

Legislative Analysis



OPERATION OF SPORTSCRAFT WITH 0.08 BAC OR HIGHER

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House Bill 4614

Sponsor: Rep. Gary A. Newell

House Bill 4615

Sponsor: Rep. Tonya Schuitmaker

House Bill 4616

Sponsor: Rep. Paul Condino

Committee: Judiciary

Complete to 4-25-05

A SUMMARY OF HOUSE BILLS 4614-4616 AS INTRODUCED 4-14-05

The bills would amend various provisions of the Natural Resources and Environmental Protection Act pertaining to the operation of ORVs, watercraft, and snowmobiles to make them conform to recent changes in the drunk driving provisions of the Michigan Vehicle Code. Currently under the NREPA, it is prohibited to operate an ORV, watercraft, or snowmobile while under the influence of intoxicating liquor or a controlled substance, or both. The bills would, in general, do the following:

- Replace references to “intoxicating liquor” with “alcoholic liquor” and define that term as it is in Section 1d of the Michigan Vehicle Code.
- Prohibit a person from operating an ORV, watercraft, or snowmobile with a bodily alcohol content (BAC) of 0.08 grams or higher or any bodily amount of a Schedule 1 controlled substance or cocaine. This would be in addition to the current prohibitions on being under the influence of alcohol or a controlled substance or both and of operating a vehicle or vessel while visibly impaired from the consumption of alcohol or a controlled substance or both.
- Prohibit the owner or person in charge of an ORV, watercraft, or snowmobile from allowing another person to operate the vehicle or vessel while having a BAC of 0.08 grams or higher; any bodily amount of a Schedule 1 controlled substance or cocaine; or while the person’s ability to operate the vehicle or vessel was visibly impaired due to the consumption of alcohol, a controlled substance, or a combination of both. This would be in addition to the current prohibition on being under the influence of alcohol or a controlled substance or both.
- Change all current references to a BAC of 0.10 grams to a BAC of 0.08 grams.

- Delete language pertaining to legal presumptions. Currently, if at the time of the offense the person had a BAC of 0.07 grams or less, he or she is presumed not to be impaired. A BAC of more than 0.07 grams but less than 0.10 is presumed to be impaired. A BAC of 0.10 or more is presumed to be under the influence. (Identical presumptions contained in the Michigan Vehicle Code were eliminated by Public Act 61 of 2003.)
- Delete the definition of “serious impairment of a body function” and replace it with the definition contained in Section 58c of the Michigan Vehicle Code.
- Increase the suspension of a person’s right to operate an ORV or watercraft for unreasonably refusing to submit to a chemical test from six months to one year for a first refusal, and from one year to two years for a second or subsequent refusal within seven years. (A similar provision in the act regarding snowmobiles was not amended by House Bill 4616.)
- Add a mechanism for an appeals process for a person aggrieved by a final determination by the secretary of state for operators of ORVs that is identical to the appeals process in place for operators of snowmobiles and watercraft. House Bill 4614 would also add a provision to allow a peace officer to petition the circuit court to review the determination of a hearing officer if, after an administrative hearing, the person who refused the chemical test prevailed. This also is identical to provisions pertaining to snowmobiles and watercraft.

House Bill 4614 would amend provisions pertaining to ORVs (MCL 324.81101 et al.). House Bill 4615 would amend provisions pertaining to watercraft (MCL 324.80101 et al.). House Bill 4616 would amend provisions pertaining to snowmobiles (MCL 324.82101 et al.).

FISCAL IMPACT:

These bills would not have a fiscal impact on the State of Michigan. There may be an indeterminate fiscal impact if the change in the blood alcohol threshold leads to an increase in the number of arrests and thereby an increase in fine revenue to local libraries.

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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.