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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 288 (Substitute S-1)

Sponsor: Senator Vern Ehlers

Committee: Natural Resources and Environmental Affairs

Date Completed: 5-12-89

SUMMARY OF SENATE BILL 288 (Substitute S-1):

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

- Require the disposal of lead acid, nickel cadmium, and mercury batteries by delivery to retailers, distributors, or certain collection facilities.
- Create the "Battery Depository Fund".
- Require the payment of a deposit on the purchase of batteries.
- Specify violations of the proposed Act and penalties for those violations.

The bill would take effect on September 1, 1989.

Disposal

Disposal of batteries would be prohibited except by delivery to a retailer or a collection, recycling, or, if the battery were a lead acid battery, to a smelting facility approved by the Department of Natural Resources (DNR). A retailer could not dispose of used batteries except by delivery to a battery distributor, the distributor's authorized agent, or a DNR-approved collection, recycling, or, if the battery were a lead acid battery, to a smelting facility.

Retailers would have to accept used batteries from customers at or near the point at which batteries were offered for sale. A retailer would have to accept a quantity of used batteries that was at least equal to the number of new batteries sold by the retailer. Retailers also would have to post in a location readily visible to customers a written notice that contained the universal recycling symbol and all of the following statements:

- "Recycle your used batteries."
- "It is illegal to discard a battery except by delivery to a retailer or a collection, recycling, or, if a battery is a lead acid battery, a smelting facility."
- "State law requires retailers to accept batteries for recycling or proper disposal."

The notice would have to be at least 8.5 inches by 11 inches and include information pertaining to the deposit that would be required under the bill and

the availability of refunds for those deposits. The DNR would have to produce and print the notices and make them available to retailers. Failure to post a notice following a DNR warning would make a retailer subject to a civil fine of \$25 per day. A default in the payment of such a fine could be remedied by any means authorized under the Revised Judicature Act.

Distributors of batteries would have to accept used batteries from retailers at the point of transfer and in a quantity at least equal to the number of new batteries sold by a distributor. A distributor would have to remove accepted used batteries from the collection point within 90 days of receiving them. Disposal would have to be made by delivery to a DNR-approved collection, recycling, or smelting facility.

#### Battery Depository Fund

The Fund would receive the purchase deposits that would have to be paid to retailers from the sale of nickel cadmium and mercury batteries. The Fund and its interest and earnings would have to be used to reimburse retailers and collection and recycling facilities for deposit refunds paid. The Fund also could be used to pay administrative costs of the DNR and the Department of Treasury, which would have to administer the Fund. If money remained in the Fund after its actual and anticipated obligations were met, the Treasurer could authorize expenditures to the DNR to encourage the recycling and proper disposal of used nickel cadmium and mercury batteries.

The Department of Treasury would have to promulgate rules determined necessary by the Treasurer to assure that the nickel cadmium and mercury deposit and refund system was managed properly and that the Fund remained financially strong. Such rules could include verification procedures and record requirements for retailers, manufacturers, and collection and recycling facilities.

Money in the Fund could not lapse at the end of a fiscal year, but would have to remain in the Fund to be spent as provided in the bill.

#### Battery Deposits

Before January 1, 1993, manufacturers of nickel cadmium and mercury batteries would have to label, affix, or imprint on each battery to be sold in Michigan the refund value of the battery and the State's name. The purchase deposit on a lead acid battery, beginning January 1, 1992, would be \$6 and the deposit on nickel cadmium and mercury batteries, beginning January 1, 1993, would be \$1. A person who paid a \$6 deposit would be entitled to a full refund of the deposit amount, if at the time of purchase, or within eight days after purchase, he or she returned to the retailer any used lead acid battery. A person who paid a \$1 deposit would be entitled to a refund of 50 cents, upon the return of a nickel cadmium or mercury battery to a retailer or a collection, recycling, or smelting facility.

Retailers would have to forward money received from nickel cadmium and mercury battery purchase deposits to the Fund at least quarterly. Retailers and collection and recycling facilities that made refunds for nickel cadmium and mercury battery purchase deposits would have to keep "proper records" of used

batteries returned and deposits refunded. Such a retailer or facility would be entitled to a reimbursement from the Fund of 75 cents for each \$1 refund paid. Claims for those reimbursements would have to be submitted to the Fund at least quarterly.

#### Violations and Penalties

The bill specifies that the DNR would have to enforce the bill. A person who violated the bill by disposing of a battery improperly would be guilty of a misdemeanor, punishable by a maximum fine of \$25 plus prosecution costs. Each disposal of a battery would be considered a separate violation. A retailer or distributor of batteries who violated the proposed Act would be guilty of a misdemeanor, punishable by not more than 60 days' imprisonment, a maximum fine of \$1,000, or both, plus prosecution costs.

Legislative Analyst: P. Affholter

#### FISCAL IMPACT

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

The bill could result in increased costs to the State as it represents a new program for the Departments of Natural Resources and Treasury. These costs would be paid for by revenue generated from the program and deposited in the proposed Battery Depository Fund. The DNR would have a new function of approving facilities and enforcing the proposed Act. The Department of Treasury would have a new function of receiving and disbursing refunds and administering the Fund. There have been no cost estimates provided by these Departments to date.

Under substitute S-1, revenue would be anticipated from mercury and nickel cadmium battery sales (25 cents per battery) and the \$25 per day civil fine, but the potential amount is not known at this time.

Fiscal Analyst: G. Cutler

#### S8990/S288SB

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.