



**House  
Legislative  
Analysis  
Section**

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**FUEL OIL FLASH POINT**

**House Bills 5951-5952 as introduced  
First Analysis (11-14-90)**

**Sponsor: Rep. Bart Stupak  
Committee: Public Utilities**

***THE APPARENT PROBLEM:***

Representatives of the fuel oil industry are requesting a change in the permissible flash point of kerosene and fuel oil sold in the state, which they say will make Michigan's statutes conform to those most commonly found in other states, including the adjoining states of Indiana, Illinois, and Wisconsin. These neighboring states, the industry says, either set the permissible flash point at 100 Fahrenheit, refer to American Standard of Testing Materials (ASTM) specifications, or have no set temperature. (The flash point is, according to Webster's New Collegiate Dictionary, "the lowest temperature at which vapors above a volatile combustible substance ignite in air when exposed to flame.") Michigan law currently sets the permissible flash point for kerosene at 121 degrees Fahrenheit and for fuel oil used for heating at 130 degrees or 125 degrees, depending on the test involved. The oil industry and state fire regulators say that it is problematic to have different standards in different states and to have oil products that are legal in one state but illegal in another. Further, the lower the flash point, the greater the product yield.

***THE CONTENT OF THE BILLS:***

The Michigan Penal Code prohibits the sale (or attempted sale) of kerosene with a flash point of less than 121 degrees Fahrenheit for use in "atmospheric pressure wick-feed illuminating apparatus," in similar heating stoves, and in gravity-feed cook stoves. House Bill 5951 would reduce the permissible flash point to 100 degrees Fahrenheit. A violation would remain a misdemeanor, and the penalties would remain the same: not more than \$300 in fines or six months imprisonment, or both.

House Bill 5952 would make a similar amendment to Public Act 319 of 1929, which cities and villages can adopt for the regulation of the use of fuel oil for oil burners used for heating. The bill would require fuel oil or any other oil or liquid used for equipment installed under the act to have a flash point of at least 100 degrees Fahrenheit as determined in a closed cup tester (rather than the current flash point of 130 degrees or 125 degrees, depending on the nature of the test). The bill would also adopt new definitions of "fuel oil" and "auxiliary tank." The "fuel oil" definition would cite the national ASTM regulations. The bill would limit the capacity of auxiliary tanks to 60 gallons.

MCL 750.502b (House Bill 5951) and 125.551 et al. (House Bill 5952)

***FISCAL IMPLICATIONS:***

There is no information at present.

***ARGUMENTS:***

***For:***

The bills would bring Michigan kerosene and fuel oil standards in line with the standards most commonly in use. Industry representatives say that roughly three-quarters of the states that regulate flash points have adopted the standard used in these bills. The lowering of the flash points would not cause any safety problems, says the fire marshal's office. The industry says the lower flash point will allow increased fuel production.

***POSITIONS:***

A representative of the Fire Marshal Division of the State Police testified in favor of the bill. (11-8-90)

The American Petroleum Institute supports the bill. (11-8-90)

Total Petroleum, Inc., supports the bill. (11-8-90)