



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5607 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Representative Brian Calley
House Committee: Tourism, Outdoor Recreation, and Natural Resources
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 3-27-08

RATIONALE

Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act contains procedures under which the Department of Natural Resources (DNR), in response to a local unit's request for assistance, can propose a local ordinance or changes to an ordinance, if special watercraft rules are needed on a body of water. A local unit, for example, might wish to have a lake closed to motorized traffic. It has been pointed out that a prohibition against the use of motorized vessels can be problematic for people with disabilities preventing them from rowing or paddling a vessel. The procedures under Part 801, however, do not include a mechanism by which the DNR can revise an ordinance to exempt those with disabilities from such a prohibition. It has been suggested that individuals with disabilities preventing them from rowing or paddling should be allowed to obtain a certificate attesting to the disability and operate motorized vessels where they otherwise are not allowed.

- The individual had a disability that prevented him or her from rowing or paddling a vessel.
- The individual had in his or her possession a marine exemption certificate.
- The individual was operating a noncommercial vessel at a slow-no wake speed using an electric motor rated at 100 pounds of thrust or less.

An individual could obtain a marine exemption certificate from the DNR or a sheriff's department by presenting a physician's attestation that the physician had examined the individual and determined that he or she had a disability that prevented him or her from rowing or paddling a vessel.

The DNR would have to develop and make available for use as prescribed in the bill a physician's attestation form and a marine exemption certificate.

The bill's provisions would not exempt an individual from compliance with any other marine law.

Proposed MCL 324.80114a

CONTENT

The bill would amend Part 801 of the Natural Resources and Environmental Protection Act to allow an individual who was disabled to operate a motorized vessel where it was otherwise prohibited, if certain conditions were met.

Specifically, a marine law that prohibited the operation of a motorized vessel on a portion of the State's waterways could not be enforced against an individual who met all of the following qualifications:

BACKGROUND

Under Part 801 of the Natural Resources and Environmental Protection Act, if a political subdivision believes that a special local ordinance is needed on a particular body of water, the political subdivision must inform the Department of Natural Resources and request assistance. The request must be in

the form of a resolution approved by the local governing body following a public hearing on it. Part 801 was revised by Public Act 237 of 2006, which requires the DNR to initiate an investigation and inquiry into whether special watercraft rules are needed on a body of water, after receiving a political subdivision's resolution. After conducting the investigation, the Department must prepare a preliminary report containing its recommendations and schedule a public hearing on it. After the hearing, the Department must propose a local ordinance or changes to an ordinance if it determines that special rules are needed. If the political subdivision's governing body approves the ordinance, it must be enacted identically to the proposed ordinance.

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

Reportedly, 54 Michigan lakes have been closed to motorized traffic, often upon the initiative of those who live on or near the lakes. While a ban on motorized traffic can lead to increased enjoyment of a lake for many people, individuals with disabilities preventing them from operating nonmotorized vessels can be disenfranchised. The State has made efforts to facilitate participation by people with disabilities in other activities, such as hunting and driving. Similar procedures should be implemented to accommodate the disabled in fishing and other water-based recreational activities.

Opposing Argument

While 54 lakes may be closed to motorized traffic, there are thousands of others that are not. The lakes on which motorized traffic is prohibited are quiet and provide unique opportunities for bird-watching and observation of other wildlife that are not available elsewhere. Although increasing access to recreation areas by the disabled is a worthwhile goal, rare opportunities to appreciate wildlife should be preserved.

Opposing Argument

When lakes are nonmotorized, access by law enforcement personnel is limited, which makes it questionable whether the proposed exemption could be enforced adequately.

While the bill would require a disabled person operating a motorized vessel to do so at a slow-no wake speed, no-wake regulations frequently are violated. Furthermore, people who were not eligible for the exemption under the bill might see others operating motorboats on a lake and assume that they could do so, too. Overall, the bill could lead to instances of excessive noise and speed on lakes where the residents have used the appropriate legal channels to ensure that those nuisances do not occur.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

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

Fiscal Analyst: Jessica Runnels

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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.