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Senate Bill 38 (Substitute S-2 as reported)  
Sponsor: Senator Walter H. North  
Committee: Judiciary

## **CONTENT**

The bill would amend the Natural Resources and Environmental Protection Act (NREPA) to increase the maximum penalty for various drunk boating misdemeanors; specify a felony penalty for a third offense of driving an off-road vehicle (ORV) while under the influence; and change the felony of causing a serious injury due to drunk operation of a boat or snowmobile.

The NREPA makes it a misdemeanor to: operate a vessel while under the influence of liquor (OUIL) or with a bodily alcohol content (BAC) of .10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine; operate a vessel while impaired by alcohol (OWI); or allow a vessel to be operated by a person who is under the influence or whose BAC is .10 or more. Each of those offenses is punishable by up to 90 days' imprisonment, among other sanctions. Under the bill, the maximum term of imprisonment for each would be 93 days.

Under the NREPA, a third or subsequent OUIL or BAC conviction involving an ORV within 10 years is a felony with no specified penalty. (When no penalty is otherwise specified, a felony is punishable by up to four years' imprisonment and/or a maximum fine of \$2,000.) The bill would require a sentence of imprisonment for not less than one year or more than five years, a fine of not less than \$500 or more than \$5,000, or both imprisonment and a fine.

It is a felony punishable by up to five years' imprisonment and/or a fine of not less than \$1,000 or more than \$5,000 to cause a "long-term incapacitating injury" to another person due to an OUIL or BAC violation involving a boat or a snowmobile. The bill would replace "long-term incapacitating injury" with "serious impairment of a body function".

MCL 324.80176 et al.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bill would result in a potential additional cost of an indeterminate amount for the State and local units of government. There are no data available to indicate how many offenders a year are convicted of a third or subsequent OUIL offense involving an ORV. Local units of government would incur the costs of incarcerating offenders who received the mandatory minimum sentence of one year. The offense is a Class E felony with a minimum sentencing range between 0-3 months and 24-38 months. With the maximum sentence increased from four years to five years, the longest minimum sentence would increase from 36 months to 38 months, because a minimum sentence cannot exceed two-thirds of the maximum sentence. Given that the average annual cost of incarceration in a State facility is \$22,000, an additional two months of incarceration would cost \$3,700 per offender.

Date Completed: 2-12-01

Fiscal Analyst: K. Firestone