



**House
Legislative
Analysis
Section**

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ELIMINATE PIN PROGRAM

House Bill 5214 with committee
amendments
First Analysis (12-6-95)

Sponsor: Rep. Eric Bush
Committee: Transportation

THE APPARENT PROBLEM:

The Fire Prevention Code was overhauled by Public Act 247 of 1980 which, among other things, authorized the state fire marshal to provide for the regulation, inspection, and oversight of persons who transport hazardous materials. The fire marshal created what is known as the product identification number, or PIN, program which requires a special placard to be used by vehicles that transport these substances to help enforce the act's provisions. In 1982, after an executive order was made to transfer motor carrier enforcement from the Public Service Commission to the Department of State Police, the fire marshal assigned responsibility for the PIN program to the newly created state police motor carrier division. The division has utilized revenues raised from certain fees imposed under the act to regulate both the storage and transportation of hazardous materials, which for fiscal year 1994-95 amounted to well over \$350,000. However, because the motor carrier division has entered into a "good faith agreement" with federal transportation officials--which requires the state either to statutorily adopt certain federal rules governing the transport of hazardous materials by the end of 1995 or lose federal transportation funds--it has requested legislation to update provisions in both the Motor Carrier Safety Act and the Michigan Vehicle Code regarding the transport of hazardous materials and other matters involving commercial motor vehicles (see the House Legislative Analysis Section analysis of House Bills 5215 and 5216 dated 11-28-95). The division says that, currently, the state cannot use federal grant funds for regulating hazardous materials transporters as long as a state program is in place already under which inspection fees are imposed and, thus, it has requested legislation that would sunset the PIN program on October 1, 1996.

THE CONTENT OF THE BILL:

The bill would amend the Fire Prevention Code to transfer statutory authority over the hazardous materials transportation inspection and enforcement program (also known as the PIN, or product identification number, program) from the state fire marshal to the state police

motor carrier division, and would sunset the PIN program on October 1, 1996. Among other things, sunsetting this program would eliminate the \$95 certification fee that applies to annual inspections performed under it and a restricted fund into which fees are deposited. (Currently, the fire marshal may designate oversight of the program to "an officer of the department appointed by the [department] director"; the state police motor carrier division was given this authority after the division was transferred by executive order from the Public Service Commission to the Department of State Police in 1982.)

The fire safety board, however, would still be charged with promulgating rules for the storage, transportation, and handling of liquefied petroleum gas (i.e., propane) as well as the storage, noncommercial transportation, and handling of other hazardous materials. (Under the bill, "noncommercial transportation" would mean the occasional transport of personal property that was not for compensation or for commercial purposes, and transportation not regulated under the Motor Carrier Safety Act.)

The owner or lessee of a vehicle displaying a state police certification decal (as required under the PIN program) would have to remove it from the vehicle by January 1, 1997, and failure to do so by this date would be a misdemeanor.

The act prohibits a township, city, village, or county from adopting or enforcing an ordinance or resolution "which increases or decreases the responsibilities of [those regulated by the act]" to install a fire alarm system or fire suppression system. The bill would delete this language and, instead, would prohibit a local governmental unit from adopting a law that was inconsistent with the act or any rule promulgated under it, where "inconsistent" would mean a law that was more permissive than the act; was more restrictive; required more action, equipment, or permits; or prevented or obstructed compliance with the act. In addition, a state agency could not promulgate rules

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inconsistent with the act. These provisions would not apply to the Motor Carrier Safety Act or to rules promulgated under it by the motor carrier division.

Currently, the storage tank certification program administered by the state police applies to firms which maintain aboveground storage tanks fitting certain descriptions, and among the tanks regulated are those with a capacity of 1,000 gallons or more of flammable liquid with a flash point at or below 100 degrees Fahrenheit. Under the bill, these provisions would apply to tanks with a storage capacity above 1,100 gallons.

The act currently allows certain authorized persons to inspect vehicles that transport hazardous materials and to "condemn" out of service those vehicles found in violation of the act's safety provisions. The bill provides that, notwithstanding these provisions, an authorized person who inspected a commercial motor vehicle under the act could only order vehicles out of service as would be permitted under the provisions of House Bill 5215, and as permitted by "out-of-service" criteria issued under the authority of the commercial vehicle safety alliance.

MCL 29.1 et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency says that, under the bill, revenues generated from the \$95 per tanker fee that applies to persons who transport hazardous materials under the PIN program would cease when the program sunsetted on October 1, 1996. After this date, the state would experience an annual decrease in restricted revenues of approximately \$392,600. However, the state police motor carrier division says that, once the PIN program is eliminated, the state will have access to up to \$3 million in federal grant funds, a portion of which it plans to use to support its regulatory oversight of persons who transport hazardous materials, as specified in House Bill 5215. (12-5-95)

ARGUMENTS:

For:

The state police motor carrier division currently oversees the product identification number (PIN) program, which regulates persons who commercially transport hazardous materials using trucks. Under this program, those who haul hazardous materials in bulk pay a \$95 per truck fee annually to the division, and the revenue generated from these fees is used to support the inspection program and for motor carrier enforcement of laws governing the safe transport of hazardous

materials. However, the existence of this program, and the state's ability to impose a fee to support it, prevents Michigan from qualifying for up to \$3 million in federal grant funds that the motor carrier division says could be used to pay for inspection and enforcement purposes. Moreover, the industry feels the fee is too high and that some state inspection procedures go beyond federal requirements. The bill would resolve these problems by sunseting the PIN program on October 1, 1996, which would free up federal funds to pay for the division's oversight of hazardous materials inspection and enforcement as specified in House Bill 5215. (This bill proposes to amend the Motor Carrier Safety Act to adopt federal rules governing the safe transport of hazardous materials by commercial vehicles.)

For:

The bill includes language to prohibit a local government unit, or a state agency other than the motor carrier division, from adopting or enforcing a local ordinance, or promulgating rules, that were either more permissive or restrictive than the act's provisions. This provision is necessary because some local governments apparently have adopted local ordinances which deviate from the act's requirements.

For:

The storage tank certification program applies to firms maintaining above-ground storage tanks fitting certain descriptions. Among the tanks regulated are those with a capacity of 1,000 gallons or more of flammable liquid with a flash point at or below 100 degrees Fahrenheit. According to the motor carrier division, this 1,000 gallon standard is inconsistent with national standards and federal regulations, which refer to tanks of 1,100 gallons or more. The bill would eliminate the confusion this inconsistency causes by amending the act to incorporate the 1,100 gallon standard.

POSITIONS:

The Department of State Police supports the bill. (12-5-95)

The Michigan Propane Gas Association supports the bill. (12-5-95)

■ 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.