



House  
Legislative  
Analysis  
Section  
Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## BOATING VIOLATIONS: STATE CIVIL INFRACTIONS

House Bill 4505 (Substitute H-2)  
House Bill 4506 (Substitute H-1)  
House Bill 4507 (Substitute H-3)

First Analysis (9-13-95)

Sponsor: Rep. David M. Gubow  
Committee: Judiciary and Civil Rights

### ***THE APPARENT PROBLEM:***

Prior to 1978, Michigan law did not recognize non-criminal violations of state laws. However, in 1978, a package of legislation (Public Acts 510 through 517) was enacted that decriminalized certain minor traffic and parking offenses by making these offenses "civil infractions" rather than misdemeanors. "Civil infraction" originally was defined in the same way in both the Michigan Vehicle Code [MCL 257.6a] and in the Revised Judicature Act [MCL 600.113] in 1978, to mean "an act or omission prohibited by law which is not a crime as defined in [the penal code], and for which civil sanctions may be ordered." (The Michigan Penal Code defines "crime" to mean "an act or omission forbidden by law which is not designated as a civil infraction, and which is punishable upon conviction by any [one] of the following: (a) imprisonment, (b) fine not designated a civil fine, (c) removal from office, (d) disqualification to hold an office of trust, honor, or profit under the state, (e) other penal discipline.")

Over the years, since the laws creating traffic civil infractions took effect in 1979, various other statutes have been amended to create a variety of other, non-traffic civil infractions (or, in a number of cases, their close cousins, "civil violations"). Most of the statutory amendments creating non-traffic civil infractions were enacted in the years between 1988 and 1992. But during the 1993-94 legislative session two separate packages of legislation were enacted that created a major new kind (and a subcategory of this new kind) of civil infraction, namely, "municipal civil infractions." In 1993, Public Acts 26 to 28 (enrolled Senate Bills 203, 204, and 225) authorized a statewide recreational trailways system, and, in response to concerns over the use of motorized vehicles on such trailways, the legislature also enacted Public Act 82 to 90 (enrolled House

Bills 4350 and 5177 and enrolled Senate Bills 312 to 316, 414 and 415) to allow local units of government to establish "trailways municipal civil infractions" for such activity. During the same session, the legislature also passed two sets of legislation (of which the bills in the first set were either vetoed by the governor or tie-barred to the vetoed legislation) to create "municipal civil infractions" and to establish procedures for processing and enforcing such violations.

Then in 1995, the Revised Judicature Act (RJA) was amended (by Public Act 54, enrolled House Bill 4426) to create yet another kind of civil infraction, "state civil infractions," and to establish procedures for processing and enforcing such infractions. The RJA definition of "civil infraction" also was amended to include "municipal civil infractions" (and their subcategory, "trailway municipal civil infractions"), so that it now differs from the vehicle code definition by defining "civil infraction" to mean "an act or omission that is prohibited by a law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance, and for which civil sanctions may be ordered." The definition of "civil infraction" specifically includes, but is not limited to, traffic or parking violations (under various state laws, including the Michigan Vehicle Code), municipal civil infractions, and state civil infractions.

In the 1993-94 legislative session, a package of bills (House Bills 4639-4641) was proposed to add a fourth category of civil infractions, "marine law civil infractions," that would have decriminalized minor boating offenses in much the same way as the 1978 legislation decriminalized minor traffic and parking violations. The bills passed the House but died in the Senate.

House Bills 4505-4507 (9-13-95)

Similar legislation to decriminalize certain boating violations has been reintroduced this session.

### ***THE CONTENT OF THE BILLS:***

The bills would amend three acts -- the Natural Resources and Environmental Protection Act, the Code of Criminal Procedure, and the Revised Judicature Act -- to define certain boating offenses as state civil infractions and to specify procedures for issuing and processing these infractions.

#### Marine law violations: state civil infractions.

Currently, all violations of the marine safety part (part 801 of subchapter 5) of the Natural Resources and Environmental Protection Act (Public Act 58 of 1995, enrolled House Bill 4349) are misdemeanors, unless otherwise specified in the act [section 80171]. (This part of NREPA formerly was the Marine Safety Act, Public Act 303 of 1967.) The act does list several felonies and one civil infraction. The only civil infraction currently specified in the act is the refusal to submit to a preliminary chemical breath analysis upon the lawful request of a peace officer [section 80180], and is punishable by a civil fine of not more than \$100. The act also specifies several felony violations: drunk boating that results in death or serious ("long-term incapacitating") injury [section 80176]; third (and subsequent) convictions within a ten year period for drunk boating [section 80177]; and an offense called "felonious boating" (which involves operating a vessel "carelessly and heedlessly in wilful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injures so as to cripple any person, but not causing death" [section 80173]). The act also defines [section 80131] a "felony in which a vessel was used," to mean a felony, during the commission of which, the person committing the felony operated a vessel, and, while operating it, "presented real or potential harm to persons or property" under one of four circumstances: the vessel either was necessary for committing the felony or was used as an instrument of the felony, to transport a victim of the felony, or to flee the scene of the felony.

