



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4502 (Substitute H-2 as passed by the House)
Sponsor: Representative Fran Amos
House Committee: Agriculture
Senate Committee: Agriculture, Forestry and Tourism

Date Completed: 3-29-06

CONTENT

The bill would amend the Weights and Measures Act to establish civil fines for an owner of a motor fuel delivery facility who intentionally delivered less fuel to a customer than the fuel pump meter indicated.

Under the Act, a person who sells, offers, or exposes for sale less than the represented quantity of a commodity, thing, or service (or commits other violations) is guilty of a misdemeanor and may be fined between \$1,000 and \$10,000, or imprisoned for up to one year, or both. The Act also prescribes felony penalties for intentional violations.

The bill provides that, in addition to any other applicable penalties, an owner of a motor fuel delivery facility that had intentionally delivered less fuel to a retail customer than indicated by the fuel pump meter would be responsible for the following civil fines:

- For a first offense, \$5,000.
- For a second offense, \$10,000.
- For a third offense or any subsequent offense, \$25,000.

Under the bill, "intentional" would mean the presence of additional piping, electronic switches, or any other device or act designed to reduce the volume of motor fuel delivered as compared to the stated volume on the pump meter.

The Michigan Department of Agriculture (MDA) would have to inspect motor fuel facilities with three or more violations at least annually, and could close any facility that was responsible for a violation described above until the owner could demonstrate that the problem was corrected.

Any civil fines or recovery of any economic benefits associated with a violation of the Act that were collected under these provisions would have to be paid to the General Fund and credited to the MDA for enforcement of the Act.

Any civil fines could be embodied in a consent order as provided under Section 31a of the Act.

(Section 31a permits the MDA Director, upon determining that a person has violated the Act or rules promulgated under it, to enter into a consent agreement with the person. Under a consent agreement, the Director may assess the following fines plus the amount of any economic benefit associated with the violation:

- For a first violation, between \$50 and \$1,000.
- For a second violation within two years, between \$100 and \$5,000, plus the actual costs of the investigation.
- For a third violation within two years of the first violation, between \$500 and \$10,000, plus the actual costs of the investigation.

If a person does not enter into a written consent agreement, the MDA Director may initiate a criminal prosecution or commence an administrative hearing or civil violation proceeding.)

The bill states that it would be the intention of the Legislature that the MDA establish periodic inspection and testing of fuel delivery systems and that owners of fuel delivery systems calibrate them periodically.

MCL 290.631

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The proposed new fines under the bill would result in additional State revenue credited to the General Fund and dedicated to enforcement of the Act. It is unknown how much additional revenue would be generated. In FY 2003-04, the MDA assessed \$311,850 in fines and penalties under the current provisions of the Act.

Fiscal Analyst: Craig Thiel

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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.