

## PART 445

### CHARTER AND LIVERY BOAT SAFETY

#### 324.44501 Definitions.

Sec. 44501. As used in this part:

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

(i) A place of business or any location where a person rents or leases any vessel to the general public for noncommercial use on the waters of this state.

(ii) A place where a person offers cabins, cottages, motel rooms, hotel rooms, or other similar rental or leased units where a vessel is furnished for the use of the person renting or leasing the unit, but does not include a single privately owned cabin or cottage leased or rented to another where a vessel is furnished for the use of the person renting or leasing the unit.

(b) "Carrying passengers for hire" or "carry passengers for hire" means the transporting of any person on a vessel for consideration regardless of whether the consideration is directly or indirectly paid to the owner of the vessel, the owner's agent, the operator of the vessel, or any other person who holds any interest in the vessel.

(c) "Charter boat" means a vessel that is rented or leased or offered for rent or lease to carry passengers for hire if the owner or the owner's agent retains possession, command, and control of the vessel.

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

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

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

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

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

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

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

(i) "Equipment" means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to, a vessel; or a marine safety article, accessory, or equipment intended for use by a person on board a vessel; but does not include radio equipment.

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

(k) "Livery boat" means a vessel which is offered for rent or lease by the boat livery or boat owner or his or her agent or is rented or leased from a boat livery or a boat owner or his or her agent and the boat livery or boat owner

or his or her agent relinquishes complete physical control of the vessel to the renter or lessee, except the boat livery or owner retains legal title to the vessel.

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

(m) "Operate" means to start any propulsion engine or to physically control the motion, direction, or speed of a vessel.

(n) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or an equitable interest in a vessel that entitles that person to possession of the vessel.

(o) "Passenger" means a person carried on board a charter boat except either of the following:

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

(ii) The pilot and members of the crew of the vessel who have not contributed consideration for their transportation either before, during, or after the voyage.

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

(q) "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.

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

(s) "Training or instructional purposes" means the teaching of any person in the handling and navigation of a vessel or the techniques of waterskiing.

(t) "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water irrespective of the method of operation or propulsion.

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

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

History: Add. 1995, Act 57, 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."

**324.44502 Conditions to renting or leasing charter boat or carrying passengers for hire; possession and display of valid pilot's license; obtaining vessel inspection certificate and pilot's license.**

Sec. 44502. (1) A person shall not rent or lease, or offer to rent or lease, a charter boat, and a person shall not carry passengers for hire on a vessel on the waters of this state unless all of the following conditions are satisfied:

(a) The department has inspected the vessel, if required by this part, and has issued a certificate of inspection that is valid and current for the vessel.

(b) The operator of the vessel is a licensed pilot or is under the direct supervision of a licensed pilot who is on board the vessel.

(c) The person complies with the reporting requirements of section 44508.

(2) The licensed pilot of a charter boat shall possess a valid and current pilot's license issued in his or her name and shall immediately display that license upon demand of any peace officer.

(3) A person shall not operate a charter boat that carries 7 or more passengers on navigable waters without first obtaining a current vessel inspection certificate and a pilot's license from the United States coast guard or other federal agency.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44503 Conditions to advertising or arranging for carrying passenger on charter boat.**

Sec. 44503. A person shall not advertise or arrange for the carrying of any passenger on a charter boat unless the charter boat has been issued a valid and current certificate of inspection provided for in section 44502 or operates under a reciprocal agreement pursuant to section 44513.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44504 Rules establishing minimum safety standards for charter boats; vessel ventilation and rail height.**

Sec. 44504. (1) The department shall promulgate rules to establish minimum safety standards for charter boats. The safety standards shall be designed to ensure the safety and well-being of persons utilizing a charter boat and shall include all of the following:

(a) Methods for determining that a charter boat is of a structure suitable for carrying passengers and crew and is in a condition to enable it to be navigated safely.

(b) Necessary equipment and operating requirements.

(c) Minimum public liability insurance requirements.

