

UNATTENDED SELF-SERVICE FUELING STATIONS

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House Bill 4077 as reported from committee
Sponsor: Rep. Beau Matthew LaFave
Committee: Commerce and Tourism
Complete to 3-23-21

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

SUMMARY:

House Bill 4077 would amend the Natural Resources and Environmental Protection Act to provide standards for unattended self-service motor fuel dispensing facilities (i.e., gas station fuel pumps).

The bill would allow an owner or operator to operate an unattended self-service motor fuel dispensing facility if the owner or operator notifies the local fire department at least 30 days before starting operations and the Department of Licensing and Regulatory Affairs (LARA) approves the facility as described below. (If a local fire department does not exist, the owner or operator would have to employ a third-party monitoring system.)

LARA would have to inspect and approve or disapprove a facility within 60 days after the owner's or operator's request for approval. LARA would have to approve a facility meeting all of the following conditions:

- The fuel dispenser operating instructions are conspicuously posted in the dispensing area. (The instructions would have to include the location of emergency controls and a requirement that the user remain outside his or her vehicle and keep the fuel nozzle in view during dispensing.)
- For each group of fuel dispensers on an island, at least one emergency shutoff is provided that meets all of the following:
 - It is at least 20 feet and not more than 100 feet from each fuel dispenser it controls.
 - It is clearly identified and readily accessible.
 - It can be reset only manually.
- An approved fire extinguisher for flammable liquids of 4-B:C rating or higher is located within 100 feet from each fuel dispenser and storage tank fill opening, is clearly identified or visible, and is readily accessible.
- A telephone or other approved means to notify the fire department or third-party monitoring service, as applicable, is clearly identified and readily accessible.
- Warning signs as required by LARA are posted in the dispensing area.
- An approved emergency procedures sign is posted in a conspicuous location that reads as follows and is of a size required by LARA:

IN CASE OF FIRE, SPILL, OR RELEASE

1. USE EMERGENCY PUMP SHUTOFF

2. REPORT THE ACCIDENT!

FIRE DEPARTMENT [or EMERGENCY, if applicable] TELEPHONE NO. _____

FACILITY ADDRESS _____

- The dispensing area and area around the emergency shutoffs are well lit.
- Activity at the dispensing area is recorded by surveillance camera.
- Fuel purchases are not payable by coin or currency.
- The fuel dispensers do not allow more than \$125 of fuel to be pumped per transaction and require manual action to resume delivery for the next transaction.

As a condition of approval by LARA, the owner or operator would have to visit the site each day and regularly inspect and maintain the equipment.

LARA could not require an unattended self-service motor fuel dispensing facility operating as described above to limit public access to fuel dispensers, or limit dispensing from them, by using locked dispensers, security fencing, or other means, except for those means that require payment to be made when fuel is dispensed.

The bill would not apply to an unattended self-service motor fuel dispensing facility that meets both of the following requirements:

- It is operated as a membership-based fuel co-op or dispenses fuel from an aboveground storage tank system.
- It meets applicable standards under the Fire Prevention Code, rules promulgated to implement those standards, or a variation to those standards as allowed under that act.

Finally, the bill states that it would not preempt local ordinances that prohibit unattended self-service motor fuel dispensing facilities authorized under the bill or that are as or more restrictive than the provisions of the bill. To prohibit the operation of such facilities, a local government would have to adopt an ordinance prohibiting the operation of any such facility in its jurisdiction that is not a membership-based fuel co-op.

MCL 324.21106

BACKGROUND:

House Bill 4077 is substantively identical to HB 4792 of the 2019-20 legislative session as that bill was enrolled. HB 4792 was vetoed by Governor Whitmer, who wrote, “Without the presence of a gas station attendant to quickly and appropriately respond to fuel spills or fires, such incidents will be more likely to get out of control and to cause far more serious harm... I am vetoing this bill to prevent potentially hazardous accidents, including fires and fuel spills, that could result in death or significant property and environmental damage.”¹

FISCAL IMPACT:

House Bill 4077 would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs or on any other unit of state or local government.

¹ https://content.govdelivery.com/attachments/MIEOG/2020/12/30/file_attachments/1636347/SB%204792%20Veto%20Letter.pdf

POSITIONS:

The following entities indicated opposition to the bill (10-19-21):

- Department of Licensing and Regulatory Affairs
- Michigan Petroleum Association/Michigan Association of Convenience Stores

Legislative Analyst: Rick Yuille
Fiscal Analyst: Marcus Coffin

■ 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.