



**House  
Legislative  
Analysis  
Section**

Manufacturer's Bank Building, 12th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

## TANKER, STORAGE TANK INSPECTION FEES

**House Bill 5805 (Substitute H-3)  
First Analysis (11-13-90)**

**Sponsor: Rep. Dominic J. Jacobetti  
Committee: Appropriations**

### ***THE APPARENT PROBLEM:***

Fees in effect for state police inspection of hazardous materials tanker trucks and above-ground storage tanks (for the most part, petroleum tanks and trucks) expired on October 1, when they fell from \$70 to \$35 per vehicle inspection and from \$30 to \$15 per tank inspection. The department is by law required to reduce its inspection program to the level supported by fees. As even the pre-October fees did not meet the costs of maintaining the inspection program mandated by law (annual inspections for tanker trucks, triennial inspections for storage tanks), it has been proposed to increase inspection fees to the level necessary to meet department costs.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Fire Prevention Code to increase inspection fees for tanker trucks and above-ground storage tanks, institute a fee for review of new installations, and forbid local inspections and inspection fees. Annual inspection fees would be increased to \$95 per truck and \$61.50 per storage tank. New storage tank installations would be subject to a fee of \$203 per tank, which would be submitted to the state fire marshal with the installation application. Payment of the installation fee would excuse the applicant from the first annual inspection fee. Fees would be annually adjusted for inflation.

Beginning October 1, 1990, a local unit of government could not enact or enforce a requirement for a permit, license, approval, inspection, or payment of a fee or tax for the installation, use, closure, or removal of an aboveground storage tank system.

Fees would go into separate funds established for storage tank and tanker truck regulation. If at the end of any fiscal year the amount in a fund exceeded \$1 million, the state police could not collect fees for the following year from existing storage tank systems or existing vehicles, as applicable. After a fee had been suspended, it could only be reinstated when the amount of money in the fund was less than \$250,000 at the close of a fiscal year.

MCL 29.5d

### ***FISCAL IMPLICATIONS:***

According to the Department of State Police, fees proposed by the bill represent department inspection costs. (10-30-90)

The House Fiscal Agency estimates that the total annual revenue under the bill would be about \$921,400, up from \$220,000 under fees now in effect, and up from \$440,000 under the fees in effect prior to October 1, 1990. (6-18-90)

### ***ARGUMENTS:***

#### ***For:***

To protect workers and the public, the Fire Prevention Code calls for regular inspections of tanker trucks and above-ground storage tanks for hazardous materials; trucks are to be inspected

annually and tanks every three years. Such inspections often uncover dangerous situations. For example, inspections of tanker trucks have discovered defects serious enough to warrant immediate condemnation of about 15 percent of the vehicles inspected in each of the past two years; some two-thirds of inspected vehicles failed inspection. However, the Fire Prevention Code bars the inspection program from spending more than is collected by fees. By increasing fees to meet the costs of inspection, the bill would enable the state police to institute and maintain the storage tank and tanker truck inspection program contemplated by the Fire Prevention Code.

#### ***Against:***

The current policy of state police is to collect inspection fees for all affected vehicles, and to perform as many inspections as may be managed with the amount collected; for storage tanks, fees have generated basically only enough for plan reviews and initial inspections and certification. Thus, a firm can pay a fee for an inspection that it never receives. Although presumably this would not happen under the bill, with its cost-covering fees and limits on fee accumulation, the magnitude of the proposed fee increases makes it all the more important to ensure that the industry and the public receive the benefit of inspection fees. The bill should therefore include some sort of requirement for an inspection to be conducted upon payment of an inspection fee.

#### ***Against:***

The language preempting local ordinances may be overbroad. For one thing, the provision refers to "aboveground storage tank system," when it probably should more accurately refer to the hazardous materials storage tanks that are regulated under the Fire Prevention Code. The provision also bars a local unit of government from requiring a permit, license, or approval for the installation, closure, or removal of an aboveground storage tank system. It is unclear what implications this provision may have for regulation under local zoning laws.

**Response:** While the provision perhaps could be improved through clarification, it is not impermissibly overbroad. It is extremely unlikely that anyone would construe the provision to apply to storage tanks other than those traditionally regulated under the Fire Prevention Code. Also, the provision does not exceed the scope of state regulation, as the state fire marshal division regulates the closure and removal of storage tanks, as well as their installation and use.

#### ***Against:***

The storage tank certification program applies to firms maintaining aboveground storage tanks fitting certain descriptions. Among the tanks regulated are those with a capacity of 1,000 gallons or more of flammable liquid with a flash point at or below 100 degrees Fahrenheit. According to the state police fire marshal division, this 1,000 gallon standard is

inconsistent with national standards and federal regulations, which refer to tanks of 1,100 gallons or more. To eliminate the confusion that this inconsistency causes, the fire marshal division is urging that the law be amended to incorporate a 1,100 gallon standard.

***POSITIONS:***

The Department of State Police supports the bill. (10-30-90)

The Department of Management and Budget supports the bill. (10-30-90)

The Michigan Petroleum Association supports the bill. (11-2-90)

The Michigan Trucking Association would support the bill if amended to provide that if a vehicle inspection fee was paid, an inspection would be performed before a subsequent inspection fee could be required. (10-31-90)

The Michigan Townships Association is reviewing the bill and has no formal position at this time. (11-6-90)