House Bill 4507 would amend the Natural Resources and Environmental Protection Act (MCL 324.80101 et al.) to define "state civil infraction" to

mean "an act or omission prohibited by marine law that [was] subject to a civil sanction, but that [was] not a crime as defined in [the penal code]," to make certain violations that currently are misdemeanors state civil infractions, and to establish procedures for issuing citations for, and processing, marine law infractions that were state civil infractions.

The bill would make the following violations of the act "state civil infractions" rather than misdemeanors:

- (1) Failure to present a vessel's certificate of number upon the request of a peace officer;
- (2) Failure to properly paint or attach the number from a vessel's certificate of number on the vessel, or to keep the number legible;
- (3) Failure to properly display required decals;
- (4) Failure to notify the secretary of state of a change of address;
- (5) Failure to use required flotation devices;
- (6) Violations of passing and right of way rules;
- (7) Failure to operate vessels in "a careful and prudent manner" and at a safe stopping speed;
- (8) Speeding violations;
- (9) Failure to operate at slow-no wake speed under specified circumstances;
- (10) Failure to operate counter-clockwise in certain waters and failure of water skiers to maintain a 100-foot distance from docks, rafts, buoyed or occupied bathing areas, and moored or anchored vessels;
- (11) Operating in prohibited areas;
- (12) Water skiing, sledding, or surfboarding after dark;
- (13) Water skiing, sledding, or surfboarding without a required observer or proper rear-view mirrors;
- (14) Interfering (including intentionally rocking, tipping, or jostling) with the operation of a vessel by someone outside the vessel;

(15) Failure of divers to place the proper buoys or flags and of divers and other vessels to maintain the proper distance from such buoys or flags;

(16) Violations of provisions regulating the placement of buoys or beacons;

(17) Violations of administrative rules promulgated under the bill or of local ordinances enacted in accord with existing sections of marine law allowing special rules and changes in ordinances regulating the use of watercraft; and

(18) Violations of the regulations regarding swimming at public beaches.

Citations: definition and form. The bill would define "citation" and establish procedures for issuing and tracking citations paralleling existing procedures in the Michigan Vehicle Code. A "citation" would mean "an original and [three] copies of a written notice to appear [in court], . . . upon which a peace officer record[ed] an occurrence of a person's alleged violation of a marine law." ("Citation" is defined in the state civil infractions chapter, Chapter 88, of the Revised Judicature Act to mean "a written complaint or notice to appear in court upon which a law enforcement officer records the occurrence or existence of [one] or more state civil infractions by the person cited.")

The form of the citation would have to be approved by the secretary of state, attorney general, state court administrator, and the director of the Department of State Police. The original would be filed with the court, the first copy would (presumably) be kept by the law enforcement agency, the second copy would be issued to the alleged violator if the violation were a misdemeanor, and the third copy would be issued to the alleged violator if the violation were a state civil infraction.

Each citation would have to contain the following information: the name of the plaintiff (the state or the political subdivision); the name and address of the person to whom the citation was issued; the alleged marine law violation; the place where, and the time at which, the person was required to appear; and the court's telephone number.

The citation also would have to inform the alleged violator that he or she could do one of three things by the time specified on the citation for appearance in court:

(1) Admit responsibility for the state civil law infraction (in person, by "representation," or by mail);

(2) Admit responsibility for the state civil infraction "with explanation" in person, by representation, or by mail (the citation could specify a hearing date; in any case, it would have to inform the person that if he or she wanted to admit responsibility "with explanation" other than by mail or wanted to have a hearing, he or she would have to apply to the court -- in person, by mail, or by telephone -- before the specified appearance date and obtain a scheduled date and time to appear for a hearing);

(3) Deny responsibility for the state civil law infraction by doing one of two things: (a) Appear in person, without being represented by an attorney, for an informal hearing before a district court magistrate or a judge; or (b) appear in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

Each citation also would have to contain a notice in boldfaced type that failure to appear as required would result in a default judgment against the person cited. The requirement for "timely appearance" would be met by applying to the court for a hearing (made before the specified appearance date) or by returning the citation with full payment of applicable civil fines and costs.

