwise specified under this part, a violation of this part or rules promulgated under this part is a misdemeanor. A political subdivision having adopted a local ordinance in conformity with this part may provide that any violation of the ordinance is a misdemeanor. Any person convicted of reckless operation of a vessel as defined in section 80147, or of operating a motorboat while under the influence of alcoholic liquor or narcotic drugs, or with any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214, in his or her body, in addition to any other penalty, may be refused by the court having jurisdiction of the violation the right of operating any motorboat on any of the waters of this state for a period of not more than 2 years.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

324.80172 Negligent crippling or death; penalty.

Sec. 80172. A person who, by the operation of any vessel at an immoderate rate of speed or in a careless, reckless, or negligent manner, but not willfully or wantonly, injures so as to cripple or cause the death of another is guilty of a misdemeanor, and shall be imprisoned for not more than 2 years, or fined not more than \$2,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80173 Felonious operation of watercraft; penalty.

Sec. 80173. A person who operates any vessel carelessly and heedlessly in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injures so as to cripple any person, but not causing death, is guilty of the offense of felonious operation, and shall be imprisoned for not more than 2 years, or fined not more than \$2,000.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80174 Negligent homicide included in charge of manslaughter.

Sec. 80174. The crime of negligent homicide is included within every crime of manslaughter charged to have been committed in the operation of any vessel, and where a defendant is charged with manslaughter committed in the operation of any vessel, if the jury finds the defendant not guilty of the crime of manslaughter, the jury may render a verdict of negligent homicide.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80175 Nonresidents; secretary of state as attorney for service of summons; service; procedure; sufficiency; death; appointment of secretary as attorney; abatement of actions; costs; applicability to all courts.

Sec. 80175. (1) The operation by a nonresident of a vessel upon the waters of this state, or the operation on the waters of this state of a vessel owned by a nonresident if operated with his or her consent, expressed or implied, is the appointment by the nonresident of the secretary of state as his or her true and lawful attorney, upon whom may be served the summons in any action against him or her, growing out of any accident or collision in which the nonresident may be involved while operating a vessel on the waters of this state, or in which the vessel may be involved while being so operated. The operation is a signification of his or her agreement that any summons against him or her that is so served has the same legal force and validity as if served on him or her personally within this state. Service of summons shall be made by leaving a copy of the summons with the secretary of state, or his or her deputy, who shall

keep a record of each process and the day and hour of service. Service shall be sufficient service upon the nonresident, if notice of the service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of the county in which he or she resides or sent by certified mail by the plaintiff or his or her attorney to the defendant. If personal service of the notice and copy of summons is had upon the defendant, the officer making the service shall so certify in his or her return, which shall be filed with the court having jurisdiction of the cause. If service is made by certified mail, then the plaintiff or his or her attorney shall make an affidavit showing that he or she has made service of the notice and summons upon the defendant by certified mail, and the affiant shall attach to the affidavit a true copy of the summons and notice so served and the return receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as is necessary to afford the defendant reasonable opportunity to defend the action.

(2) The death of a nonresident does not revoke the appointment by him or her of the secretary of state as his or her true and lawful attorney upon whom may be served the summons in an action against him or her growing out of any such accident or collision, and any action growing out of such accident or collision may be commenced or prosecuted against his or her executor or administrator duly appointed by the state, territory, or district of the United States or foreign country in which the nonresident was domiciled at the time of his or her death. Service of the summons shall be made upon the secretary of state, and personal service of such notice and the copy of the summons be upon his or her executor or administrator, in like manner, with the same force and effect as service upon the nonresident during his or her lifetime.

(3) Any action or proceeding pending in any court of this state, in which the court has obtained jurisdiction of the nonresident pursuant to this section, shall not abate by reason of the death of the nonresident, but his or her executor or administrator duly appointed in the state, territory, or district of the United States or foreign country in which he or she was domiciled at the time of his or her death, upon the application of the plaintiff in the action and upon such notice as the court may prescribe, shall be brought in and substituted in the place of the decedent, and the action or proceeding shall continue.

(4) The court shall include as taxable costs, in addition to other legal costs against the plaintiff in case the defendant prevails in the action, the actual traveling expenses of the defendant from his or her residence to the place of trial and return, not to exceed the sum of \$100.00.

(5) This section applies to actions commenced in all courts of this state having civil jurisdiction, including justice courts.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80176 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80176.amended *******

324.80176 Operation of vessel by person under influence of intoxicating liquor or controlled substance; violation as felony; penalty.

Sec. 80176. (1) A person shall not operate a vessel on the waters of this state if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or both.

(b) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) The owner of a vessel or a person in charge or in control of a vessel shall not authorize or knowingly permit the vessel to be operated on the waters of this state by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(3) A person shall not operate a vessel on the waters of this state when, due to the consumption of an intoxicating liquor or a controlled substance, or both, the person's ability to operate the vessel is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person who operates a vessel on the waters of this state under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that vessel causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years, or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(5) A person who operates a vessel on the waters of this state under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that vessel causes a serious impairment of a body function of another person is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. As used in this subsection, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

- (a) Loss of a limb or use of a limb.
- (b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- (c) Loss of an eye or ear or use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain damage or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996;--Am. 2001, Act 12, Eff. July 1, 2001.

