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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 771 (as reported with amendments)

Sponsor: Senator Vern Ehlers

Committee: Natural Resources and Environmental Affairs

Date Completed: 2-23-90

RATIONALE

When the Underground Storage Tank Financial Assurance Act was signed into law in 1988 and amended in 1989, it failed to state clearly the measurement methods for "light" and "heavy" petroleum products, and the basis for fee collection in cases in which buyers and sellers engage in product exchange agreements. Although the Department of Treasury has standard practices for addressing those issues under the Motor Fuel Tax Collection program and the Department reportedly expected to treat fee collection under the Underground Storage Tank Financial Assurance Act in the same manner, it has no statutory authorization to do so. Some people believe that such authorization should be granted.

CONTENT

The bill would amend the Underground Storage Tank Financial Assurance Act to specify that regulatory fees under the Act would have to be calculated and paid based on the "gross or metered gallons with respect to all 'light' petroleum products", and on the "net or temperature-corrected gallons" for "heavy" petroleum products (i.e., no. 4, 5, or 6 residual oils).

In addition, the bill would require the Department of Treasury to collect regulatory fees from a person in this State who received refined petroleum products, pursuant to a "product exchange agreement", for resale or consumption within Michigan. "Product exchange agreement" would mean an

agreement between buyers and sellers under which bulk quantities of refined petroleum products were made available to a person for that person's making available to the supplier a like volume of refined petroleum products at another location.

Proposed MCL 299.808a

BACKGROUND

In order to continue to receive Federal funding, the Department of Natural Resources (DNR) was required to demonstrate, by October 1988, to the Environmental Protection Agency (EPA) that the DNR had the legal authority to take corrective and enforcement actions regarding leaking underground storage tanks that were at least as stringent as Federal regulations. To grant that authority, late in 1988, the Leaking Underground Storage Tank Act was signed into law and the Underground Storage Tank Regulatory Act was amended.

To assist owners of underground storage tanks in complying with the new, more stringent regulations, the State also passed the Michigan Underground Storage Tank Financial Assurance Act. That Act established a regulatory fee, beginning August 1, 1989, of seven-eighths of a cent per gallon for each gallon of refined petroleum sold in the State for resale or consumption. The fees collected under the Financial Assurance Act are deposited into the Emergency Response Fund (which is spent by the DNR to undertake corrective actions under

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the Leaking Underground Storage Tank Act) until that Fund reaches \$1 million. After that threshold has been met, the fees are to be deposited into the Michigan Underground Storage Tank Financial Assurance Fund, which is to be used for various related purposes including an interest subsidy program on loans used for the replacement of underground storage tanks.

FISCAL IMPACT

The bill would clarify the measurement and record-keeping methods for collecting tax revenue from petroleum products and have no anticipated fiscal impact on State or local government. This assumes that "net or temperature-corrected" gallons and the "product exchange agreement" are standard industry practices under the Motor Fuel Tax Collection program currently in place.

ARGUMENTS

Supporting Argument

The bill would provide the Department of Treasury with the necessary authorization to calculate and collect fees under the Underground Storage Tank Financial Assurance Act according to the same standard practice under which it collects motor fuel taxes.

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