A complaint signed by a peace officer would be treated as made under oath under the following circumstances: the violation alleged in the complaint (a) was either a state civil infraction or a minor offense (as defined in the Code of Criminal Procedure) and (b) occurred or was committed in the officer's presence (or under circumstances that allowed the officer to issue a citation under the bill), and (c) the complaint contained a statement immediately above the date and signature of the officer that said "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

Citation records. Books of consecutively numbered citations would be issued to peace officers whose duties could or would include enforcement of marine law. ("Peace officer," under NREPA, includes sheriffs and sheriffs deputies (including certain special deputies authorized to enforce marine safety laws), village or township marshals, any municipal police officers, state police officers,



the director of the DNR and conservation officers employed by the DNR.) Citation books would be issued by police chiefs, sheriffs, the director of the Law Enforcement Division of the Department of Natural Resources (DNR), and the director of the Department of State Police (who also would obtain receipts from each officer to whom a citation book was issued).

Within 48 hours after going off duty, a peace officer who had issued a marine law violation citation would be required to deliver all copies of the citation ("duly signed") to either the officer's police chief or to someone authorized by the police chief to receive citations. Within three days of the date of the citation (excluding Saturdays, Sundays, and legal holidays) the police chief (or the person authorized by him or her) would be required to deposit the citation with the court having jurisdiction over the offense. "Depositing" a citation with a court could be done by mailing the original of the citation by first class mail to the court not later than two days after the date of the citation.

If a citation were spoiled, mutilated, or voided, the issuing peace officer would have to endorse it with a statement fully explaining its condition and provide his or her chief officer (or that officer's authorized designee) with the statement.

As in the case of the traffic violations of Michigan Vehicle Code, the state treasurer would be required to establish procedures to ensure the accountability of all jurisdictions processing marine law violation citations. Citation records and notices would have to be made available for public inspection, with the records (showing the issuance and subsequent disposition) being maintained ("complete") for at least five years. The fiscal officer of the local unit of government would be required to conduct a complete audit of citation records at least every year, and the state treasurer could audit the citations records at any time.

It would be a misdemeanor, punishable by imprisonment for up to one year or a fine of up to \$500 (or both), to do any of the following:

- \* knowingly falsify a citation or copies of a citation, or a record of the issuance of a citation;
- \* knowingly dispose of a citation, copy, or record other than as required in the bill;

\* attempt to incite or procure someone else to falsify or incorrectly dispose of citations, copies, or records.

Issuing citations. A peace officer would be authorized to issue citations for marine law violations that were civil infractions under the following circumstances: (a) if the peace officer witnessed someone committing a marine law violation which was a civil infraction, (b) if, based on personal investigation, the peace officer had reasonable cause to believe that the operator of a vessel involved in an accident was responsible for a state civil infraction in connection with the accident, or (c) if, based on the peace officer's personal investigation of a complaint by a witness to an alleged marine safety violation, the officer had reasonable cause to believe that the operator of a vessel was responsible for a marine law civil infraction and the officer had written approval from the prosecuting attorney (or the attorney for the political subdivision having jurisdiction) to issue the citation. The officer would be required to inform the person of the alleged marine law civil infraction(s) and to deliver the third copy of the citation to the alleged offender. (The bill also would allow a peace officer who witnessed someone committing a marine law civil infraction (a) to direct the person to either bring their vessel to a stop or to maneuver it in a manner that permitted the officer to come alongside, (b) to detain the person temporarily to make a record of the vessel check, and (c) pursue, stop, and detain the person outside the political subdivision where the violation occurred to issue a citation.)

Nonresidents. Nonresidents who were stopped or detained by a peace officer for a state civil infraction under the bill who had with them an identification document would have that document taken by the peace officer as security for the nonresident's appearance in court and satisfaction of any order that might be issued. The officer would issue a citation and, within 48 hours of taking the identification document, would deliver the document to the court (or to the applicable chief police officer or person authorized by the chief police officer to receive citations and identification documents). If the identification document were delivered to the chief police officer, he or she would be required to deposit the document and citation with the court in accordance with the bill's requirements for citations. Failure to deliver the identification document would be contempt of court.