******* 324.80176.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80176.amended Operation of or authorizing operation of motorboat while under influence of alcoholic liquor or controlled substance prohibited; visible impairment; violation as felony; penalty; "serious impairment of a body function" defined; operation by person less than 21 years of age; "any bodily alcohol content" defined; requirements; "operate" defined.

Sec. 80176.(1) A person shall not operate a motorboat on the waters of this state if any of the following apply:

- (a) The person is under the influence of alcoholic liquor or a controlled substance, or both.
- (b) The person has a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (c) The person has in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

(2) The owner of a motorboat or a person in charge or in control of a motorboat shall not authorize or knowingly permit the motorboat to be operated on the waters of this state by a person if any of the following apply:

- (a) The person is under the influence of alcoholic liquor or a controlled substance, or both.

(b) The person has a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) The person's ability to operate the motorboat is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(3) A person shall not operate a motorboat on the waters of this state when, due to the consumption of an alcoholic liquor or a controlled substance, or both, the person's ability to operate the motorboat is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person who operates a motorboat on the waters of this state in violation of subsection (1) or (3) and by the operation of that motorboat causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years, or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(5) A person who operates a motorboat on the waters of this state in violation of subsection (1) or (3) and by the operation of that motorboat causes a serious impairment of a body function of another person is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(6) A person who is less than 21 years of age, whether licensed or not, shall not operate a motorboat on the waters of this state if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(7) A person, whether licensed or not, is subject to the following requirements:

(a) He or she shall not operate a motorboat in violation of subsection (1), (3), (4), or (5) while another person who is less than 16 years of age is occupying the motorboat.

(b) He or she shall not operate a motorboat in violation of subsection (6) while another person who is less than 16 years of age is occupying the motorboat.

(8) As used in this section, "operate" means to be in control of a vessel propelled wholly or in part by machinery while the vessel is underway and is not docked, at anchor, idle, or otherwise secured.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996 ;-- Am. 2001, Act 12, Eff. July 1, 2001 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

******* 324.80177 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80177.amended *******

324.80177 Violation of §§ 324.80176(1) and 324.80176(2); sanctions; "prior conviction" defined.

Sec. 80177. (1) If a person is convicted of violating section 80176(1), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor and shall be punished by 1 or more of the following:

(i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not less than \$100.00 or more than \$500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:

(i) Community service for not less than 10 days or more than 90 days, and may be imprisoned for not more than 1 year.

(ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs within 10 years of 2 or more prior convictions, the person is guilty of a felony and shall be sentenced to imprisonment for not less than 1 year or more than 5 years, or a fine of not less than \$500.00 or more than \$5,000.00, or both.

(2) A term of imprisonment imposed under subdivision (b)(ii) shall not be suspended. A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(3) In addition to the sanctions prescribed under subsection (1) and section 80176(4) and (5), the court may, pursuant to the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under sections 80185 and 80186.

(4) A person who is convicted of violating section 80176(2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both.

(5) As used in this section, "prior conviction" means a conviction for a violation of any of the following:

(a) Section 80176(1), (4), or (5).

(b) Former section 171(1), (4), or (5) of the marine safety act.

(c) Former section 73 of the marine safety act.

(d) A local ordinance substantially corresponding to section 80176(1) or former section 73 of the marine safety act.

(e) A law of another state substantially corresponding to section 80176(1), (4), or (5) or former section 73 of the marine safety act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 2001, Act 12, Eff. July 1, 2001.

******* 324.80177.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80177.amended Violation of MCL 324.80176(1) and 324.80176(2); sanctions; costs.

Sec. 80177.(1) If a person is convicted of violating section 80176(1), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor and shall be punished by 1 or more of the following:

(i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not less than \$100.00 or more than \$500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:

(i) Community service for not less than 10 days or more than 90 days, and may be imprisoned for not more than 1 year.

(ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person is guilty of a felony and shall be sentenced to imprisonment for not less than 1 year or more than 5 years, or a fine of not less than \$500.00 or more than \$5,000.00, or both.

(2) A term of imprisonment imposed under subsection (1)(b)(ii) shall not be suspended. A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(3) In addition to the sanctions prescribed under subsection (1) and section 80176(4) and (5), the court may, under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under sections 80185 and 80186.

(4) A person who is convicted of violating section 80176(2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2001, Act 12, Eff. July 1, 2001 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

******* 324.80178 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80178.amended *******

324.80178 Violation of § 324.80176(3); sanctions; "prior conviction" defined.

Sec. 80178. (1) If a person is convicted of violating section 80176(3), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not more than \$300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

(i) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

(i) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(2) In addition to the sanctions prescribed in subsection (1), the court may, pursuant to the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under sections 80185 and 80186.

(3) A person sentenced to perform service to the community under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(4) As used in this section, "prior conviction" means a conviction for a violation of any of the following:

(a) Section 80176(1), (3), (4), or (5).

(b) Former section 171(1) of the marine safety act.

(c) Former section 73 of the marine safety act.

(d) Former section 73b of the marine safety act.

(e) A local ordinance substantially corresponding to section 80176(1), former section 73 of the marine safety act, or former section 73b of the marine safety act.

(f) A law of another state substantially corresponding to section 80176(1), (3), (4), or (5), former section 73 of the marine safety act, or former section 73b of the marine safety act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 2001, Act 12, Eff. July 1, 2001.

