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House Bill 4848 (Substitute H-1 as passed by the House)
Sponsor: Representative Andrea LaFontaine
House Committee: Natural Resources, Tourism, and Outdoor Recreation
Senate Committee: Outdoor Recreation and Tourism

Date Completed: 1-25-12

CONTENT

The bill would amend Section 479a of the Michigan Penal Code to do the following:

- **Extend provisions regarding fleeing and eluding a police or conservation officer, including felony penalties, to the operator of a vessel.**
- **Require a violator's privilege to operate a vessel to be suspended for up to five years upon conviction for third- or fourth-degree fleeing and eluding.**
- **Require a violator's privilege to operate a vessel to be revoked for at least five years upon conviction for first- or second-degree fleeing and eluding.**
- **Name Section 479a the "Lieutenant Donald Bezenah Law".**

Under Section 479a, an operator of a motor vehicle who is given a visual or audible signal by a police or conservation officer to stop the vehicle may not willfully fail to obey by speeding up, turning off the vehicle's lights, or otherwise attempting to flee or elude the officer. Generally, a person who violates the prohibition is guilty of fourth-degree fleeing and eluding, a felony punishable by imprisonment for up to two years and/or a maximum fine of \$2,000.

Under the bill, these provisions also would apply to the operator of a vessel. ("Vessel" would mean every description of watercraft used or capable of being used as a means of transportation on water.)

Currently, a violator is guilty of third-degree fleeing and eluding, a felony punishable by imprisonment for up to five years and/or a maximum fine of \$5,000, if any of the following applies:

- The violation results in a collision or accident.
- A portion of the violation occurred in an area where the speed limit is 35 miles per hour or less.
- The person has a prior conviction for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.

Under the bill, a vessel operator also would be guilty of third-degree fleeing and eluding and subject to the penalty under any of those conditions, except the bill would refer to an area designated as "slow-no wake", "no wake", or "restricted", rather than an area where the speed limit is 35 miles per hour or less.

A motor vehicle operator who violates the prohibition is guilty of second-degree fleeing and eluding, a felony punishable by imprisonment for up to 10 years and/or a maximum fine of \$10,000, if any of the following applies:

- The violation results in serious impairment of an individual's body function.
- The violator has at least one prior conviction for first-, second-, or third-degree fleeing and eluding; attempted first-, second-, or third-degree fleeing and eluding; or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.
- The violator has any combination of at least two prior convictions for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.

If the violation results in the death of another individual, a violator is guilty of first-degree fleeing and eluding, a felony punishable by imprisonment for up to 15 years and/or a maximum fine of \$15,000.

Under the bill, the second- and first-degree provisions, including penalties, also would apply to a vessel operator.

(For a violation while operating a motor vehicle, "prior conviction" would mean the person had a previous conviction for a violation of Section 479a while operating a motor vehicle or a previous conviction for fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct while operating a motor vehicle. For a violation while operating a vessel, the term would mean the person had a previous conviction for a violation of Section 479a while operating a vessel.)

Upon a conviction for a third- or fourth-degree violation or attempted violation, the Secretary of State (SOS) must suspend the driver license of a motor vehicle operator as provided in Section 319 of the Michigan Vehicle Code (which prescribes a one-year suspension for that offense). Under the bill, if the individual were operating a vessel, his or her privilege to operate a vessel would have to be suspended for up to five years.

Upon a conviction for a first- or second-degree violation or attempted violation, the SOS must revoke a motor vehicle operator's license as provided in Section 303 of the Vehicle Code. Under the bill, if the individual were operating a vessel, his or her privilege to operate a vessel would have to be revoked for at least five years.

(Under Section 303, the SOS may not issue a license to a person whose license has been revoked until at least one year after the license was revoked, or at least five years after the date of a subsequent revocation occurring within seven years after the date of any previous revocation or denial, whichever is later.)

MCL 750.479a

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. By applying the fleeing and eluding statute to marine vessel operators, the bill could result in increased incarceration costs for both State and local units. There are no data to indicate how many marine vessel operators would violate this statute; however, if imprisoned, an offender would cost the State an average of approximately \$34,000 per year. Some offenders would be housed in jails, imposing costs on local units, but these costs vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Dan O'Connor

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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.