Instead of surrendering an identification document (or before appearance in court), a nonresident could guarantee his or her appearance by leaving (with the officer or the court) either a guaranteed appearance certificate or a sum of money not more than \$100. (The bill would define "guaranteed appearance certificate" to mean "a card or certificate containing a printed statement that a surety company authorized to do business in this state guarantee[d] the appearance of the person whose signature appear[ed] on the card or certificate, and that the company, if the person fail[ed] to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed [under the bill], [would] pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed \$200.")

If a judge or district court magistrate was available for an immediate appearance, and a nonresident to whom a citation had been issued demanded an immediate hearing, the peace officer would have to take the nonresident before the judge or magistrate immediately for a hearing on the alleged state civil infraction. After completion of the hearing or after the nonresident admitted responsibility, the court would have to return the nonresident's identification if any of the following occurred: (a) judgement was entered for that person; (b) an adverse judgement against that person was satisfied; or (c) the person provided the court with a guaranteed appearance certificate or a sum of money not to exceed \$100 as security for payment of any fines or costs ordered.

If the nonresident defendant requested a formal hearing, the court would have to schedule a hearing as provided by the Revised Judicature Act, but would keep his or her identification document until final resolution of the matter unless he or she left a guaranteed appearance certificate or a deposit of money.

An officer receiving a guaranteed appearance certificate or deposit of money would be required to (a) give the person a receipt and a written citation, and (b) within 48 hours of receipt, deposit the certificate or money with the court, the chief officer of his or her department, or the authorized agent of his or her chief officer. As in the case of citations and identification documents, the chief officer (or his or her authorized agent) would have to deliver a certificate or sum of money to the court in the same manner as prescribed in the bill for delivering

citations, and failure to deliver certificates or deposits of money in compliance as required would be embezzlement of public money.

If someone who posted a guaranteed certificate or deposit failed to appear as required, the court would enter a default judgment against him or her, and he or she would forfeit the certificate or the money deposited. The court would have to apply any forfeited money to any civil fine or costs ordered under the bill.

Penalties. Anyone found to be responsible (or responsible "with explanation") for a state civil infraction could be ordered by the court to pay a civil fine of not more than \$100. However, if someone was cited for not producing a certificate of number when requested by a peace officer, the court would be required to waive any fines and costs if the person subsequently presented a certificate of number, that was valid on the date of the violation, to the law enforcement agency before the appearance date on the citation.

Libraries. Civil fines ordered under the bill (or a rule promulgated under the bill) would be exclusively applied to the support of public libraries and county law libraries in the same manner as is provided by law for criminal fines imposed for violations of state penal laws. This provision would be expressly intended to maintain a source of revenue for public libraries that previously received criminal fines for the misdemeanor violations that the bill would change to civil infractions.

Other provisions. Under the bill, a marine law violation that was designated a state civil infraction would not be a lesser included offense of a criminal offense.

If a peace officer issued a citation under the section of the act regulating warrantless arrests for misdemeanors [section 80168] for a misdemeanor punishable by imprisonment for not more than 90 days, the court could accept a plea without receipt of the sworn complaint, but could not make a docket return on the complaint until the officer signed the complaint. If the defendant pled not guilty, the court could not hold further proceedings until a sworn complaint was filed with the magistrate or judge. A court also couldn't issue an arrest warrant to a person so cited until a sworn complaint against the person was filed.

The bill would delete the existing definition of "long term incapacitating injury" and instead define (and use in its place) "serious impairment of a body function." Currently, the act says that someone who causes a long term incapacitating injury while "drunk boating" is guilty of a felony. The bill would substitute "serious impairment of a body function" for "long term incapacitating injury" and define the latter to include, but not be limited to, one or more of the following: loss of (or loss of the use of) a limb, hand, foot, finger, thumb, eye, or ear; loss or substantial impairment of a bodily function; serious visible disfigurement; a comatose state that lasted for more than three days; measurable brain damage or mental impairment; a skull fracture or other serious bone fracture; or subdural hemorrhage or hematoma.

The bill would increase to \$100 (from the current \$25) the maximum amount of money that a nonresident would have to deposit for his or her appearance; the bill also would allow nonresidents to leave a guaranteed appearance certificate instead of a sum of money.

The bill would prohibit political subdivisions from enacting local ordinances that provided a criminal penalty for what would be civil infractions under the bill. Political subdivisions also couldn't impose penalties in excess of those proposed in the bill, nor could they designate as a state civil infraction or a municipal civil infraction anything that was a felony or misdemeanor under the bill or act. Local ordinances in conflict with the bill or the act would be void to the extent of the conflict.