(d) Methods for determination of maximum passenger capacity.

(e) Suitable tests to determine the sufficiency of the charter boat's structure, equipment, and stability.

(2) Except rules addressing vessel ventilation and rail height, rules pertaining to safety standards promulgated under the authority of former Act No. 228 of the Public Acts of 1965 shall remain in effect as provided in section 44526. Vessel ventilation and rail height shall be consistent with generally accepted and federally approved manufacturing processes.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44505 Public liability insurance; notice of cancellation or expiration.**

Sec. 44505. An insurance carrier that issues public liability insurance required by this part or a rule promulgated under this part shall notify the department immediately, in writing, whenever the insurance is canceled or expires and is not renewed.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44506 Rules for licensing pilots of charter boats.**

Sec. 44506. The department shall promulgate rules for the licensing of pilots of charter boats on inland waters. Rules promulgated under this section shall be designed to ensure that pilots of charter boats have the training and skills necessary to ensure the safety and well-being of charter boat passengers, crew members, and members of the general public.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44507 Inspection of charter boats and equipment; certificate of inspection; number of crew; effect of noncompliance.**

Sec. 44507. (1) Except for an inspection under section 44511(2) and except for a class E vessel that is a charter boat, the department shall inspect or arrange for the inspection of every charter boat and its equipment once every 24 months while the charter boat is at dockside and at least once every 72 months while the charter boat is in dry dock to determine if the charter boat and its equipment comply with the rules promulgated under section 44504. In addition, the department may at any time inspect or provide for the inspection of any charter boat if the department has reasonable cause either to believe that a provision of this part has been violated or that an inspection is necessary to ensure the safety of life and property. This subsection shall not apply to a class E vessel that is a charter boat; however, the department may inspect a class E vessel that is a charter boat if necessary to ensure the safety of life and property.

(2) If, after the inspection provided for in section 44502 and payment of the fees prescribed in section 44511, it is found that the charter boat and its equipment complies with this part and the rules promulgated under this part, the department shall issue to the owner of the charter boat a certificate of inspection to be furnished by the department. The certificate of inspection shall:

(a) Contain the maximum passenger, crew, and total person capacity of the charter boat.

(b) Be prominently displayed on the charter boat while the charter boat is operated upon waters of the state.

(c) Expire on May 31 of the second year following the year in which the charter boat was dockside inspected, except that the department may extend the expiration date if conditions exist that prevent the launching or the inspection of the charter boat before the expiration of the certificate of inspection.

(3) The department may determine the number of crew necessary for the safe operation of a charter boat.

(4) If it is determined by the department that a charter boat or its equipment does not comply with this part, or the rules promulgated under this part, or applicable federal law or regulations, a certificate of inspection shall not be issued and any current certificate of inspection may be revoked by the department pursuant to chapter 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.291 to 24.292 of the Michigan Compiled Laws.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44508 Availability of fish in waters utilized by charter boats; catch activity committee; composition; duties; reports; charter boat operator engaged in fishing; duties.**

Sec. 44508. (1) The department may research the availability of fish in the waters of this state that are utilized by charter boats.

(2) The department shall form a catch activity committee that is composed of 2 individuals from the department and 2 representatives from the Michigan charter boat association. The catch activity committee shall do all of the following:

(a) Develop a monthly catch activity report form that pertains to the number, type, and location of fish taken from charter boats in this state.

(b) Plan and prioritize research concerning the information gathered pursuant to this section.

(3) The department shall distribute to each charter boat operator in this state the monthly catch activity report form developed under subsection (2), and each charter boat operator engaged in fishing shall complete and maintain that form in the manner prescribed in subsection (5).

(4) The department shall compile an annual report based upon information contained in those monthly catch activity report forms submitted to the department pursuant to subsection (5). The annual report shall not disclose the identity of a charter boat operator who provides information pursuant to subsection (5).

(5) A charter boat operator engaged in fishing shall do each of the following:

(a) Maintain on board each charter boat under his or her control a daily record of all catch activity of that charter boat for the current calendar month.

