

# Legislative Analysis



## ALLOW TEMPORARY VESSEL SPEED LIMITS DURING HIGH WATER CONDITIONS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5401 (proposed substitute H-1)**

**House Bill 5402 (proposed substitute H-1)**

**Sponsor: Rep. Gary R. Eisen**

**Committee: Natural Resources and Outdoor Recreation**

**Complete to 2-11-20**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 5401 would amend the Natural Resources and Environmental Protection Act (NREPA) to allow the Department of Natural Resources (DNR), county emergency management coordinator, or county sheriff to set temporary vessel speed limits during high water conditions and to establish fines for violations. House Bill 5402 would amend the Revised Judicature Act to classify a violation of an ordinance under HB 5401 as a civil infraction or municipal civil infraction.

Currently under NREPA, the DNR may establish boating speed limits for Michigan waters. Any area of water that does not have a speed limit established by the DNR has a default speed limit of 55 miles per hour. However, a local unit of government that has jurisdiction over waters in Michigan can request that the DNR reduce the boating speed limits on those waters to 40 miles per hour or less.

House Bill 5401 would amend Part 801 (Marine Safety) of NREPA to change “motorboat” to “vessel” for purposes of these provisions. (As defined in the act, “vessel” means every watercraft used or capable of being used for transportation on water). The bill would allow a county or municipality, to protect life and property during emergency high water conditions, to request the DNR or applicable county emergency management coordinator or sheriff to establish by order a temporary maximum vessel speed limit for Michigan waters located in or adjacent to the county or municipality. The bill would also specify that the request or order could not prohibit use of any type of vessel. The order would be in effect for up to 14 days, could be reissued once per calendar year, and would have to specify a maximum fine, up to \$500, for its violation.

The DNR, emergency management coordinator, or county sheriff, as applicable, would have to do both of the following:

- Post the speed limit, maximum fine, and a description of the affected waters on its website.
- Erect signs at boating access sites and marinas in the affected area, or place buoys, sufficient to advise vessel operators of the speed limit. An emergency management coordinator or sheriff would have to consult with the DNR before placing buoys. The requirement for a permit to place a buoy under section 80159 of NREPA would not apply to buoys placed during emergency high water conditions, and the DNR could not order removal of such buoys because a permit had not been issued.

A person who *violated a speed limit established by the DNR* would be subject to a state civil infraction and a civil fine as specified by the department. A person who *violated a temporary vessel speed limit established by an emergency management coordinator or sheriff* would be

subject to a municipal civil infraction and a civil fine as specified by the emergency management coordinator or sheriff.

The bill would also make editorial, rather than substantive, changes for consistency and clarity.

MCL 324.80146

**House Bill 5402** would amend the Revised Judicature Act (RJA) to update its definitions of “civil infraction” and “municipal civil infraction” to include a violation of an *ordinance*, which would itself be defined to include a temporary vessel speed limit established by a county emergency management coordinator or sheriff under NREPA, as described above.

Additionally, the RJA states that the plaintiff in a municipal civil infraction action is the political subdivision whose ordinance has been violated. The bill would add that, if the ordinance was an order of the county emergency management coordinator or sheriff under NREPA, as described above, then the county or municipality that requested the order would be considered the political subdivision whose ordinance has been violated.

MCL 600.113, 600.8701, and 600.8703

The bills are tie-barred to one another, which means that neither could take effect unless both were enacted.

#### **FISCAL IMPACT:**

House Bill 5401 may increase law enforcement costs for the DNR by providing for the implementation and enforcement of temporary motorboat speed limits during high water conditions; however, these limits would not be mandatory under the bill. The bill allows for temporary speed limit enforcement “on water of this state;” the department’s conservation officers are responsible for enforcing laws and regulations related to outdoor recreation activities in Michigan. The extent of this potential cost increase is unclear; departmental law enforcement is already monitoring state waters and enforcing watercraft regulations. There are 235 conservation officers funded by a gross appropriation of \$44.8 million in FY 2019-20. The department may also incur additional costs related to notification of speed limits in the form of signs or buoys publicizing temporary speed limits. The bill is unlikely to generate revenue for the department.

Local governments may realize additional costs similar to the aforementioned for DNR. Local law enforcement agencies vary in the extent to which they patrol waters adjacent to their respective jurisdictions and the bill allows these local agencies to be assisted by the department.

House Bill 5402 would have no fiscal impact on state or local governments.

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