



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5125 (Substitute H-3 as passed by the House)
Sponsor: Representative Goeff Hansen
House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 5-22-06

CONTENT

The bill would amend Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act to revise the procedure by which special rules may be established for the use of certain watercraft on a particular body of water, and allow a political subdivision to appeal a determination by the Department of Natural Resources (DNR) that special rules are not needed to the Natural Resources Commission.

The bill would take effect on January 1, 2007.

Part 801 authorizes the DNR to initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aqua planes, surfboards, or similar devices on any waters of the State. The bill specifies that the DNR could investigate and inquire into the need for these special rules to assure compatibility of uses or to protect public safety.

Part 801 requires that a local ordinance be prepared if controls for the specified activities are considered necessary, or a change or amendment to or repeal of an existing local ordinance is required. The bill would delete this provision.

Under Part 801, political subdivisions that believe that special local ordinances are needed on waters subject to their jurisdiction must inform the DNR and request assistance in the form of an official resolution approved by a majority of the governing body. Upon receiving the resolution, the DNR must proceed as required under Part 801. The bill would require that a public hearing on the resolution be held before it could be approved.

Under the bill, if the DNR received a resolution from a local political subdivision requesting assistance, it would have to initiate an investigation and inquiry into whether special rules were needed on a particular body of water, including a consideration of all of the following:

- Whether the activities subject to the proposed special rules posed any issues of safety to life or property.
- The profile of the water body, including local jurisdiction, size, geographic location, and amount of vessel traffic.
- The current and historical depth of the water body, including whether there was an established lake level.
- Whether any identifiable special problems or conditions existed on the water body for the activities subject to the proposed rules, such as rocks, pier heads, swimming areas, public access sites, shallow waters, and submerged obstacles.
- Whether the proposed special rules unreasonably would interfere with normal navigational traffic.

- Whether conflicts on the water body existed.
- Complaints received by local law enforcement agencies regarding activities on the water body.
- The status of any accidents that had occurred on the water body.
- Historical and potential future uses of the water body.
- Whether the water body was public or private.
- Whether existing law adequately regulated the activities subject to the proposed special rules.

After its investigation and inquiry were completed, the Department would have to prepare a preliminary report that included its evaluation of the specified information and its preliminary recommendation as to whether special rules were needed for the water body. The DNR would have to give a copy of the preliminary report to the political subdivision that had waters subject to its jurisdiction for which the proposed special rules were being considered. The DNR also would have to schedule a public hearing in the vicinity of the water body to gather public input on the report and the need for special rules.

Under Part 801, notice of a public hearing on the need for special rules must be made in a newspaper of general circulation in the area in which the local ordinance is to be imposed, amended, or repealed, at least 10 calendar days before the hearing. Interested people must be afforded an opportunity to present their views on the proposed ordinance, either orally or in writing. The bill would refer to the area where the water body was located, rather than the area in which the local ordinance is to be imposed, amended, or repealed. The bill provides that people would have to be afforded an opportunity to present their views on the preliminary report and the need for special rules, rather than on the proposed ordinance.

Under the bill, within 90 days after the public hearing, if the DNR determined that there was a need for special rules for the water body, it would have to propose a local ordinance or appropriate changes to a local ordinance. If the DNR determined that there was not a need for special rules, it would have to notify the political subdivision that had waters subject to its jurisdiction and provide the specific reasons for the determination. The political subdivision could appeal that a determination to the Natural Resources Commission, which would have to make the final agency decision on the need for special rules for a water body.

Under Part 801, after the public hearing, a proposed local ordinance must be submitted to the governing body of the political subdivision in which the controlled waters lie. Within 60 calendar days, the governing body must inform the DNR that it approves or disapproves of the proposed ordinance. If the governing body disapproves the proposed ordinance, or if the 60-day period elapses without a reply from the governing body, no further action is taken. If the governing body approves the ordinance, it must be enacted identical in all respects to the ordinance the DNR proposed. The bill specifies that after the local ordinance was enacted, it would have to be enforced as provided for in Section 80113. (Under that section, State, county, and local peace officers must enforce local ordinances enacted in accordance with Part 801.)

Proposed MCL 324.80110-324.80112

Legislative Analyst: Julie Koval

FISCAL IMPACT

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

Fiscal Analyst: Jessica Runnels

S0506\5125sa

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.