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BILL



ANALYSIS

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Senate Bills 46 and 47 (as introduced 1-22-03)  
Sponsor: Senator Bruce Patterson  
Committee: Natural Resources and Environmental Affairs

Date Completed: 6-10-03

## **CONTENT**

**Senate Bill 46 would amend the Natural Resources and Environmental Protection Act to double the civil and criminal fines and the maximum term of imprisonment for people violating Part 31 (Water Resources Protection) of the Act. Senate Bill 47 would amend the Code of Criminal Procedure to revise the statutory maximum prison terms in the sentencing guidelines to match those proposed by Senate Bill 46. Senate Bill 47 is tie-barred to Senate Bill 46, which is described below.**

The bill would increase the maximum prison sentence for a criminal violation of Part 31 from two years to four years. If the court found that the defendant posed a substantial endangerment to the public health, safety, or welfare, the maximum sentence would be increased from five years to 10 years. Further, the bill would increase the civil and criminal fines as shown in Table 1.

Table 1: Criminal and Civil Fines for Violating Part 31

	Current Minimum	Proposed Minimum	Current Maximum	Proposed Maximum
Civil Fine	\$2,500	\$5,000	\$25,000/day of violation	\$50,000/day of violation
Civil Fine: Substantial Endangerment	\$500,000	\$5 million	\$1 million	\$10 million
Criminal Fine	\$2,500	\$5,000	\$25,000/each violation; \$25,000/additional fine per day of violation	\$50,000/each violation; \$50,000/additional fine per day of violation
Subsequent Criminal Violation	\$25,000/day	\$50,000/day	\$50,000/day	\$100,000/day
Criminal Fine: Substantial Endangerment	\$1 million	\$2 million	N/A	N/A

(Under the Act, the criminal penalties apply if the person at the time of the violation knew or should have known that he or she unlawfully discharged a substance; intentionally makes a false statement in a permit application or a notice or report required by a permit; or intentionally renders a monitoring device or record inaccurate.)

The bill specifies that fines recovered in a civil action would have to be credited to the General Fund.

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

Legislative Analyst: Claire Layman

### **FISCAL IMPACT**

Senate Bill 46 would double the range for fines assessed for violations of Part 31 of the NREPA. The bill would increase fine revenue an indeterminate amount since the number of violations and the fines assessed by the court may vary widely. In FY 2001-02, a total of \$165,000 in fines was collected from three violations. The bill also specifies that all of the revenue from a civil fine would be deposited into the General Fund. Currently, about 95% of the civil fines benefit the General Fund and 5% (\$8,250 in FY 2001-02) is deposited into the Environmental Response Fund, a subfund of the Cleanup and Redevelopment Fund. The bill would result in a small decrease in revenue to the Cleanup and Redevelopment Fund.

Senate Bills 46 and 47 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, there were no offenders 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.

Under the bills, an offender would potentially receive a minimum sentence of up to 32 months rather than 16 months for the Class H offense (waste discharge violation without substantial endangerment) and a minimum sentence of up to 80 months rather than 40 months for the Class G offense (violation with substantial endangerment). Given that the average annual cost of incarceration is approximately \$25,000, for each offender convicted of the Class H 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 G 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.

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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.