******* 324.80178.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80178.amended Violation of MCL 324.80176(3); sanctions; costs.

Sec. 80178.(1) If a person is convicted of violating section 80176(3), the following apply:

(a) Except as otherwise provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not more than \$300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

(i) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(c) If the violation occurs after 2 or more prior convictions regardless of the number of years that have elapsed since any prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

(i) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.

(2) In addition to the sanctions prescribed in subsection (1), the court may, under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under sections 80185 and 80186.

(3) A person sentenced to perform service to the community under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2001, Act 12, Eff. July 1, 2001 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

******* 324.80178a.added THIS ADDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80178a.added Violation of MCL 324.80176(6); sanctions; costs.

Sec. 80178a. (1) If a person is convicted of violating section 80176(6), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both of the following:

(i) Community service for not more than 360 hours.

(ii) A fine of not more than \$250.00.

(b) If the violation occurs within 7 years of 1 or more prior convictions, including a prior conviction for section 80176(6), the person may be sentenced to 1 or more of the following:

(i) Community service for not more than 60 days.

(ii) A fine of not more than \$500.00.

(iii) Imprisonment for not more than 93 days.

(2) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(3) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 2014, Act 402, Eff. Mar. 31, 2015

******* 324.80178b.added THIS ADDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80178b.added Violation of MCL 324.80176(7)(a) or 324.80176(7)(b); sanctions; costs.

Sec. 80178b. (1) A person who violates section 80176(7)(a) is guilty of a crime punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 80176(7)(a) is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(ii) Community service for not less than 30 days or more than 90 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 80176(7)(a) is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(2) A person who violates section 80176(7)(b) is guilty of a misdemeanor punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 80176(7)(b) may be sentenced to 1 or more of the following:

(i) Community service for not more than 60 days.

(ii) A fine of not more than \$500.00.

(iii) Imprisonment for not more than 93 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 80176(7)(b) shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(ii) Community service for not less than 30 days or more than 90 days.

(3) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(4) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 2014, Act 402, Eff. Mar. 31, 2015

324.80179 Enhanced sentencing based on prior convictions; conditions; attempted violation of § 324.80176(1), § 324.80176(3), or local ordinance.

Sec. 80179. (1) If the prosecuting attorney intends to seek an enhanced sentence under section 80177 or 80178 based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information filed in district court, circuit court, recorder's court, municipal court, or probate court a statement listing the defendant's prior convictions.

(2) A prior conviction shall be established at sentencing by 1 or more of the following:

(a) An abstract of conviction.

(b) A copy of the defendant's boating record.

(c) An admission by the defendant.

(3) A person who is convicted of an attempted violation of section 80176(1) or (3), or a local ordinance substantially corresponding to section 80176(1) or (3), shall be punished as if the offense had been completed.

(4) When issuing an order under this part, the secretary of state and the court shall treat a conviction of an attempted violation of section 80176(1) or (3), former section 171(1) or (3) of the marine safety act, a local ordinance

substantially corresponding to section 80176(1) or (3), or a law of another state substantially corresponding to section 80176(1) or (3) the same as if the offense had been completed.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80180 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80180.amended *******

324.80180 Peace officer; arrest without warrant; reasonable cause; conditions; returning vessel and occupants to shore; effect of not charging person receiving citation.

Sec. 80180.(1) A peace officer, without a warrant, may arrest a person if the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vessel involved in the accident in this state while in violation of section 80176(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3).

(2) A peace officer who has reasonable cause to believe that a person was operating a vessel on the waters of this state, and that, by the consumption of intoxicating liquor, the person may have affected his or her ability to operate a vessel, may require the person to submit to a preliminary chemical breath analysis. The following apply with respect to a preliminary chemical breath analysis:

(a) Only a peace officer who has successfully completed a training course taught by a state-certified instructor in the administration of the preliminary chemical breath analysis may administer that test.

(b) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(c) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime described in section 80187(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(d) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 80187 to 80190 for the purposes of chemical tests described in those sections.

(e) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(3) A peace officer making an arrest under this part shall take measures to assure that the vessel and its occupants are safely returned to shore.

(4) If, not more than 60 days after the issuance of a citation for a state civil infraction under this section, the person to whom the citation is issued is not charged with a violation of section 80176(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3), the citation issued for the state civil infraction is void. Upon application of the person to whom the citation is issued, money paid by the person as a fine, costs, or otherwise shall be immediately returned.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

******* 324.80180.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80180.amended Peace officer; arrest without warrant; reasonable cause; conditions; returning motorboat and occupants to shore; effect of not charging person receiving citation.

Sec. 80180.(1) A peace officer, without a warrant, may arrest a person if the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator of a vessel involved in the accident in this state while in violation of section 80176(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 80176(1), (3), or (6).

(2) A peace officer who has reasonable cause to believe that a person was operating a motorboat on the waters of this state, and that, by the consumption of alcoholic liquor, the person may have affected his or her ability to operate a

motorboat, may require the person to submit to a preliminary chemical breath analysis. The following apply with respect to a preliminary chemical breath analysis:

(a) Only a peace officer who has successfully completed a training course taught by a state-certified instructor in the administration of the preliminary chemical breath analysis may administer that test.

