

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**



**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 398 (as passed by the Senate)  
Senate Bill 399 (Substitute S-2 as passed by the Senate)  
Sponsor: Senator Dave Jaye  
Committee: Hunting, Fishing and Forestry

Date Completed: 11-5-99

### RATIONALE

Several highly publicized ice rescues on Lake St. Clair last winter 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 reported 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 (S-2) would amend the Natural Resources and Environmental Protection Act to establish civil penalties for individuals who had to be rescued due to unsafe ice conditions. These provisions would be repealed three years after the bill's effective date.**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 (S-2) follows.

The bill would make it a State civil infraction if an individual ventured onto ice for any ice sports recreational purpose, including but not limited to ice fishing and placing or removing a fishing shanty, were rescued because of unsafe ice conditions, and if a reasonable individual would have concluded that the ice was or would become unsafe, based on observable or reported information in the media, including the absence of other individuals on the ice, presence of water on the ice, weather conditions, and ice thickness or quality. The individual would be subject to a \$5 fine for the first rescue; a \$200 fine plus court costs for the second rescue; and, for a third or subsequent rescue, a \$500 fine, plus court costs, and a three-year suspension of ice fishing privileges.

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.

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)

## **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.

**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 fines would be significantly greater for second or subsequent rescues.

Legislative Analyst: N. Nagata

## **FISCAL IMPACT**

The bills would have a minimal fiscal impact on the Department of State Police and the Department of Natural Resources.

The bills would generate an indeterminate amount of fine revenue depending on the number of infractions involved. Funds obtained from fines for civil infractions go to local public libraries.

Fiscal Analyst: B. Baker

A9900\398b

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.