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BILL ANALYSIS



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House Bill 4792 (Substitute S-1)
Sponsor: Representative Beau Matthew LaFave
House Committee: Commerce and Tourism
 Ways and Means
Senate Committee: Natural Resources

Date Completed: 9-8-20

CONTENT

The bill would amend Part 211 (Underground Storage Tank Regulations) of the Natural Resources and Environmental Protection Act to do the following:

- **Allow an owner or operator to operate an unattended self-service motor fuel dispensing facility if the owner or operator notified the local fire department and if the Department of Licensing and Regulatory Affairs (LARA) approved the facility.**
- **Require LARA to inspect and approve or disapprove a facility within 60 days after a request was made.**
- **Require LARA to approve the facility if certain requirements were met.**
- **Require the owner or operator of a facility to visit the site each day and regularly inspect and maintain the equipment.**
- **Prohibit LARA from requiring a facility to limit public access to or dispensing from fuel dispensers by using locked dispenses, security fencing, or other means except for means that required payment when fuel was dispensed.**
- **Specify that the bill would not apply to a facility that was operated as a membership-based fuel co-op or dispensed fuel from above-ground tanks, and met applicable standards under the Fire Prevention Code**
- **Specify that the bill would not preempt local ordinance that prohibited unattended self-service motor fuel dispensing facilities.**

(Note: the Act refers to the Department of Environmental Quality, now the Department of Environment, Energy, and the Great Lakes; however, regulatory authority for underground storage tanks was transferred to LARA under Executive Order 2012-14.)

The bill would allow an owner or operator to operate an unattended self-service motor fuel dispensing facility if the owner or operator notified the local fire department or, if a local fire department did not exist, the owner or operator employed a third-party monitoring service at least 30 days before commencing operations and LARA approved the facility.

The Department of Licensing and Regulatory Affairs would have to inspect and approve or disapprove the facility within 60 days after the owner or operator requested approval. The Department would have to approve the facility if all of the following requirements were met:

- Fuel dispenser operating instructions were conspicuously posted in the dispensing area and included the location of emergency controls and a requirement that the user remain outside of the user's vehicle and keep the fuel nozzle in view during dispensing.
- An approved fire extinguisher for flammable liquids of 4-B:C rating or higher was located no more than 100 feet from each fuel dispenser and storage tank fill opening, was clearly identified, and was readily accessible.

- A telephone or other approved means to notify the fire department or third-party monitoring service was clearly identified and readily accessible.
- Warning signs as required by LARA were posted.
- An approved emergency procedures sign, in the dimensions required with the text prescribed in the bill, was posted in a conspicuous location.
- The area around the emergency shut-offs and the dispensing area were well lit.
- Activity at the dispensing area was recorded by a surveillance camera.
- Fuel purchases were not payable by coin or currency.
- Fuel dispensers did not allow more than \$125 of fuel to be pumped per transaction and required manual action to resume delivery for the next transaction.

Additionally, the facility would have to have, for each group of fuel dispensers on an island, at least one emergency shut-off that met all of the following requirements:

- Was no less than 20 feet and no more than 100 feet from each fuel dispenser it controlled.
- Was clearly identified and readily accessible.
- Could be reset only manually.

As a condition of approval, the owner or operator would have to visit the site each day and regularly inspect and maintain the equipment. The Department could not require an unattended self-service fuel dispensing facility to limit public access to or dispensing from fuel dispensers by using locked dispensers, security fencing, or other means, except for means that required payment to be made when fuel was dispensed.

The bill would not apply to an unattended self-service fuel dispensing facility that met both of the following requirements:

- The facility was operated as a membership-based fuel co-op or dispensed fuel from an above ground storage tank system.
- The facility met applicable standards under Sections 5c, 5d, 5j, and 5l to 5o of the Fire Prevention Code, and rules promulgated to implement those Sections or a variation to those standards made under Section 3c(6) of the Code.

(Generally, Sections 5c, 5d, 5j, and 5l to 5o of the Fire Prevention Code pertain to various requirements applicable to locations that store flammable liquids in above ground tanks.)

The bill would not preempt local ordinances that prohibited unattended self-service motor fuel dispensing facilities authorized under the bill or that were as restrictive or more restrictive than the bill's requirements. A local unit of government that wanted to prohibit the operation of one or more authorized unattended self-service motor fuel dispensing facilities would have to adopt a local ordinance that prohibited the operation of any unattended self-service motor fuel dispensing facility, that was not a membership-based fuel co-op, within the local unit of government's jurisdiction.

MCL 324.21106

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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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.