(b) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(c) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime described in section 80187(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(d) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 80187 to 80190 for the purposes of chemical tests described in those sections.

(e) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(3) A peace officer making an arrest under this part shall take measures to assure that the motorboat and its occupants are safely returned to shore.

(4) If, not more than 60 days after the issuance of a citation for a state civil infraction under this section, the person to whom the citation is issued is not charged with a violation of section 80176(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 80176(1), (3), or (6), the citation issued for the state civil infraction is void. Upon application of the person to whom the citation is issued, money paid by the person as a fine, costs, or otherwise shall be immediately returned.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996 ;-- Am. 2007, Act 8, Imd. Eff. May 11, 2007 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

324.80181 Chemical test and analysis of blood, urine, or breath; collection of sample or specimen; application of administrative rules.

Sec. 80181. (1) The following apply with respect to a chemical test and analysis of a person's blood, urine, or breath, other than a preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance, or both, in an operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 80187(1) shall be advised of all of the following:

(i) That if the person takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, the person has the right to demand that someone of the person's own choosing administer 1 of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under this part and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that the person is responsible for obtaining a chemical analysis of a test sample obtained pursuant to the person's own request.

(ii) That if the person refuses the request of a peace officer to take a test described in subparagraph (i), the test shall not be given without a court order, but the peace officer may seek to obtain such a court order.

(iii) That the person's refusal of the request of a peace officer to take a test described in subparagraph (i) will result in issuance of an order that the person not operate a vessel on the waters of this state for at least 6 months.

(2) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician, qualified to withdraw blood and acting in a medical environment, may withdraw blood at the request of a peace officer for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in a person's blood, as provided in this subsection. A qualified person who withdraws or analyzes blood, or assists in the withdrawal or analysis, in accordance with this part is not liable for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures unless the withdrawal or analysis is performed in a negligent manner.

(3) A rule relating to a chemical test for alcohol or a controlled substance promulgated under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, applies to a chemical test administered under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80182 Chemical test; administration at request of peace officer, during medical treatment, or by medical examiner if operator of vessel is deceased; procedures.

Sec. 80182. (1) A chemical test described in section 80181 shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 80187(1). A person who takes a chemical test administered at the request of a peace officer, as provided in section 80181, shall be given a reasonable opportunity to have someone of the person's own choosing administer 1 of the chemical tests described in section 80181 within a reasonable time after the person's detention, and the results of the test are admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by someone of the person's own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(2) If, after an accident, the operator of a vessel involved in the accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance, or both, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(3) If, after an accident, the operator of a vessel involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80183 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80183.amended *******

324.80183 Chemical test; introduction of other competent evidence; availability of test results.

Sec. 80183. (1) The provisions of sections 80181 and 80182 relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or whether the person had a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) If a chemical test described in sections 80181 and 80182 is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996.

******* 324.80183.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80183.amended Chemical test; introduction of other competent evidence; availability of test results.

Sec. 80183.(1) The provisions of sections 80181 and 80182 relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, alcoholic liquor or a controlled substance, or both, or whether the person had a blood alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whether the person had any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214, in his or her body.

(2) If a chemical test described in sections 80181 and 80182 is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

******* 324.80184 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80184.amended *******

324.80184 Chemical analysis of blood, urine, or breath; amount of alcohol in operator's blood; presumptions; refusal to submit to chemical test as evidence.

Sec. 80184. (1) Except in a prosecution relating solely to a violation of section 80176(1)(b), the amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath gives rise to the following presumptions:

(a) If at the time defendant had an alcohol content of 0.07 grams or less per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the defendant's ability to operate a vessel was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.

(b) If at the time defendant had an alcohol content of more than 0.07 grams but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the defendant's ability to operate a vessel was impaired within the provisions of section 80176(3) due to the consumption of intoxicating liquor.

(c) If at the time defendant had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(2) A person's refusal to submit to a chemical test as provided in sections 80181 and 80182 is admissible in a criminal prosecution for a crime described in section 80187(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;--Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996.

******* 324.80184.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80184.amended Refusal to submit to chemical test as admissible evidence.

Sec. 80184. A person's refusal to submit to a chemical test as provided in sections 80181 and 80182 is admissible in a criminal prosecution for a crime described in section 80187(1) only for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

324.80185 Advising defendant of penalties and sanctions; ordering screening, assessment, and rehabilitative services.

Sec. 80185. (1) Before accepting a plea of guilty or nolo contendere under sections 80176 to 80179, or a local ordinance substantially corresponding to section 80176(1), (2), or (3), the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation, and shall advise the defendant that the maximum possible sanctions that may be imposed will be based upon the boating record maintained by the secretary of state pursuant to section 80130 or other evidence of a prior conviction as provided in section 80179.

(2) Before imposing sentence, other than court-ordered operating sanctions, for a violation of section 80176(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80186 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80186.amended *******

324.80186 Sentencing as multiple offender; consideration of prior convictions; sanctions; "another boating substance abuse offense" defined.

Sec. 80186. (1) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 80176(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1) or (3), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the boating record of the person or other evidence of prior convictions established under section 80179, except those convictions that, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following sanctions:

(a) For a conviction under section 80176(4) or (5), the court shall order with no expiration date that the person not operate a vessel on the waters of this state.

