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BILL ANALYSIS



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House Bill 5836 (Substitute H-3 as passed by the House)
House Bill 5988 (Substitute H-1 as passed by the House)
House Bill 5989 (Substitute H-2 as passed by the House)
Sponsor: Representative Steve Marino (H.B. 5836)
Representative Beau Matthew LaFave (H.B. 5988)
Representative Joseph N. Bellino Jr. (H.B. 5989)
House Committee: Natural Resources
Senate Committee: Outdoor Recreation and Tourism

Date Completed: 12-5-18

CONTENT

House Bill 5989 (H-2) would amend Part 802 (Personal Watercraft) of the Natural Resources and Environmental Protection Act to do the following:

- Allow an individual, at his or her option, to display an electronic copy of his or her boater safety certificate.
- By March 31, 2019, require the Department of Natural Resources (DNR) to approve one or more formats for an individual to display an electronic copy of his or her boating safety certificate.
- Specify that an individual who displayed an electronic copy of his or her boating safety certificate using an electronic device would not be presumed to have consented to a search of the device.
- Specify that the State, an employee of the State, or a peace officer would not be liable for damage to or loss of a device as a result of the officers viewing the device.

House Bill 5836 would amend the Natural Resources and Environmental Protection Act to do the following:

- Require the DNR, in conjunction with the Department of State Police (MSP), to implement a process with certain requirements to verify that an individual had obtained a boating safety certificate.
- Change the necessary requirements for a person less than 12 years of age to operate a motorboat.
- Specify that an individual who displayed an electronic copy of his or her boating safety certificate using an electronic device would not be presumed to have consented to a search of the electronic device.
- Specify that the State, an employee of the State, or a peace officer would not be liable for damage to or loss of a device as a result of the officers viewing the device.

House Bill 5988 would amend Part 802 (Personal Watercraft) of the Natural Resources and Environmental Protection Act to require the court to waive any fine and cost of a citation for a violation of a certification requirement prescribed in the Act upon receipt of an electronic copy of a boater safety certificate.

The bills are tie-barred. The bill would take effect 90 days after their enactment.

House Bill 5989 (H-2)

Under Part 802 of the Act, an individual who is required to complete a boating safety course and who operates a personal watercraft on the waters of the State must display his or her boating safety certificate upon the demand of a peace officer who identifies himself or herself as a peace officer. The bill also would allow an individual, at his or her option, to display an electronic copy, in a format approved by the Department. The Department would have to approve one or more formats for an individual to display an electronic copy of his or her boating safety certificate by March 31, 2019.

Part 802 of the Act prohibits a peace officer from stopping a personal watercraft solely for the purpose of determining whether the operator has in his or her possession a boating safety certificate. Under the bill, an officer could not stop a personal watercraft solely for the purpose of determining whether the operator held either a boating safety certificate, or an electronic copy of a boating certificate in a format approved by the DNR.

An individual who displayed an electronic copy of his or her boating safety certificate using an electronic device would not be presumed to have consented to a search of the device. The State, a State employee, a peace officer, or an entity employing the peace officer would not be liable for damage to or loss of an electronic device that occurred as a result of the peace officer's viewing an electronic copy of a boating safety certificate, regardless of whether the officer was in possession of the device at the time the damage or loss occurred.

The Act also prohibits a person from displaying a fraudulent boating safety certificate to a peace officer, or displaying a certificate other than his or her own. The bill would delete these provisions.

House Bill 5836 (H-3)

Boating Safety; LEIN

Part 802 (Personal Watercraft) of the Act requires the DNR to issue a boating safety certificate to each individual who successfully completes a boating safety course. Under the bill, the DNR would have to develop and, in conjunction with the MSP, implement a process using the Law Enforcement Information Network (LEIN), or any other appropriate system that limited access to law enforcement, to allow State law enforcement agencies to verify that an individual had obtained a boating safety certificate.

Operation of Motorboats by Youths

Part 801 (Marine Safety) of the Act generally prohibits a person less than 12 years of age from operating a motorboat on the waters of the State unless he or she has been issued and is in possession of a boating safety certificate, he or she is under the direct supervision of a person on board the motorboat who is 16 years of age or older, and the motor or motors powering the boat total no more than 35 horsepower.

Under the bill, a person less than 12 years of age could not operate a motorboat powered by a motor or motors totaling more than six horsepower on the waters of the State unless he or she were under the direct supervision of a person on board the motorboat who was 16 years of age or older and who, if born on or after July 1, 1996, had been issued a boating safety certificate.

Under Part 801, beginning July 1, 2012, a person born on or after July 1, 1996 must not operate a motorboat on the waters of the State unless he or she has been issued and is in

possession of a boating safety certificate. The bill would specify that a person born after the provided date could not operate a boat that was powered by a motor or motors totaling more than six horsepower on the waters of the State unless he or she had been issued a boating safety certificate.

Electronic Copy of Boating Safety Certificate

The bill would require a person operating or supervising the operation of a motorboat to present the boating safety certificate issued to him or her or, at the person's options, an electronic copy, in a format approved by the DNR, of a boating safety certificate issued to him or her, upon the demand of a peace officer who identified himself or herself as a peace officer. An individual who displayed an electronic copy of his or her boating safety certificate using an electronic device would not be presumed to have consented to a search of the device. The State, a State employee, a peace officer, or an entity employing the peace officer would not be liable for damage to or loss of an electronic device that occurred as a result of the peace officer's viewing an electronic copy of a boating safety certificate, regardless of whether the peace officer was in possession of the electronic device at the time the damage or loss occurred.

Deleted Provisions

A person 12 through 15 years of age may operate a motorboat on the waters of the State only if that person is accompanied by at least one person 16 years of age or older, or is in possession of a boating safety certificate issued after he or she satisfactorily completed a course in boating safety approved by the Department. The Act also requires a person who operates a motorboat under these circumstances to present the issued boating safety certificate to a peace officer upon his or her demand. The bill would delete these provisions.

Rental of Personal Watercraft

Under Part 445 of the Act, a boat livery may not rent a personal watercraft to a person who does not display a boating safety certificate issued by the Department. Under the bill, a boat livery could not rent a personal watercraft unless the person displayed a boating safety certificate that was issued by the Department or the United States Coast Guard auxiliary or an electronic copy in a format approved by the Department to the boat livery owner or an agent of the owner.

Repealed Sections

The bill would repeal Section 80210, which prohibits an individual who is required to complete a boating safety course under the Act from operating a personal watercraft upon the waters of the State unless the individual has in his or her immediate possession a boating safety certificate.

House Bill 5988 (H-1)

Under Part 802, if a person has received a citation for a violation of a certification requirement, the court must waive any fine and costs after receiving, not more than 10 days after the citation is issued, proof of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid boating safety certificate that was valid on the date of the violation.

The bill would allow a person who received a citation for a violation of a certification requirement to produce an electronic copy of the valid boating safety certificate, in a format approved by the DNR, for the purpose of waiving a fine and costs associated with the violation.

MCL 324.44522 et al. (H.B. 5836)
324.80221 (H.B. 5988)
324.80213 (H.B. 5989)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bills would have a negative fiscal impact on the Department of Natural Resources (DNR) and no fiscal impact on local units of government. The bill would require the DNR to create an electronic boating safety certificate verification system. This would result in unknown increased costs to the DNR, which would be borne by existing resources.

Fiscal Analyst: Josh Sefton

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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.