



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 400 (Substitute S-1 as reported)
Senate Bill 401 (Substitute S-1 as reported)
Senate Bill 402 (Substitute S-1 as reported)
Sponsor: Senator Wayne Schmidt (S.B. 400)
 Senator Jim Stamas (S.B. 401)
 Senator Tonya Schuitmaker (S.B. 402)
Committee: Natural Resources

CONTENT

Senate Bill 400 (S-1) would amend Part 121 (Liquid Industrial Wastes) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Change the title of Part 121 to "Liquid Industrial By-Products", and refer to liquid industrial by-product rather than liquid industrial waste throughout the part.
- Exclude from classification as a liquid industrial by-product a material that is used or reused as an ingredient to make a product and meets other criteria prescribed in Part 121.
- Eliminate a requirement that a generator of liquid industrial by-product use a site identification number when necessary for transportation and pay the Department of Environmental Quality (DEQ) a \$50 fee for deposit into the Environmental Pollution Prevention Fund for each number the generator uses.
- Require a generator to label or mark containers and tanks of by-product to identify their contents.
- Refer to a shipping document rather than a manifest in record-keeping requirements for shipments of liquid industrial by-product, and revise the requirements.
- Allow certain required records and documents to be maintained in an electronic format.
- Allow a transporter to dispose of septage waste or liquid industrial by-product on land if authorized by the DEQ.
- Require the owner or operator of a disposal, treatment, storage, or reclamation facility to maintain a plan to respond to and minimize hazards from unplanned releases of liquid industrial by-product, document that employees responsible for managing by-product were trained in proper handling and emergency procedures, and report annually to the DEQ.
- Authorize the Attorney General to bring a civil action against a person for a violation of Part 121, and allow a court to impose a maximum civil fine of \$10,000 per violation for deposit in the General Fund.
- Include the costs of surveillance and enforcement by the State among the amounts that may be recovered from a violator who has damaged or destroyed natural resources.
- Change the name of the Liquid Industrial Transporter Waste Account to the "Liquid Industrial By-Product Transporter Account".

Senate Bill 401 (S-1) would amend the Hazardous Materials Transportation Act to do the following:

- Revise references to certain government entities responsible for oversight of motor carriers transporting hazardous materials.
- Refer to liquid industrial by-product rather than liquid industrial waste in a provision that exempts certain motor carriers from the Act's registration and permitting requirements,

but specifies that these motor carriers remain subject to Part 121 of NREPA and any other applicable law.

Senate Bill 402 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to reflect the changes proposed by Senate Bill 400 (S-1) and revise references to other sections of NREPA involving hazardous material violations.

The bills are tie-barred to each other and would take effect 90 days after enactment.

MCL 324.12101 et al. (S.B. 400)
29.472 & 29.473 (S.B. 401)
777.13c (S.B. 402)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 400 (S-1) would have a negative, but likely minor fiscal impact on the Department of Environmental Quality. The bill would remove a \$50 site identification user charge for liquid industrial by-product generators. In total, the DEQ receives about \$30,000 from these site identification user charges, which is credited to the Environmental Pollution Prevention Fund (EPPF). This revenue would be lost under the bill. To provide some perspective, total EPPF revenue was about \$6.4 million in fiscal year 2013-14.

The bill also would have an indeterminate but likely minimal fiscal impact on the Department of Attorney General. According to the Department, the bill would increase the likelihood of new civil actions that could be brought by the State against those that violate the provisions of the law that would be amended. In practice, the Department of Environmental Quality rarely asks the Attorney General to bring civil actions against violators due to the narrow scope of the current statute. The bill would broaden the form of relief available and thus could make it more likely that the DEQ would request the Attorney General to file lawsuits against violators. The Department of Attorney General does not anticipate that the resulting increase in civil actions would be significant and thus the costs would be minimal.

Finally, the bill could have a positive fiscal impact on the State General Fund. As the bill would add a penalty of a civil fine for noncompliance, any violations could result in an increase in State General Fund revenue.

Senate Bills 401 (S-1) and 402 (S-1) would have no fiscal impact on State or local government.

Date Completed: 10-8-15

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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.