(b) Make available for inspection the daily catch activity records required to be maintained under this subsection upon the request of a peace officer.

(c) Complete a monthly catch activity report form provided by the department for each charter boat under his or her control.

(d) Sign, date, and submit to the department, on or before the tenth day of each month, a monthly catch activity report form completed by that charter boat operator for each charter boat under his or her control that was engaged in fishing during the previous month.

(e) The operator of a charter boat that is used for fishing on 2 or more bodies of water within a calendar month shall complete for that charter boat a separate monthly catch activity report form for each body of water fished, and shall sign, date, and submit each form to the department in the manner prescribed by this section.

(f) If a charter boat operator engaged in fishing does not submit to the department a completed monthly catch activity report form within 30 days after that form is required to be delivered to the department, the department shall notify that charter boat operator of his or her noncompliance with this section. If a charter boat operator engaged in fishing fails to return a completed monthly catch activity report form for a vessel within 60 days after that form is required to be delivered to the department, the department may revoke the state certificate of inspection issued for that vessel.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44509 Operation of charter boat in violation of terms of certificate of inspection.**

Sec. 44509. (1) A person shall not operate a charter boat in violation of the terms of a certificate of inspection.

(2) Subsection (1) does not apply when the charter boat is being utilized by the owner of the charter boat exclusively for noncommercial purposes.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44510 State pilot's license or renewal; examination; reexamination; revocation; issuance; duration.**

Sec. 44510. (1) The department shall examine, or provide for the examination of, all applicants for a state pilot's license or renewal of an existing state pilot's license pursuant to the rules promulgated under section 44506 to ensure that an applicant has the skill, knowledge, and experience necessary to pilot a charter boat. If the department has reasonable cause to believe it necessary, the department may reexamine the holder of a state pilot's license at any time to determine continued compliance with the rules. If it is determined by the department that the holder of the state pilot's license no longer complies with the rules, the department may revoke the license pursuant to chapter 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.291 to 24.292 of the Michigan Compiled Laws.

(2) If, after the applicant has successfully completed the examination and paid the fees prescribed in section 44511, the department determines that the applicant is qualified pursuant to the rules promulgated under section 44506, the department shall issue to the applicant a state pilot's license to be furnished by the department.

(3) A state pilot's license shall be issued for a 3-year period.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44511 Application for charter boat inspection or state pilot's examination; filing; fee; form; furnishing required information; false information; signature as certification of true and correct information; inspection fee schedules for dry dock and dockside inspection; inspection without fee or for reduced fee; examination fee for state pilot's license; forfeiture of application fee; disposition and use of inspection fees.**

Sec. 44511. (1) The owner of a charter boat required to be inspected under this part and a person required to be licensed as a state pilot under this part shall file an application with the required fee for the charter boat inspection or the state pilot's examination with the department on a form prescribed and furnished by the department. Persons applying for a certificate of inspection or a state pilot's license shall furnish information reasonably required by the department. A person shall not file an application for charter boat inspection or state pilot's examination that contains false information. A person filing an application shall certify by the person's signature that the information furnished on the application is true and correct.

(2) The owner of a charter boat, or livery boat as provided for under section 44517, which has never been inspected shall pay to the department an inspection fee for dry dock and dockside inspection according to the following schedule:

- (a) Class A and D vessels \$250.00
- (b) Class B vessels \$120.00
- (c) Class C vessels \$350.00

(3) Beginning on April 1, 1987, for each required dry dock or dockside inspection of a charter boat, or livery boat as provided for under section 44517, other than an inspection under subsection (2), the owner shall pay the department a fee according to the following schedule:

- (a) Class A and D vessels
  - (i) Dockside inspection \$100.00
  - (ii) Dry dock inspection \$150.00
- (b) Class B vessels
  - (i) Dockside inspection \$ 60.00
  - (ii) Dry dock inspection \$ 60.00
- (c) Class C vessels

(i) Dockside inspection \$150.00

(ii) Dry dock inspection \$200.00

(4) When the department inspects any charter boat, or livery boat as provided for under section 44517, at an interval other than as required by this part, the inspection shall be conducted without an inspection fee for a dockside inspection and for a reduced fee to be determined by the department for a dry dock inspection. When a 24-month dockside inspection and a 72-month dry dock inspection are required in the same year, the owner shall only pay the fee for the dry dock inspection, as provided in subsection (3).

