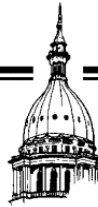




Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 821 (as enacted)
Sponsor: Senator John Moolenaar
Senate Committee: Outdoor Recreation and Tourism
House Committee: Natural Resources, Tourism, and Outdoor Recreation

PUBLIC ACT 294 of 2012

Date Completed: 6-25-13

CONTENT

The bill amended Part 445 (Charter and Livery Boat Safety) of the Natural Resources and Environmental Protection Act to do the following:

- **Exclude a nonmotorized canoe or kayak from the definition of "navigable waters livery boat".**
- **Revise the information included in a boat livery permit application concerning the types of boats available for rent.**
- **Revise a provision under which an owner of a nonmotorized livery boat remains liable for injury to or death of a user of the boat.**

The bill also amended provisions in Part 5 (Department of Natural Resources) concerning a limit the acquisition of surface rights to land north of the Mason-Arenac line.

The bill took effect on August 1, 2012.

Navigable Waters Livery Boat

Part 445 prohibits the operation of boat liveries without a permit, requires the inspection of motorized livery boats by county sheriffs and deputy sheriffs, and requires an inspection decal, plate, or tab to be affixed to each boat that passes the inspection. If a livery rents or offers to rent a navigable waters livery boat, the Department of Natural Resources (DNR) and a conservation officer must perform the duties of a sheriff or deputy sheriff. An inspection of a navigable waters livery boat must be a comprehensive dockside inspection, and the inspection fee is \$100.

Part 445 defines "navigable waters livery boat" as a livery boat that is more than 20 feet in length and is rented or offered for rent for use on navigable waters (those waters of the State over which the State and the U.S. Coast Guard exercise concurrent jurisdiction, including the Great Lakes and waters connected to them). Under the bill, this definition does not include a nonmotorized canoe or kayak.

Livery Permit Application

Part 445 specifies that information that the application for a boat livery permit must contain. Previously, this included the number and types of livery boats available for rent, including whether they were motorized. Under the bill, the application must specify the number of each of the following available for rent:

- Motorized livery boats, other than navigable waters livery boats.
- Nonmotorized livery boats, other than navigable waters livery boats.
- Navigable waters livery boats.

Livery Owner Liability

Part 445 provides that an owner of a nonmotorized livery boat is not liable for an injury to or the death of a user of the boat resulting from a "risk inherent in the use or operation of a nonmotorized livery boat". That phrase means a danger or condition that is an integral part of the use or operation of the boat and is limited to conditions or events specified in the Act, e.g., water motion, weather conditions, or contact with another vessel. The conditions also include having on board a number of people or weight of

people, gear, and other items in excess of the maximum approved for the boat, except under specified circumstances. Under the bill, these conditions are as follows:

- The owner of a nonmotorized livery boat knowingly relinquished physical control of the boat to a user of the boat with a number of people or weight of people, gear, and other items on board that exceeded the approved maximum, or did not properly inform the user of the maximum weight or number of people approved for it.
- The nonmotorized livery boat did not display the maximum number of people or the maximum weight of people, gear, or other items permitted to be carried on board when the boat livery owner relinquished physical control of the boat to a user of the nonmotorized livery boat.

Previously, the first condition applied if the owner knowingly allowed the livery boat to leave the livery's premises (rather than relinquished physical control of the boat to a user) with an excess number of people or excess weight, or did not properly inform the user of the maximum approved for the boat.

In addition, the second condition previously applied when the livery owner relinquished physical control of the boat to the renter or an individual in the renter's party (rather than to a user of the boat).

(Part 445 defines "user of the nonmotorized livery boat" as an individual who participates in the use or operation of the boat regardless of whether or he she rented it.)

Surface Rights Limit

Part 5 limits the DNR's acquisition of surface rights to land and requires the Department, by October 1, 2014, to develop a strategic plan to guide the acquisition and disposition of State land managed by the Department. The DNR must submit the plan to the Senate and House standing committees with primary responsibility for natural resources and outdoor recreation, and the corresponding Appropriation subcommittees.

Before May 1, 2015, the DNR may not acquire surface rights to land if the Department owns or, as a result of the

acquisition will own, the surface rights to more than 4,626,000 acres of land.

Beginning May 1, 2015, the DNR may not acquire surface rights to land north of the Mason-Arenac line if the Department owns, or as a result of the acquisition will own, the surface rights to more than 3,910,000 acres north of that line. Under the bill, this limitation does not apply after the enactment of legislation adopting the strategic plan. Previously, Part 5 stated legislative intent to remove this limitation if the Legislature approved the strategic plan.

Part 5 also prohibits the DNR from implementing the strategic plan as it applies to land north of the Mason-Arenac line. Under the bill, this prohibition does not apply after the enactment of legislation adopting the strategic plan. Previously, Part 5 stated legislative intent to remove this prohibition if the Legislature approved the strategic plan.

(The Mason-Arenac line is the line formed by the north boundaries of Mason, Lake, Osceola, Clare, Gladwin, and Arenac Counties.)

MCL 324.503 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

Fiscal Analyst: Josh Sefton

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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.