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BILL ANALYSIS

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Senate Bill 1234 (as reported without amendment)  
Sponsor: Senator Patricia L. Birkholz  
Committee: Natural Resources and Environmental Affairs

(as enacted)

Date Completed: 4-22-08

### **RATIONALE**

In 2004, legislation was enacted to address complaints by residents along the lower Kalamazoo River in Allegan County about noise from airboats, particularly at night. Airboats are flat-bottomed boats designed for use in shallow water, and are propelled by an airplane propeller positioned above the stern. In Michigan, some bowhunters use airboats to hunt carp, a non-native nuisance fish. Occasionally, bowhunters have held hunting tournaments between dusk and dawn on the lower Kalamazoo River, which the Department of Natural Resources (DNR) has designated as a Natural River.

Public Act 547 of 2004 amended the Natural Resources and Environmental Protection Act to restrict the operation of an airboat near a residence to certain hours of the day. The legislation included a May 1, 2007, sunset to allow for a three-year trial period. In light of the positive reaction to the restriction by residents and boaters, it has been suggested that the restrictions be reinstated. (For more information on Public Act 547, please see **BACKGROUND**, below.)

### **CONTENT**

The bill would amend Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act to prohibit a person from operating an airboat within 450 feet of a residence between 11:00 p.m. and 6:00 a.m. at a speed exceeding that required to maintain forward movement.

The prohibition would not apply to the operation of an airboat under any of the following circumstances: in an emergency

when necessary to protect public safety; in the event the airboat ran aground and needed to be freed; or for a governmental purpose, if the airboat were clearly marked and identified as being used for a governmental purpose.

Proposed MCL 324.80108a

### **BACKGROUND**

The Natural Resources and Environmental Protection Act regulates the noise of motorboats. Section 80156 prohibits the operation of a motorboat unless it is "equipped and maintained with an effective muffler or underwater exhaust system that does not produce sound levels in excess of 90 [decibels]...". Some questioned whether this prohibition applied to airboats for two reasons: First, it was not clear if airboats fell under the Act's definition of "motorboat" (a vessel propelled wholly or in part by machinery); and second, because most airboat noise is generated from the above-water propeller and not a motor equipped with a muffler or underwater exhaust system, it was not clear if the 90-decibel limit applied. In February 2003, Attorney General Mike Cox determined in Opinion No. 7124 that an airboat is indeed a motorboat, because its engine and propeller constitute "machinery"; however, he concluded that the noise limit in Section 80156 is intended to apply only to a motorboat's engine. Therefore, the noise from an airboat's *propeller* is not regulated by statute.

Because airboats are a unique form of watercraft, and because their noise level was difficult to measure accurately with the

technology that existed at the time, Public Act 547 of 2004 limited airboats' use, rather than their noise level.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The restrictions under Public Act 547 of 2004 struck a reasonable compromise by addressing the main complaint against airboats: their use at night. In restricting airboats' proximity to a residence during specified hours, Public Act 547 enabled residents to enjoy quiet nights on the river while allowing airboat operators to fish at night, provided they did so more than 450 feet from a residential area. The Act included common-sense exceptions to this, such as an emergency or an airboat's running aground. Over the three years that the legislation was in effect, residents and airboat operators alike expressed satisfaction with the restriction; thus, it should be reenacted.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of operating an airboat within 450 feet of a residence between 11 p.m. and 6 a.m. at a speed in excess of the minimum speed required to move. Local governments would incur the costs of incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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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.