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BILL ANALYSIS

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Senate Bill 7 (Substitute S-2 as reported)
Sponsor: Senator Liz Brater
Committee: Energy Policy and Public Utilities

Date Completed: 8-11-08

RATIONALE

In the 1970s and 1980s, some states began adopting efficiency standards for certain appliances sold within their borders. Federal standards were enacted in 1987. The initial standards applied to major residential appliances, such as refrigerators and air conditioners, and some commercial equipment, including motors and furnaces. Since then, the standards have been updated periodically and extended to other appliances. Federal law authorizes individual states to set appliance efficiency standards that are stricter than the Federal standards. In light of the environmental and monetary benefits associated with the use of energy-efficient products, it has been suggested that Michigan should adopt standards for appliances and equipment not covered under current Federal standards.

CONTENT

The bill would create a new statute to do all of the following:

- **Require the Public Service Commission (PSC) to adopt regulations establishing minimum efficiency standards for certain new products.**
- **Beginning January 1, 2010, prohibit the sale in Michigan of new products that did not meet the efficiency standards.**
- **Prohibit the installation for compensation of a product that did not meet the efficiency standards, beginning one year after the sale of certain products became subject to the bill's requirements.**

- **Require the manufacturers of products subject to the bill to test samples of their products, certify that their products were in compliance with the standards, and identify each product offered for sale or installation as being in compliance.**
- **Authorize the PSC to test products for compliance with the standards and inspect retailers and distributors of the products.**
- **Require the PSC to investigate alleged violations and report the results to the Attorney General.**
- **Authorize the Attorney General to institute enforcement proceedings.**
- **Require the PSC to issue a warning for a first violation; and prescribe a maximum civil fine of \$250 for subsequent violations.**
- **Authorize the PSC to promulgate rules to implement and enforce the bill.**

Legislative Findings

The bill states that the Legislature finds all of the following:

- "That efficiency standards for certain products sold or installed in the state assure consumers and businesses that the products meet minimum efficiency performance levels thus saving money on utility bills."
- "That efficiency standards save energy and reduce pollution and other environmental impacts associated with

the production, distribution, and use of electricity, natural gas, and oil."

- "That efficiency standards can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods."
- "Improved energy efficiency can reduce or delay the need for new power plants, power transmission lines, and power distribution system upgrades."
- "That energy efficiency standards contribute to the economy of this state by helping to better balance energy supply and demand, thus reducing pressure for higher natural gas and electricity prices."
- "By saving consumers and businesses money on energy bills, efficiency standards help the state and local economy, since energy bill savings can be spent on local goods and services."

Scope of the Bill

The bill would apply to the following types of new products sold, offered for sale, or installed in the State after the bill's effective date:

- Bottle-type water dispensers.
- Commercial hot food holding cabinets.
- Compact audio products.
- Digital versatile disc (DVD) players and DVD recorders.
- Portable electric spas.
- Any other products designated by the PSC.

The bill would not apply to any of the following:

- New products manufactured in the State and sold outside the State.
- New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.
- Products installed in mobile manufactured homes at the time of construction.
- Products designed expressly for installation and use in recreational vehicles.

Efficiency Standards

Adoption. Within one year after the bill's effective date, the PSC would have to adopt regulations establishing minimum efficiency standards for the types of new products subject to the bill. The regulations would

have to provide for all of the minimum efficiency standards described below.

Bottle-Type Water Dispensers. Bottle-type water dispensers designed for dispensing both hot and cold water could not have standby energy consumption greater than 1.2 kilowatt-hours per day, as measured in accordance with the test criteria contained in version 1 of the U.S. Environmental Protection Agency's (EPA's) "Energy Star Program Requirements for Bottled Water Coolers", except units with an integral, automatic timer could not be tested using Section D, "Timer Usage", of the test criteria.

("Water dispenser" would mean a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means. "Bottle-type water dispenser" would mean a water dispenser that uses a bottle or reservoir as the source of potable water.)

Commercial Hot Food Holding Cabinets.

These products would have to have a maximum idle energy rate of 40 watts per cubic foot of interior volume, as determined by the "idle energy rate-dry test", in ASTM F2140-01, "Standard Test Method for Performance of Hot Food Holding Cabinets" published by ASTM International.

Interior volume would have to be measured in accordance with the method shown in the EPA's "Energy Star Program Requirements for Commercial Hot Food Holding Cabinets" as in effect on August 15, 2003.

("Commercial hot food holding cabinet" would mean an appliance that is a heated, fully-enclosed compartment with one or more solid doors, and that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. The term would not include heated glass merchandising cabinets, drawer warmers, or cook-and-hold appliances.)

Compact Audio Products. Compact audio products could not use more than two watts in standby-passive mode for those without a permanently illuminated clock display and four watts in standby-passive mode for those with a permanently illuminated clock display, as measured in accordance with International Electrotechnical Commission test method 62087:2002(E), "Methods of

measurement for the power consumption of audio, video, and related equipment".

("Compact audio product", also known as a mini, mid, micro, or shelf audio system, would mean an integrated audio system encased in a single housing that includes an amplifier and radio tuner, attached or separable speakers, and can reproduce audio from magnetic tape, CD, DVD, or flash memory. The term would not include products that can be independently powered by internal batteries, have a powered external satellite antenna, or can provide a video output signal.)

DVD Players & Recorders. Digital versatile disc players and DVD recorders could not use more than three watts in standby-passive mode, as measured in accordance with International Electrotechnical Commission test method 62087:2002(E).

