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## Boating banned under stay-in-place order, says Michigan State Police

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Skies are sunny, you've been cooped up at home for two weeks and you're ready to take the boat or kayak out of hibernation and hit one of Michigan's waterways.

Dock it. Launching watercraft is prohibited under Gov. Gretchen Whitmer's stay-in-place order, according to a Michigan State Police spokesman.

"The executive order is that you stay home," Michigan State Police Lt. Michael Shaw said of the governor's March 24 "Stay Home. Stay Safe. Save Lives" edict.

But a coronavirus update on the Michigan Department of Natural Resources website says state boat launches remain open during the stay-at-home order.

Phone calls to the DNR were not immediately returned Friday.

There were several watercraft in the Detroit River near Grosse Ile Friday afternoon.

Whitmer's order states: "Michiganders must stay in their homes unless they're a part of that critical infrastructure workforce, engaged in an outdoor activity, or performing tasks necessary to the health and safety of themselves or their family, like going to the hospital or grocery store."

Hiking, running and biking are allowed under the order. State parks, including Belle Isle, are open for those activities, Shaw said. Fishing from the shore is also OK, as long as you stay six feet away from other people.

But kayaking and boating are verboten — and Shaw says he recommends people avoid the other outdoor activities, too, even if they're allowed under the governor's order.

"Don't look at the order and say, 'how can I find a way around this?' Look at it and say, 'I don't want to get the virus and kill my wife or husband,'" he said.

"You may think you're not doing any harm by going kayaking or boating, but you're still touching doorknobs, making contact with people," Shaw said. "What happens if you're kayaking and the Coast Guard has to come out and try to rescue you, and they expose themselves? Just stay home."

Los Angeles County Sheriff's deputies arrested a paddleboarder Thursday near the Malibu Pier for violating California's stay-at-home order.

Shaw said there are two fines that can be levied against anyone violating Michigan's order, but expressed hope nobody would go to jail.

"The executive order is punishable as a misdemeanor with a \$500 fine, but a new order by the Department of Health and Human Services allows for a \$1,000 fine, and you can get charged with both of them, civilly and criminally," Shaw said. "Hopefully, it doesn't come to that."

Alex Sylvester, an avid boater from Kalkaska who has a 20-foot pontoon boat docked on Manistee Lake, and owns a fishing boat and Jet Skis, said the water ban is "a little much."

"I can see if people are gathering close together and launching at public launches; that's a contact point," said Sylvester, 24, owner of Affordable Handyman Service, which sells and installs docks. "But you can launch a kayak from almost anywhere. I feel that's overreach."

Sylvester said the ban will "kill my business. It's going to kill a lot of businesses in this area." He said he didn't understand why some outdoor activities are allowed under the state order, while others are banned.

Walter Olson, senior fellow at the Cato Institute's, Robert A. Levy Center for Constitutional Studies in Washington, D.C., said the actions authorities take during emergencies aren't always legal — and don't always make sense.

"My take is, the legal issues are different from what might seem like common sense issues," said Olson, a Michigan native. "During an emergency like this, the courts give a lot of deference to the government, and maybe the state drafted this order too broadly, and didn't make it clear which things are allowed and which aren't. Those questions are hard to raise when the emergency is going on, though, so courts tend to let the government enact rough-and-ready rules.

"Then you get to the common-sense side, which is so often only distantly related to the law enforcement side," Olson said. "You can have a public park, hiking path or water recreational area, and 90% will be using it right and following all the good advice — and then someone has a party with people close together.

"Everyone pays the price because the government doesn't want to have to sort out the good users from the bad users," he said. "On the common-sense side, especially as the days go on, we can ask government to do something a little more complicated than just pulling the switch on or off.

"Maybe they could post signs (reminding people to maintain social distancing), or assign enforcement officers to these outdoor areas, who can separate the violators and let everyone else enjoy the park, or the water," Olson said.

"It's reasonable as time goes on to expect government to ease up a little," he said. "But when the order has just been slammed into place, that's when you get the least flexibility, because (authorities) are dealing with so many potential problems at once."

The American Civil Liberties Union did not return a phone call seeking comment.

Shaw said he feels people's pain.

"Listen, I've got a 33-foot camper that should be getting de-winterized right now, but it's not," he said. "I get it. This sucks — but someone's got to be the guy to tell you to stay inside, and that's me."