(5) For each examination of a person for a state pilot's license, the applicant shall pay a fee of \$30.00 to the department.

(6) The charter boat inspection fee or state pilot's license examination fee shall be forfeited to the department and credited to the marine safety fund if the owner of the charter boat or the applicant for a state pilot's license fails to keep an appointment, which has been mutually agreed upon between the owner or the applicant and the department, for an inspection or reinspection of the charter boat or a state pilot's license examination, without first notifying the inspecting officer or the department's marine safety section within the department's law enforcement division at least 24 hours prior to the scheduled appointment. Upon the forfeiture of an application fee, the owner of the charter boat or the applicant for a state pilot's license must submit a new application and the required fee before the department shall conduct any inspection of the charter boat or conduct any examination of the applicant for a state pilot's license.

(7) Except as otherwise provided in section 44517, the revenue received for inspection fees under this section shall be deposited in the state treasury to the credit of the waterways account and shall only be used to pay for inspections required by this part, and to maintain the education and enforcement program provided for in section 44513(2). The revenue division of the department of treasury shall annually provide to the department an accurate total of revenue collected and shall annually credit that amount to the waterways account.

History: Add. 1995, Act 57, 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."

### **324.44512 Petition for evidentiary hearing; appeal.**

Sec. 44512. (1) A person denied a state pilot's license or the owner of a charter boat for which a certificate of inspection has been denied or revoked may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) A person who owns a charter boat may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, regarding the determination of the maximum passenger, crew, or total person capacity of the charter boat.

(3) A person who is aggrieved by the decision of the department under subsection (1) or (2) may appeal the action of the department in the manner provided in chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44513 Reciprocity; annual operating permit; amount and use of fees; education and enforcement program; printed materials.**

Sec. 44513. (1) The department may enter into reciprocal agreements with other states and countries concerning the operation and inspection of charter boats from those states and countries that operate on the waters of this state. Reciprocity shall be granted only if a state or country can establish to the satisfaction of the department that their

laws concerning charter boats meet or exceed the laws of this state. A charter boat shall not operate on the waters of this state under a reciprocal agreement pursuant to this section except as authorized under an annual operating permit issued by the department pursuant to part 13. The fee for an annual operating permit is \$100.00. The department shall utilize the fees for annual operating permits issued pursuant to this section to provide funds for the education and enforcement program provided for in subsection (2).

(2) The department shall develop an education and enforcement program designed to eliminate the operation of charter and livery boats that have not been inspected as required by this part and to prepare printed materials to provide the public with information regarding the safety features and requirements necessary for the lawful operation of charter and livery boats.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;--Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

### **324.44514 Conditions to operation of boat livery.**

Sec. 44514. A person shall not operate a boat livery within this state unless the boats and equipment of the boat livery are inspected and a permit to operate a boat livery is issued pursuant to this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44515 Rules requiring equipment and minimum safety standards for livery boats.**

Sec. 44515. The department shall promulgate rules requiring equipment and minimum safety standards for livery boats that are rented or leased to the public by boat liveries. The rules shall be for the purpose of ensuring the safety of those persons utilizing the facilities of boat liveries and shall include all of the following:

- (a) Safe operation standards.
- (b) Maximum vessel load capacity.
- (c) Maximum horsepower of any motor to be used to propel the vessel.
- (d) Required equipment and equipment standards to ensure the safety of the general public.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44516 Application for inspection of livery boats and equipment.**

Sec. 44516. The owner of a boat livery shall make an application to the sheriff of the county in which the livery is located for inspection of its livery boats and equipment. The application shall be made on a form provided by the department and shall include:

- (a) The boat livery name.
- (b) The mailing address of the boat livery.
- (c) The location of the boat livery.
- (d) The waters of the state on which the boat livery rents vessels.

