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BILL ANALYSIS

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Senate Bill 241 (Substitute S-1 as reported)
Senate Bill 747 (as reported without amendment)
Sponsor: Senator William Van Regenmorter (Senate Bill 241)
Senator Mat J. Dunaskiss (Senate Bill 747)
Committee: Transportation and Tourism

Date Completed: 12-4-95

RATIONALE

In 1990, Congress enacted amendments to the Federal Clean Air Act to set new requirements for attaining air quality standards and for regulating stationary and mobile sources of air pollution. States that were not in attainment with air quality standards were required to prepare a State Implementation Plan and implement programs in the plan according to a specific timetable. Areas in Michigan identified as moderate nonattainment areas were the Metropolitan Statistical Areas of Grand Rapids and Muskegon, and the Consolidated Metropolitan Statistical Area of Detroit and Ann Arbor. In response to the Federal requirements, Michigan enacted a number of measures in 1993. These included Public Acts 232 and 234 of 1993, which established motor vehicle emissions testing programs in southeastern Michigan and in western Michigan, respectively. (Both Acts were subsequently recodified in the Natural Resources and Environmental Protection Act.)

Public Act 232 authorizes the Department of Transportation (DOT) to implement and administer a decentralized motor vehicle emissions inspection test and repair program in Wayne, Oakland, and Macomb Counties. The program is to be implemented only under one of the following conditions: 1) as a contingency measure included in a redesignation maintenance plan, if an actual violation of ozone standards is observed; 2) if implementation is a condition of redesignation; or 3) if redesignation is not approved and the program is required to comply with the Clean Air Act. Since Public Act 232 was enacted, the Environmental Protection Agency (EPA) redesignated southeastern Michigan as an attainment area. Although the State still must implement contingency measures to address violations of ozone standards, these measures do not include a vehicle emissions testing program, according to the Air Quality Division of the Department of Environmental Quality; instead, the State will rely on the use of reformulated gasoline and vapor recovery devices to help meet air quality standards. In addition, the new program has not been implemented, although the Department of State continues to operate a testing program that originally was authorized in 1980 (and has been ordered by the Governor to terminate at the end of this year). In view of these circumstances, it has been suggested that the southeastern Michigan program be eliminated except as a contingency measure required by the EPA.

Public Act 234 established a mandatory vehicle emissions inspection and maintenance program (I/M) in Kent, Ottawa, and Muskegon Counties. The program must be suspended if the EPA redesignates the area as an ozone attainment area, and may be reimplemented only as a contingency measure if an actual violation of ozone standards is observed. The program also must be suspended if the EPA reclassifies the area from moderate to transitional or marginal, or determines that the program is not applicable or necessary. According to the Air Quality Division, a request to the EPA for redesignation of this area is pending and is expected to be approved. Although the State contracted for the establishment of seven testing sites, the program has not been implemented. Therefore, some have suggested repealing the program.

CONTENT

Senate Bill 241 (S-1) would amend the Natural Resources and Environmental Protection Act to repeal Part 63 of the Act, which establishes the motor vehicle emissions inspection and maintenance program for western Michigan. The Act currently provides for the establishment of a motor vehicle emissions I/M program fund;

requires motor vehicles subject to this part to be inspected; permits the Department of State to establish an inspection fee of up to $24; requires the Department to contract with a private entity to design, establish, and operate public inspection stations to conduct vehicle emissions inspections; prohibits a person from tampering with a motor vehicle that has been certified to comply with these provisions so that the vehicle no longer is in compliance; establishes penalties; and, required the Department of Natural Resources to request redesignation of the Grand Rapids ozone nonattainment area.

Senate Bill 747 would amend the Natural Resources and Environmental Protection Act to eliminate a requirement that the Michigan Department of Transportation (DOT) implement a vehicle emissions test and repair program in Wayne, Oakland and Macomb Counties; provide that the owner of a motor vehicle in any of those counties would not be required to have emissions testing and repairing unless an emissions test program were implemented; and eliminate two conditions under which the DOT may implement a decentralized test and repair program.

