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BILL ANALYSIS

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Senate Bill 1079 (as introduced 2-23-06)
Sponsor: Senator Cameron S. Brown
Committee: Technology and Energy

Date Completed: 2-27-06

CONTENT

The bill would amend the Motor Fuels Quality Act to extend to diesel and specified alternative fuels regulations concerning the quality, storage, manufacture, delivery, and sale of gasoline; require distributors and retail dealers of diesel and alternative fuels to obtain a license for each retail outlet; and require firms selling hydrogen in Michigan to register with and be approved by the Department of Agriculture.

Standards

The Act requires the Director of the Michigan Department of Agriculture (MDA) to establish standards to ensure the purity and quality of gasoline sold or offered for sale in Michigan, and standards for the amount and type of additives allowed to be included in gasoline. Under the bill, the MDA Director would have to establish similar standards for diesel fuel.

Currently, "gasoline" means any fuel sold in Michigan that is suitable for use in spark-ignition internal combustion engines, and known commonly or commercially or sold as gasoline. The bill would delete the reference to any fuel sold in Michigan and instead refer to a volatile mixture of liquid hydrocarbons generally containing a small amount of additives.

The bill would define "diesel fuel" as any liquid other than gasoline that is suitable for use as a fuel or a component of a fuel in a compression-ignition internal combustion diesel engine.

Licensure

The Act requires a distributor or retail dealer to obtain a license from the MDA for each retail outlet the person operates before engaging in transferring, selling, dispensing, or offering gasoline for sale. The license fee is \$100 per year. Under the bill, the license requirement also would apply to a distributor or retail dealer of diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

Hydrogen Fuel Registration

The bill would require any firm offering hydrogen fuel for sale in this State first to register with and obtain approval from the MDA. The bill specifies that registration would have to include a complete list of the fuel specifications the product was to meet and the sites where the product was offered for sale to the general public.

Under the bill, "hydrogen fuel" would mean a substance containing the chemical formula H₂ that exists as a colorless, odorless, and highly flammable gas except at low cryogenic temperatures or when highly compressed that is gaseous or liquefied and suitable for use in a fuel cell or hydrogen fuel vehicle.

Retail Storage Tanks

The Act requires a retail dealer periodically to test a storage tank at a retail outlet to ensure that the tank does not have more than two inches of water or water-alcohol at the bottom. If there is more than two inches, gasoline may not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than two inches. Under the bill, these provisions also would apply to tanks storing diesel fuel, biodiesel, or biodiesel blend.

The bill would define "biodiesel" as a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified for by the American Society for Testing and Materials, designated B100, and meeting the requirements of D-6751, as approved by the MDA.

"Biodiesel blend" would mean a fuel composed of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

Manufacture of Fuel

Under the Act, except as provided by Federal law or regulation, in the manufacture of gasoline at any Michigan refinery, a refiner may not manufacture gasoline unless it meets the standards established by the MDA Director. Under the bill, this regulation also would apply to the manufacture of diesel or hydrogen fuel.

Distribution of Fuel

The Act prohibits a distributor from selling or transferring to any distributor, retail dealer, or bulk purchaser-end user any gasoline, unless the gasoline meets the standards established by the Director, except as provided by Federal law or regulation. The bill would include diesel fuel, biodiesel, biodiesel blend, and hydrogen fuel in this provision. Also, the gasoline or other fuel would have to be suitable for its intended purpose.

Fuel Carrier

The Act prohibits a carrier or an employee or agent of a carrier, whether operating under contract or tariff, from causing gasoline tendered to the carrier for shipment or transfer to another carrier, distributor, or retail dealer to fail to comply, at the time of the delivery, with the standards established by the Director. Under the bill, this prohibition also would apply to a carrier of diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

Fuel Sales

Under the Act, a person may not knowingly sell, dispense, or offer for sale gasoline, unless it meets the MDA Director's standards. Under the bill, this prohibition also would apply to diesel, biodiesel, biodiesel blend, and hydrogen fuel.

Fuel Delivery

The Act prohibits a refiner or distributor from transferring, selling, dispensing, or offering gasoline for sale in Michigan unless the refiner or distributor indicates on each bill, invoice,

or other instrument evidencing a gasoline delivery the name of the wholesale distributor who received delivery of the gasoline. The bill would include diesel fuel, biodiesel, biodiesel blend, and hydrogen fuel in this provision.

Currently, a distributor or refiner may not transfer, sell, dispense, or offer gasoline for sale in Michigan to a retail dealer unless the distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name and license number issued under the Act of the retail dealer who received the delivery. The bill provides, instead, that a distributor or refiner could not transfer, sell, dispense, or offer gasoline, diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel for sale in Michigan to a retail dealer unless the retail dealer had a valid retail gasoline outlet license under the Act.

Under the Act, a bill, invoice, or other instrument evidencing a delivery of gasoline issued by a refiner or distributor for gasoline deliveries to purchasers who are not required to hold a license under the Act or the Motor Fuel Tax Act must indicate clearly the name and address and other information necessary to identify the purchaser. Under the bill, this requirement also would apply to a delivery of diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

Sediments

The bill would include diesel fuel, biodiesel, and biodiesel blend in a provision prohibiting a refiner, distributor, bulk purchaser-end user, or retail dealer from transferring, selling, dispensing, or offering gasoline for sale unless it is visibly free from undissolved water, sediments, and other suspended matter.

Document Storage & Use

If the MDA Director has reason to believe a violation of certain provisions of the Act or rules promulgated under it has occurred, he or she may require a refiner, distributor, storage facility, blender, bulk purchaser-end user, or retail dealer to provide to the MDA the original documents pertaining to the receipt, transfer, delivery, storage, or sale of gasoline, and to allow the documents to remain the Department's possession. Under the bill, this requirement also would apply to violations involving diesel fuel, biodiesel, biodiesel blend, or hydrogen fuel.

The Act requires a refiner, distributor, bulk purchaser-end user, blender, or retail dealer to preserve information regarding the receipt, transfer, delivery, or sale of gasoline, including loading tickets, bills of lading, drop tickets, meter tickets, invoices, and billings, for three years. The bill would include information regarding the storage of gasoline in this requirement, and require sales reports also to be kept for three years.

The Act requires a retail outlet to retain on its premises the original drop tickets and invoices for one month before transfer to another location, unless the storage location is easily accessible from the retail outlet and the original records are delivered to the retail outlet for receipt by the MDA within 24 hours after the retail outlet has been given a written request for the records. The bill would include bills of lading among the documents that must be retained on the premises for one month before transfer. The bill also would delete the exception that applies if the storage location is easily accessible and the records are delivered within 24 hours after receipt of the request.

MCL 290.642 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would result in increased costs in excess of \$800,000 annually to the Michigan Department of Agriculture (MDA) associated with the establishment and enforcement of fuel

standards for certain fuels. This estimate was provided by the MDA and does not include any capital investment associated with laboratory conversions/modifications required to regulate certain fuels. These additional costs would have to be borne by existing resources as the bill does not provide for any new revenue.

Fiscal Analyst: Craig Thiel

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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.