SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 288 (as enrolled)
Sponsor: Senator Vern Ehlers
Senate Committee: Natural Resources and Environmental Affairs
House Committee: Conservation, Recreation, and Environment

PUBLIC ACT 20 of 1990

Date Completed: 8-28-90

RATIONALE

Traditionally, household solid waste has been disposed of in landfills. In recent years, however, there has been an increase in efforts to reduce waste sent to landfills by separating recyclable and potentially hazardous items from the waste stream. Such practices have gained greater support as available landfill space becomes more scarce and alternative, and some claim more hazardous, waste treatment methods, such as incineration, become more common. Many people believe batteries should be removed from the waste stream because their heavy metal content can contaminate the environment both in landfills and when incinerated. They contend that batteries effectively can be kept out of the waste stream by requiring a monetary deposit to be paid upon purchase and a refund provided upon return, in the same manner that some beverage containers currently are handled in Michigan.

CONTENT

The bill would create a new Act effective April 1, 1990, to do all of the following:

- **Regulate the disposal of lead acid batteries.**
- **Require the payment of a deposit on the purchase of such batteries.**
- **Require the formation of a joint legislative committee to study the safe use and disposal of other types of batteries.**
- **Impose penalties for violations of the lead acid battery disposal requirements.**

Disposal

Disposal of lead acid batteries would be prohibited except by delivery to a retailer, distributor, or manufacturer, or a collection, recycling, or smelting facility approved by the Department of Natural Resources (DNR). A retailer could dispose of used lead acid batteries by delivery to a distributor, a manufacturer, or a DNR-approved collection, recycling, or smelting facility. A distributor would have to deliver batteries to a manufacturer or DNR-approved facility, and a manufacturer would have to deliver them to a DNR-approved facility.

A retailer would have to accept used lead acid batteries offered by customers, in a quantity at least equal to the number of new batteries offered for sale. Retailers also would have to post, in a readily visible location, a written notice that contained the universal recycling symbol and information about the bill's disposal requirements. After January 1, 1993, the notice also would have to include information regarding the bill's mandatory deposit on lead acid batteries and the availability of deposit refunds. The DNR would have to produce and print the notice, and make it available to retailers. Failure to post a notice after a warning by the DNR would subject a retailer to a $25 per-day civil fine. A default in the payment of a fine could be remedied by any means authorized under the Revised Judicature Act.

A battery distributor would have to receive used lead acid batteries from retailers in a

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quantity at least equal to the number of new batteries the distributor sold. Distributors would have to remove returned used batteries from the collection point within 90 days after receiving them.

Deposit

Beginning on January 1, 1993, each purchaser of a lead acid battery would be required either to exchange a used battery for the purchased one, or to pay the retailer a $6 deposit. A retailer who accepted a monetary deposit would have to issue the purchaser a voucher, which would entitle the purchaser to a deposit refund if he or she returned any used lead acid battery to the retailer within 30 days. If the person returned a used battery and retailer's voucher to a DNR-approved collection, recycling, or smelting facility, the purchaser would be entitled to a deposit refund from the facility. The facility then could seek a $6 reimbursement from the retailer that issued the voucher.

Unredeemed deposits received by a retailer would have to escheat to the State on a quarterly basis and be deposited in the Environmental Response Fund. The retailer could keep a 0.5% administration fee from the unredeemed deposits. The deposit requirements would not apply to retailers who sell lead acid batteries as a component of a motorized vehicle sold by the retailer.

Joint Legislative Committee

The bill would require that a joint legislative committee be established "to study the safe use and disposal of nickel cadmium and mercury batteries, the recycling option for nickel cadmium and mercury batteries, and the need for a deposit system for lead acid batteries, nickel cadmium batteries, and mercury batteries". The committee would consist of three Senators, appointed by the Majority Leader, and three Representatives, appointed by the Speaker of the House.

By December 31, 1990, the committee would have to submit to the Majority Leader and the Speaker a report that made recommendations on possible legislative action regarding the use and disposal of nickel cadmium and mercury batteries, including whether they should be banned from solid waste disposal areas or whether a deposit system should be implemented, or both. The report also would have to make recommendations regarding whether, after the bill's effective date, there was a significant increase in the number of lead acid batteries disposed of as required by the bill, and thereby diverted from the solid waste stream, rendering the deposit system unnecessary. The DNR would have to make necessary resources and data available to the joint committee.

Penalties

A person, other than a retailer, distributor, or manufacturer, who violated the bill's disposal regulations would be guilty of a misdemeanor punishable by a fine of up to $25, plus prosecution costs. Each battery unlawfully disposed of would be a separate violation. Improper disposal by a retailer, manufacturer, or distributor would be a misdemeanor punishable by up to 60 days' imprisonment, a maximum fine of $1,000, or both, plus prosecution costs.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State.

This is a new program that would result in increased enforcement costs to the Department of Natural Resources, and no cost estimates have been provided. An indeterminate increase in revenue would be anticipated from the unredeemed deposits that would escheat to the State, the $25 per-day civil fine, and the $25 to $1,000 misdemeanor fines.

ARGUMENTS

Supporting Argument

Lead acid batteries, which are used in motor vehicles, can contaminate the soil and groundwater when they are disposed of in landfills. Their acid content 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 presence of lead acid batteries in the waste stream could be even more hazardous. It is the

heavy metal content of incinerator ash that makes the ash 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 giving consumers an incentive not to discard old, used lead acid batteries, but to return them for a deposit refund, the bill would go a long way toward keeping the batteries out of the waste stream, thereby protecting Michigan's fragile ecosystem and the public health.

Opposing Argument

While attempting to remove lead acid batteries from the waste stream is a laudable goal, the bill does not go far enough. The presence of nickel cadmium and mercury batteries in the waste stream also is a potential hazard. The bill should include these types of batteries in any proposed deposit and refund program so that they, too, were effectively precluded from being buried or burned.

Response: Including nickel cadmium and mercury batteries, which are used for many small household items, would be difficult at this time, because there simply are far more of those types of batteries in use and more retailers would be affected by such a deposit and refund program. Instead, the bill would take the prudent step of requiring the formation of a legislative committee to study the disposal of those batteries and make recommendations on recycling them by the end of 1990.

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