

Legislative Analysis



ELECTRONIC COPY OF BOATING SAFETY CERTIFICATE

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

House Bill 5836 (H-3) as reported from committee
Sponsor: Rep. Steve Marino

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

House Bill 5988 (H-1) as reported from committee
Sponsor: Rep. Beau Matthew LaFave

House Bill 5989 (H-2) as reported from committee
Sponsor: Rep. Joseph N. Bellino, Jr.

Committee: Natural Resources

Complete to 9-5-18

BRIEF SUMMARY: House Bill 5836 would amend the National Resources and Environmental Protection Act (NREPA) to provide for an electronic copy of a Boating Safety Certificate in a format approved by the Department of Natural Resources (DNR). House Bill 5988 would amend NREPA to incorporate reference to an electronic copy of the certificate. House Bill 5989 would amend the section of NREPA that governs a person's responsibility to display the certificate to a self-identified peace officer upon demand.

FISCAL IMPACT: House Bill 5836 requires the DNR to develop and implement a new process, which is likely to create new costs in the course of development and implementation, but the extent of these costs is unclear at present. House Bill 5988 would not affect costs or revenue for the DNR or local units of government. House Bill 5989 would raise costs for the DNR by requiring the department to develop an electronic method by which individuals could display their respective boating safety certificates. The extent of this cost increase is unclear. (See *Fiscal Information*, below, for further discussion.)

THE APPARENT PROBLEM:

Currently, eligible persons operating a boat must possess a Boating Safety Certificate ("certificate"), which also must be presentable upon the demand of a peace officer. However, the certificates are in paper format, which can be hard to keep dry when operating a boat, even if the certificate is stored in a plastic bag. The bills would allow an electronic form of the certificate to be stored and presented, which also coincides with current technology for car insurance.

THE CONTENT OF THE BILLS:

House Bill 5836 would amend NREPA to provide for an electronic copy of a certificate in a format approved by the DNR.

Marine Safety Act (within NREPA)

The bill would also amend Section 80141 of the Marine Safety Act (“the Act”). Currently, the Act includes graduated age restrictions that apply to motorboat operators under 12 years old and 12 to 15 years old. The bill would provide that the restrictions on those under 12 years old only apply when operating a motorboat powered by a motor or motors totaling more than six horsepower. As in current law, those under 12 would need to be supervised by a person 16 or older. The bill would add a requirement that the person supervising have a boating safety certificate if he or she was born on or after July 1, 1996. It would also remove the requirements that apply to 12- to 15-year-olds, as those individuals would fall under the blanket requirement that all those born on or after July 1, 1996 (who are older than 12 years old) have a certificate.

The bill would require a person operating or supervising the operation of a motorboat to present a certificate or an electronic copy of the certificate upon the demand of a self-identified peace officer.

Additionally, the bill would state that a person displaying an electronic copy of the certificate is not presumed to have consented to a search of the device. Finally, the state, an employee of the state, a peace officer, or the entity employing the peace officer would not be liable for damage to or loss of the device that occurred as a result of showing the certificate, regardless of whether the peace officer was in possession of the device at the time of the damage or loss.

Boating Safety Certificate indication

The bill would require the DNR to develop a process using the Law Enforcement Information Network (L.E.I.N.) system (or another appropriate system that restricts access to only law enforcement) to allow law enforcement agencies to verify that a person has obtained a certificate. The DNR would be required to implement that process in conjunction with the Department of State Police (MSP).

Finally, the bill would repeal Section 80210 of NREPA, which prohibits a person required to complete a boating safety course from operating a personal watercraft in Michigan unless the certificate is in his or her immediate possession.

MCL 324.44522 et al.

