

**SFA**

BILL ANALYSIS

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Senate Fiscal Agency

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**House Bill 4688 (Substitute H-1 as reported with amendments)**

Sponsor: Representative William R. Bryant, Jr.

House Committee: Agriculture and Forestry

Senate Committee: State Affairs, Tourism, and Transportation

Date Completed: 6-10-87

**RATIONALE**

Tributyltin (TBT) is the active ingredient of many pesticide products registered for use by the U.S. Environmental Protection Agency (EPA). TBT compounds are registered for use in marine antifoulant paints, used primarily on boat hulls but also applied to docks, buoys and other marine structures. The paints protect submerged surfaces from fouling by marine organisms, such as algae, that attach themselves to the structures. The EPA has determined that marine use of TBT causes toxicity in more aquatic organisms than those targeted. Trace concentrations of TBT generate negative impacts on snails, clams, oysters, zoo plankton and other aquatic organisms that are essential components of the food chain in our fresh water lakes. These ecological resources support the valuable sport and commercial fisheries in Michigan waters, and are threatened by the increasing presence of TBT. In April of this year, for example, tests showed levels of TBT in Lake St. Clair marina waters 100 times higher than water quality standards of Michigan's Water Resources Commission Act allow. Therefore, many groups say that this substance should be prohibited from being sold or used in the State.

**CONTENT**

The bill would create a new law that would prohibit the sale or use of a marine paint containing tributyltin beginning August 1, 1987. Persons who intentionally or knowingly violated the prohibition would be guilty of a misdemeanor and could be punished by imprisonment of up to 90 days, or by a fine of up to \$10,000, or both. In addition, a violator would be liable for a civil fine of up to \$5,000 for each violation and could face an administrative fine of \$500 for each violation. A default in the payment of a civil or administrative fine or costs ordered under the bill could be remedied by any means authorized under the Revised Judicature Act.

The bill would not prohibit the use of watercraft or a structure to which marine paint containing tributyltin was applied prior to the effective date of the bill, sale of the paint for delivery and use outside the State, and the wholesale sale before January 1, 1988, of paint specifically designed for use on steel or aluminum boats.

**SENATE COMMITTEE ACTION**

The Committee on State Affairs, Tourism, and Transportation adopted three amendments to the bill. One specified that the effective date for the prohibition of TBT marine paint would be August 1, 1987. Another amendment provided that the sale for delivery and use out of the State of TBT marine paint would not be prohibited by the bill. In addition, an amendment was added to provide that wholesale sale of paint that was specially designed for use on steel or aluminum boats would not be prohibited by the bill until January 1, 1988.

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

**ARGUMENTS****Supporting Argument**

In the U.S., several states, such as Virginia, Maryland, North Carolina, Washington and Oregon, have already removed TBT from the marketplace. Although some people claim that TBT is on its way out, and that the industry has already seen the writing on the wall, rough estimates are that \$200 million in back inventory of TBT exists nationwide. Because national and even worldwide markets are closing, concern exists among government officials that manufacturers will be looking for unregulated marketplaces to dump the product at a reduced price. Michigan and other Great Lakes states now make up an unregulated marketplace of considerable size. Since Michigan has the highest pleasure boat registration of any state in the union, and a survey indicates that TBT users own about 30% of those boats (216,086), the State should be acutely concerned with the potential harm of TBT to our environment.

There is no good reason to continue using TBT paint in Michigan, as antifouling paints with copper compounds have proven to be an acceptable alternative to TBT based paint. By prohibiting the unnecessary sale and use of this highly toxic compound in the State, the bill would prevent further damage from occurring to Michigan waters.

**Response:** If the reason for the prohibition of TBT based marine paint is the protection of Michigan waters, then the bill should not allow the sale for delivery and use of this toxic paint outside of the State. This loophole in the bill would permit the paint to be sold to a neighboring state or province that shares with our State the shores of Lake Michigan, Huron, Superior, Erie and St. Clair. The paint, if sold to and used by persons in these areas, could result in the continued toxification of the very waters the bill proposes to protect.

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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.

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