

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1024 (Substitute S-2 as reported)
Sponsor: Senator Dave Jaye
Committee: Hunting, Fishing and Forestry

Date Completed: 11-2-98

RATIONALE

Under the Natural Resources and Environmental Protection Act (NREPA), upon the direction of a peace officer, the operator of a moving vessel must immediately bring the vessel to a stop or maneuver it in a manner that permits a peace officer to come beside the vessel. Upon the request of the peace officer, the operator must provide his or her name and address and exhibit the vessel's certificate of number. A vessel without a marine safety inspection decal must submit to a reasonable inspection of the vessel and to a reasonable inspection and test of its equipment. In addition, a peace officer may stop and inspect a vessel bearing a decal to determine the number and adequacy of personal flotation devices on the vessel. Apparently, some equipment inspections have been used as a pretext to conduct further searches. Some people believe that peace officers should not be able to inspect, enter, or board a vessel in the absence of suspicion.

CONTENT

The bill would amend Part 801 (Marine Safety) of the NREPA to provide that the law that applies to searching and seizing motor vehicles would apply to searching and seizing vessels.

The bill would delete provisions that require the issuance of uniform marine safety inspection decals; require the operator of a vessel to stop when directed by a peace officer; prohibit peace officers from stopping vessels bearing a decal without probable cause, except to determine the number and adequacy of personal flotation devices; require a vessel operator to submit to a reasonable inspection of the vessel and its equipment if the vessel does not bear a decal; and make it a misdemeanor for a person to furnish false identification upon being detained by a peace

officer for a violation of Part 801.

The bill would retain the provision that a peace officer who observes a marine law violation may immediately arrest the person without a warrant or issue to the person a written or verbal warning.

MCL 324.80166

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Article I, Section 11 of the Michigan Constitution states that an individual or an individual's house, papers, and possessions must be secure from unreasonable searches and seizures. A warrant to search any place or to seize any person or things must not be issued without probable cause and a description of the person or things. The bill would eliminate searches and seizures of vessels for administrative or regulatory purposes, and protect the privacy of vessel operators, by providing that the law that applies to searching and seizing motor vehicles would also apply to searching and seizing vessels. Warrantless automobile searches may be conducted only when probable cause exists, when a search is "incident to a lawful arrest", or when another recognized exception to the warrant requirement applies.

Response: Since some people live on vessels, search and seizure standards for houseboats should follow search and seizure standards for homes. Under the bill, however, search and seizure standards for motor vehicles would apply to *all* vessels, including houseboats. **Opposing Argument**

Searches and seizures should not be regulated by

statute but instead should be conducted according to the Michigan Constitution, court rulings, and Federal law.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill could result in an indeterminate increase in costs if vessels were no longer required to stop for a peace officer. The marine safety decal program was never fully implemented, so its elimination would have no fiscal impact.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.