

# Legislative Analysis



## WATERCRAFT PACKAGE

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

**House Bill 4845 (Substitute H-2)**  
**Sponsor: Rep. Frank Foster**

**House Bill 4847 (Substitute H-2)**  
**Sponsor: Rep. Harold Haugh**

**House Bill 4846 (Substitute H-1)**  
**Sponsor: Rep. Wayne Schmidt**

**House Bill 4848 (Substitute H-1)**  
**Sponsor: Rep. Andrea LaFontaine**

**Committee: Natural Resources, Tourism, and Outdoor Recreation**  
**Complete to 11-10-11**

## A SUMMARY OF HOUSE BILLS 4845 - 4848 AS REPORTED FROM COMMITTEE

House Bill 4845 (H-2) would amend NREPA to allow a child less than 12 years of age to operate a motorboat. Among other things, the child would have to possess a boating safety certificate. Additionally, the bill would repeal Section 80215 that establishes graduated age provisions for operating a personal watercraft.

House Bill 4846 (H-1) would amend NREPA to require any person operating a vessel, or the owner of a vessel who operates or causes the vessel to be operated, to carry, store, maintain, and use marine safety equipment onboard the vessel. Additionally, the bill would prohibit anyone from towing an individual unless the person being towed (e.g., a water skier) was wearing the proper type I, II, or III personal flotation device, in addition to the other requirements contained in the act.

House Bill 4847 (H-2) would amend NREPA to establish identification and lighting requirements for barges. The bill would require barge owners to place identifying information on the hull in large reflective letters and to place lights in certain locations on the barge, among other things.

House Bill 4848 (H-1) would amend the Michigan Penal Code to provide for a penalty for fleeing and eluding a police or conservation officer in a vessel. The bill provides for fines, imprisonment, and the suspension of boating privileges for first and multiple offenses.

## FISCAL IMPACT:

House Bill 4845 would have no significant fiscal impact on the Department of Natural Resources.

House Bill 4846 would have an indeterminate fiscal impact. The bill would have no significant fiscal impact on the Department of Natural Resources, but could increase the funding for local libraries and increase revenues to the Justice System Fund (JSF). Under

current law, each non-traffic-related civil infraction may be assessed the following: a \$10 JSF assessment, fines that go to county treasurers to benefit local libraries, and court costs. A violation under this bill would be assessed a fine of up to \$500. This revenue would be allocated to local libraries. Each infraction would also be assessed a \$10 Justice System Assessment, which would be deposited into the state Justice System Fund (JSF). The JSF supports various justice-related endeavors in the judicial branch, the Department of State Police, and the Department of Corrections. In addition, the assessed court costs would generate additional revenue for the governmental unit that funds the local court.

House Bill 4847 would have no significant fiscal impact on the Department of Natural Resources.

To the extent that House Bills 4847 and 4848 result in new misdemeanor or felony convictions related to the operation of a vessel, they could increase costs on state and local correctional systems. There are no data to indicate how many offenders would be convicted under the provisions of the bills. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. The cost of local incarceration in a county jail varies by jurisdiction. Costs of parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

## **DETAILED SUMMARY:**

### **House Bill 4845 (H-2)**

The bill would amend Part 801 (Marine Safety) of NREPA to allow a child less than 12 years of age to operate a motorboat provided he or she has been issued and is in possession of a boating safety certificate, and meets all of the other conditions as specified in the act.

The bill would require anyone born on or after July 1, 1996, to have been issued and to be in possession of a water safety certificate while operating a motorboat on the waters in Michigan. This provision would go into effect on July 1, 2012.

The act currently requires the department to issue a boating safety certificate to each individual who successfully completes a boating safety course and passes an examination. The bill removes a provision requiring the course to be administered in person and proctored by the department. The bill gives the department flexibility in determining how to administer the examination by adding "as prescribed by the department."

Additionally, the bill would repeal Section 80215 that establishes graduated age provisions for operating a personal watercraft. This section is known and cited as "Ashleigh Iserman's law."

The bill would define "*Boating Safety Certificate*" to mean any of the following:

- The document issued by the department under Part 802 that certifies that the individual named in the document has successfully completed a boating safety course and passed an examination approved and administered as required under Section 80212.
- A document issued by the U.S. Coast Guard Auxiliary or U.S. Power Squadron that certifies that the individual named in the document has successfully completed a U.S. Coast Guard Auxiliary course concerning boating safety.
- A written rental agreement provided to an individual named in the rental agreement entered into under Section 44522 only on the date or dates indicated on the rental agreement while the named individual is operating a personal watercraft leased, hired, or rented from a boat livery.

The bill would define "*Boating safety course*" to mean a course that provides instruction on the safe operation of a personal watercraft that meets or exceeds the minimum course content for boating or personal watercraft education established by the National Association of State Boating Law Administrators Education Committee (October 1996) and is approved by the department.

MCL 324.80101 et al.

#### **House Bill 4846 (H-1)**

Currently, individuals are not allowed to operate a vessel on Michigan waters if they are towing or otherwise assisting a person on water skis, etc., unless a person capable of communicating to the vessel operator the condition and needs of the person being towed is on board and positioned to observe the person being towed.

