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## BOATING: CIVIL INFRACTIONS

House Bills 4639-4641  
Sponsor: Rep. David M. Gubow  
Committee: Judiciary

Complete to 7-12-93

### A SUMMARY OF HOUSE BILLS 4639-4641 AS INTRODUCED 4-23-93

The bills would provide for civil infractions to be issued under the Marine Safety Act. None of the bills could take effect unless all were enacted. A more detailed explanation follows.

House Bill 4639 would amend the Marine Safety Act (MCL 281.1006 et al.) to change various violations of the act from misdemeanors to civil infractions. (The act now specifies one civil infraction: refusal to take a preliminary breath test. Other violations of the act are and would remain misdemeanors or felonies). Procedures for issuing and processing civil infraction citations would parallel those in the Michigan Vehicle Code. As under the vehicle code, a person could admit responsibility, admit responsibility "with explanation," or deny responsibility for an alleged civil infraction. Provisions for development of citation forms, issuance and auditing of citations, court review, and payment of fines would be virtually identical to the vehicle code's provisions for vehicular civil infractions.

There would be some differences, however. For example, with regard to a driver from out-of-state, the vehicle code requires an officer to confiscate the person's driver's license as security for the court appearance; as an alternative, the person may guarantee his or her appearance by leaving with the officer or court a guaranteed appearance certificate (issued by a surety company) or a cash guarantee of up to \$100. For out-of-state boaters, the bill would call for the confiscation of the operator's "identification document" (meaning his or her driver's license or government-issued identification card), and limit the cash guarantee to \$25. Another difference would be that while the vehicle code requires officers to turn in their citations at or before the end of their shifts, the bill would allow up to 48 hours after the end of a shift for an officer to turn in his or her boating tickets. Unlike the vehicle code, the bill would contain no explicit prohibition against ticket quotas or officers receiving fees for writing tickets.

The following would become civil infractions:

\*\* refusing to present a vessel's certificate of number upon the request of a peace officer;

\*\* apparently, failing to pay a fee required under the act (Note: the bill here refers to a violation of a subsection that requires the secretary of state to assess and collect penalties for delinquent fees; strictly speaking, the subsection does impose a requirement to pay a fee);

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\*\* failing to paint or attach the certificate of number or display a state decal on a vessel as required;

\*\* failing to notify the secretary of state of a change of address;

\*\* speeding or violating the "rules of the road" for vessels (e.g. rules for passing and yielding);

\*\* violating various restrictions on water skiing (towing too close to shore, skiing at night, failing to have a second person on board to watch the skier);

\*\* boating within an area marked off by buoys, or coming too close to a diver's warning buoy, or diving without marking one's location with the distinctive warning buoy or flag;

\*\* intentionally rocking a boat (except under supervised training), or sitting, standing, or walking on parts of a vessel not designed for such (except when immediately necessary for the safe operation of the boat, such as when docking);

\*\* manufacturing, selling, or operating a motorboat in violation of noise restrictions;

\*\* setting out buoys or beacons improperly or without authorization from the Department of Natural Resources;

\*\* failing to set off a public swimming area with buoys, knowingly permitting swimmers to swim outside of such buoys, or swimming within 100 feet outside the buoyed area.

House Bill 4640 would amend the Revised Judicature Act (MCL 600.113 et al.) to extend existing civil infraction provisions on standard of proof (which is by a preponderance of the evidence), prosecutorial appearances, assessment of court costs, and magistrate powers to civil infractions under the Marine Safety Act. The bill also would allow admissions of boating civil infractions to be processed by a local traffic bureau.

House Bill 4641 would amend the Code of Criminal Procedure (MCL 764.1e) to treat a peace officer's signed complaint as made under oath if the offense in question involved drunk boating or was otherwise a felony or misdemeanor under the Marine Safety Act. (The provision now applies to certain vehicle code violations; complementary language exists in the vehicle code and would be added to the Marine Safety Act by House Bill 4639).