

SFA



BILL ANALYSIS

Senate Fiscal Agency

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House Bill 5256 (Substitute H-2 as reported without amendment)

House Bill 5257 (Substitute H-2 as reported with amendment)

Sponsor: Representative Bart Stupak

House Committee: Transportation

Senate Committee: State Affairs, Tourism, and Transportation

JUL 20 1990

Date Completed: 5-8-90

RATIONALE

The Can-Am commercial store in Port Huron has been operating for 26 years near the entrance to the Blue Water Bridge under a contract with the Michigan Department of Transportation (MDOT). Various items are sold duty-free when they are purchased by persons traveling into Canada for consumption outside of the U.S. Currently, travelers purchase the items at the Can-Am store where they are then loaded onto a conveyor belt for pickup at a booth on the bridge. The booth, which is located at the "point of no return"--meaning the traveler must continue on into Canada--is leased by the Can-Am store from MDOT. The Department has been in the process of constructing a new entrance ramp to the bridge which, among other things, will enable the Can-Am store and the pickup booth to be combined into a single new facility that will be located on the ramp at a point-of-no-return. Upon completion of the ramp, however, the facility will fall within the right-of-way of a limited access highway (the I-94/I-69 business loop) and thus will be prohibited under various State laws from carrying on commercial operations. Specifically, Public Act 205 of 1941, which regulates the construction and use of limited access highways, allows only vending machines at selected sites on limited access highways to dispense food, drink, and other articles. In addition, the Michigan Vehicle Code makes it a civil infraction to sell or offer to sell goods, wares, produce, fruit, vegetables, or merchandise within the right-of-way of a highway outside of the corporate limits of a city or village, or within the right-of-way of a State trunk line highway. A suggestion has been

made, therefore, to grant an exemption from these prohibitions to accommodate the Can-Am store.

CONTENT

House Bill 5256 (H-2) would amend the Michigan Vehicle Code and House Bill 5257 (H-2) would amend Public Act 205 of 1941 to provide an exception from the Acts' provisions restricting the sale of food and goods along limited access highways and certain rights-of-way. Specifically, the bills state that, in conjunction with the Federal law that grants an exemption from the restriction against operating certain commercial enterprises along limited access highways, the Acts could not prohibit the use of a facility located in part on the right-of-way of I-94 near the interchange of I-94 and the I-69/I-94 business loop for the sale of only those articles that were for export and consumption outside of the country. Further, House Bill 5257 (H-2) would allow the Department of Transportation to enter into a lease for such a facility; the revenue from the lease would have to be deposited in the State Trunk Line Fund.

MCL 257.676a (House Bill 5256)

257.52 (House Bill 5257)

SENATE COMMITTEE ACTION

The Senate Committee adopted an amendment to House Bill 5257 (H-2) to allow the Department of Transportation to enter into a lease for the Can-Am store and to require that

H.B. 5256 & 5257 (5-8-90)

the revenue from the lease be deposited in the State Trunk Line Fund.

FISCAL IMPACT

The Can-Am store leases space from the Department of Transportation. Revenue to the State Trunkline Fund was \$398,376 in FY 1988-89.

ARGUMENTS

Supporting Argument

The bills would exempt the Can-Am store from the prohibition against commercial sales found in the Vehicle Code and Public Act 205 of 1941, and thus would allow it to continue under a contractual agreement with MDOT to operate on the new entrance ramp being built to the Bluewater Bridge in Port Huron. This store sells items (generally, liquor, cigarettes, and perfume) duty-free to travelers to Canada who plan to consume the goods in Canada, and contracts with the State to operate in Michigan for 10% of its yearly gross revenues. A similar exemption, in fact, was granted to the Can-Am store by legislation passed by Congress two years ago. According to the Office of the Attorney General, however, the Federal legislation is not preemptive and changes to the State statutes are necessary to make the exemption effective.

Opposing Argument

Some people fear that House Bill 5257 (H-2) would set a bad precedent by allowing the State to contract with private commercial firms for the use of property on or near freeways and their exit/entrance ramps. Although it would apply only to the Can-Am store in Port Huron, the bill would encourage MDOT to compete unfairly with the private sector near highway plazas in other areas of the State.

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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.