



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

MARINE SAFETY REVISIONS

AS ENROLLED

**Senate Bill 683 (Substitute H-2)
Sponsor: Sen. Gilbert J. DiNello**

**Senate Bill 684 (Substitute H-2)
Sponsor: Sen. George Z. Hart**

**Senate Bill 685 (Substitute H-2)
Sponsor: Sen. Mat J. Dunaskiss**

**Senate Bill 686 (Substitute H-2)
Sponsor: Sen. Michael J. O'Brien**

**Senate Committee: State Affairs and
Military/Veteran Affairs
House Committee: Conservation,
Environment, and Great Lakes**

First Analysis (10-26-93)

THE APPARENT PROBLEM:

Given Michigan's proximity to the Great Lakes and its abundance of inland lakes and streams, it is not surprising that there are more recreational watercraft registered in Michigan than in any other state. With increasing numbers of boaters, however, come problems with congestion of waterways, and careless operation of boats and jet skis. The operation of watercraft is regulated by the Marine Safety Act, which governs the numbering of vessels, the age of boat operators, maximum motorboat speeds, and the authority of peace officers to stop and inspect vessels. Although the act has been amended from time to time, including extensive amendments in 1992 to prohibit "drunk boating," the law has not received a broad recodification since its enactment in 1967. Representatives of the boating industry and law enforcement have pointed to the need to update the act to improve boating safety, and efforts in this direction apparently began about two years ago.

THE CONTENT OF THE BILLS:

Each bill would amend the Marine Safety Act (MCL 281.1002 et al). The bills would take effect April 1, 1994, but none could take effect unless all were enacted. In general, the bills would establish a uniform system of spot inspections and issuance of

inspection decals (SB 683), require children under age six to wear approved life jackets (SB 684), provide for court-ordered participation in boating safety programs for certain repeat violators (SB 685), clarify and revise provisions on water skiing and allowable motorboat noise levels (SB 685), limit boat speed to "no-wake" when there was someone riding on the bow (SB 684), revise and clarify defined terms (SB 686), and forbid state aid to counties from being based on the number of spot inspections (SB 686). A more detailed explanation follows.

Senate Bill 683 would:

**** establish a uniform marine safety inspection program. A peace officer could stop and inspect a boat and its equipment, as may be done now. However, if the vessel passed inspection, the officer would affix to the vessel an adhesive decal that would be color-coded by year. A vessel that bore a current inspection decal could not be stopped and inspected except for probable cause to believe that a marine law was being violated, and except for inspection to determine the number and adequacy of personal floatation devices. Decals would be provided by the Department of Natural Resources.**

Senate Bills 683-686 (10-26-93)

** allow the registration decal and identifying numbers for a wooden hull and historic vessel to be displayed in the same manner as is allowed for dealers. (That is, the numbers would not have to be affixed to the hull, but would have to be carried on board and displayed temporarily as required by rule.)

** increase various registration fees to the nearest whole dollar (the act currently provides for the secretary of state to round a figure to the nearest whole dollar when he or she "computes a fee" under the act that results in a figure other than a whole dollar amount).

Senate Bill 684 would:

** forbid operation of a vessel unless each child under six years old in an open deck area was wearing a Type I or Type II personal flotation device as defined by rule (that is, a life jacket that will turn an unconscious person face-up in the water). Violation of this requirement would be subject to a civil fine of up to \$100.

** generally forbid operation of a vessel at higher than "slow-no wake" speed when there was someone riding on the bow (and the bow was not designed with bow seating) or when someone or a part of someone's body was extending beyond either side of the hull. This limitation would not apply to a sailboat under sail or to a person who was attempting to dock or moor the vessel.

Senate Bill 685 would:

** require the court to order someone convicted of reckless boating (or reckless operation of water skis) a second or subsequent time to complete a marine safety educational program approved by the Department of Natural Resources.

** extend penalties for reckless boating (which may include the loss of boating privileges for up to two years) to also apply to reckless operation of water skis, water sleds, and similar contrivances.

** revise provisions requiring observers and wide-angle rear view mirrors in boats towing skiers and others. Rather than requiring a "competent" person capable of rendering assistance to be on board, the bill would require that a "person capable of communicating to the vessel operator the condition and needs of the person being towed" be on board

and positioned to observe the person being towed. Wide angle rear view mirrors would no longer be required for most tow boats; however, for ski schools and skiing events, which do not under the act have to have an observer, a wide-angle rear view mirror would be newly required. The bill also would require a wide-angle rear view mirror for a boat that was operated by the person being towed.

