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BILL



ANALYSIS

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Senate Bill 46 (Substitute S-3 as reported by the Committee of the Whole)  
Senate Bill 47 (Substitute S-1 as reported by the Committee of the Whole)  
Sponsor: Senator Bruce Patterson  
Committee: Natural Resources and Environmental Affairs

### **CONTENT**

Senate Bill 46 (S-3) would amend the Natural Resources and Environmental Protection Act to increase the civil and criminal fines and the maximum terms of imprisonment for people violating Part 31 (Water Resources Protection) of the Act.

Specifically, the bill would raise the minimum civil and criminal fine, for each day of a violation, from \$2,500 to \$2,750, and the maximum per-day fine from \$25,000 to \$27,500. The bill would add failure to report a discharge in a timely manner to the list of violations of Part 31. If a court found that a civil defendant caused or contributed to a catastrophic discharge, the court would have to impose a civil fine of at least \$50,000 for each day the violation occurred or continued, in addition to the standard civil fine. ("Catastrophic discharge" would refer to any intentional or grossly negligent spilling, releasing, escaping, etc. of a substance to the waters of the State that caused, or would have caused but for extraordinary intervention, a serious impairment to natural resources or to the public health, safety, or welfare.)

The bill would raise the minimum prison term from two to four years. For a criminal defendant who posed a substantial endangerment to the public health, safety, or welfare, the mandatory term would be increased from five to 10 years.

In addition, up to \$10,000 of civil fines could be made available annually for the payment of awards to people who provided information that contributed to the assessment of a civil fine, or the arrest and conviction of a person, under Part 31, as proposed by Senate Bill 568. Senate Bill 46 (S-2) is tie-barred to Senate Bill 568.

Senate Bill 47 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to reflect the statutory maximum prison terms proposed by Senate Bill 46 (S-3). Also, the bill would change the offense class for a civil waste discharge violation from Class H to Class G, and from Class G to Class F for a criminal offense posing substantial endangerment. The bill is tie-barred to Senate Bill 46.

MCL 324.3115 (S.B. 46)  
MCL 777.13c (S.B. 47)

Legislative Analyst: Claire Layman

### **FISCAL IMPACT**

Senate Bill 46 (S-3) would increase the range of fines assessed for violations of Part 31 of NREPA. This would increase fine revenue by an indeterminate amount since the number of violations and the fines assessed by the courts may vary widely. In FY 2001-02, a total of \$165,000 in fines was collected from three violations.

Senate Bills 46 (S-3) and 47 (S-1) would have an indeterminate fiscal impact on State and local government by doubling the maximum prison terms for violations of Part 31. According to the Department of Corrections 2000 Statistical Report, no offenders were convicted of or serving time for either of the waste discharge offenses. If one uses the past as an indicator of the future, the bills would have no fiscal impact on the corrections system.

Under the bills, an offender would potentially receive a minimum sentence of up to 32 months for a Class G offense rather than 16 months for a Class H offense for the waste discharge violation without substantial endangerment, and a minimum sentence of up to 80 months for a Class F offense rather than 40 months for a Class G offense for the violation with substantial endangerment. Given that the average annual cost of incarceration is approximately \$25,000, for each offender convicted of the Class G offense and sentenced to prison for the longest allowable minimum sentence, it would cost the State \$66,600 rather than \$33,300. For each offender convicted of the Class F offense and sentenced to prison for the longest allowable minimum sentence, it would cost the State \$166,600 rather than \$83,300. Any additional penal fine revenue collected from increased fines would benefit public libraries.

Date Completed: 10-8-03

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