



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

Senate Bill 152 (Substitute S-2 as reported)
Senate Bill 362 (Substitute S-3 as reported)
Sponsor: Senator Liz Brater (S.B. 152)
Senator Patricia L. Birkholz (S.B. 362)
Committee: Natural Resources and Environmental Affairs

Date Completed: 4-11-07

RATIONALE

In the 1960s and 1970s, excessive algae growth covered vast areas of the Great Lakes. Algal blooms deplete oxygen levels in water, rendering it inhospitable to plant and animal life. Additionally, algae can clog industrial and municipal water system intakes, turn beaches visually and aromatically unpleasant, and pose threats to public health. Algal blooms commonly are caused by high levels of phosphorus, a nutrient necessary for plant and algae growth. Although it occurs naturally, excess phosphorus from unnatural sources, such as fertilizer, wastewater treatment facilities, inadequate septic systems, and household dishwasher and laundry detergent, can make its way into bodies of water.

Various steps have been taken to reduce the amount of phosphorus from human activity. The National Pollutant Discharge Elimination System permitting program has resulted in the substantial reduction of phosphorus from point sources, and nutrient limits have been applied to industrial and sewage treatment plant discharges. The Natural Resources and Environmental Protection Act prohibits the sale or distribution of cleaning agents containing more than 8.7% phosphorus; cleaners for commercial and food processing use containing more than 14% phosphorus; and cleaners for industrial use with more than 28% phosphorus. Additionally, the Department of Environmental Quality (DEQ) has promulgated a rule prohibiting the sale or distribution in Michigan of a household laundry detergent containing more than 0.5% phosphorus (R 323.1173).

Although these measures have been effective in reducing algae buildup, over the past several years there has been a resurgence of algal blooms on all of the Great Lakes except Lake Superior, as well as inland lakes. It has been suggested that the DEQ rule banning the sale of laundry detergent containing more than 0.5% phosphorus be codified, and that a similar ban on dishwasher detergent be enacted.

CONTENT

The bills would amend Part 39 (Cleaning Agents) of the Natural Resources and Environmental Protection Act to prohibit the sale or distribution of cleaning agents intended for use in household dishwashers or clothes washers if the cleaning agents contained phosphorus in excess of 0.5% by weight. The prohibition concerning dishwasher cleaning agents would begin July 1, 2010. The bills are tie-barred to each other.

Currently, Part 39 prohibits a person from selling or distributing for use in this State a cleaning agent that contains phosphorus in any form in excess of 8.7% by weight expressed as elemental phosphorus. Under the bills, this would be subject to the provisions regarding household use. Also, the bills would extend the current prohibition to offering for sale and distributing for sale cleaning agents containing phosphorus in excess of 8.7% by weight.

The bills would prohibit a person from selling, offering for sale, or distributing for sale or use in this State the following cleaning agents if they contained phosphorus in any form in excess of 0.5% by weight expressed as elemental phosphorus:

- A cleaning agent intended for use in household dishwashers.
- A cleaning agent intended for use in household clothes washing machines.

Senate Bill 152 (S-2) contains the prohibition regarding dishwashers, while Senate Bill 362 (S-3) applies to clothes washers. The prohibition in Senate Bill 152 (S-2) would apply beginning July 1, 2010.

(Part 39 defines "cleaning agent" as a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance intended to be used for cleaning purposes. The term does not include any of the following:

- A cleaner, rinsing aid, or sanitizing agent intended primarily for use in commercial machine dishwashers with not more than 14% phosphorus.
- A cleaner for food processing with not more than 14% phosphorus.
- A cleaner for industrial uses with not more than 28% phosphorus.)

MCL 324.3902

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

Water is an invaluable natural resource in Michigan. Several of the State's largest industries are heavily reliant upon water. Excessive algae growth can have a significant economic impact on the State and local governments by clogging municipal water system intakes, resulting in beach closings, and presenting threats to public health. Adding to the problem is the overuse of pesticides in efforts to control algae growth.

The algal blooms appearing in bodies of water around the State is a result of several factors, including high phosphorus levels due to human activity. Although household dishwasher detergent constitutes just one source, restricting its phosphorus content to a nominal level would be a simple way to reduce the overall amount that ends up in the State's lakes, rivers, and streams. The July 1, 2010, compliance date would give the dishwasher detergent industry time to develop effective, low-phosphorus products. Although several such detergents are already on the market, they evidently do not meet consumer needs. Additionally, codifying the existing ban on laundry detergents containing more than 0.5% phosphorus would make the statute consistent with administrative rules.

Supporting Argument

Senate Bill 152 (S-2) would enact one recommendation of the Phosphorus Policy Advisory Committee, which was formed in 2006 upon the request of the DEQ Director. The Committee, on which a wide range of stakeholders were represented, was charged with identifying the major sources of phosphorus loadings to Michigan's surface waters, reviewing the management approaches that are being or could be used to control phosphorus, and developing findings and recommendations to advance phosphorus management strategies protective of the State's waters. The Committee's final report of March 15, 2007, includes a recommendation that the DEQ pursue legislation that would restrict the phosphorus content of household dishwasher detergent to 0.5% by weight, effective July 2010.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would have no direct fiscal impact on the State. An indeterminate and indirect fiscal impact could be realized in the long term. Phosphorus is a nutrient necessary for the growth of algae; however, an abundance of phosphorus encourages the excessive growth of algae and other plant species in water. Decay of large amounts of plant material and additional growth of invasive species can lead to a reduction in water quality. If the amount of phosphorus in Michigan's waters were reduced, less money could be necessary to address water

quality and aquatic invasive species in the long term. The primary sources of manmade phosphorus are sewage treatment systems, run-off from fertilized lawns or animal manure storage, water treatments, drained wetlands, disturbed land areas, and commercial cleaning products.

Fiscal Analyst: Jessica Runnels

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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.