

700619.1

WATERCRAFT: Regulations controlling speed.

The Department of Natural Resources may regulate vessel speed on the Black River in St. Clair County under authority of the Marine Safety Act. (Act 303, Public Acts of 1967).

No. 4663

June 19, 1970.

Dr. Ralph A. MacMullan
Director
Department of Natural Resources
Mason Building
Lansing, Michigan

You have requested my opinion concerning the authority of the Department of Natural Resources to impose regulations controlling the speed of watercraft on the Black River in St. Clair County, Michigan.

The specific regulations would provide as follows:

"On the waters of the Black River commencing at its mouth at the St. Clair River to the Grand Trunk Western Railroad Bridge, a distance of 8,000 feet more or less, City of Port Huron, St. Clair County, State of Michigan, no operator of any motorboat shall exceed a slow--no wake speed.

"On the waters of the Black River commencing at a point 600 feet southeast of the Interstate Highway 94 bridge to a point 800 feet northwest of the said bridge, City of Port Huron and Port Huron Township, St. Clair County, State of Michigan, no operator of any motorboat shall exceed a slow--no wake speed.

"On the waters of the Black River commencing at a point 1,000 feet south of the intersection of the Black River and the Black River Canal, to a point 500 feet northwest of said intersection, Port Huron Township and Fort Gratiot Township, St. Clair County, State of Michigan, no operator of any motorboat shall exceed a slow--no wake speed."

These regulations were drafted following a traffic study of the Black River which found that:

"... this body of water receives very heavy use by pleasure craft of all description and by such diverse water sports as cruising, water skiing, fishing and swimming. Numerous marinas and launching ramps are located along the riversides, contributing to the congestion in certain areas. While portions of the river present boating safety problems which require solution through regulations, other sections of the stream can be safely used for a variety of boating and water oriented sports without special local controls. . ."¹

By statute, the Department of Natural Resources has the discretionary power to regulate the "use or operation of vessels, water skis, water sleds,

¹ From the final report of John A. Anguilm, Chief, Law Enforcement Division, Department of Natural Resources, dated May 28, 1968,

aquaplanes, surfboards or other similar contrivances" on the waters of this State so as to "assure compatible use of state waters and best protect the public safety." Act 303, P.A. 1967, Sec. 12, being M.C.L.A. § 281.1012, M.S.A. § 18.1287(12).

After a review of the proposed regulations, in their factual setting, it is my opinion that such regulations are within the statutory authority of the Department of Natural Resources. I perceive, therefore, no legal impediment to the Department adopting such regulations.

FRANK J. KELLEY,
Attorney General.

700624.3

CORRECTIONS, DEPARTMENT OF: Authority over youthful trainees.
YOUTHFUL TRAINEE ACT: Commitments under.
CONSTITUTIONAL LAW: Due process.

Youthful trainee act is unconstitutional as violative of due process clauses of state and federal constitution in that commitment of criminal defendants to state institution occurs without determination of guilt.

No. 4703

June 24, 1970.

Mr. Gus Harrison, Director
Department of Corrections
Stevens T. Mason Building
Lansing, Michigan

You have asked whether one committed to the Department of Corrections as a youthful trainee pursuant to Act 301, P.A. 1966,¹ may be released from custodial supervision by the Department of Corrections, pursuant to Section 6(d) of Act 210 of the Public Acts of 1966,² prior to expiration of his court-imposed term of commitment, and whether or not such release would require prior approval of the committing court.

Section 4 of Act 210, P.A. 1966, gives the Department of Corrections jurisdiction, "subject to constitutional powers vested in the executive and judicial departments of the state," over (*inter alia*) "youthful trainee institutions and programs for the care and supervision of youthful trainees."³

Section 6(d) thereof, cited *supra*, empowers the director, with approval of the Corrections Commission, to promulgate rules and regulations (*inter alia*):

"For the management and control of . . . youthful trainee institutions and programs for the care and supervision of youthful trainees separate and apart from persons convicted of crimes within the jurisdiction of the commission. Such rules may permit the use of

¹ M.C.L.A. § 762.11 et seq.; M.S.A. 1970 Cum. Supp. § 28.853(11) et seq.

² M.C.L.A. § 791.206; M.S.A. 1970 Cum. Supp. § 28.2276(d).

³ M.C.L.A. § 791.204; M.S.A. 1970 Cum. Supp. § 28.2274.