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BILL ANALYSIS

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Senate Bill 441 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Sue Shink
Committee: Natural Resources and Agriculture

Date Completed: 10-16-23

INTRODUCTION

Generally, the bill would modify reporting requirements administered by the Department of Natural Resources (DNR) for charter boat operators and wholesale fish dealers. Operators and dealers would have to report catch and purchase activity in a format and frequency determined by the DNR. Specifically, all reports addressed in the bill would have to be submitted at least twice monthly, or more often as required by any applicable consent decree, decree, Federal court order, memorandum of understanding, or legally binding agreement. The bill would prescribe monetary penalties and licensure sanctions for non-compliance with its reporting requirements.

BRIEF RATIONALE

The 2023 Great Lakes Fishing Decree is a 24-year agreement between the State, Federal government, and five Sovereign Tribes in the State that specifies how the parties will cooperatively allocate and manage the resources in the Great Lakes. Among other provisions, State and Tribal commercial fishers must report their catch data twice a month to improve data accuracy and assist the parties in co-managing resources. Accordingly, it has been suggested that Part 445 reflect the Decree.

FISCAL IMPACT

The bill would have a minor positive fiscal impact on the State and the DNR. There would be increased administrative costs associated with implementation and enforcement of the bill's provisions. These costs likely would be offset by the revenue generated through fines assessed against noncompliant charter boat operators and wholesale fish dealers.

MCL 324.44508 et al.

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CONTENT

The bill would amend Part 445 (Charter and Livery Boat Safety) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Delete a provision that requires the DNR to form a catch activity committee.**
- **Modify the frequency of the report that a charter boat operator would have to provide to the DNR from a monthly report to at least twice monthly, as determined by the DNR.**
- **Allow the DNR to specify which information would be required in each catch activity report and each purchase of fish report.**
- **Require a person with a charter fishing license to submit reports twice a month with specified information to the DNR and prescribe penalties for not doing so.**
- **Require an individual with a wholesale fish license to report the purchases of all fish to the DNR twice a month and prescribe penalties for not doing so.**
- **Require all reports addressed in the bill to be submitted at a frequency consistent with any applicable consent decree, decree, Federal court order, memorandum of understanding, or legally binding agreement.**

Catch Committee

Under NREPA, the DNR must form a catch activity committee that is composed of two individuals from the DNR and two representatives from the Michigan Charter Boat Association. The committee must do the following:

- Develop a monthly catch activity report form that pertains to the number, type, and location of fish taken from charter boats in the State.
- Plan and prioritize research concerning the information gathered from the catch activity report.

The bill would delete these requirements.

Catch Report

Generally, the DNR must distribute the monthly catch activity report to each charter boat operator in the State and each charter boat operator engaged in fishing must complete and maintain the form as follows:

- Under his or her control a daily record of all catch activity of that charter boat for the current calendar month.
- Make available for inspection the daily catch activity upon request of a peace officer.
- Complete the monthly catch activity report provided by the DNR for each charter boat under his or her control.
- On or before the 10th day of each month, sign, date, and submit to the DNR, a monthly catch activity report form completed by that charter boat operator for each charter boat under his or her control that was engaged in fishing during the previous month.
- The operator of a charter boat that is used for fishing on two or more bodies of water within a calendar month must complete separate monthly catch activity report forms for each body of water fished, and must sign, date, and submit each form to the DNR.
- If a charter boat operator engaged in fishing does not submit the completed report within 30 days after the form is due the DNR must notify that charter boat of his or her noncompliance, and if the charter boat fails to return the completed form within 60 days of the due date, the DNR may revoke the certificate of inspection for that vessel.

