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WATER SKIER TOURNAMENT PRACTICE

House Bill 4060 as introduced First Analysis (3-9-99)

Sponsor: Rep. Mary Ann Middaugh
**Committee: Conservation and
Outdoor Recreation**

THE APPARENT PROBLEM:

Under the Natural Resources and Environmental Protection Act (NREPA), a person operating any type of watercraft may not tow a person "on water skis, water sled, aquaplane, surfboard, or other contrivance" unless another person is on board who can observe the person being towed and communicate that person's condition and needs to the vessel operator. Until 1996, the DNR excluded water ski clubs that had been chartered as members of the Michigan Water Ski Association from this requirement, based on the belief that such organizations met the criteria established for "duly constituted ski schools," which, under certain conditions, were exempt from the provision. A March 18, 1968 letter from the administrator of the department's Water Safety Section (then designated the Department of Conservation), stated, in part, that individuals qualified as "tournament" water skiers could be exempted, provided that they were furnished identification cards. However, in March, 1996, the DNR reconsidered its position. In a letter addressed to the Michigan Water Ski Association, dated March 11, 1996, the department stated a concern that it had no oversight over this activity. Additionally, the department was concerned over the possibility that it could be sued if an accident occurred. The department suggested that the issue was one that should, instead, be addressed by the legislature. As a result, legislation has been proposed to place in statute an exemption for water skiers who are practicing for tournaments.

THE CONTENT OF THE BILL:

The Natural Resources and Environmental Protection Act (NREPA) prohibits any type of watercraft from towing a person on water skis unless there is an observer on board to watch the person being towed and communicate that person's condition and needs to the vessel operator. House Bill 4060 would allow an

exception to this provision under certain circumstances.

Under the bill, a vessel operator could tow a person without having an observer on board if the skier was preparing for a specific water ski tournament and the following conditions were met:

- The vessel operator was certified, as provided under the bill.
- The person being towed was certified, as provided under the bill.
- The towing was conducted so that, on average, not more than one vessel approached within 300 feet of the towing vessel during any five-minute period.
- The vessel was equipped with a center mounted tow pylon and a large clear rearview mirror capable of allowing the vessel operator to distinguish hand signals at a distance of 75 feet; and the vessel's markings identified it as being operated in compliance with the provisions of the bill.

Standards for Boat Operators. The bill would require that the Department of Natural Resources (DNR) adopt the standards for the operators of vessels during water ski tournaments established by U.S.A. Water Ski in "Trained Boat Driver Program," (April, 1997), and by the American Water Ski Association in "Drivers' Policy Manual." The DNR could also promulgate rules providing for alternative standards. In addition, tournament water ski vessel operators would receive proof of their certification from the DNR.

Standards for Tournament Water Skiers. The bill would also require that the DNR adopt the standards for tournament water skiers established by the

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Michigan Water Ski Association in "Guidelines for Training Permit Eligibility," (Proposed Revision 125 of 1996). The DNR could also promulgate rules providing for alternative standards. In addition, tournament water skiers would receive proof of their certification from the DNR. Each certificate would have to specify the body or bodies of water where the skier would be allowed to practice.

List of Qualified Water Skiers. The Michigan Water Ski Association would be required to provide the DNR and the Michigan Sheriffs Association each year with a list of qualified tournament water skiers, and the names of up to three bodies of water on which each of those persons could be authorized to practice for tournament water skiing.

MCL 324.80152

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no impact on state funds. (3-8-99)

ARGUMENTS:

For:

According to testimony submitted to the House committee by the Michigan Water Ski Association, allowing water skiers to train for tournaments without the necessity of having an observer is essential to the development of the state's competitive water skiing programs. Competitors in water skiing tournaments must undergo long hours of training, which makes finding a third person difficult. Furthermore, the association reports there have been no accidents involving this particular activity in almost 30 years. The association credits this, in part, to the fact that training activities are restricted by the need to avoid disruptive wakes. As a result, competitive practices are carried out when there are few watercraft operating in the area, to avoid the possibility of disruptive wakes. The association also notes that, when observing these activities, the general public usually respects the activities of water skiers practicing for tournaments.

Further, the association claims that a healthy involvement in competitive waterskiing has greatly benefitted the state. According to the association, the

marine industry owes much of its success to competition skiers: many boats are patterned after competition ski boats; most of the ski equipment sold in the state has been influenced by competitors; and tourists are drawn to Michigan by the lure of lakes and the image of favorable water skiing conditions. The association also notes the influence of ski clubs as a stabilizing factor in promoting safety through example and instruction.

For:

The conviction that an observer must be on board the vessel towing a water skier is based on the belief that accidents are caused when a boat operator looks back to check on the skier. In fact, modern boats are designed to eliminate this requirement. Today's boats have a tow line attachment adjacent to the driver's shoulder, and a large deck or windshield mounted mirror to provide a clear view of the skier or the tow line. Therefore, a boat operator is instantly conscious of a skier falling. If the boat operator doesn't actually see the fall in the mirror, he or she is alerted by the slack rope, which returns immediately to the center of the wake. Therefore, a trained boat operator need never physically turn to look at the skier.

Against:

The state's boating laws generally place age restrictions on operators. For example, a person under 12 years of age may not operate a motorboat in the state unless another person who is 16 years of age or older is also on board. It could be argued that comparable restrictions should be placed on water skiers, so that certified waterskiers would have to be 16 years of age.

POSITIONS:

The Department of Natural Resources (DNR) supports the bill. (3-8-99)

The Michigan Water Ski Association supports the bill (3-4-99).

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.