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PROHIBIT PHOTOS OF DECEDENTS

**Senate Bill 305 (Substitute H-2)
First Analysis (5-29-97)**

**Sponsor: Senator Walter H. North
Senate Committee: Local, Urban
and State Affairs
House Committee: Tourism**

THE APPARENT PROBLEM:

In recent years, controversy has surrounded the exploration and filming of the shipwrecked Great Lakes bulk freighter the S. S. Edmund Fitzgerald, which sank in Lake Superior on November 10, 1975. The resulting film footage, including images of an unidentifiable partially decomposed body, were made into a video documentary and book and marketed for commercial purposes. In response to protestations from the relatives of the crew members who died in this shipwreck that filming of this sort desecrates the sanctity of those burial sites, legislation has been introduced to prohibit such filming (for further information, see the House Legislative Analysis Section analysis of House Bill 4523 dated 4-18-97). In addition, companion legislation has been proposed that would subject violators to a severe fine, imprisonment, or both.

THE CONTENT OF THE BILL:

Under House Bill 4523, a person would be prohibited from knowingly photographing or publicly displaying a photograph of all or a portion of a deceased person in a human grave. Senate Bill 503 would amend the Michigan Penal Code (MCL 750.160b) to specify that a violation would be a felony, punishable by imprisonment for up to two years, a fine of up to \$5,000, or both. Senate Bill 503 is tie-barred to House Bill 4523.

The bill would take effect October 1, 1997.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have an indeterminate impact on state funds, resulting from the increased costs of apprehending, prosecuting, and sanctioning violators. However, the number of expected violators is unknown. (4-18-97)

ARGUMENTS:

For:

The bill would make it a felony to photograph or film a body found in a human grave on the bottomlands of the Great Lakes. The severe penalties provided under the bill would deter persons who might otherwise seek to profit from photographing those who die in shipwrecks.

Against:

This bill, and its companion legislation, raise a number of concerns, among them constitutional questions of infringing on free speech and free press rights.

POSITIONS:

The Secretary of State's office supports the bill. (5-28-97)

The Great Lakes Shipwreck Historical Society supports the bill. (5-28-97)

Underwater Diving Technology supports the bill. (5-28-97)

The Great Lakes Maritime Academy supports the bill. (5-28-97)

Grand Island Charters, Inc., a Munising company that conducts Lake Superior shipwreck diving and glass bottom shipwreck tours, opposes the bill. (5-28-97)

The Alger Underwater Preserve Committee, Inc., of Munising opposes the bill. (5-28-97)

The Michigan Underwater Preserve Council opposes the bill. (5-28-97)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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