

# Legislative Analysis

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## MOTOR FUEL QUALITY AMENDMENTS

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**House Bill 5508 (Substitute H-1)**

**Sponsor: Rep. Phil Pavlov**

**Committee: Natural Resources, Great Lakes, Land Use, and Environment**

### First Analysis (1-24-05)

**BRIEF SUMMARY:** The bill would amend the Motor Fuels Quality Act to do the following: (1) lower the required vapor pressure of gasoline sold in Southeast Michigan counties to 7.0 psi (pounds per square inch); (2) Delete provisions regarding Stage II vapor recovery systems; (3) permit the governor, upon a declaration of an emergency, to suspend vapor pressure requirements; and (4) permit gasoline refiners, distributors, and terminals to petition the Department of Agriculture for a temporary variance from vapor pressure standards.

**FISCAL IMPACT:** The bill would have no direct fiscal impact on the state or local units of government.

### **THE APPARENT PROBLEM:**

In April 2004, the U.S. Environmental Protection Agency designated 25 Michigan counties as nonattainment for federal 8-hour ozone National Ambient Air Quality Standards (NAAQS), effective June 2004. The designation includes eight counties in Southeast Michigan: Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne.

In response to the designation, the Southeast Michigan Council of Governments and the Department of Environmental Quality developed a multi-faceted strategy to reduce emissions of volatile organic compounds and nitrogen oxides (two ozone precursors) and bring the region into attainment with federal air quality standards. Among the control measures devised by SEMCOG and the DEQ, is the use of gasoline with a lower vapor pressure of 7.0 pounds per square inch (psi). The lower vapor pressure reduces the evaporative rate of gasoline and emissions of volatile organic compounds. In order to implement this control measure, statutory change is necessary.

### **THE CONTENT OF THE BILL:**

House Bill 5508 would amend the Motor Fuels Quality Act to do the following: (1) lower the required vapor pressure of gasoline sold in Southeast Michigan counties to 7.0 psi (pounds per square inch), which would mean meeting a higher standard to minimize leaks when refueling underground storage tanks at gas stations; (2) Delete provisions regarding Stage II vapor recovery systems; (3) permit the governor, upon a declaration of an emergency, to suspend vapor pressure requirements; and (4) permit gasoline refiners,

distributors, and terminals to petition the Department of Agriculture for a temporary variance from vapor pressure standards.

### **Lower Vapor Pressure in Southeast Counties**

Under the act, the Director of the Department of Agriculture is required to establish standards for vapor pressure as specified by the American Society for Testing and Materials (ASTM). The act further directs the department director to establish the vapor pressure as 9 pounds per square inch (psi) for retail outlets during the period between June 1 and September 15. However, for gas stations in nonattainment areas, the vapor pressure shall be 7.8 psi beginning in 1996. Under the related administrative rules, this applies to Wayne, Livingston, Washtenaw, Oakland, Macomb, St. Clair, and Monroe counties.

The bill specifies that the vapor pressure would be 9 psi, except in counties where the director establishes the vapor pressure as 7.0 or 7.8 psi. The bill further provides that for the period between June 1 and September 15 of each year, beginning in 2007, the vapor pressure would be 7.0 psi in Wayne, Livingston, Washtenaw, Oakland, Macomb, St. Clair, Monroe, and Lenawee counties. The director would have the authority to implement the vapor pressure standard of 7.0 psi or 7.8 psi in other areas where it is necessary to attain or maintain national ambient air quality standards. If an area that is required to use the lower vapor pressure standard has been re-designated by the U.S. Environmental Protection Agency as being in attainment of NAAQS, and the state Department of Environmental Quality has demonstrated that the standards can be achieved without the lower vapor pressure, the director could, upon approval from the EPA, end the lower vapor pressure requirement for that specific area.

### **Stage II Vapor Recovery System**

The act generally requires the use of a stage II vapor recovery system during the transfer of gasoline from an underground storage tank to a vehicle. Under the act, a "stage II vapor recovery system" is a gasoline dispensing system approved by the Department of Agriculture that prevents at least 95 percent of volatile organic compounds from being emitted during gasoline refueling. The act includes provisions regarding installation, equipment, training, and the maintenance of records for stage II systems. The bill would delete all references to Stage II vapor recovery systems.