(b) For a conviction under section 80176(1) or a local ordinance substantially corresponding to section 80176(1):

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 80176(1), (3), (4), or (5), former section 171(1), (3), (4), or (5), or another boating substance abuse offense, or that the person has 1 prior conviction within 7 years for a violation of section 80176(3); former section 171(3) of the marine safety act; former section 73b of the marine safety act; a local ordinance substantially corresponding to section 80176(3) or former section 73b of the marine safety act; or a law of another state substantially corresponding to section 80176(3) or former section 73b of the marine safety act, the court may order that the person not operate a vessel on the waters of this state for not less than 1 year or more than 2 years.

(ii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 80176(1), (3), (4), or (5); former section 73 of the marine safety act; a local ordinance substantially corresponding to section 80176(1) or former section 73 of the marine safety act; or a law of another state substantially corresponding to section 80176(1), (4), or (5) or former section 73 of the marine safety act, the court shall order that the person not operate a vessel on the waters of this state for not less than 2 years.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court shall order with no expiration date that the person not operate a vessel on the waters of this state.

(c) For a conviction under section 80176(3) or a local ordinance substantially corresponding to section 80176(3):

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court

may order that the person not operate a vessel on the waters of this state for not less than 6 months or more than 1 year.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court shall order that the person not operate a vessel on the waters of this state for not less than 1 year or more than 2 years.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) or another boating substance abuse offense, the court shall order with no expiration date that person not to operate a vessel on the waters of this state.

(2) As used in this section, "another boating substance abuse offense" means former section 73 or 73b of the marine safety act, a local ordinance substantially corresponding to section 80176(1) or (3) or former section 73 or 73b of the marine safety act, or a law of another state substantially corresponding to section 80176(1), (3), (4), or (5) or former section 73 or 73b of the marine safety act.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80186.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80186.amended Sentencing as multiple offender; consideration of prior convictions; sanctions.

Sec. 80186. Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 80176(1), (3), (4), (5), (6), or (7) or a local ordinance substantially corresponding to section 80176(1), (3), or (6), whether or not the person is eligible to be sentenced as a multiple offender, the court shall consider all prior convictions currently entered upon the boating record of the person or other evidence of prior convictions established under section 80179, except those convictions that, upon motion by the defendant, are determined by the court to be constitutionally invalid, and shall impose the following sanctions:

(a) For a conviction under section 80176(4) or (5), the court shall order with no expiration date that the person not operate a motorboat on the waters of this state.

(b) For a conviction under section 80176(1) or a local ordinance substantially corresponding to section 80176(1):

(i) If the court finds that the person has no prior convictions within 7 years, the court may order that the person not operate a motorboat on the waters of this state for not less than 1 year or more than 2 years.

(ii) If the court finds that the person has 1 or more prior convictions within 7 years, the court shall order that the person not operate a motorboat on the waters of this state for not less than 2 years.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years, the court shall order with no expiration date that the person not operate a motorboat on the waters of this state.

(c) For a conviction under section 80176(3) or a local ordinance substantially corresponding to section 80176(3):

(i) If the court finds that the convicted person has no prior conviction within 7 years, the court may order that the person not operate a motorboat on the waters of this state for not less than 6 months or more than 1 year.

(ii) If the court finds that the person has 1 prior conviction within 7 years, the court shall order that the person not operate a motorboat on the waters of this state for not less than 1 year or more than 2 years.

(iii) If the court finds that the person has 2 or more prior convictions within 10 years, the court shall order with no expiration date that person not to operate a motorboat on the waters of this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 402, Eff. Mar. 31, **2015**

******* 324.80187 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80187.amended *******

324.80187 Consent to chemical tests of blood, breath, or urine; circumstances; exception; administration.

Sec. 80187. (1) A person who operates a vessel on the waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his or her blood in all of the following circumstances:

(a) The person is arrested for a violation of section 80176(1), (3), (4), or (5), or a local ordinance substantially corresponding to section 80176(1) or (3).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a vessel, and the peace officer had reasonable grounds to believe that the person was operating the vessel while impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or while having a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) A chemical test described in subsection (1) shall be administered as provided in sections 80181 and 80182.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;--Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996.

******* 324.80187.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80187.amended Consent to chemical tests of blood, breath, or urine; circumstances; exception; administration.

Sec. 80187. (1) A person who operates a motorboat on the waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance, or both, in his or her blood in all of the following circumstances:

(a) The person is arrested for a violation of section 80176(1), (3), (4), (5), (6), or (7), or a local ordinance substantially corresponding to section 80176(1), (3), or (6).

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a motorboat, and the peace officer had reasonable grounds to believe that the person was operating the motorboat in violation of section 80176.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) A chemical test described in subsection (1) shall be administered as provided in sections 80181 and 80182.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 174, Imd. Eff. Apr. 18, 1996 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

324.80188 Refusal to submit to chemical test at request of peace officer; obtaining court order; forwarding report to secretary of state.

Sec. 80188. (1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 80181 or 80182, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) If a person refuses a chemical test offered pursuant to section 80181 or 80182, the peace officer who requested the person to submit to the test shall immediately forward a written report to the secretary of state. The report shall state that the officer had reasonable grounds to believe the person committed a crime described in section 80187(1)

and that the person refused to submit to the test upon the request of the peace officer and has been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80189 Refusal to submit to chemical test; notice of right to request hearing.

