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## ICE FISHING SHANTIES ACT

House Bill 5047 with committee  
amendment  
First Analysis (11-16-93)

Sponsor: Rep. David Galloway  
Committee: Conservation, Environment  
& Great Lakes

### ***THE APPARENT PROBLEM:***

Public Act 134 of 1943, which regulates the use of ice fishing shanties on Michigan lakes, requires that each structure be identified with the owner's name and address, in legible two-inch letters, and provides penalties for owners who fail to remove ice shanties before ice conditions make removal unsafe. The act requires that those who erect shanties on the ice of Lake St. Clair remove them before ice conditions are unsafe, or before sundown on the first Sunday after February 20, and on a daily basis after that date. With this exception, the act provides no date for final removal of ice shanties. Some communities have enacted local ordinances in an attempt to ensure that the shanties are removed before the spring thaw. However, problems still exist in many areas. The shorelines of some lakes border more than one municipality. Many ice shanty owners visit the area on weekends only. Some owners are out-of-state residents. They, and other owners, are often unwilling to make a return trip to remove an ice shanty. For these and other reasons, many ice shanties are abandoned. When they sink they often pose a threat to boaters. Lakes may also be contaminated by fuel from heaters which are left behind in shanties and which also sink. Although the current law permits the Department of Natural Resources (DNR) to assess removal or storage costs for such shanties against the owners, in fact the cost of this negligence is usually borne by the local municipality. Legislation has been proposed to establish dates for final removal of ice shanties, to provide stricter penalties, and to require reimbursement to municipalities by those who fail to comply with these provisions.

### ***THE CONTENT OF THE BILL:***

House Bill 5047 would repeal and replace Public Act 134 of 1943, the act regulating the placement of ice fishing shanties on Michigan lakes. Under the bill, a person would be prohibited from erecting a

fishing shanty (defined under the bill to mean a "fishing house or any other structure or shelter placed on the ice" on the waters over which the state had jurisdiction) unless the name and address of the owner were affixed to each side of the outside of the shanty in legible letters at least two inches high. The letters would have to be readily visible, consist of materials that were not soluble in water, and be printed in a color that contrasted sharply with the color of the basic structure. Placing an owner's name and address on a piece of wood or other material and affixing it to a shanty would not serve as meeting these requirements.

Deadlines for Removal. House Bill 5047 would also require that fishing shanties be removed from the ice on the following waters before ice conditions made it unsafe for removal:

**\*\*The waters within the Upper Peninsula or the waters of the Great Lakes adjacent to the Upper Peninsula. The final deadline for removal would be midnight of March 31st each year.**

**\*\*The waters of Emmet, Cheboygan, Presque Isle, Charlevoix, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Oceana, Newaygo, Mecosta, Isabella, Midland, or Bay counties, or those waters of the Great Lakes adjacent to these counties. The final deadline for removal would be midnight, March 15th, of each year.**

**\*\*Fishing shanties on waters not listed above (except for Lake St. Clair; see below) would also**

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have to be removed before ice conditions were unsafe for removal; the final deadline for removal of shanties in other areas of the state would be midnight of March 1st of each year.

After the final deadline for removal, fishing shanties could be placed on the ice of these waters provided that they were removed at the conclusion of each day's fishing activity.

**Lake St. Clair.** A person who rented ten or more fishing shanties upon the ice of Lake St. Clair within the jurisdiction of the state would have to remove each shanty before ice conditions were unsafe for removal (but the bill contains no date for final removal of shanties.) Otherwise, fishing shanties on Lake St. Clair would have to be removed before ice conditions were unsafe for removal, or before sundown on the first Sunday after February 20, and on a daily basis following that date. Failure to remove a shanty within the specified time would be considered a violation of the act, and the director of the Department of Natural Resources (DNR) could authorize the removal and storage or destruction of the shanty.

**Supremacy of State Law.** The bill would prohibit local units of government from passing ordinances, rules, or regulations concerning fishing shanties and any ordinance, rule, or regulation in effect on the effective date of the bill would be considered void. However, a local unit of government could require the registration of fishing shanties on the ice of an inland body of water within its boundaries, or on the ice above bottomlands of the Great Lakes and their connecting waters that were owned by a local unit of government, and could charge reasonable fees to administer the registration program.

**Penalties.** Under the bill, the following would be considered a misdemeanor, punishable by imprisonment for up to 30 days, a fine of between \$100 and \$500, or both, and costs of prosecution: erecting a fishing shanty on the ice of any Michigan lake in violation of the act; failing to follow the bill's requirements for removal of a fishing shanty; failing to affix one's name and address to a shanty, as required under the bill; affixing a fictitious name or address, or both, to a fishing shanty; and otherwise violating the provisions of the bill.

Under the provisions of the bill, a person who failed to remove a fishing shanty under the provisions of the bill would be ordered by the court to reimburse

the governmental entity that removed the structure in an amount equal to three times the cost of removal.

### **FISCAL IMPLICATIONS:**

According to the Department of Natural Resources, the bill would have no impact on state funds. (11-10-93)

### **ARGUMENTS:**

#### ***For:***

Left in place after the ice has thawed and allowed to sink, many ice shanties pose a threat to boaters and swimmers. The bill would require that owners remove them before the ice thaws, and the final removal dates would be staggered throughout the state's geographic regions to coincide with the anticipated dates at which ice thaws in each zone. The removal dates would be March 1st in southern lower Michigan; March 15th in northern lower Michigan; and March 31st in the Upper Peninsula. After these dates, ice shanties could be placed on the ice, but would have to be removed nightly. In the past, removing abandoned shanties that sink has been a costly burden for each municipality that had to remove them. In the future, these municipalities could require the registration of ice shanties. It would then be easier for municipalities to track down owners and to receive reimbursement for their costs.

#### ***Against:***

The bill would permit a local unit of government to charge registration fees for ice shanties placed within its boundaries. This provision of the bill would place an unfair burden upon anglers. In the first place, many ice shanties are designed to be portable so that anglers can move them from one fishing spot to another. Since some lakes lie within the jurisdiction of more than one municipality, these anglers, then, might have to pay more than one registration fee. It is also common for anglers to move from one lake to another. These anglers, too, would have to pay registration fees for each fishing spot. Many feel that, while local units of government should be granted the authority to require the registration of ice shanties within their jurisdiction, they should not be allowed to assess registration fees.

***Against:***

As written, the bill would allow a local unit of government to require the registration of ice shanties placed within their boundaries, or "on the ice above bottomlands of the Great Lakes and their connecting waters that are wholly owned by a local unit of government . . ." However, since the state owns the bottomlands of the Great Lakes, this provision of the bill is inappropriate.

***Against:***

The bill contains one provision that could lead to several interpretations. Specifically, the bill would require an ice shanty owner to affix his or her name and address on the shanty. While the provisions of the bill require that the identification be made in letters that are two-inches high, the bill does not specify how and where these letters are to be affixed, only that they be "readily visible," in a color that contrasts sharply with the color of the basic structure. This provision is vague and needs clarification.

***POSITIONS:***

The Department of Natural Resources supports the bill. (11-9-93)

The Michigan United Conservation Clubs (MUCC) supports the bill. (11-9-93)