The federal Clean Air Act generally requires the Stage II vapor recovery system for moderate or worse nonattainment areas under the National Ambient Air Quality Standards (NAAQS). Volatile organic compounds and other hazardous air pollutants from gasoline are emitted into the air by one of two means: (1) when gasoline is delivered from the tanker to the underground storage tank or (2) when gasoline is pumped from the underground storage tank into the vehicle. "Stage II" refers to this second process and vapor recovery systems seek to reduce the emissions that occur during refueling.

## **Suspension of Vapor Pressure Requirements**

The bill would add a section that permits the governor, upon declaration of an emergency under the Emergency Management Act or Public Act 191 of 1982 (which allows the governor to declare an "energy emergency," to temporarily suspend the vapor pressure provisions in the act and administrative rules, if doing so prevents a disruption in the fuel supply.

## **Variance from Vapor Pressure Standards**

The bill would add a section that permits a gasoline refiner, distributor, or terminal to petition the Department of Agriculture for a temporary variance from the vapor pressure standards. A variance would be granted if it can be shown that the refiner, distributor, or terminal cannot supply the fuel necessary to meet the current standard, and will take all reasonable steps to minimize the vapor pressure of fuel during the period the variance is in effect. If the department finds that the fuel is not available for reasons beyond the control of the refiner, distributor, or terminal, and that compliance with the vapor pressure standard would lead to fuel shortages, the department could grant the variance. The variance could be in effect for up to 20 days and, during that time, the vapor pressure of gasoline could not be greater than 9.0 psi.

The bill would impose a fine of 10 cents (annually adjusted for inflation) per gallon of gasoline sold or released for sale during the variance period. Fines collected would be deposited into the Air Quality Mitigation Fund, and would be annually appropriated by the legislature for air quality mitigation projects in the geographic area of the refiner, distributor, or terminal.

MCL 290.642 et al.

## ***BACKGROUND INFORMATION:***

A copy of the ozone attainment strategy for southeast Michigan is available through SEMCOG's website at [www.semco.org/products/pdfs/OzoneAttainmentStrategy.pdf](http://www.semco.org/products/pdfs/OzoneAttainmentStrategy.pdf).

## ***ARGUMENTS:***

### ***For:***

The ozone attainment strategy developed by SEMCOG and the DEQ considered a variety of factors – such as ease of implementation, cost, potential to reduce emissions, and enforceability – to determine how attainment may best be achieved. Compared to other possible emission reduction strategies, using a lower vapor pressure fuel is quite cost effective. In deciding to use gasoline with a lower vapor pressure, the strategy notes "[t]his measure compared very favorably for many of the criteria considered, including level of emission reduction, cost, ability to enforce, timing, and the widespread benefits expected to accrue in various sectors of the emission inventory." The strategy further notes, "lowering the vapor pressure of fuel can be accomplished without disrupting the

supply and distribution of fuels in Southeast Michigan" and "could be a catalyst for more widespread implementation in other parts of Michigan and the Midwest. This would result in greater improvement in air quality due to reduced long-range transport of pollution into the region, and provide more certainty to the fuel industry." The strategy also notes that this change would cost drivers an additional \$1 to \$11 per year, depending on miles driven, fuel economy, and fuel supplier.

***For:***

The bill deletes language pertaining to Stage II vapor recovery systems. Apparently, the state currently does not require the use of such systems, and recent advances in technology have effectively made the provisions in the act outdated.

***For:***

The bill provides the governor, upon declaration of an emergency, with authority to suspend the vapor pressure requirements when doing so prevents a fuel shortage. This allows for greater flexibility in meeting the energy needs of the state during times of crisis or emergency.

***Response:***

It's not clear why this provision is necessary. During the aftermath of Hurricane Katrina, the governor declared an "energy emergency," under the authority of Public Act 191 of 1982, and the Department of Agriculture's vapor pressure regulations (Regulation 561). Public Act 191 permits the governor to suspend all or a portion of a statute, order, or rule if compliance with the statute, order, or rule will prevent, hinder, or delay necessary action in coping with an energy emergency.

***For:***

The bill permits a refiner, distributor, or terminal to petition the Department of Agriculture for a temporary variance from the vapor pressure standards. This provision helps forestall any supply shortages that may occur.

***POSITIONS:***

The Department of Environmental Quality supports the bill. (1-19-06)

The Southeast Michigan Council of Governments supports the bill. (1-19-06)

The Detroit Regional Chamber supports the bill. (1-19-06)

The Michigan Chamber of Commerce supports the bill. (1-19-06)

The Michigan Environmental Council supports the bill. (1-19-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.