



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1278 (Substitute S-2 as enrolled)
Sponsor: Senator Patricia L. Birkholz
Committee: Natural Resources and Environmental Affairs

Date Completed: 8-16-04

RATIONALE

Residents along the lower Kalamazoo River in Allegan County have complained about noise from airboats, particularly at night. Airboats are flat-bottomed boats designed for use in shallow waters, and are propelled by an airplane propeller positioned above the stern. In Michigan, some bowhunters use airboats to hunt carp, a non-native nuisance fish. Occasionally bowhunters have held hunting tournaments between dusk and dawn on the lower Kalamazoo River, which the Department of Natural Resources (DNR) has designated as a Natural River.

The Natural Resources and Environmental Protection Act (NREPA) regulates the noise of motorboats. Section 80156 prohibits the operation of a motorboat unless it is "equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 [decibels]...". Some have questioned whether this prohibition applies to airboats for two reasons: First, it is not clear if airboats fall under NREPA's definition of "motorboat" (a vessel propelled wholly or in part by machinery); and second, because most airboat noise is generated from the above-water propeller and not a motor equipped with a muffler or underwater exhaust system, it is not clear if the 90-decibel limit applies. In February 2003, Attorney General Mike Cox determined in Opinion No. 7124 that an airboat is indeed a motorboat, because its engine and propeller constitute "machinery"; however, he concluded that the noise limit in Section 80156 is intended to apply only to a motorboat's engine. Therefore, the noise from an airboat's *propeller* is not regulated by statute.

Because airboats are a unique form of watercraft, and because their noise level is difficult to measure accurately with current technology, it has been suggested that airboats' use, rather than their noise level, be limited by statute.

CONTENT

The bill would amend Part 801 (Marine Safety) of NREPA to prohibit a person from operating an airboat within 450 feet of a residence between 11:00 p.m. and 6:00 a.m. at a speed exceeding that required to maintain forward movement.

The prohibition would not apply to the operation of an airboat under any of the following circumstances: in an emergency when necessary to protect public safety; in the event the airboat had run aground and needed to be freed; or for a governmental purpose, if the airboat were clearly marked and identified as being used for a governmental purpose.

These provisions would be repealed May 1, 2007.

The bill would define "airboat" as a motorboat that is propelled, wholly or in part, by a propeller projecting above the water surface.

MCL 324.80101 et al.

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

The bill strikes a reasonable compromise by addressing the main complaint against airboats: their use at night. In restricting the distance from a residence and the time during which airboats could be operated, the bill would enable residents to enjoy quiet nights on the river while allowing airboat operators to fish at night, provided they did so more than 450 feet from a residential area. The bill includes common-sense exceptions to this, such as an emergency or an airboat's running aground. Repealing the restriction in three years would provide for a trial period to test the compromise. Further, law enforcement officials from the DNR have indicated that they expect decibel-measuring equipment to improve in the next three years. (Reportedly, airboats are loudest when they are moving at high speeds, but current decibel-measuring equipment cannot isolate the noise of a moving object.) By 2007, the new technology should be able to measure accurately the total noise emitted from a moving airboat. At that time, it may make sense to impose a decibel limit on airboats, as is currently the case for motorboats.

Opposing Argument

Airboats should be banned in State-designated Natural Rivers. Under Section 30502 of NREPA, the DNR may designate a Natural River for the purpose of "preserving and enhancing its values for water conservation, its free-flowing condition, and its fish, wildlife, boating, scenic, aesthetic, floodplain, ecologic, historic, and recreational values and uses". Airboat use is not consistent with this mission because the use of airboats neither preserves a river's wildlife, nor adds to a river's historic or aesthetic value. The extremely loud propeller noise generated from airboats, as well as their ability to maneuver in shallow water, disturbs waterfowl nesting areas and residents' sense of peace, no matter the time of day at which they are operated.

Response: Compared with motorboats, airboats are less harmful to the environment because they do not have propellers that tear up vegetation. Further, they do not leak gasoline, as do most outboard motors. When bowhunters use them to hunt carp, they are doing the environment a favor by ridding waters of an invasive nuisance fish that continues to endanger native species.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jessica Runnels

A0304\S1278a

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.