The bill would amend Part 801 (Marine Safety) of NREPA to add an additional condition to individuals towing an individual on water skis, etc. by requiring an individual being towed to wear the proper type I, type II, or type III personal flotation devices. Wearing an inflatable personal flotation device does not satisfy this requirement.

Anyone found in violation of these two provisions would be responsible for a state civil infraction and subject to a fine of not more than \$100.

Additionally, this bill states no person shall allow himself or herself to be towed or otherwise assisted by a vessel without being in compliance with the conditions stated above. Anyone found in violation of this provision who is 16 years of age or older is responsible for a state civil infraction and subject to a fine of not more than \$100.

These new provisions would not apply to the following circumstances:

- A person who operates or who is towed by a vessel used by a ski school in giving instructions or by a vessel used in sanctioned ski tournaments, competitions,

expositions, or trials, provided that the vessel is equipped with a 170-degree wide angle rearview mirror.

- A person being towed by a motorboat less than 16 feet long that is actually operated by the person being towed if the vessel is constructed to be incapable of carrying the operator in or on the motorboat.
- A vessel operator or the person being towed if the vessel operator is towing a person preparing for a specific water ski tournament and meets the conditions in the act.

This bill would also add Section 80143 to state a person who operates a vessel, or the owner of a vessel who operates, causes, or permits the vessel to be operated, must carry, store, maintain, and use marine safety equipment onboard the vessel. Anyone violating this section would be responsible for a state civil infraction and subject to a civil fine of not more than \$100.

Additionally the bill would amend the definition of "passenger" to include a person attached to or towed by a vessel.

MCL 324.80804 and 324.80152

#### **House Bill 4847 (H-2)**

The bill would amend NREPA by adding Section 80143 to require the owner of a barge to place his or her name, address, and telephone number on a prominent place on the hull of the barge in light-reflective letters, in a contrasting color, and not less than 6 inches tall.

In addition to lighting requirements already established in the act, this bill would require a barge operator to ensure that the barge is properly lit with four or more white lights from sunset to sunrise and during periods of limited visibility if any of the following apply:

- The barge projects into a restricted channel or into a channel established by buoys.
- The barge is moored so that it reduces the available navigable width of a channel.
- The barge is not parallel to the bank or dock to which it is moored.
- The barge is moored as part of a group of two or more barges.

The lights described above must be placed as follows if either of the following applies:

- If the barge or group formation of barges is positioned so that vessel may navigate on one or more sides of the barge or group formation of barges, the lights must be displayed on each outside corner of the barge or group formation.
- If the barge projects from a group formation, the lights must be displayed on the corners of the projecting barge that are outboard of the group.

The lights described must meet the requirements of the rules established in the Michigan Administrative Code and must be positioned in a manner and bright enough to be visible from any direction for at least one nautical mile at night under clear conditions.

The bill specifies a group of barges cannot be moored together if the total width of the barges exceeds 82 feet. It also gives the department or local jurisdiction authority to order a moored vessel in violation of this bill that poses a navigational hazard to be moved immediately. If the vessel is not moved, they would be permitted to move it.

Anyone found in violation of this new section would be guilty of a misdemeanor and subject to imprisonment for not more than 90 days and/or a fine not more than \$10,000. The bill specifies each 24-hour period that a violation exists constitutes a separate violation. A court could order a person convicted of violating this section to pay the actual and reasonable costs incurred by the state or local unit of government in moving a vessel that is in violation.

"Barge" is defined as *a flat-bottomed displacement vessel that is used to carry cargo or as a work platform, whether or not it operates under its own power.*

"Operator" includes a person in command of a barge while it is moored.

MCL 324.101 - 324.90106

#### **House Bill 4848 (H-1)**

The bill would amend the Michigan Penal Code (1931 PA 328) to extend the penalty for fleeing or eluding a police or conservation officer in a motor vehicle to also cover a vessel. The following punishments apply for violations:

- Individuals violating this provision would be responsible for a felony punishable by imprisonment for up to two years and a maximum fine of \$2,000, or both.
- An individual would be responsible for felony punishable by up to five years in prison and a maximum fine of \$5,000, or both, if a portion of the violation occurred in an area designated as "slow-no wake", "no wake", or "restricted," whether the area is posted or created by law or administrative rule.
- An individual would be responsible for a felony punishable by up to 10 years in prison and a maximum fine of \$10,000, or both, for a repeat offense or if the violation resulted in serious impairment of a body function of an individual.

Violators will have their vessel-operating privileges suspended by the Secretary of State for up to five years for a first offense. Individuals with multiple convictions or a violation resulting in serious impairment of a body function will lose the privilege to operate a vessel for at least five years.

The bill would define "*Prior Conviction*" to mean:

- For a violation of this section while operating a motor vehicle, the person had a previous conviction for a violation of this section while operating a motor vehicle or a previous conviction for fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct while operating a motor vehicle.
- For a violation of this section while operating a vessel, the person had a previous conviction for a violation of this section while operating a vessel.

MCL 750.479a

**POSITIONS:**

The Michigan Department of Natural Resources supports the bills. (10-25-11)

The Michigan Boating Industries Association supports the bills. (11-1-11)

The Deputy Sheriffs Association of Michigan supports the bills. (10-25-11)

Legislative Analyst: Jeff Stoutenburg  
Fiscal Analyst: Viola Bay Wild  
Bob Schneider

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■ 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.