House Legislative Analysis Section

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Senate Bill 288 (Substitute H-8)
Second Analysis (2-1-90)

Sponsor: Sen. Vern Ehlers
Senate Committee: Natural Resources and Environmental Affairs
House Committee: Conservation, Recreation, & Environment

THE APPARENT PROBLEM:

Household solid wastes have been traditionally disposed of in landfills. However, due to the shortage of landfill space and problems associated with the burial of wastes, there has been an increase in efforts to reduce waste sent to landfills by separating recyclable and potentially hazardous items from the waste stream. Batteries can contaminate the environment by leaking their heavy metal content in landfills or by exposing the population to the metals through incineration. Although it is agreed that the majority of lead acid batteries are recycled, the recycling rate depends upon the availability of primary lead (mined lead). If lead production is up and demand for lead is down, the demand for lead from lead acid batteries will usually decrease. Conversely, when the demand for lead batteries is high and production of primary lead does not meet the demand for primary lead, lead from used lead acid batteries will normally be in demand. Many believe that batteries can be effectively kept out of the waste stream, regardless of lead market factors, by requiring a monetary deposit to be paid upon purchase of a battery and a refund provided upon return, in the same manner that some beverage containers currently are handled in Michigan. Legislation has been introduced to address this issue.

THE CONTENT OF THE BILL:

The bill would create a new act effective April 1, 1990 to regulate the disposal of lead acid batteries. Batteries could only be disposed of by delivery to a retailer, distributor, manufacturer, or a collection, recycling or smelting facility. Retailers would be required to dispose of the batteries by delivery to one of the types of facilities listed above, or to a distributor or manufacturer. Retailers would also be required to provide written summation of the requirements of the bill to their customers, and failure to provide notice would subject the retailer to a civil fine of $25. Distributors would be required to dispose of the lead acid batteries within 90 days of receipt of the batteries by delivery to a manufacturer, or to a collection, recycling, or smelting facility approved by the Department of Natural Resources (DNR). Manufacturers would be required to dispose of the batteries at a recycling or smelting facility approved by the DNR.

The deposit. The purchase deposit on a lead acid battery, beginning January 1, 1993, would be $6. A person who paid a deposit would be entitled to a full refund if the purchaser returned to the retailer any used lead acid battery accompanied by a voucher issued by the retailer within 30 days after purchase. As an alternative to returning a used lead acid battery to a retailer, a purchaser could turn in a used lead acid battery accompanied by a voucher (issued by the retailer from which the battery was purchased) to a collection, recycling, or smelting facility who would refund the deposit to the purchaser and seek redemption of the voucher from the retailer who issued the voucher. A deposit that was unredeemed within 30 calendar days of purchase, minus a 1/2 percent deposit administration fee that could be retained by the retailer, would revert to the state and would be deposited in the Environmental Response Fund. However, the deposit provisions would not apply to a retailer who sold a lead acid battery as a component part within a motorized vehicle sold by the retailer.

Study committee. The bill would require a joint legislative committee, composed of three representatives appointed by the Speaker of the House and three senators appointed by the Senate Majority Leader, to study the safe use and disposal of nickel cadmium and mercury batteries, the recycling options for both, and the need for a deposit system for all three types of batteries addressed in the bill. The committee would have to make recommendations to the Speaker and Majority Leader by December 31, 1990 regarding possible legislation pertaining to the disposal and recycling of nickel cadmium and mercury batteries, and whether there was a significant increase in the number of lead acid batteries that were disposed of as required by the bill (thus eliminating the need for the deposit system).

Penalty provisions. Improper disposal of a lead acid battery would be a misdemeanor, punishable by a maximum fine of $25, plus costs of prosecution. (Each battery that was unlawfully disposed of would constitute a separate violation.) A violation by a retailer, distributor, or manufacturer would be a misdemeanor and punishable by up to 60 days imprisonment or a fine of up to $1,000, or both, plus the costs of prosecution.

HOUSE COMMITTEE ACTION:

The House Conservation, Recreation and Environment Committee adopted a substitute for the bill allowing unredeemed deposits to revert to the Environmental Response Fund, and extending the effective date of the deposit provision from 1992 to 1993.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, the bill would result in regulation and enforcement costs which cannot be estimated at this time. (1-31-90)

ARGUMENTS:

For:

Lead acid batteries, which are used in motor vehicles and heavy industrial machinery such as fork lifts, can contaminate the soil and groundwater when they are

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disposed of in landfills. Their contents likely will leak from a landfill's artificial or natural liners, posing an unnecessary threat to vegetation and drinking water. In addition, given the likelihood that increased amounts of household waste will be incinerated in Michigan, the batteries in the waste stream could be even more hazardous. It is the heavy metal content of incinerator ash that causes the ash to be hazardous to the environment. Whether household waste is disposed of in landfills or burned, removing batteries from the waste stream can only protect the environment. By providing consumers with an incentive not to discard old, used batteries, but to return them for a deposit refund, the bill would go a long way toward removing the batteries from the waste stream, thereby protecting Michigan's fragile environment and the public health.

POSITIONS:

The Department of Natural Resources supports the bill. (1-30-90)

The Institute of Scrap Recycling supports the bill. (1-31-90)

The Michigan Association of Counties supports the bill. (1-31-90)

The Michigan United Conservation Clubs supports the bill. (1-30-90)

The National Electrical Manufacturers Association supports the bill. (1-30-90)

The Michigan Retailers Association does not oppose the bill. (1-30-90)

The Service Station Dealers Association does not oppose the bill. (1-30-90)