Sec. 80189. (1) If a person refuses to submit to a chemical test pursuant to section 80181 or 80182, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 80190. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in issuance of an order that the person not operate a vessel on the waters of this state. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel is permitted to represent the person at the hearing.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80190 THIS SECTION IS AMENDED EFFECTIVE MARCH 31, 2015: See 324.80190.amended *******

324.80190 Refusal to submit to chemical test; failure to request hearing; manner and conditions of hearing if requested; record of proceedings; order; petitions to review order or to review determination of hearing officer.

Sec. 80190. (1) If a person who refuses to submit to a chemical test pursuant to section 80181 or 80182 does not request a hearing within 14 days of the date of notice pursuant to section 80189, the secretary of state shall issue an order that the person not operate a vessel on the waters of this state for 6 months or, for a second or subsequent refusal within 7 years, for 1 year.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.322 of the Michigan Compiled Laws. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) to (d). Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 80188, and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and, except for delay attributable to the unavailability of the defendant, a witness, or material evidence or to an interlocutory appeal or exceptional circumstances, but not for delay attributable to docket congestion, shall be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 80187(1).

(b) Whether the person was placed under arrest for a crime described in section 80187(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of his or her rights under section 80181.

(3) The hearing officer shall make a record of proceedings held pursuant subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to section 80194 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened.

A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall order that the person not operate a vessel on the waters of this state for 6 months or, for a second or subsequent refusal within 7 years, for 1 year. The person may file a petition in the circuit court of the county in which the arrest was made to review the order as provided in section 80194. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 80188 may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 80194.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

******* 324.80190.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 31, 2015 *******

324.80190.amended Refusal to submit to chemical test; failure to request hearing; manner and conditions of hearing if requested; record of proceedings; order; petitions to review order or to review determination of hearing officer.

Sec. 80190. (1) If a person who refuses to submit to a chemical test under section 80181 or 80182 does not request a hearing within 14 days of the date of notice under section 80189, the secretary of state shall issue an order that the person not operate a motorboat on the waters of this state for 1 year or, for a second or subsequent refusal within 7 years, for 2 years.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, 1949 PA 300, MCL 257.322. A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) to (d). Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 80188, and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and, except for delay attributable to the unavailability of the defendant, a witness, or material evidence or to an interlocutory appeal or exceptional circumstances, but not for delay attributable to docket congestion, shall be finally adjudicated within 77 days after the date of arrest. The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 80187(1).

(b) Whether the person was placed under arrest for a crime described in section 80187(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of his or her rights under section 80181.

(3) The hearing officer shall make a record of proceedings held under subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review under section 80194 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall order that the person not operate a motorboat on the waters of this state for 1 year or, for a second or subsequent refusal within 7 years, for 2 years. The person may file a petition in the circuit court of the county in which the arrest was made to

review the order as provided in section 80194. If after the hearing the person who requested the hearing prevails, the peace officer who filed the report under section 80188 may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 80194.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2014, Act 402, Eff. Mar. 31, 2015

324.80191 Order not to operate vessel on waters of state; convictions requiring issuance of order by secretary of state; effectiveness of order if more than 1 conviction resulting from same incident.

Sec. 80191. (1) Notwithstanding a court order issued under section 80176(1), (3), (4), or (5), section 80185 or 80186, former section 171(1), (3), (4), or (5), 181, or 182 of the marine safety act, former section 73 or 73b of the marine safety act, or a local ordinance substantially corresponding to section 80176(1) or (3), section 80185 or 80186, or former section 73 or 73b of the marine safety act, if a court has not ordered a person not to operate a vessel as authorized by this part, the secretary of state shall issue an order that the person not operate a vessel on the waters of this state for not less than 6 months or more than 2 years, if the person has the following convictions within a 7-year period, whether under the law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) One conviction under section 80176(1), former section 171(1) of the marine safety act, or former section 73 of the marine safety act.

(b) Any combination of 2 convictions under section 80176(3), former section 171(3) of the marine safety act, or former section 73b of the marine safety act.

(c) One conviction under section 80176(1), former section 171(1) of the marine safety act, or former section 73 of the marine safety act and 1 conviction under section 80176(3), former section 171(3) of the marine safety act, or former section 73b of the marine safety act.

(d) One conviction under section 80176(4) or (5) or former section 171(4) or (5) of the marine safety act followed by 1 conviction under section 80176(3) or former section 171(3) of the marine safety act.

(2) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, an order not to operate shall be issued solely for that violation for which an order could be effective for the longest period of time under this section.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: In subsection (1)(c), "former section 171(1) of the marine safety act" evidently should read "former section 171(1) of the marine safety act."

324.80192 Convictions requiring order with no expiration date; terminating order; multiple convictions from same incident; judicial review.

Sec. 80192. (1) Upon receipt of the appropriate records of conviction, the secretary of state shall issue an order with no expiration date that the person not operate a vessel on the waters of this state to a person having any of the following convictions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Four convictions under section 80147, former section 74 of the marine safety act, or a local ordinance substantially corresponding to section 80147 within 7 years.

