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House Bill 4272 (as passed by the House)  
Sponsor: Representative Steven Johnson  
House Committee: Commerce and Tourism  
Senate Committee: Environmental Quality

Date Completed: 6-7-21

### **CONTENT**

**The bill would enact a new law to govern the labeling of certain portable fuel containers made in Michigan, and to do the following:**

- Specify that if a portable fuel container were not manufactured as described in the bill, a person could not stamp, engrave, or otherwise indicate on the container that it was made in Michigan.**
- State legislative findings with respect to portable fuel containers and regulation of interstate commerce.**

The bill would take effect 90 days after its enactment.

#### **Portable Fuel Container; "Made in Michigan"**

Under the bill, if a person manufactured a portable fuel container in Michigan without the inclusion of parts, other than generic or insignificant parts, imported from outside the State, and if the container did not comply with 40 CFR 59, subpart F, the person would have to clearly stamp, engrave, or otherwise indicate on a central part of the container the words "Made in Michigan. For use only in Michigan". This label would be evidence that, if the container remained in Michigan, it had not entered or substantially affected interstate commerce.

"Portable fuel container" would mean that term as defined in 40 CFR 59.680: any reusable container designed and marketed (or otherwise intended) for use by consumers for receiving, transporting, storing, and dispensing gasoline, diesel fuel, or kerosene. For the purposes of subpart F, all utility jugs that are red, yellow, or blue in color are deemed to be portable fuel containers, regardless of how they are labeled or marketed. Subpart F generally prohibits a manufacturer or importer from selling, offering for sale, introducing or delivering for introduction into commerce in the United States, or importing any new portable fuel container that is subject to subpart F's emissions standards and is manufactured after December 31, 2008, unless it is covered by a valid certificate of conformity, it is labeled as required, and it complies with all of the applicable requirements of subpart F, including compliance with the emissions standards for its useful life.)

"Generic or insignificant parts" would mean parts that are minor components or have manufacturing or consumer product applications other than the production of portable fuel containers and includes steel and plastic.

"Manufactured" would mean created from basic materials for functional usefulness, including forging, casting, machining, molding, stamping, or other processes for working materials.

If a portable fuel container were not manufactured as described above, a person could not stamp, engrave, or otherwise indicate on the container that it was made in Michigan.

### Legislative Findings

The bill states that the Legislature finds all the following:

- A portable fuel container that is manufactured in Michigan without the inclusion of parts, other than generic or insignificant parts, imported from outside of Michigan and that remains within the State has not entered into or substantially affected interstate commerce and is not subject to Congressional authority to regulate interstate commerce.
- Basic materials, such as unmachined and unshaped steel and plastic, are not portable fuel containers and are not subject to Congressional authority to regulate portable fuel containers in interstate commerce as if the basic materials were actually portable fuel containers.
- Congressional authority to regulate interstate commerce in basic materials does not include authority to regulate portable fuel containers that are manufactured in Michigan from those basic materials.

Legislative Analyst: Dana Adams

### **FISCAL IMPACT**

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

Fiscal Analyst: Ben Dawson

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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.