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BILL



ANALYSIS

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Senate Bill 506 (as enrolled)
Sponsor: Senator Mike Green
Senate Committee: Agriculture
House Committee: Agriculture

Date Completed: 12-20-16

RATIONALE

The Weights and Measures Act governs the standards for weighing or measuring commodities for sale in Michigan, as well as labeling weights and measures. Rather than codify the individual standards that are to be used, Michigan adopts the National Institute of Standards and Technology (NIST) standards by reference in the Act to NIST handbooks. To adopt new standards, the State incorporates the specific edition and regulation, law, or the entire handbook by reference in the statute.

Concerns have been raised about the lack of labeling standards for bulk oil containers used to service oil change customers, and the lack of information presented on invoices, receipts, or other documentation for the sale of oil by suppliers/wholesalers and retail oil service providers. The Act vests regulatory enforcement power in the Department of Agriculture and Rural Development, which may investigate violations on a complaint-basis. Currently, the Act's labeling requirements supply the means for correcting any issues with motor vehicle oil suppliers and service providers. If a customer is able to show that he or she was sold oil that was improperly labeled, the Department can act. Beyond issues with improper labeling, however, there is no statutory basis to investigate complaints relating to the improper quality of oil.

Although the 2014 edition of a NIST handbook contains a new chapter establishing standards for motor oil and oil change providers, those standards do not apply in Michigan because the Weights and Measures Act refers to 2012 editions of the NIST handbooks. To address the concerns described above, and to update the State's standards in the Weights and Measures Act, it has been suggested that the statutory references to the NIST handbooks should be revised.

CONTENT

The bill would amend the Weights and Measures Act to incorporate by reference the standards published in the 2014 editions of NIST handbooks, replacing references to the 2012 editions. The bill also would authorize the Secretary of State to refer the matter to the Department of Agriculture and Rural Development if he or she believed that a motor vehicle repair facility had violated motor oil requirements of a 2014 NIST handbook governing the sale of commodities.

Except as otherwise provided, the Act requires various activities to conform to standards published in the 2012 edition of the NIST Handbook 130, which the Act incorporates by reference. Specifically, the method of sale of a commodity sold in Michigan must conform to the "Uniform Regulation for the Method of Sale of Commodities". The packaging and labeling requirements for commodities sold in Michigan must conform to the "Uniform Packaging and Labeling Regulation". The bill would refer to the 2014 edition of the NIST Handbook 130.

The Act requires the specifications, tolerances, and regulations for commercial weights and measures to comply with the standards contained in the 2012 edition of the NIST Handbook 44,

which the Act incorporates by reference. Also, a certificate of conformance for a type, and the determination for a uniform basis conformance for a type, must comply with the 2012 edition of the NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices". The bill would refer to the 2014 edition of the NIST Handbook 44.

In addition, registration for servicepersons and service agencies and competency tests must comply with the standards published in the 2012 edition of the NIST Handbook 130, "Uniform Regulation for the Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices", as well as the 2012 edition of the NIST Handbook 44. The bill would refer to the 2014 editions of those handbooks.

The bill also specifies that, notwithstanding any other provision of the Act, a motor vehicle repair facility registered under the Motor Vehicle Service and Repair Act would be subject to the Secretary of State's oversight under that Act. The Secretary of State could refer the matter to the Department of Agriculture and Rural Development if he or she believed that a motor vehicle repair facility could have violated Section 2.33 of the 2014 edition of the NIST Handbook 130. (Section 2.33 contains motor oil requirements, which are summarized below.) A motor vehicle repair facility would not be subject to oversight by the Department for such a violation unless the matter had been referred to the Department by the Secretary of State.

The bill would take effect 90 days after its enactment.

MCL 290.628c

BACKGROUND

NIST Handbooks

Article I, Section 8, clause 5 of the U.S. Constitution grants Congress the power to "fix the Standard of Weights and Measures". The National Institute of Science and Technology is a Federal agency that works with a number of industries to develop measurements and standards in accordance with that power. To aid industry and regulators in keeping abreast of the latest standards, NIST publishes a series of handbooks. These handbooks compile the best practices, uniform laws and regulations, and other information for a number of fields. The standards are reviewed annually and a new edition of the handbooks is printed each year with the revised standards.

2014 Motor Oil Requirements

Section 2.33 of the 2014 edition of NIST Handbook 130, "Uniform Regulation for the Method of Sale of Commodities", requires the following information to be included on the label of a container, receptacle, dispenser, or storage tank of motor oil and on an invoice or receipt from service on an engine that includes the installation of motor oil:

- The brand name of the motor oil.
- The SAE viscosity grade of the oil.
- Engine service category.
- Obsolete service category warnings.

The label on any container of motor oil also must contain a statement of its intended use.

For motor oil sold in bulk, the regulation requires documentation of the information listed above, as well as the following:

- The quantity of oil.
- The date and time of the sale.
- The name and address of the seller and buyer.

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

According to the Michigan Petroleum Association and the Michigan Oil Change Association, nationwide, 20% of the customers who go to a service provider for an oil change do not get the quality or type of oil that they request. Occasionally, these errors are attributable to an oversight. Often, however, the improper oil is sold intentionally for financial gain. The use of incorrect oil in an engine can cause a number of problems, including engine trouble and reduced engine lifespan, and will void most automobile warranties. This is cause for concern, as many consumers go to oil change stations and purchase from people and businesses that they trust. Currently, the Department has few avenues it can pursue to stop businesses and individuals who supply or install the incorrect oil.

By adopting the new NIST standards, the bill would ensure that documentation was created and consumers were given specific information. These requirements would give the Department the statutory tools and evidence necessary to investigate businesses or individuals who misrepresent the oil they supply or install. As the Department enforced the new standards, the bad actors would be deterred. Also, the standards are not burdensome and would not be used to certify bulk storage containers or service providers.

Supporting Argument

Before 2012, Michigan last updated the references to the NIST handbooks in 2002. By incorporating the 2014 editions, the bill would adopt more up-to-date standards for weight and measures.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The shift of standards of regulation by the Michigan Department of Agriculture and Rural Development (MDARD) from what is required under the 2012 edition of the NIST handbooks to the 2014 edition, as provided under the bill, would result in increased responsibilities for the Department along with accompanying increased costs. Currently, under the 2012 standards, MDARD is not required to regulate or otherwise respond to complaints concerning the quantity or quality of oil used at businesses engaged in vehicle oil change services. Under the published 2014 standards, MDARD would be required to regulate these operations, according to the Department.

According to MDARD's estimate, a regulatory program that would consist solely of the Department's responding to complaints related to the quantity or quality of oil at these facilities would require \$120,000 in additional funding for personnel, \$40,000 for vehicle and travel costs, and \$30,000 for lab testing costs, for a total of \$190,000 annually. The source of the funding for MDARD to fulfill its regulatory responsibilities under the 2014 standards is not known at this time but, potentially, the needed funds could come from General Fund dollars or possibly from the potential establishment of license/inspection fees to be levied on oil change businesses.

Fiscal Analyst: Bruce Baker

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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.