(b) Two convictions of a felony involving the use of a vessel within 7 years.

(c) Any combination of 2 convictions within 7 years for 1 or more of the following:

(i) A violation of section 80176(1) or former section 171(1) of the marine safety act.

(ii) A violation of former section 73 of the marine safety act.

- (iii) A violation of section 80176(4) or (5) or former section 171(4) or (5) of the marine safety act.
- (d) One conviction under section 80176(4) or (5) or former section 171(4) or (5) of the marine safety act.
- (e) Any combination of 3 convictions within 10 years for 1 or more of the following:
 - (i) A violation of section 80176(1), (3), (4), or (5) or former section 171(1), (3), (4), or (5) of the marine safety act.
 - (ii) A violation of former section 73 or former section 73b of the marine safety act.

(2) The secretary of state shall issue an order with no expiration date that a person not operate a vessel on the waters of this state notwithstanding a court order issued under section 80176, section 80185 or 80186, former section 73, 73b, 171, 181, or 182 of the marine safety act, or a local ordinance substantially corresponding to section 80176, section 80185 or 80186, or former section 73 or 73b of the marine safety act.

(3) The secretary of state shall not terminate an order with no expiration date issued under this part until both of the following occur:

(a) The later of the following:

- (i) The expiration of not less than 1 year after the order was issued.
- (ii) The expiration of not less than 5 years after the date of a subsequent issuance of an order with no expiration date occurring within 7 years after the date of a prior order.

(b) The person meets the requirements of the department.

(4) Multiple convictions resulting from the same incident shall be treated as a single violation for purposes of issuance of an order under this section.

(5) Judicial review of an administrative sanction under this section is governed by the law in effect at the time the offense was committed or attempted.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80193 Failure to answer citation or notice to appear in court or comply with judgment or order; notice of issuance of order without expiration date; conditions terminating order.

Sec. 80193. (1) If a person is charged with, or convicted of, a violation of section 80176(1), (2), (3), (4), or (5) or a local ordinance substantially corresponding to section 80176(1), (2), or (3), and the person fails to answer a citation or a notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim's rights assessments, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim's rights assessments, within 14 days after the notice is issued, the secretary of state will issue an order with no expiration date that the person not operate a vessel on the waters of this state. If the person fails to appear within the 7-day period or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately issue the order and send a copy to the person by personal service or first-class mail sent to the person's last known address.

(2) An order imposed under subsection (1) remains in effect until both of the following occur:

(a) The court informs the secretary of state that the person has appeared before the court and that all matters relating to the violation are resolved.

(b) The person has paid to the court a \$25.00 administrative order processing fee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80194 Petition for review of determination; order setting cause for hearing; service; authority and duty of court; applicability of section.

Sec. 80194. (1) A person who is aggrieved by a final determination of the secretary of state under this part may petition for a review of the determination in the circuit court in the county where the person was arrested. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 80190, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 80190 may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that, for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made.

(2) The circuit court shall enter an order setting the cause for hearing for a day certain that is not more than 63 days after the date of the order. The order, a copy of the petition, which shall include the person's full name, current address, and birth date, and all supporting affidavits shall be served on the secretary of state's office in Lansing not less than 20 days before the date set for the hearing. If the person is seeking a review of the record prepared pursuant to section 80190, the service upon the secretary of state shall be made not less than 50 days before the date set for the hearing.

(3) Except as provided in subsections (4) and (6), the court may take testimony and examine all the facts and circumstances incident to the order that the person not operate a vessel on the waters of this state. The court may affirm, modify, or set aside the order. The order of the court shall be duly entered, and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) In reviewing a determination under section 80190, the court shall confine its consideration to a review of the record prepared pursuant to section 80190 to determine whether the hearing officer properly determined the issues enumerated in section 80190.

(5) This section does not apply to an order issued by the secretary of state pursuant to a court order issued as part of the sentence for a conviction under section 80176, section 80185 or 80186, former sections 171, 181, or 182 of the marine safety act, former section 73 or 73b of the marine safety act, or a local ordinance substantially corresponding to section 80176(1), (2), or (3), or former section 73 or 73b of the marine safety act.

(6) In reviewing a determination resulting in issuance of an order under section 80192(1)(c), (d), or (e), the court shall confine its consideration to a review of the record prepared pursuant to section 80190 or the boating record. The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following:

(a) In violation of the constitution of the United States, the state constitution of 1963, or a statute.

(b) In excess of the statutory authority or jurisdiction of the secretary of state.

(c) Made upon unlawful procedure resulting in material prejudice to the petitioner.

(d) Not supported by competent, material, and substantial evidence on the whole record.

(e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80195 Petition for stay of order; entering ex parte order; terms and conditions; exception.

Sec. 80195. (1) Within 63 days after the determination, a person who is aggrieved by a final determination of the secretary of state under this part may petition the circuit court for the county in which the conviction or determination resulting in issuance of the order that the person not operate a vessel on the waters of this state for an order staying the order. Except as provided in subsection (2), the court may enter an ex parte order staying the order subject to terms and

conditions prescribed by the court until the determination of an appeal to the secretary of state or of an appeal or a review by the circuit court, or for a lesser time that the court considers proper.

