



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 1079 (as enrolled)  
Sponsor: Senator William Van Regenmorter  
Senate Committee: Transportation and Tourism  
House Committee: Conservation, Environment and Great Lakes

**PUBLIC ACT 564 of 1996**

Date Completed: 1-21-97

**RATIONALE**

In 1990, Congress enacted amendments to the Federal Clean Air Act to set new requirements for attaining air quality standards and for regulating stationary and mobile sources of air pollution. States that were not in attainment with air quality standards were required to prepare a State Implementation Plan and implement programs in the plan according to a specific timetable. Among the areas in Michigan identified as moderate nonattainment areas were the Metropolitan Statistical Areas of Grand Rapids and Muskegon. In response to the Federal requirements, Michigan enacted a number of measures in 1993, including Public Act 234, which established motor vehicle emissions testing programs in western Michigan. (This Act was subsequently recodified in the Natural Resources and Environmental Protection Act (NREPA).)

Public Act 234 of 1993 required the establishment of a mandatory vehicle emissions inspection and maintenance (I/M) program in Kent, Ottawa, and Muskegon Counties by January 1, 1995. The Act required the Department of Natural Resources to submit to the U.S. Environmental Protection Agency (EPA) an application requesting redesignation of Grand Rapids and Muskegon ozone nonattainment areas by November 14, 1993. If the application were approved, the program's implementation had to be suspended and could be reimplemented only if required as a contingency measure included in maintenance program approved by the EPA as part of the redesignation, and only if an actual violation of ozone standards were observed. The program also must be suspended if the EPA redesignates the area as an ozone attainment area, reclassifies the area from moderate to transitional or marginal, or determines that the program is not applicable or necessary. According to the Department of

Environmental Quality (DEQ), the State applied in 1993 for redesignation of the western Michigan counties, but the application was denied due to a lack of monitoring data. Subsequently, the State contracted with a California-based company and a team of 16 Michigan businesses to implement and operate a vehicle emissions testing program for Kent, Muskegon, and Ottawa Counties. At the end of the 1994 ozone season, Grand Rapids and Muskegon were found to meet EPA standards, and the State sought a redesignation of these areas. During the EPA's review of the redesignation petition, a Muskegon County monitor recorded a violation of the ozone standard. Kent and Ottawa Counties continued to meet the standard. Before the Federal government rendered a decision on the redesignation request, and before the I/M program began operation, Governor John Engler ordered that the program be stopped.

According to the DEQ, the EPA announced in June 1996 that the Grand Rapids area met ozone standards, resulting in a redesignation of the Kent and Ottawa areas. The EPA said that the area had met the standard for the past four years, and credited the improvement to controls on industrial and auto emissions. In approving the ozone redesignation, the EPA also approved the State's maintenance plan containing contingency measure commitments to correct promptly any future violations of the ozone standard. In addition, the EPA reportedly said that efforts in Chicago, Milwaukee, and Gary, Indiana will help cut ozone-causing emissions. State officials have contended that high ozone levels on the west side of the State result from ozone transport from upwind areas across Lake Michigan. Consequently, they have concluded that reducing locally generated emissions will not significantly lower ozone levels

in west Michigan. Although Ottawa and Kent Counties have been redesignated as ozone attainment areas, the Clean Air Act requires that there be legislative authority to implement an I/M program as a contingency measure if these areas subsequently violate the national ambient air quality standards. According to the DEQ, a contingency measure will be implemented only if the violation is determined not to be attributable to transport from upwind areas.

## **CONTENT**

**The bill amended Part 63 (motor vehicle emissions testing for west Michigan) of the Natural Resources and Environmental Protection Act to revise the requirement that a motor vehicle emissions inspection and maintenance program be implemented in Kent, Ottawa, and Muskegon Counties. The bill also repealed a provision that exempted from Part 63 any area of the State subject to Part 63 that had been redesignated by the U.S. Environmental Protection Agency as having attained the national ambient air quality standards for ozone and had demonstrated maintenance of the standards without a motor vehicle emissions I/M program.**

The Act required the Michigan Department of Transportation, by January 1, 1995, to implement and administer in Kent, Ottawa, and Muskegon Counties a motor vehicle emissions I/M program designed to meet the performance standards for such a program as established by the EPA. The bill requires the Department to implement the program "in those areas that are not in attainment of the national ambient air quality standards for ozone", and deleted the January 1, 1995, date.

Previously, counties were excluded from the I/M program if they would be in attainment of the national ambient air quality standards for ozone but for emissions emanating from outside of the State if the EPA determined, based on a study of formation and transport of ozone, that the control of emissions in those areas would not significantly contribute to the attainment of the national ozone standards. The bill provides, instead, that counties that would be in attainment of the national ozone standards but for emissions emanating from outside the State, are excluded from the I/M program unless the Department of Environmental Quality affirmatively determines, by clear and convincing evidence, based on study of ozone

formation and transport, that the control of motor vehicle emissions would significantly contribute to the attainment of the national ozone standards.

The bill also deleted provisions requiring the Department of Natural Resources to submit to the EPA by November 13, 1993, an application requesting redesignation of the Grand Rapids ozone nonattainment area consisting of Kent and Ottawa Counties and the Muskegon ozone nonattainment area consisting of the Muskegon County; and requiring the implementation of the motor vehicle emissions I/M program to be suspended if the application was approved. The bill specifies, instead, that if an area in the State subject to Part 63 is redesignated by the EPA as being in attainment with national ambient air quality standards for ozone, then the inspection and maintenance program is suspended. As the Act previously provided, the program may be reimplemented only if required as a contingency measure included in a maintenance plan approved by the EPA as part of the redesignation.

MCL 324.6306

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Since the vehicle emissions testing program required by Public Act 234 has never been implemented, Kent and Ottawa Counties have been redesignated as attainment areas, and Muskegon County is seeking redesignation, the bill requires the vehicle emissions inspection and maintenance program to be implemented in those counties only in areas that are not in attainment of national ozone standards, and only in counties in which controlling motor vehicle emissions would significantly contribute to meeting the national ozone standards. In addition, the bill provides for the suspension of the I/M program if the EPA redesignates any area subject to Part 63 as being in attainment with national ozone standards, and retains the provision that the program may be reimplemented only if required as a contingency measure included in a maintenance plan approved by the EPA as part of the redesignation. Continuing the statutory authority to implement an I/M program as a contingency measure will preserve the integrity of Michigan's plan commitment.

**Response:** It is not certain whether the State can suspend the I/M program in Muskegon County since the EPA has not redesignated this area as being in attainment with national ambient air quality standards for ozone.

Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

The cost of the vehicle emissions inspection and maintenance program for Kent, Ottawa, and Muskegon Counties was to be financed by an inspection fee of up to \$24. The program was not implemented. If the program had been implemented, a \$24 biennial fee would have generated approximately \$6,000,000 annually.

Fiscal Analyst: B. Bowerman

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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.