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

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44517 Inspection fees for certain livery boats; disposition and use of fees; inspection; issuance, display, and expiration of permit.**

Sec. 44517. (1) Any livery boat more than 20 feet in length, except for a class E vessel that is a livery boat, that is used or to be used on navigable waters without the owner being either on board or operating the vessel shall pay the inspection fees established pursuant to section 44511 for each livery boat to be inspected. Fees collected pursuant to this section shall be forwarded to the department. The department shall utilize the fees to develop and maintain the education and enforcement program provided for in section 44513(2).

(2) Upon receipt of the required fee and an application for an inspection and a permit, the department shall inspect, or provide for inspection of by the county sheriff or sheriff's deputy, all livery boats and their equipment of the boat livery. Upon completion of the inspection, the department, county sheriff, or the sheriff's deputy shall, pursuant to part 13, approve the issuance of a permit to operate a boat livery, provided the requirements of this part are met. A permit furnished by the department shall be prominently displayed on the site of the boat livery and shall expire on December 31 of each year in which a permit is issued.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

### **324.44518 Affixing inspection decal, plate, or tab to livery boat; information; amount, disposition, and use of fees.**

Sec. 44518. (1) An inspecting officer, designated by the department, shall affix or cause to be affixed to each and every livery boat that meets the minimum safety standards established under rules promulgated under this part an inspection decal, plate, or tab furnished by the department which bears all of the following information:

- (a) The maximum number of persons permitted to be carried aboard the vessel.
- (b) The maximum horsepower of a motor permitted to be used on the vessel.
- (c) Other information as the department may reasonably require.

(2) Each boat livery owner shall pay a fee of \$2.00 to the inspecting officer for each decal, plate, or tab affixed to the livery boats. The inspecting officer shall forward all fees collected under this subsection to the treasurer of the county in which the fee is collected to be credited for the purpose of reimbursing the sheriff's department for expenses incurred pursuant to this part. If the inspecting officer is a conservation officer, fees collected under this section shall be forwarded to the department of treasury to be credited to the waterways account.

History: Add. 1995, Act 57, 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."

### **324.44519 Removing, damaging, or mutilating inspection decal, plate, or tab.**

Sec. 44519. A boat livery owner, the designated representative of the boat livery owner, or any other person, except an inspecting officer, shall not remove, damage, or mutilate a valid inspection decal, plate, or tab affixed to a livery boat except that when a livery boat is sold, damaged, destroyed, or removed from rental or leasing service, the boat livery owner or his or her designated representative shall remove the valid inspection decal, plate, or tab and return it to the inspecting officer.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44520 Written rental contracts or lease agreements required for certain livery boats; livery boat not to depart premises under certain conditions.**

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

(2) A boat livery owner or his or her designated representative shall not permit a livery boat to depart the premises of the boat livery if:

- (a) The equipment required pursuant to rules promulgated under this part is not aboard the livery boat.
- (b) The livery boat contains a number of persons in excess of the maximum number approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.
- (c) The livery boat is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44521 Presenting rental contract or lease agreement for examination by peace officer; prohibited conduct by person renting, leasing, or operating livery boat.**

Sec. 44521. (1) Any person renting, leasing, or operating a livery boat on navigable waters that is more than 20 feet in length shall present for examination, upon demand of any peace officer, a copy of the rental contract or lease agreement.

(2) A person renting, leasing, or operating a livery boat on waters of the state shall not do any of the following:

(a) Permit the operation of the livery boat without the equipment required by rules promulgated under this part.