("Digital versatile disc player" and "DVD recorder" would mean commercially available electronic products encased in a single housing that includes an integral power supply and for which the sole purpose is the decoding, production, or recording of digitized video signal on a DVD. "DVD recorder" would not include models that have an electronic programming guide function that provides an interactive, onscreen menu of television listings, and that downloads program information from the vertical blanking interval of a regular television signal.)

Portable Electric Spas. Portable electric spas could not have a standby power greater than $5(V^{2/3})$ watts where V equals the total volume in gallons.

("Portable electric spa" would mean a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.)

Sale of Products Subject to the Bill

Under the bill, no new bottle-type water dispenser, commercial hot food holding cabinet, compact audio product, DVD player or recorder, or portable electric spa could be sold or offered for sale in Michigan beginning January 1, 2010, unless the efficiency of the new product met or exceeded the efficiency standards set forth in the PSC's regulations.

Installation of Products

One year after the date upon which the sale or offering for sale of certain products became subject to the bill's requirements, no product could be installed for compensation in the State unless the efficiency of the new product met or exceeded the bill's efficiency standards.

Changes to the Standards

The PSC could adopt, revise, modify, or amend the required regulations to establish increased efficiency standards for the products specified in the bill. Additionally, the PSC could establish standards for products not specified in the bill. In considering new or amended standards, the Commission would have to set efficiency standards upon a determination that increased efficiency standards would serve to promote energy conservation in the State and would be cost-effective for consumers who purchased and used new products, provided that no new or increased efficiency standards would become effective within one year following the adoption of any amended regulations establishing the increased standards.

The PSC could apply for a waiver of Federal preemption in accordance with Federal procedures for State efficiency standards for any product regulated by the Federal government.

Annual Report

The PSC would have to issue to the Legislature and the Governor an annual report recommending energy efficiency standards for certain products not regulated by the Federal government.

Manufacturer Testing, Certification, & Identification

Manufacturers of products covered by the bill would have to test samples of their products in accordance with the test procedures adopted by the PSC. The Commission would have to adopt by rule test procedures for determining the energy efficiency of the specified products if they were not provided for in the bill. The PSC would have to adopt U.S. Department of Energy approved test methods or, in the absence of such methods, other appropriate

nationally recognized test methods. The PSC could adopt updated test methods when new versions of test procedures became available.

Manufacturers of new products covered by the bill would have to certify to the Commission that the products were in compliance with the bill. The certifications would have to be based on test results. The PSC would have to promulgate rules governing the certification of the products and would have to coordinate with the certification programs of other states and Federal agencies with similar standards.

Manufacturers of new products covered by the bill would have to identify each product offered for sale or installation in the State as in compliance with the provisions of the bill by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The PSC would have to promulgate rules governing the identification of the products and packaging, which would have to be coordinated to the greatest practical extent with the labeling programs of other states and Federal agencies with equivalent efficiency standards. The PSC would have to allow the use of existing marks, labels, or tags that connoted compliance with the bill's efficiency requirements.

PSC Testing & Inspections

The Commission could test products covered by the bill. If the products were found not to be in compliance with the minimum efficiency standards, the PSC would have to charge the manufacturer for the cost of product purchase and testing, and make available to the public information on products found not to be in compliance with the standards.

With prior notice and at reasonable and convenient hours, the PSC could cause periodic inspections to be made of distributors or retailers of the covered new products in order to determine compliance with the bill.

Violations & Penalties

The PSC would have to investigate complaints received concerning violations of the bill and would have to report the results of the investigations to the Attorney

General. The Attorney General could institute proceedings to enforce the bill's requirements.

For a first violation, the PSC would have to issue a warning to any manufacturer, distributor, or retailer, or any person who installed a product covered by the bill for compensation, who violated the bill. Repeat violations would be subject to a civil penalty of up to \$250. Each violation would constitute a separate offense, and each day that the violation continued would constitute a separate offense. Penalties assessed for violations would be in addition to costs assessed for product purchase and testing.

PSC Rules

The Commission could promulgate further rules as necessary to ensure the proper implementation and enforcement of the bill's provisions.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Appliance and equipment efficiency standards reduce energy use, which saves consumers money, reduces pollution, and improves the reliability of the electric grid. The Federal government has recognized these benefits and established standards for some products; however, other common products currently are not subject to any efficiency standards. Michigan should adopt its own standards for these products sold within the State's borders, as Federal law authorizes it to do.

The implementation of energy efficiency standards is one of the most cost-effective ways to reduce demand for electricity. Some manufacturers already sell appliances that would meet the proposed standards and would not have to change their products as a result of the bill. The PSC's costs to adopt new standards in the future and test products for compliance should be minimal, as the Commission could adopt appropriate standards used in other states and rely on testing by independent parties, such as Underwriters Laboratories (UL).

In addition, the adoption of efficiency standards by individual states can encourage their adoption at the Federal level.

Opposing Argument

Energy-efficient products can be more expensive than other products, and consumers generally do not see a payback for several years after purchasing. It is unclear whether the cumulative energy savings associated with mandatory standards would be sufficient to justify the added up-front cost to consumers and the regulations on manufacturers. Furthermore, the standards could put Michigan at a competitive disadvantage with neighboring states that have not adopted them.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would increase the costs of the Public Service Commission by an unknown amount. No fund source has been identified to pay for these expenses.

Any revenue received from civil penalties collected under the bill would go to the General Fund.

Fiscal Analyst: Elizabeth Pratt
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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.