House Bill 5988 would amend NREPA to incorporate reference to an electronic copy of the certificate. Currently, if a person required to complete a boating safety course receives a citation for any of the following, the court may waive any fine and costs if the person produces a valid certificate within 10 days of the citation:

- Not having the certificate in his or her immediate possession. (Section 80210)
- Not displaying the certificate upon demand of a self-identified peace officer. (Section 80213, to be amended by HB 5989)
- Violating “Ashleigh Iserman’s Law,” which prescribes graduated age provisions for underage individuals operating a personal watercraft. (Section 80215)

The bill would remove the first provision (as it would be repealed under HB 5836) and would allow a person the option to produce a valid electric copy of the certificate to have any fine or costs waived.

MCL 324.80221

House Bill 5989 would amend the section of NREPA that governs a person's responsibility to display the certificate to a self-identified peace officer upon demand. It would allow the person to display an electronic copy of the certificate in a format approved by the DNR. Additionally, it would require the DNR to approve one or more formats for people to display electronic copies of the certificate no later than March 31, 2019.

The bill would remove provisions that a person must only display his or her certificate upon the peace officer's demand, and that the person must not display a fraudulent certificate. It would retain a prohibition on a peace officer's stopping a personal watercraft solely to check if a person has his or her certificate, and add electronic copy of the certificate to the prohibition.

MCL 324.80213

Tie-bars and effective dates

House Bills 5988 and 5989 are tie-barred to each other and to HB 5836, meaning that all three bills would need to be enacted in order for HB 5988 or 5989 to take effect.

Each bill would take effect 90 days after enactment.

BACKGROUND INFORMATION:

Recent legislation in Michigan has provided for electronic copies of required documents to be used as an alternative to paper copies. Public Act 135 of 2015 (House Bill 4193)¹ allowed drivers to produce a certificate of insurance in electronic form. Public Act 59 of 2017 (House Bill 4013)² allowed drivers to produce electronic copy or digital photograph of a vehicle registration certificate.

FISCAL INFORMATION:

House Bill 5836 requires the Department of Natural Resources to develop and implement a process to allow law enforcement agencies to verify individuals' boating safety certificates; the DNR is to work cooperatively with the Michigan State Police in this effort using the Law Enforcement Information Network or a comparable system. The DNR is likely to incur new costs in the course of the aforementioned development and implementation, but the extent of these costs is unclear at present. The bill is unlikely to create new revenue for the DNR.

The bill would have an indeterminate, yet likely minimal, fiscal impact on the Department of State Police (MSP). Any costs incurred by the MSP would be the result of administrative expenses stemming from the inclusion of boating licensure data within the Law Enforcement Information Network.

The bill is unlikely to have a fiscal impact on local units of government.

¹ House Fiscal Agency analysis of PA 135 of 2015/HB 4193: <http://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-4193-E98C708B.pdf>

² House Fiscal Agency analysis of PA 59 of 2017/HB 4013: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-4013-84F29DFF.pdf>

House Bill 5988 would not affect costs or revenue for the Department of Natural Resources or local units of government.

House Bill 5989 would raise costs for the Department of Natural Resources by requiring the department to develop an electronic method by which individuals could display their respective boating safety certificates. The extent of this cost increase is unclear and may be mitigated by the existence of technological infrastructure by which individuals can display DNR-issued licenses and certifications already. The bill is unlikely to have a fiscal impact on local units of government.

ARGUMENTS:

For:

Electronic copies of required documents can already be used as an alternative to paper copies for both car insurance and vehicle registration. Proponents of the bills argue that Boating Safety Certificates should also be brought into the twenty-first century by allowing an electronic form to be displayed upon request by a peace officer. Additionally, although phones are also not waterproof, they are easier to keep dry with special waterproof cases and can easily be wiped off if splashed; a paper copy cannot be wiped off so easily if splashed.

Against:

No testimony was presented in opposition to the bills.

POSITIONS:

A representative of Belle Maer Harbor testified in support of HB 5836. (5-30-18)

The Michigan Boating Industries Association indicated support for the bills. (5-30-18)

The National Marine Manufacturers Association indicated support for the bills. (6-6-18)

The Michigan Association of Counties indicated support for HB 5889. (5-30-18)

A representative of the Michigan Department of Natural Resources testified with no position on the bills. (5-30-18)

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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.