The bill would eliminate a requirement that the DOT by January 1, 1996, to implement and administer in Wayne, Oakland, and Macomb Counties a decentralized motor vehicle emissions inspection test and repair program in compliance with provisions of the Federal Clean Air Act that were in effect before November 15, 1990. The bill also provides that, on or after the bill's effective date, the owner of a motor vehicle who resided in Wayne, Oakland, or Macomb County would not be required to have the vehicle tested or repaired under the Act unless an emissions inspection test program were implemented by the DOT.

Currently, the DOT may implement and administer in Wayne, Oakland, and Macomb Counties a decentralized test and repair program designed to meet Environmental Protection Agency performance standards using bar 90 testing equipment or an equivalent system approved by the EPA, only under one of the following conditions:

1) As a contingency measure included in the maintenance plan approved by the EPA as part of the redesignation as an ozone attainment area. The contingency measure must include authority to expand the program to Washtenaw County if other measures are not sufficient to meet the maintenance plan. The DOT may implement the contingency measure only if an actual violation of the ozone national ambient air quality standard during the maintenance period is observed.
2) An application for redesignation as an ozone attainment area is approved by the EPA but a condition of that approval requires implementing the program in order to comply with the Clean Air Act.
3) An application for redesignation as an ozone attainment area is not approved by the EPA and the program is required to meet the requirements of the Clean Air Act. The program may be expanded to include Washtenaw County, and if necessary to meet the basic emissions I/M program requirements of the Clean Air Act, the DOT may expand the program to St. Clair, Livingston, and/or Monroe Counties if other measures are not sufficient to meet Clean Air Act requirements. The DOT may exercise this contingency only if it notifies the Legislature that this event has occurred and that the contingency will be implemented after a period of 45 days, and the Legislature fails to amend these requirements within the 45-day period.

The bill would eliminate the second and third conditions while maintaining the first condition; however, the DOT could exercise this contingency only if the Department notified the Legislature that the event had occurred and that the contingency would be implemented after 45 days, and the Legislature failed to amend these requirements within the 45-day period.

The Act provides that a testing station may not charge a fee to issue a certificate of compliance for a vehicle that has qualified for and received a low emission tune up. The bill would eliminate this provision.

The Act prohibits a person from engaging in motor vehicle inspections unless the person is a registered motor vehicle repair facility and has received a license to operate a testing station from the DOT. The bill would eliminate the requirement that the person be a registered motor vehicle repair facility.

MCL 324.6301-324.6321 (S.B. 241)
324.6506 et al. (S.B. 747)

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

Since the vehicle emissions testing programs required by Public Acts 232 and 234 have never been implemented, southeastern Michigan has been designated as an attainment area, and western Michigan is expected to be redesignated, Senate Bills 241 (S-1) and 747 would remove the statutory requirements that these programs be established. Senate Bill 747, however, would preserve statutory authority to establish an emissions testing program in southeastern Michigan as a contingency measure, but it could not be implemented until the Legislature had a chance to amend the requirements.

Opposing Argument

It would be premature to repeal the vehicle emissions inspection and maintenance program in western Michigan at this time. Although the EPA is expected to change the area's nonattainment status, redesignation has not yet occurred and the program should be retained at least as a contingency measure. Furthermore, although the air quality problem in western Michigan might be largely the result of pollution transported from the Chicago and Milwaukee areas, efforts to improve the air should still be made locally, especially since the State already has incurred costs to establish seven test sites for this program.

Legislative Analyst: S. Margules

FISCAL IMPACT

Senate Bill 241 (S-1)

The cost of the vehicle emissions inspection and maintenance program for Kent, Ottawa, and Muskegon Counties was to be financed by an inspection fee of up to $24. If the program had been implemented, a $24 biennial fee would have generated approximately $6,000,000 annually.

Senate Bill 747

The annual cost of the auto emissions testing program administered by the Department of State (Wayne, Oakland, Macomb) was $1.8 million General Fund/General Purpose. Public Act 451 of 1994 provided that the Department of Transportation would assume administration of this program not later than January 1, 1996. The Act also provided that $3 fee of the testing fee would be remitted to the Department of Treasury to support the program. That fee would have generated approximately $6.9 million annually.

Fiscal Analyst: B. Bowerman

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