



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

BILL ANALYSIS



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

Senate Bill 629 (Substitute S-1 as reported)
Sponsor: Senator Ron Jelinek
Committee: Natural Resources and Environmental Affairs

(as passed by the Senate)

Date Completed: 10-16-07

RATIONALE

In light of a number of drownings over the years, some people in the State, particularly along the Lake Michigan shoreline, are concerned about the risk presented when people jump off of piers and other structures into the water. Jumpers can be injured or killed by landing on rocks and parts of the structure hidden below the surface, or they can get caught in an undertow and become fatigued trying to swim to safety.

Some piers, breakwaters, and other navigational structures in the Great Lakes are owned by the Army Corps of Engineers and administered by the U.S. Coast Guard. Although Corps regulations prohibit jumping and diving from these structures, there appears to be some question as to whether State and local law enforcement officials have the authority to enforce the regulations. In order to discourage people from engaging in unsafe activities, it has been suggested that jumping or diving from a structure in the Great Lakes be designated a State civil infraction.

CONTENT

The bill would amend Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act to do both of the following:

- Prohibit a person from jumping, diving, or swimming from a pier or similar structure located in the Great Lakes or their connecting waters, and designate a violation as a State civil infraction.**
- Provide that Part 801 would apply to water-based activities.**

Specifically, the bill would prohibit a person from jumping, diving, or swimming from a pier, jetty, breakwater, or other similar structure, or a buoy or other navigational device, that was located in the Great Lakes or their connecting waters. A person who violated this prohibition would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$500.

The prohibition would not apply to a person undertaking a rescue or to authorized public safety personnel conducting training.

Part 801 currently applies to vessels and associated equipment used, to be used, or carried in vessels used on waters subject to the jurisdiction of this State. Under the bill, Part 801 also would apply to water-based activities.

MCL 324.80105 et al.

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

Although jumping from a pier or other manmade structure into one of the Great Lakes might appear to be harmless fun, it actually can be very dangerous. Such structures can interfere with the natural flow of water, creating strong currents that can drag even a strong swimmer out into the lake. Additionally, a person can land on, get slammed into, or become wedged between rocks or components of the structure.

Federal regulations prohibit jumping and diving from the structures, and there usually are posted signs indicating that jumping is prohibited and dangerous; many people, however, simply ignore the warnings. While the Army Corps of Engineers evidently relies on local authorities to enforce the prohibition, police and sheriff's departments are uncertain about their authority to ticket people who jump from federally owned structures. In order to avoid injuries and save lives, the law should designate this activity a State civil infraction for which local officials could take enforcement action. The proposed fine is substantial and should deter would-be jumpers, divers, and swimmers.

Response: Typically, those who engage in jumping and diving from navigational structures are young people. The bill could result in minors' being ticketed, which would create an additional burden on the law enforcement entities that would have to hold young violators while their parents were located.

Additionally, the prohibition concerning buoys should apply only to navigational buoys, not those used to mark a swimming area at a public beach. Swimmers sometimes hang on to the buoys outlining a swimming area in order to rest, and these people would be subject to the fine under the bill.

Opposing Argument

The prohibition could be difficult to enforce in the case of a pier that is in a State park and owned by the Army Corps of Engineers. Only conservation officers and other law enforcement officers could take enforcement action, as State park rangers have authority only on property owned by the Department of Natural Resources (DNR). Furthermore, a law enforcement officer would have to witness the actual act of diving or jumping from the pier in order to write a ticket, and it is unlikely that a conservation officer or local officer would be in a State park when a violation occurred.

Currently, the DNR works with the Corps and the Coast Guard to maintain warning signs and discourage people from engaging in the acts the bill would prohibit. These efforts could be combined with public education and information programs to create a deterrent that would be more effective than designating the activities a civil infraction.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State. The prohibition on jumping, diving, and swimming from a pier or similar structure located in the Great Lakes or their connecting waters would require additional enforcement hours, increasing the current cost of marine enforcement by the Michigan Department of Natural Resources and local law enforcement. There also could be some costs associated with updating signage to reflect the new restriction. Revenue from the increase in civil fines would vary depending on the number of violations and the amount of court-imposed fines. State civil infraction fine revenue is dedicated to public libraries.

Fiscal Analyst: Jessica Runnels

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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.