

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bills 398 and 399 (as reported without amendment)
Sponsor: Senator Dave Jaye
Committee: Hunting, Fishing and Forestry

Date Completed: 4-7-99

RATIONALE

Several highly publicized ice rescues on Lake St. Clair have alerted many people to the dangers and costs associated with ice fishing despite official warnings to stay off the ice. High winds can create waves that can work with currents to break apart sections of ice and strand anglers out in the water. In December 1998, 18 ice fishermen were rescued when strong winds broke off an ice floe and pushed the fishermen and rescuers seven miles out into Lake St. Clair before a U.S. Coast Guard helicopter rescued them. Several men nearly died after they were capsized into the water when a rescue Hovercraft lost power and deflated. Three fishermen were hospitalized for severe hypothermia, one was treated for an ankle injury, and four firefighters were treated for minor hypothermia. According to a *Detroit News* article (2-10-99), the rescue operation cost an estimated \$50,000 to \$70,000. In a separate incident, a 14-foot rescue boat sank during an effort to rescue two fishermen from an ice floe that broke away further north on Lake St. Clair's Anchor Bay. In February 1999, five fishermen were rescued by a Hovercraft and at least 30 were rescued from ice floes on Lake St. Clair after warm temperatures and strong winds created cracks in parts of the ice.

According to an article in the *Detroit Free Press* (12-30-98), the Coast Guard Station in St. Clair Shores reports that 90% of the ice rescues are for ice fishermen. Although warnings are posted, law enforcement agencies cannot prevent ice fishermen from going out into unsafe ice conditions. Many people believe that reckless ice fishermen should be held responsible for their actions. Therefore, it has been suggested that the law should establish penalties for repeated ice fishing rescues.

CONTENT

Senate Bill 399 would amend the Natural Resources and Environmental Protection Act to provide that if an individual ventured onto ice for the purpose of ice fishing, including but not limited to placing or removing a shanty for fishing, and were rescued because of unsafe ice conditions, the individual would receive a

warning for the first rescue; would be responsible for a State civil infraction and a \$500 fine for the second rescue; and would be responsible for a State civil infraction, a \$1,000 fine, and a three-year suspension of ice fishing privileges, as well as liable to the rescuing agency, for the third or subsequent rescue. These provisions would be repealed three years after the bill's effective date.

Senate Bill 398 would amend the L.E.I.N. Policy Council Act to require that the policy and rules of the L.E.I.N. (law enforcement information network) Policy Council ensure access to information on warnings and determinations of responsibility for State civil infractions proposed under Senate Bill 399. The Council would have to submit proposed rules for public hearing under the Administrative Procedures Act, within six months after the bill's effective date.

The bills are tie-barred to each other.

An additional description of [Senate Bill 399](#) follows.

The court would have to notify the Department of Natural Resources (DNR) promptly after it was determined that a defendant was responsible for a State civil infraction for a third or subsequent rescue, providing the date and place of the rescue, the individual's name and address, and any other information required. The DNR would have to notify the individual by letter that his or her ice fishing privileges were suspended until a date three years after the date of the rescue.

An individual rescued a third or subsequent time would be civilly liable to a rescuing agency involved in the rescue for the actual costs incurred by the agency in the rescue effort for that individual. ("Rescuing agency" would mean a Federal, State, or local entity responsible for rescuing an individual because of unsafe ice conditions.) If a rescue or attempted rescue were made of more than one individual in a single incident, the actual cost incurred by the agency for an individual would have to be considered the total actual cost of the rescue effort by that rescuing agency divided by the number of individuals for whom a rescue or attempted rescue was made in that incident.

If a warning were given or if it were determined that a defendant was responsible for a State civil infraction after the effective date of rules promulgated under Senate Bill 398, notice of the warning or determination would have to be posted on the L.E.I.N. under the rules.

MCL 28.214 (S.B. 398)
324.46501 et al. (S.B. 399)

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 bill would deter individuals who repeatedly engage in reckless ice fishing despite the dangerous conditions and official warnings to stay off the ice. The U.S. Coast Guard reports that no ice is guaranteed safe but has recommended a thickness of at least four inches. Although most people who go out on the ice pay attention to weather and ice conditions, those thrill-seekers who continue to ignore the warnings are putting their lives, as well as the lives and safety of the rescuers, at a tremendous risk. In addition, by imposing penalties and fines for repeat ice fishing rescues, the bill would establish appropriate sanctions for reckless behavior and would hold fishermen, instead of the communities, accountable for the rescues.

Response: It is impossible to legislate common sense and morality. Instead of new fines and penalties, there should be increased education concerning ice fishing safety and dangerous ice conditions.

Opposing Argument

Since rescue workers are employed to perform and engage in rescues, fishermen should not be penalized for ice rescues.

Response: The bill specifies that the fines and penalties would affect only second or subsequent rescues because of unsafe ice conditions.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have a minimal fiscal impact on the Department of State Police and the Department of Natural Resources. Under the bill, certain law enforcement agencies or other rescuing agencies could recoup the cost of rescue operations under certain conditions.

The bill would generate an indeterminate amount of fine revenue depending on the number of second and subsequent infractions involved.

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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.