

Legislative Analysis



ALLOW TYPE III PERSONAL FLOTATION DEVICES FOR CHILDREN UNDER 12 YEARS OLD

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

House Bill 5109 as reported without amendment

Sponsor: Rep. Nancy Jenkins

Committee: Natural Resources, Tourism, and Outdoor Recreation

First Analysis (11-9-11)

BRIEF SUMMARY: The bill would amend the Natural Resources and Environmental Protection Act (NREPA) to allow children under the age of 12 to wear a type I, II, or III personal flotation device when riding on or being towed by a personal watercraft. Currently, they must wear type I or II devices. (See Background Information for an explanation of the difference in the devices.)

FISCAL IMPACT: The bill could reduce civil fine revenue currently generated through misdemeanor convictions where youth under 12 years of age on a watercraft are wearing only type III personal flotation devices. Current law prohibits the use of a type III device for these youth, whereas the bill would make the use of type III devices legal for them. Any fiscal impact would likely be negligible.

The bill would have no fiscal impact on the Department of Natural Resources.

THE APPARENT PROBLEM:

Currently, NREPA requires children under the age of 12 to wear a type I or II personal flotation device when riding on or being towed by a personal watercraft, whereas those older can also wear Type III devices. According to committee testimony, type III devices are very common among boaters. Public Act 27 of 2004 allowed children under the age of 12 to wear a type I, II, or III personal flotation device. However, that act contained a five-year sunset and so this provision was eliminated in 2009 and type III devices required. According to personal watercraft accident statistics compiled by the department, it does not appear there was any effect on the safety of those less than 12 years of age by allowing the use of type III personal flotation devices. As such, this bill attempts to reinstate the provision allowing these types of devices to be used.

THE CONTENT OF THE BILL:

The bill would eliminate a provision of NREPA that states as of March 16, 2009, a person cannot operate a personal watercraft unless each person **12 years of age or older** riding on or being towed by the watercraft is wearing a type I, II, or III personal flotation device as described in R 281.1234 of the Michigan Administrative Code. The bill would also eliminate a provision stating a person cannot operate a personal watercraft unless each person on board or being towed who **is less than 12 years of age** is wearing a type I or II personal flotation device.

The bill would instead provide that no one can operate a personal watercraft unless each person riding or being towed, **regardless of age**, is wearing a type I, II, or III personal flotation device, as described in R 281.1234 of the Michigan Administrative Code.

MCL 324.80205

BACKGROUND INFORMATION:

R 281.1234 Personal Flotation Devices

- Type I: an approved device designed to turn an unconscious person in the water from a face downward position to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy.
- Type II: an approved device designed to turn an unconscious person in the water from a face down position to a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.
- Type III: an approved device designed to keep a conscious person in a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy.

Personal flotation devices required to be carried aboard vessels must be (1) approved by the U.S. Coast guard, (2) legibly marked with the approval number issued by the Coast Guard, (3) of an appropriate size for the person for whom it is intended, (4) readily accessible and immediately available, and (5) in good and serviceable condition.

ARGUMENTS:

For:

Type III personal flotation devices do not negatively affect safety. Children under 12 years of age were permitted to wear type III personal flotation devices from 2004 - 2009. According to information from the DNR, the use of type III devices did not negatively affect the safety of those under 12 years old. Some would argue these types of devices are more appropriate because they are designed for water skiing, tubing, etc.

Against:

There was no opposition to this bill at the committee level.

POSITIONS:

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

The Deputy Sheriff's Association of Michigan supports the bill. (10-25-11)

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

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

■ 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.