** revise provisions on motorboat noise limitations. A motorboat could meet either the current limit of 90 decibels as prescribed by SAE J2005, or a limit of 75 decibels when subjected to a shoreline sound level measurement procedure as described by SAE J1970. A motorboat operator would have to present the motorboat for a sound level test as prescribed by SAE J2005 at the request of a peace officer. To determine whether a person was violating noise restrictions, a peace officer could measure sound levels according to the procedures prescribed by SAE J1970.

Senate Bill 686 would:

** clarify and update definitions of terms.

** prohibit state marine safety funding to a county from being based in whole or in part on the number of vessels that were stopped or inspected in that county.

HOUSE COMMITTEE ACTION:

The House Committee on Conservation, Environment and Great Lakes adopted substitute bills that broke tie-bars that the Senate-passed versions had to Senate Bill 687, which proposes the creation of a marine safety advisory council. Among other changes, House committee versions also dropped provisions that would have required compliance with the federal Inland Navigational Rules Act and that would have increased the maximum nonresident appearance fee from \$25 to \$50.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency has noted that under Senate Bill 683, the Department of Natural Resources would incur costs of producing and supplying safety inspection decals and administering the program. Production costs would be

approximately 28 cents each, based on the cost to produce the off-road vehicle decal. The total cost of decal production could range from \$11,000 to \$236,900, depending on the number produced: 130,000 decals would cover the number estimated by the DNR to be the number of marine safety contacts per year, and 846,000 would cover all registered boats in Michigan. Additional record-keeping responsibilities for the DNR could require between 0.5 and 1.0 full-time-equated positions (\$27,500 to \$55,000).

With regard to Senate Bill 686, the Senate Fiscal Agency has noted that the current method of allocating marine safety grants to counties is based on a 1981 needs study conducted by Michigan State University plus recommendations of the former Marine Safety Advisory Council, which includes consideration of the number and type of boating contacts. Since the bill would no longer permit such criteria in the allocation of state aid, a new study or procedure would have to be developed, at an estimated cost of between \$100,000 and \$200,000. (6-21-93)

ARGUMENTS:

For:

The bills would make numerous changes to improve the safety of boating in Michigan, which in turn would make this recreational activity more enjoyable for both residents and out-of-state vacationers. Key provisions to this end would include stiffer penalties for reckless behavior, requiring young children to wear life jackets, clarification of water skiing provisions, and an inspection decal program that should eliminate repeated stops for vessels traveling in waters that overlap several jurisdictions.

Against:

Various concerns have been expressed about the bills. In particular, the proposed decal program could be very costly; without additional funding for the new program, funding for boat patrols likely would be reduced. In addition, law enforcement would lose the ability to stop and inspect vessels at random, since a vessel generally could not be stopped if it bore a decal. According to the DNR, the concept of randomly stopping boats has been tested in the courts and upheld by the U.S. Supreme Court, and taking away the ability to make random stops would give Michigan peace officers less authority than the Coast Guard has.

Another concern has centered over proposed changes in allowable noise levels for motorboats. The alternative testing procedure proposed by the bill, SAE J1970, apparently would allow a boat to be driven away from the meter for 30 seconds before any readings were taken. With such procedures, the 75 decibel limit would constitute an increase over the 90 decibel limit now allowed under different procedures. Noise pollution of lakes and shorelines could be worsened, not alleviated.

Finally, the bills contain a number of technical problems. The penalty for allowing a young child to go without a life jacket would be a civil fine of up to \$100. However, the law lacks procedures for the imposition and distribution of civil fines. At a minimum, the penalty should be made consistent with House Bill 4639, which passed the House on October 12, 1993. That bill would change various violations of the Marine Safety Act to "marine law civil infractions," to be implemented under provisions paralleling the vehicle code's provisions for vehicular civil infractions. In addition, Senate Bill 685 would require a wide-angle rear view mirror on a type of ski boat that cannot carry the operator, but instead tows the operator; to the extent that the mirror requirement is to ensure that someone in a boat can monitor someone being towed, it makes no sense to apply it to this special type of ski boat.

POSITIONS:

The Department of Natural Resources supports the bills. (10-21-93)

The Department of State supports the bills. (10-21-93)

The Michigan Boating Industries Association supports the bills. (10-23-93)

The Michigan Deputy Sheriffs Association supports the bills. (10-25-93)

The Michigan Sheriffs Association supports the bills. (10-21-93)