



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

House Bill 4143 (Substitute S-1 as reported)

Sponsor: Representative Steve Bieda

House Committee: Tourism, Outdoor Recreation and Natural Resources

Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 4-23-07

RATIONALE

The Natural Resources and Environmental Protection Act designates certain marine safety and personal watercraft violations misdemeanors. In an effort to increase efficiency within the legal system, it has been suggested that some of the less serious violations be changed to State civil infractions. Also, in the interest of public safety, increases have been suggested in the fine for some of these violations, as well as the maximum personal recognizance deposit payable by a nonresident for a violation, and the fine for refusing to submit to a chemical breath analysis.

CONTENT

The bill would amend Part 801 (Marine Safety) and Part 802 (Personal Watercraft) of the Natural Resources and Environmental Protection Act to do the following:

- **Change certain violations from misdemeanors to State civil infractions.**
- **Increase from \$25 to \$200 the maximum personal recognizance deposit payable by a nonresident arrested for a violation of Part 801.**
- **Increase from \$100 to \$500 the fine for refusing to submit to a preliminary chemical breath analysis.**

Under Part 801, a violation of that part or rules promulgated under it is a misdemeanor, unless otherwise specified. (Since Part 801 does not prescribe a penalty for the misdemeanor, it is punishable by imprisonment for up to 90 days and/or a

maximum fine of \$500 pursuant to the Michigan Penal Code.) A violation of Part 802 is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$100, unless otherwise specified.

Under the bill, certain violations would be a State civil infraction and the person responsible could be ordered to pay a maximum civil fine of \$500.

Part 801 Violations

The bill would designate the following violations of Part 801 State civil infractions:

- Violating a rule that establishes performance or other safety standards related to boat construction or the installation, use, or carriage of associated equipment.
- Operating or giving permission to operate a vessel unless required fees are paid, the assigned certificate number is on board and in effect, and the identifying number and decal are displayed as required.
- Operating a vessel in violation of a rule establishing the manner in which a decal is to be displayed.
- Failing to operate a vessel in a careful and prudent manner and at a speed that does not unreasonably endanger life or property; operating a vessel at a speed that will not allow the operator to stop it within an assured clear distance; or operating a vessel in a manner that unreasonably interferes with others' lawful use of any waters.

- Violating prohibitions against waterskiing or similar activity between one hour after sunset and one hour before sunrise.
- Knowingly permitting a person to swim from a beach unless buoys are established as required, or swimming from a public bathing beach in water that is within 100 feet beyond the buoyed swimming area.

The bill also would designate operating a vessel in a manner that makes collision imminent or likely a State civil infraction. A person who committed a second or subsequent violation would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$500.

Additionally, under the bill, a person would be guilty of a misdemeanor if he or she violated a requirement to operate vessels in a counterclockwise fashion in areas not marked by well defined channels, canals, rivers, or stream courses; or violated a requirement that these operators or waterskiers maintain a distance of 100 feet from any dock, raft, bathing area, or vessel moored or anchored. A person who committed either of these violations while on any of the Great Lakes, Lake St. Clair, or the St. Clair River would be responsible for a State civil infraction.

Also, under the bill, if a person operated a vessel for which no decal was issued or for which a decal had expired, he or she would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$500.

Currently, a person who violates motorboat speed limits is guilty of reckless operation of a motorboat. The bill would delete this provision. Under the bill, a person who violated motorboat speed limits would be responsible for a State civil infraction and could be ordered to pay a maximum civil fine of \$500, unless the Department of Natural Resources had waived the speed limit requirements for authorized marine events, or the person violated motorboat speed limits in a manner that constituted reckless operation of a motorboat under Section 80147.

(Under that section, a person is guilty of reckless operation of a vessel if he or she carelessly and heedlessly operates a vessel

in disregard of the rights or safety of others, without due caution or circumspection, or at a speed or in a manner that endangers or is likely to endanger a person or property. Upon conviction, in addition to any other penalty, the person may be ordered not to operate a vessel in the State for up to two years.)

Under Part 801, if a nonresident of Michigan is arrested without a warrant for a violation of that part (except for specific offenses), the arresting officer immediately must take the person, upon his or her demand, for arraignment by a magistrate or district court judge. If a magistrate or judge is not available or an immediate trial cannot be held, the person arrested may recognize to the officer for his or her appearance by leaving a deposit. If the person fails to appear as required, the deposit must be forfeited. The bill would increase the amount of the deposit from \$25 to \$200. (The offenses this does not apply to are negligent homicide; reckless operation of a vessel; and operating a vessel under the influence, or visibly impaired by the consumption, of liquor and/or a controlled substance, or with an unlawful blood alcohol content.)

Currently, if a person refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request, the person is responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$100. The bill would increase that amount to \$500.

Violations of Part 802

Under the bill, each of the following would be a State civil infraction and the person responsible could be ordered to pay a maximum civil fine of \$500:

- Operating a personal watercraft and crossing within 150 feet behind another vessel, except a personal watercraft, unless the person is operating at a slow-no wake speed.
- Operating a personal watercraft where the water is less than two feet deep, unless the personal watercraft is being operated at slow-no wake speed or is being docked or launched.

MCL 324.80114 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

By decriminalizing some of the lesser violations of Parts 801 and 802, the bill would save time and money for sheriff's departments and courts, and enable law enforcement personnel to focus on people who commit more serious offenses. By retaining the misdemeanor status for failing to operate in a counterclockwise direction on inland lakes, which can be quite congested, and for a second or subsequent violation regarding the operation of a vessel in a manner that makes collision imminent or likely, and increasing the maximum personal recognizance deposit for nonresidents and the fine for refusing to submit to a chemical breath analysis, the bill would strike an appropriate balance between increased efficiency within the legal system and public safety.

Additionally, the bill would make the penalties for marine violations consistent with the penalties for similar traffic violations. By changing the specified offenses to civil infractions but raising the fine, the bill would ensure that violators were penalized appropriately without being subjected to the consequences of a criminal record.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would result in reduced revenue to the State's Justice System Fund, which supports a variety of programs in the Judiciary, the Department of State Police, and the Department of Corrections. The Justice System Fund assessment is \$10 for a State civil infraction, and \$40 for a misdemeanor. The number of violations under Parts 801 and 802 is unknown, as the Act is enforced at both the local and State levels. Local units of government would save the costs of misdemeanor incarceration or probation, which vary by jurisdiction. The bill also would increase the fine for refusing to submit to a preliminary chemical breath analysis, which is a State civil infraction. Increases in fine revenue would benefit public libraries.

Fiscal Analyst: Stephanie Yu

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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.