(b) Permit the operation of the livery boat if it contains a number of persons in excess of the maximum number approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

(c) Permit the operation of the livery boat, if it is equipped with a motor with a horsepower rating in excess of the maximum horsepower approved for the livery boat and indicated on the inspection decal, plate, or tab affixed to the livery boat.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44522 Lease, hire, or rental of personal watercraft; prohibition; certification required; rental agreement; contents; validity; liability; violation of subsection (1) or (2) as misdemeanor; impoundment.**

Sec. 44522. (1) A boat livery shall not lease, hire, or rent a personal watercraft to any of the following:

(a) A person who is under 14 years of age.

(b) A person who does not display a boater safety certificate that is issued by the department as required under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445.

(c) A person who is not required to obtain a boater safety certificate issued by the department under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, before operating a personal watercraft, unless the person obtains training in the safe use of a personal watercraft from the boat livery prior to the lease, hire, or rent of the personal watercraft. The department shall provide to boat liveries guidelines for the training required under this subdivision.

(2) A person who leases, hires, or rents a personal watercraft from a boat livery shall not permit an individual to operate the personal watercraft if the individual has not obtained a boating safety certificate or other certification as required under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445.

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

(a) The name of the person who leases, hires, or rents a personal watercraft from the boat livery.

(b) The date or dates of the lease, hire, or rental.

(4) The written rental agreement described under subsection (3) is a valid boating safety certificate under the personal watercraft safety act, 1998 PA 116, MCL 281.1401 to 281.1445, only for the person named in the certificate on the date or dates of the lease, hire, or rental of the personal watercraft.

(5) A person who leases, hires, or rents a personal watercraft from a boat livery is liable for any injury occasioned by the negligent operation of the personal watercraft, whether the negligence consists of a violation of the statutes of this state, or in the failure to observe the ordinary care in the operation that the rules of the common law require. The person is not liable unless the personal watercraft is being used with his or her expressed or implied consent. It

shall be rebuttably presumed that the personal watercraft is being operated with the knowledge and consent of the person 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 person's family.

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

(7) In addition to any penalty imposed under subsection (6), upon a person's second or subsequent violation of subsection (1), the court may issue an order impounding the personal watercraft that was leased, hired, or rented in violation of subsection (1) for a period of not more than 1 year. The cost of storage for an impoundment ordered under this subsection shall be paid by the owner of the personal watercraft.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995;--Am. 1998, Act 262, Eff. Mar. 23, 1999.

### **324.44523 Petition for evidentiary hearing.**

Sec. 44523. (1) A boat livery owner denied a permit to operate a boat livery by an inspecting officer designated by the department may petition the department for an evidentiary hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) A boat livery owner may petition the department for an evidentiary hearing pursuant to the administrative procedures act, Act No. 306 of the Public Acts of 1969, regarding the determination by the inspecting officer of the maximum vessel load capacity of a livery boat, the maximum horsepower of any motor to be used to propel a livery boat, and any equipment requirements or standards.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44524 Violation as misdemeanor; penalties; seizure, condemnation, and confiscation of vessel; issuance of appearance ticket.**

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

(2) When a vessel is operated in violation of section 44502, 44509, or 44514, the vessel may be seized as evidence, and upon conviction of the owner, the vessel may be condemned and confiscated in the same manner as provided for under part 16.

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

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

### **324.44525 Applicability and construction of part.**

Sec. 44525. (1) Except for the reporting requirements of section 44508, this part does not apply to a vessel that is required to be inspected by federal law or regulations for the purposes of carrying passengers for hire and that carries a valid and current certificate of inspection issued pursuant to federal law.

(2) This part does not require a person to secure a state pilot's license if that person has been issued a valid and current federal pilot's license from the United States coast guard or other federal agency.

(3) This part does not apply to a vessel 20 feet or less in length that is used primarily for training or instructional purposes and is not used at any time as a charter boat or a livery boat.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

**324.44526 Effect of rules.**

Sec. 44526. Except as otherwise provided in section 44504, rules promulgated pursuant to former Act No. 244 of the Public Acts of 1986 or an act repealed by that former public act remain in effect until replaced by rules promulgated pursuant to former Act No. 244 of the Public Acts of 1986 or this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.