

Legislative Analysis



REQUIRE PAYMENT CARD PROTECTION ON GAS PUMPS

Phone: (517) 373-8080
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Senate Bill 415 as reported w/o amendment
Sponsor: Sen. Wayne Schmidt
House Committee: Commerce and Trade
Senate Committee: Agriculture
Complete to 10-24-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 168 of 2017)

SUMMARY:

Senate Bill 415 would amend the Weights and Measures Act to require fuel pumps with payment card technology to include a security measure that would restrict the unauthorized access of customer payment card information. A payment card would include a credit, debit, or other card authorizing a fund transfer or billing.

The requirement would apply to pumps at roadside retail locations. The security measure would be required to include one or more of the following:

- Security tape imprinted with a graphic and placed over the panel opening leading to the scanning device, so as to restrict unauthorized opening of the panel.
- A device or system to make the pump or scanning device inoperable if the panel is opened without proper authorization.
- A means for encrypting the payment card information in the scanning device.
- A device to replace a manufacturer-supplied lock.
- Any other measure approved by the Department of Agriculture and Rural Development (MDARD).

If the owner or agent of the owner of a pump required to have one of the above security measures received a written notice of noncompliance, he or she would be required to bring the pump into compliance. If the violation were not corrected within five days, MDARD could prohibit the use of the pump until a proper security measure is installed.

The bill would take effect 90 days after being enacted into law.

Proposed MCL 290.628f

FISCAL IMPACT:

The bill would have minimal fiscal impact on the Michigan Department of Agriculture and Rural Development (MDARD) by establishing some additional regulatory requirements under the Weights and Measures Act. These activities would be funded from existing resources appropriated for the department's Laboratory/Consumer Protection programs. The bill would have no impact on local units of government.

To counter the problem of "skimmers" surreptitiously attached to external motor fuel pump credit card readers, Senate Bill 415 would establish specific security measures. The pump's

owner, or the agent of the owner, would be responsible for compliance with the new requirements.

Under the Weights and Measures Act, the MDARD director has authority over the state weights and measures program. The program is carried out by the Consumer Protection Section within MDARD's Laboratory Division.

For a number of years, the department has inspected and approved for use fuel pumps at retail motor fuel service stations under the general authority of the act. The inspection and approval were to certify that the pump gave true measure of motor fuels delivered to the consumer. Also, beginning in 2013, the department was charged with enforcement of advertising requirements for roadside retail motor fuel service stations.

In the summer of 2015, MDARD Weights and Measures inspectors began actively looking for credit card skimmers, which defraud consumers by stealing sensitive card information. This activity has been carried out by the department as part of its fuel pump inspection program.

DISCUSSION:

According to testimony before the House Commerce and Trade Committee, the bill is meant to address the problem of "skimmers" attached to fuel pumps. These devices are designed to steal and store credit card data, which can then be retrieved and used for fraudulent purchases or activities. Reportedly, 89 such devices have been found in Michigan. The security measures required by the bill are said to be inexpensive and easy to install, and will create regulatory requirements that protect consumers. Replacing the manufacturer-supplied lock could be one of the most effective security measures, and using security tape could be one of the easiest.

POSITIONS:

Representatives from the following organizations testified in support of the bill:

- Michigan Department of Agriculture and Rural Development (10-10-17)
- Michigan State Police (10-10-17)

Representatives from the following organizations indicated support of the bill:

- American Petroleum Institute of Michigan (10-10-17)
- Michigan Bankers Association (10-10-17)

No organizations indicated opposition to the bill.

Legislative Analyst: Patrick Morris
Fiscal Analyst: William E. Hamilton

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