A court that collected an administrative order processing fee [under section 80193] would be required to send 60 percent of the collected amount to the secretary of state to defray expenses he or she incurred under the act.

**Grandfather clause.** Section 4a of chapter 1 of the Revised Statutes of 1846 (MCL 8.4a) -- which provides that repeal of laws or parts of laws doesn't exempt people from having to pay penalties incurred under the repealed law unless the repealer explicitly says it does -- would apply to violations of the marine safety part (part 801) of the Natural Resources and Environmental Protection Act (and to violations of local ordinances substantially corresponding to NREPA) if the violation:

- (a) occurred before the effective date of the bill and
- (b) would otherwise be designated a civil infraction under the bill.

**Repealer.** The bill would repeal the section of the act [80153] that prohibits people from sitting, standing, or walking on any part of a vessel, operated on the waters of the state, that wasn't specially designed for that purpose.

**House Bill 4505** would amend the Revised Judicature Act (MCL 600.113 et al.) to define "state civil infraction" to include not only civil infractions involving violations of state laws that are designated by statute as state civil infractions, but also civil infractions involving violations of local ordinances that are designated by statute as state civil infractions. The bill also would allow traffic bureaus to accept admissions, and to collect civil fines and costs, not only for traffic civil infractions under the vehicle code but also state civil infractions under the marine safety part of the Natural Resources and Environmental Protection Act (NREPA). Finally, the bill would exempt "drunk boating" (OUIL or OWI) violations (under the marine safety part of NREPA) from the existing jurisdiction and duties of district court magistrates to arraign and sentence for violations of certain laws, though it would allow magistrates to arraign defendants and set bond with regard to these drunk boating violations.

**House Bill 4506.** Currently, the Code of Criminal Procedure (MCL 764.1e) allows complaints signed by peace officers to be treated as made under oath if the alleged offense is either (1) a minor offense committed in the signing officer's presence or (2) a traffic civil infraction under the vehicle code. The bill would amend the code to add state civil infractions committed under the marine safety part of NREPA to the list of offenses for which complaints signed by peace officers would be treated as made under oath.

**Tie bar, effective date.** None of the bills could take effect unless all of the bills were enacted. The bills would take effect on January 1, 1996.

#### **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bills would have indeterminate fiscal implications for the state. (9-5-95)



## **ARGUMENTS:**

### **For:**

Many people believe that it is long past time to change certain minor boating violations from misdemeanors into civil infractions. Currently, all violations of marine safety laws are criminal, that is, either misdemeanors or felonies, despite the fact that most people wouldn't consider many minor violations -- such as failure to properly display required boat decals -- as truly "criminal" acts. In addition to public perceptions about the relative seriousness of certain boating violations, moreover, requiring that even minor boating violations be processed as misdemeanors results in what many believe to be unnecessarily expensive and time-consuming court procedures for boaters, law enforcement people, and local courts. What is more, the number of lakes in Michigan (11,037, according to one report) and the increasing number and variety of users of the state's waterways imposes an ever-increasing burden on sometimes already underfunded and overburdened local law enforcement agencies and local courts.

Rather than creating a separate system of "marine law civil infractions," the bills would designate minor violations of the marine safety part of the Natural Resources and Environmental Protection Act (as well as corresponding local ordinances and marine safety rules of the Department of Natural Resources) as "state civil infractions." The bills would eliminate the need to process these minor violations as criminal offenses, thereby reducing the cost of adjudication and removing criminal sanctions from violations that most people don't think of as criminal. What is more, boaters and law enforcement people alike could benefit from procedures that allowed fines to be paid by mail, and that reserved costly and time-consuming court appearances for contested matters. The change to state civil infractions is highly sensible and long overdue.

### **Against:**

Changing misdemeanors to civil infractions with no other guarantees of accountability would only remove what little deterrent now exists. There should be some way of encouraging compliance with marine safety laws if violations are to be changed to civil infractions. For example, mandatory safety training and operator licensing would encourage accountability and discourage improper behavior whose only punishment otherwise would be a

monetary fine. Unless such mechanisms are put in place, violations of minor marine safety laws should remain misdemeanors.

### **Response:**

Because minor violations of marine law would be considered state civil infractions, the "accountability mechanism" for these marine law violations would be that specified in the law for state civil infractions, namely, driver's license sanctions. Failure to respond to a citation would result in the defendant's being unable to obtain or renew his or her driver's license.

