

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-2607/1	Introduction Number AB-0384
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Description
 petroleum products, storage of dangerous substances, granting rule-making authority, and making an appropriation

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate
 Increase Existing Appropriations Increase Existing Revenues Increase Costs - May be possible to absorb within agency's budget
 Decrease Existing Appropriations Decrease Existing Revenues Yes No
 Create New Appropriations Decrease Costs

Local:

No Local Government Costs
 Indeterminate

5. Types of Local Government Units Affected

1. Increase Costs 3. Increase Revenue
 Permissive Mandatory Permissive Mandatory Towns Village Cities
 2. Decrease Costs 4. Decrease Revenue
 Permissive Mandatory Permissive Mandatory Counties Others
 Permissive Mandatory Permissive Mandatory School Districts WTCS Districts

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	Affected Ch. 20 Appropriations
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Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DATCP 10/13/2021

LRB Number	21-2607/1	Introduction Number	AB-0384	Estimate Type	Original
Description petroleum products, storage of dangerous substances, granting rule-making authority, and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes changes involving the Department of Agriculture, Trade and Consumer Protection (DATCP)'s regulation of petroleum products and the storage of dangerous substances. Under current law, DATCP regulates and promulgates rules addressing the installation, maintenance, and abandonment of storage tanks that contain flammable or combustible liquids or federally regulated hazardous substances. Current law also authorizes DATCP to make inspections and conduct investigations involving petroleum products.

This bill modifies the exemption for aboveground storage tank systems containing a liquid that is flammable or combustible or that is a hazardous substance and that have a capacity of less than 110 gallons from regulation by DATCP. Current law exempts aboveground storage tank systems that have a capacity of less than 5,000 gallons from regulation by DATCP.

The bill defines "regulated product" as a liquid that is a substance derived from petroleum, natural gas, or asphalt deposits or a liquid that is a federally regulated hazardous substance or regulated by certain other federal regulations. The bill specifies certain rulemaking and that DATCP may establish fees by rule for fuel quality inspections and investigations. The bill also specifies that DATCP may promulgate fire safety rules for the storage and handling of flammable, combustible, or hazardous liquids and clarifies that, upon request of DATCP, the Department of Justice or proper district attorney shall prosecute actions to enforce the storage tank statutes and rules.

The bill serves as corrective legislation on several fronts.

Aboveground storage tank systems between 110 and 5,000 gallons had been regulated for decades under the tanks inspection program, previously housed in the Department of Industry, Labor and Human Relations, the Department of Commerce, and the Department of Safety and Professional Services. The program transferred to DATCP in 2013. A review of DATCP's regulatory powers pursuant to 2017 Wisconsin Act 108 resulted in DATCP's determination that only aboveground storage tanks storing above 5,000 gallons could be regulated under Wisconsin state statute. Aboveground storage tank systems below 5,000 gallons represent over 18,000 tank systems in the state, all of which subsequently became unregulated. DATCP contracts with Local Program Operators (LPOs) throughout the state to help administer and supplement the program and conduct all manner of inspections of storage tank systems. While DATCP may alter staff and LPO assignments based on the number of tank systems and geography, DATCP does not anticipate increased costs.

The bill resolves issues of statutory, prosecutorial, and fees authority requested by the Legislature in Section 9138 (3) (fm) of 2013 Wisconsin Act 20, when the program transferred from the Department of Safety and Professional Services to the Department of Agriculture, Trade and Consumer Protection. Since this bill provision merely clarifies budgetary authority by now making it statutory authority, DATCP will not incur any additional costs.

The bill discusses rulemaking authority. On November 1, 2019, DATCP promulgated a newly revised ATCP 93, the administrative rule that governs flammable, combustible, and hazardous liquids. Regardless of the bill's passage, the Department plans to reopen rulemaking with existing staff and resources.

The bill updates and modernizes definitions. None of the changed definitions will impact the costs of the storage tanks inspection program.

Long-Range Fiscal Implications

None noted at this time.