(2) The court shall not enter an ex parte order staying the order if the order is based upon a claim of undue hardship.
History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80196 Person subject to order not to operate vessel on waters of state; prohibited conduct; violation of subsection (1) as misdemeanor; penalty; extending length of order; obtaining and furnishing boating record; applicability of section; confiscating certificate of number and cancelling registration numbers.

Sec. 80196. (1) A person who is ordered not to operate a vessel on the waters of this state and who has been notified of the order by personal service or first-class mail shall not operate a vessel on the waters of this state. A person shall not knowingly permit a vessel owned by the person to be operated on the waters of this state by a person who is subject to such an order. A person who violates this subsection is guilty of a misdemeanor punishable as follows:

(a) By imprisonment for not more than 90 days or by a fine of not more than \$500.00, or both.

(b) For a second or subsequent violation punishable under this subsection, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(2) Upon receiving a record of the conviction of a person upon a charge of unlawful operation of a vessel while the person is subject to an order not to operate a vessel on the waters of this state, the secretary of state shall immediately extend the length of the order for an additional like period. If the secretary of state receives records of more than 1 conviction resulting from the same incident, all of the convictions shall be treated as a single violation for purposes of extending the length of an order under this subsection.

(3) Before a person is arraigned before a judge or district court magistrate on a charge of violating this section, the arresting officer shall obtain the boating record of the person from the secretary of state and shall furnish the record to the court. The boating record of the person may be obtained from the secretary of state's computer information network.

(4) This section does not apply to a person who operates a vessel solely for the purpose of protecting human life or property, if the life or property is endangered and the summoning or giving of prompt aid is essential.

(5) If a person is convicted of violating subsection (1), the court shall order confiscation of the vessel's certificate of number and cancellation of the vessel's registration numbers, unless the vessel was stolen or permission to use the vessel was not knowingly given. The secretary of state shall not assign a registration number to or issue a certificate of number for a vessel whose number is canceled and certificate confiscated until after the expiration of 90 days after the cancellation or confiscation, whichever is later.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80197 Impoundment of vessel; order; execution; liability for expenses; rights of conditional vendor, chattel mortgagee, or lessor of vessel.

Sec. 80197. (1) When a person is convicted under section 80196(1), the vessel, if it is owned in whole or in part by that person, shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment. An order of impoundment issued pursuant to this subsection is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vessel to the storage for insurance coverage purposes.

(2) The owner of a vessel impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vessel whether or not the vessel is returned to him or her. The vessel shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vessel is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the vessel, the vessel shall be considered abandoned.

(3) Nothing in this section affects the rights of a conditional vendor, chattel mortgagee, or lessor of a vessel registered in the name of another person as owner who becomes subject to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80197a Conviction based on plea of nolo contendere.

Sec. 80197a. A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty or a finding of guilt for all purposes under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80198 Administrative order processing fee; disposition and allocation.

Sec. 80198. Whether with or without an expiration date, an order not to operate a vessel on the waters of this state or to operate a vessel with restrictions does not expire until the person subject to the order pays an administrative order processing fee of \$125.00 to the secretary of state. The state treasurer shall deposit \$10.00 of the fee in the drunk driving prevention equipment and training fund created under section 625h of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.625h of the Michigan Compiled Laws, and \$30.00 in the drunk driving caseflow assistance fund created under section 625h of Act No. 300 of the Public Acts of 1949. The state treasurer shall allocate the balance of the fee to the department of state for the administration of orders issued under this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80198a Public dock, pier, wharf, or retaining wall; entry or use prohibited under certain wind conditions; barricades; notice.

Sec. 80198a. (1) When wind conditions on the Great Lakes attain a magnitude whereby 1/3 of the waves resulting from the conditions cause any public dock, pier, wharf, or retaining wall to be awash, it constitutes a state not conducive to the orderly and safe use and occupancy of those structures.

(2) When the conditions described in subsection (1) exist, any harbormaster, peace or police officer, or other authorized official may rope off or barricade entry to these structures or post in a conspicuous manner notices that entry on those structures for the purpose of fishing, swimming, or other recreational activity is prohibited.

(3) A person shall not knowingly enter or remain upon any public dock, pier, wharf, or retaining wall for the purpose of fishing, swimming, or other recreational activity when the structure is roped, cabled, or otherwise barricaded in a manner designed to exclude intruders, when notice against entry is given by posting in a conspicuous manner, or when notice to leave or stay off is personally communicated to that person by a peace or police officer or other authorized official of the local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

324.80198b Public bathing beaches; buoys required; prohibited swimming area; exception; violation; fine.

Sec. 80198b.(1) The owner or person in charge of a bathing beach maintained primarily for public use shall not knowingly permit a person to bathe or swim from the bathing beach unless buoys outlining a safe bathing or swimming area are established in accordance with section 80159.

(2) A person who is bathing or swimming from a bathing beach maintained primarily for public use shall not bathe or swim in waters that are within 100 feet beyond the buoyed bathing or swimming area. This subsection does not apply to persons swimming from adjacent privately owned beaches that are not open to the general public.

(3) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995; -- Am. 2007, Act 8, Imd. Eff. May 11, 2007

324.80199 Part not to affect owner's rights under laws of United States.

Sec. 80199. This part does not affect any of the rights of an owner under the laws of the United States.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.