### **Reply:**

As has been pointed out in other instances when driver's license sanctions have been proposed as an enforcement mechanism for non-driving offenses, this effectiveness of this approach is questionable. For one thing, using driver's license sanctions as an enforcement mechanism creates a system of unequal punishment: people with driver's licenses are subject to sanctions to which those without licenses are immune. Many people also believe that driver's license sanctions should be reserved for driving violations, and that it is unfair and illogical to use such sanctions for non-driving offenses. Finally, however, not only are driver's license sanctions ineffective when applied to nondrivers; such sanctions appear to be fairly ineffective at getting licensed drivers to pay their traffic tickets or obey drunk driving laws. In fact, the secretary of state reportedly has said that up to one-third of drivers facing license suspensions due to traffic violations simply opt to allow their licenses to be suspended rather than go to court. So license sanctions have hardly been ideal enforcement mechanisms even in the case of licensed drivers found responsible for traffic violations.

### **Against:**

While the bills may make some needed changes to simplify the enforcement of the state's marine law, they entirely fail to address one of the most pressing of the current problems with boating violations: irresponsible operators of personal watercraft (PWCs). PWCs (also commonly known by the trademark name "Jet Skis") reportedly are the fastest growing segment of the recreational boating industry. According to one report, in Michigan alone there are some 50,000 registered PWCs, with sales of these little "motor scooter" boats up 33

percent in 1994. PWCs are small, fiberglass, single- or two-person boats that are more like water scooters, with handlebars similar to those on a snowmobile or motorcycle, than traditional boats. They are smaller, more affordable, and more convenient to store and transport than full-sized boats, and are highly maneuverable on the water. They also are involved in a disproportionate number of boating accidents, running counter to the trend during the past decade of declining fatalities in recreational boating. According to one report, fatalities have fallen by half -- as boat ownership has doubled -- for all boats except PWCs: PWCs account for only five percent of all boats nationwide, but account for nearly half (46 percent) of boating accidents. The situation in Michigan is similar: PWCs make up just five percent of the state's registered boats but they account for between 30 percent and half of boating accidents in the state.

According to testimony presented to the House Judiciary and Civil Rights Committee, PWCs have changed life on the state's waterways -- unfortunately, for the worse. Many people who live on or use the state's lakes or waterways complain that too many jet skiers are reckless, inconsiderate, and a hazard to themselves and others. Although many PWC violations apparently can be attributed to the ignorance of the PWC operator, it also is apparent that not all violators are ignorant of the law: there have been reports of PWC operators who deliberately wait until the overburdened and understaffed local police patrols are elsewhere before going out onto the water so as to avoid possible ticketing for reckless behavior. And even when marine patrols are out on the water, the often underfunded and understaffed sheriffs' departments find it hard to adequately police the rapidly increasing numbers of watercraft users. In addition to the complaints about reckless and hazardous behavior, many complaints also center on the incessant noise pollution caused by PWCs. Reportedly, not only are PWCs on some lakes for up to 18 hours a day in the summer, apparently some jet skiers also start their "season" when the ice first leaves in early spring and stop only when the ice returns around Thanksgiving. Finally, unmonitored public access sites reportedly contribute further opportunities for misuse and abuse of the state's waterways; reportedly, besides unacceptable levels of noise pollution, there also can be significant problems with oil slicks from the

fueling of jet skis. The bills do not address the problems caused by irresponsible and sometimes dangerous jet skiers.

**Response:**

In the first place, the bills, as reported from the House Judiciary and Civil Rights Committee, would keep personal watercraft violations misdemeanors, rather than changing them to civil infractions, so there would still be criminal penalties for PWC violations. But according to many people, the problem with PWCs is not with the machines themselves, or with existing water safety laws; rather, the problem is with ignorant and/or reckless jet ski operators. Since PWCs are so easy and attractive to use, apparently many people who have never operated boats before are going out on PWCs without bothering to learn how to operate them safely and legally. In fact, apparently many people don't even realize that PWCs are classified as a kind of boat, and so unless they already are experienced boaters they don't even think to inform themselves about marine safety laws, let alone follow them. Thus, rather than amending existing marine safety law, perhaps what is needed is some kind of required education program or mandated examination -- like that required of motorists -- before people are allowed to operate boats, including PWCs. In addition, enforcement of existing law could be increased, and prosecution of violations could be prosecuted more vigorously.

**POSITIONS:**

The Department of Natural Resources supports the bills. (8-24-95)

The Michigan Boating Industries Association supports the bills. (8-24-95)

The Michigan Sheriffs Association has no position at this time. (8-22-95)