

TAMPERING WITH MARINE SAFETY DEVICE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 816 with committee amendment
Sponsor: Sen. Wayne Kuipers

Senate Bill 817 (Substitute H-2)
Sponsor: Sen. Jud Gilbert, II
House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (6-6-06)

BRIEF SUMMARY: The bills would make it a crime to tamper with or remove a publicly-owned marine safety device, create penalties, define "marine safety device," and include felony violations in the sentencing guidelines.

FISCAL IMPACT: The bills would create new crimes. The state could incur costs of felony probation supervision (at approximately \$2,000 per supervised offender annually) or prison incarceration (which averages \$30,000 per prisoner per year). If the felon was sentenced to jail, the county could incur increased costs; county jail costs vary by county. In the case of a misdemeanor, the bill could increase local costs of misdemeanor probation, jail incarceration, or both. To the extent that fine revenues increased, the bill could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

In 2003, 17 year-old Andy Fox was swept off a pier in Grand Haven and drowned in Lake Michigan. His friends couldn't throw the life ring which was supposed to be nearby on the pier because it had been stolen earlier. Around the state, life rings and flotation devices have been stolen from lakes, rivers, and piers, supposedly for their decorative value. Under current law, a person who steals a life ring, life preserver, flotation device, etc. (known as marine safety devices) is typically charged with larceny under \$200, a misdemeanor with up to 93 days in jail and/or a fine of not more than \$500 or three times the value of the property stolen, whichever is greater. Some feel that this penalty does not provide a sufficient deterrent to the taking of marine safety devices.

For example, after Andy Fox and another young man, Daniel Like Reiss, drowned in 2003, Andy's mother and other concerned citizens formed the Great Lakes Beach and Pier Safety Task Force. The group began installing life rings at popular beaches and piers, along with installing signs warning of the danger of rip currents. According to media reports, three of the first life rings to be installed were stolen within 24 hours of placement on a pier, and as of this May, at least 22 have been stolen.

Given the seriousness of having marine safety devices available to use in emergencies, legislation has been offered to create a specific crime and penalties for the act of illegally removing a marine safety device.

THE CONTENT OF THE BILLS:

Senate Bill 816 would add a new section to the Michigan Penal Code (750.498b). Under the bill, a person would be prohibited, without lawful authority, from tampering with, taking, or removing a marine safety device owned or maintained by the state or a political subdivision of the state, knowing or having reason to know that the device is a marine safety device. "Marine safety device" would be defined as a device designed or intended to be used to rescue individuals in marine emergency situations, including life preservers, safety harnesses, ladders, lines, and throw rings. A violation would be a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$1,000.

Rendering the device unavailable or unusable for rescue when needed would be a felony offense punishable by the following.

- If the violation were the proximate cause of serious impairment of a body function of another person, imprisonment for not more than five years and/or a fine of not less than \$1,000 or more than \$5,000.
- If the violation were the proximate cause of the death of another, imprisonment for not more than 15 years and/or a fine of not less than \$2,500 or more than \$10,000.

"Serious impairment of a body function" would mean that term as it is defined in Section 58c of the Michigan Vehicle Code (MCL 257.58c). Under Section 58c, that term includes one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- 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.
- Loss of an organ.

Senate Bill 817 would amend the Code of Criminal Procedure (MCL 777.16x) to include the felony violations proposed by Senate Bill 816 in the sentencing guidelines. A violation causing serious impairment of a body function would be a Class E felony against a person with a statutory maximum sentence of five years' imprisonment. A violation causing death would be a Class C felony against a person with a statutory maximum sentence of 15 years' imprisonment.

HOUSE COMMITTEE ACTION:

An amendment was adopted to add an effective date of July 1, 2006 to Senate Bill 816. A substitute bill was adopted for Senate Bill 817 that incorporated changes to the sentencing guidelines made by recently enacted legislation and that added an effective date of July 1, 2006.

ARGUMENTS:

For:

The bills would create criminal penalties for illegally removing life preservers, flotation devices, and other equipment used to rescue people from drowning. Since a drowning can occur in minutes, it is imperative that these safety devices be available at sites where members of the public are most likely to swim or accidentally slip into the water (i.e., fishing piers). Therefore, it is prudent to enact laws with penalties sufficient to act as a deterrent.

A firefighter who offered testimony on the bills related how the presence of life rings and other marine safety devices act as an important link in the chain of rescue. For example, he related that a non-swimmer can drown in as little as 60 to 90 seconds. Even strong swimmers can drown in a matter of minutes if caught in a strong rip current. Yet, it can take first responders 10 minutes, 15 minutes, or even longer to arrive at the scene. Swimming out to the victim or launching a rescue boat adds precious minutes. Having the devices available also minimizes the danger presented by non-swimmers or weak swimmers jumping in and attempting a rescue as a last resort, a situation that often ends with the would-be rescuer also drowning. Therefore, the availability of marine safety devices for bystanders to toss to a drowning person may very well make the difference whether the person and/or the rescuer lives or dies.

POSITIONS:

A representative of the Great Lakes Beach and Pier Safety Task Force testified in support of the bills. (5-17-06)

The Department of State Police indicated support for Senate Bill 816. (5-17-06)

The Department of Corrections indicated support for Senate Bill 817. (5-17-06)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

■ 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.