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BILL ANALYSIS

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Senate Bill 658 (as enrolled)
Senate Bill 659 (as enrolled)
Sponsor: Senator Tony Stamas
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACT 231 of 2003

PUBLIC ACT 232 of 2003

Date Completed: 4-30-04

CONTENT

Senate Bills 658 and 659 amended, respectively, Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act (NREPA) and the Code of Criminal Procedure to establish felony penalties for leaving the scene of a boating accident when the operator of the vessel knows or has reason to believe that he or she has been involved in an accident resulting in serious impairment of a body function or death; and to include those felonies in the sentencing guidelines. Senate Bill 659 was tie-barred to Senate Bill 658. The bills took effect on April 1, 2004.

Senate Bill 658

Under the bill, if the operator of a vessel knows or has reason to believe that he or she has been involved in an accident resulting in serious impairment of a body function or the death of a person, the operator immediately must stop the vessel at the scene of the accident and remain there until the requirements of Sections 80133 and 80134 of NREPA are fulfilled.

A violation of the bill is a felony punishable by up to five years' imprisonment, a maximum fine of \$5,000, or both. If the offender causes an accident that results in the death of another person, a violation is punishable by up to 15 years' imprisonment, a maximum fine of \$10,000, or both.

(Section 80133 requires the operator of a vessel involved in a collision, accident, or other casualty, and the operator of any

other vessel, to render assistance to a person affected by the collision, accident, or other casualty, including transporting the injured person for medical treatment, if it is apparent that treatment is necessary or when requested by the injured person. Section 80134 requires the operator of a vessel involved in a collision, accident, or other casualty to stop the vessel and give his or her name, address, and vessel identification, as well as the name and address of the vessel owner if the operator does not own it, to the operator or occupants of any other vessel involved or to the owner of any property damaged by the accident.)

The bill defines "serious impairment of a body function" as that term is defined in Section 58c of the Michigan Vehicle Code, i.e., the loss of a limb or the use of a limb; the loss of a foot, hand, finger, or thumb or the use of a foot, hand, finger, or thumb; the loss of an eye or ear or the use of an eye or ear; the loss or substantial impairment of a bodily function; serious visible disfigurement; a comatose state that lasts for more than three days; measurable brain or mental impairment; a skull fracture or other serious bone fracture; subdural hemorrhage or subdural hematoma; or the loss of an organ.

Senate Bill 659

Under the bill, failure to stop at the scene of a marine accident causing serious impairment or death is listed in the sentencing guidelines as a Class E felony

against a person, with a statutory maximum penalty of five years' imprisonment. Failure to stop at the scene of a marine accident causing death, when at fault, is designated as a Class C felony against a person with a statutory maximum of 15 years' imprisonment.

MCL 324.80134a (S.B. 658)
777.13g (S.B. 659)

BACKGROUND

As reported in the *Bay City Times* (8-12-03), in a boating accident on Gladwin County's Wixom Lake on August 31, 2002, one boat struck another, killing a man on that boat and injuring his wife. The operator of the first boat fled the scene as the second boat sank. Witnesses to the crash rescued the woman, but the man's body was not located until two days later. A tip helped police track down the operator of the boat that fled the scene.

Part 801 of NREPA requires a boater involved in a serious accident to render aid and remain on the scene, but did not identify a specific penalty for failing to do so. Fleeing a scene of a boating accident, then, was subject only to a general penalty under Section 80171. Under that section, unless otherwise specified, a violation of Part 801 is a misdemeanor with no specified penalty. (When no other penalty is prescribed by law, a misdemeanor is punishable by 90 days' imprisonment and/or a maximum fine of \$500; at the time of the 2002 Wixom Lake incident, however, the maximum fine was \$100.) Part 801 also includes a misdemeanor penalty of up to two years' imprisonment and/or a maximum fine of \$2,000 for negligently crippling or causing the death of another person. The operator of the boat in the Wixom Lake crash reportedly pleaded no contest to charges of negligent homicide and negligent crippling and was sentenced to one year in jail.

While Part 801 previously did not include criminal penalties for fleeing the scene of a serious boat accident, the Michigan Vehicle Code does subject hit-and-run drivers to criminal penalties. Under the Code, a driver who knows or has reason to believe that he or she has been involved in an accident resulting in injury to or the death of any person, or damage to any vehicle driven or

attended by another person, must meet certain requirements regarding rendering reasonable assistance and exchanging identifying and contact information. If the accident resulted in serious impairment of a body function or death, the driver must remain at the scene until these requirements are met. The violation is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$5,000 if the accident resulted in serious impairment of a body function. If it resulted in death, the penalty is up to 15 years' imprisonment and/or a maximum fine of \$10,000.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have an indeterminate fiscal impact on State and local government. There are no data to indicate how many people will be convicted of either of the new offenses. An offender convicted of the Class E offense will receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. An offender convicted of the Class C offense will receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 months. Local units of government incur the cost of incarceration in a local facility, which varies by county. The State is responsible for the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State prison at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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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.