

ALLOW TEMPORARY BOATING SPEED LIMITS DURING HIGH WATER CONDITIONS

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House Bills 5401 and 5402 as introduced

Sponsor: Rep. Gary R. Eisen

Committee: Natural Resources and Outdoor Recreation

Complete to 1-28-20

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

SUMMARY:

House Bill 5401 would amend Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act (NREPA) to allow the Department of Natural Resources (DNR) or county sheriff to set temporary motorboat speed limits during high water conditions and to establish fines for violations. House Bill 5402 would amend the Revised Judicature Act (RJA) 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 add that, to protect life and property during high water conditions, a county or municipality could request the DNR or applicable county sheriff to establish by order a temporary maximum motorboat speed limit for Michigan waters located in or adjacent to the county or municipality. The order would be in effect for up to 14 days, unless reissued, and would have to specify a maximum fine, up to \$500, for its violation.

The DNR or county sheriff, as applicable, would have to post the speed limit, maximum fine, and a description of the affected waters on its website. A person who *violated an order of the DNR* would be subject to a state civil infraction and a civil fine as specified in the order. A person who *violated an order of a sheriff* would be subject to a municipal civil infraction and a civil fine as specified in the order.

Additionally, the bill would make editorial changes for consistency and clarity.

MCL 324.80146

House Bill 5402 would amend the RJA to update the act's definitions of "civil infraction" and "municipal civil infraction" to include a violation of an *ordinance*, which would itself be defined to include an order of a county 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 sheriff under NREPA, as described above, then the

political subdivision whose ordinance has been violated would be considered to be the county or municipality that requested the order.

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 would have an indeterminate fiscal impact on the state and on local units of government. The bill authorizes the department or the county sheriff for the county or municipality to establish a temporary maximum speed limit during high water conditions. So, if an order for such a speed limit is established, an individual who violates an order written by the department would be responsible for a state civil infraction, whereas an individual who violates an order written by the county sheriff would be responsible for a municipal civil infraction. Under section 8831 of the RJA, revenue from a civil fine ordered for violation of a state statute would increase funding for public libraries and county law libraries, which are the constitutionally designated recipients of those revenues. Under section 8727, revenue from a fine imposed for a municipal civil infraction would be payable to the general fund of the sheriff. Section 8727 also requires the judge to order the defendant to pay a justice system assessment of \$10, to be deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

House Bill 5401 may also 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 bill is unlikely to generate revenue for the department.

Local governments may realize additional law enforcement costs similar to the aforementioned for the 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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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.