The bill would delete this provision. Instead, the DNR would have to distribute any information related to any required catch activity report to each charter boat operator in possession of a

valid certificate of inspection. All charter boat operators regulated by the State would have to provide the DNR with twice-monthly catch activity reports, except that all charter boat operators would have to report more frequently if a consent decree, decree, Federal court order, memorandum of understanding, or other legally binding agreement established more frequent reporting. The DNR would have to determine the manner, frequency, and information contained in a catch activity report, and each charter boat operator would have to do the following in relation to the required report:

- Maintain on board each charter boat under the operator's control a daily record of all catch activity of that charter boat for the current and *previous* calendar month.
- Make available for inspection the daily catch activity records on the request of a peace officer.
- Complete a catch activity report for each charter boat under the operator's control.
- The operator of a charter boat that was used for fishing on two or more bodies of water within a reporting period would have to complete, for that charter boat, a separate catch activity report for each body of water fished and submit each report to the DNR.
- If a charter boat operator in possession of a valid certificate of inspection issued under Section 44507 did not submit the catch activity to the DNR within 30 days after being notified that the report was delinquent, the DNR could revoke the State certificate of inspection issued for that vessel.

(Section 44507 specifies that the DNR must inspect each charter boat and its equipment at least every 24 months to ensure compliance with regulations. If the charter boat passes inspection the DNR issues an inspection certificate which must be prominently displayed while the boat is in operation.)

The DNR is required to compile an annual report based on information contained in the monthly catch activity reports. Under the bill, the annual report would have to be based on the catch activity reports determined by the DNR.

Penalties

Under the bill, a person that failed to submit a catch activity report would be responsible for a State civil infraction and would be ordered to pay a civil fine as follows:

- For a first violation during a calendar year, \$100.
- For a second violation during a calendar year, \$200.

If a person failed to submit a catch activity report for two or more reporting periods and had been cited by the DNR for each violation, the DNR could not authorize that person to operate a charter boat until the delinquent reports were submitted.

The Act specifies that every person that engages in commercial fishing must maintain detailed records of their daily catch rate, including the type and weight of fish, fishing location, gear used, and other relevant information required by biologists. The records must be submitted monthly to the DNR at its office in Lansing and a failure to do so on or before the 15th day of the following month results in delinquency. The DNR must mail a delinquent notice to the delinquent person. Failure to submit the report within 30 days after the close of a month for which a report is due is considered intent to violate the Act's provisions.

The bill would delete this provision, and instead, the DNR could issue orders to specify the information required in each report and the frequency at which reports would have to be submitted to the DNR. The catch activity report would have to be submitted twice-monthly catch activity reports, except that all commercial fishers would have to report more frequently if a consent decree, decree, Federal court order, memorandum of understanding, or other legally binding agreement established more frequent reporting. A person who failed to submit

a report would be responsible for a State civil infraction and would be ordered to pay civil fine as described above.

Wholesale Fish Market or Fish House

The bill would specify that a person licensed as a wholesale fish market or fish house would have to submit reports of all purchases of fish to the DNR in a form determined by the DNR. Under the bill, the DNR could issue orders to specify the information required in each report and the frequency at which reports would have to be submitted. Purchase reports would have to be submitted twice-monthly, except that all commercial fish wholesalers would have to report more frequently if a consent decree, decree, Federal court order, memorandum of understanding, or other legally binding agreement established more frequent reporting

A wholesale fish dealer that failed to submit a complete record would be responsible for a State civil infraction and would be subject to the following fines:

- For a first violation during a license year, \$100.
- For a second or subsequent violation during a license year, \$200.

If a wholesale fish dealer failed to submit two or more records and had been cited by the DNR for each violation, the DNR could suspend the person's wholesale fish dealer license until the delinquent reports were submitted to the DNR and the DNR could not issue a wholesale fish dealer license to a person that would occupy the same business location as a wholesale fish dealer whose license was suspended. A person also could not sell or transfer ownership of a suspended license until the suspension had been lifted and the license restored. The DNR would have to notify the wholesale fish dealer of a suspension.

Additionally, the DNR would have to deny a new wholesale fish dealer license or renewal of a wholesale fish dealer license to a person that failed to submit the record until the record was submitted. The bill also would prohibit a person from falsifying any information contained in the record.