

HOUSE BILL No. 5455

February 7, 1990, Introduced by Rep. Bryant and referred to the Committee on Appropriations.

A bill to control air pollution in the state; to regulate the production of certain gases; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to provide for certain appropriations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Annual level" means the amount of carbon dioxide
3 produced by industry, electrical utilities, and motor vehicles in
4 the state in any year minus the amount of carbon dioxide consumed
5 by plant life in the state during that year.

6 (b) "Baseline level" means the 1990 calendar year annual
7 level.

8 (c) "Department" means the department of natural resources.

1 (d) "Person" means an individual, partnership, corporation,
2 association, governmental entity, or any other legal entity.

3 (e) "Rule" means a rule promulgated pursuant to the adminis-
4 trative procedures act of 1969, Act No. 306 of the Public Acts of
5 1969, being sections 24.201 to 24.328 of the Michigan Compiled
6 Laws.

7 Sec. 2. (1) The department shall quantify the annual com-
8 bined carbon dioxide production of all industry, electrical util-
9 ities, and registered motor vehicles in the state. The depart-
10 ment shall also annually quantify the consumption of carbon diox-
11 ide by plant life within the state. By January 31 of each year,
12 the department shall compute and publish the expected annual
13 level. This computation shall be based upon a consideration of
14 the production and consumption of carbon dioxide that occurred
15 during the prior year, any orders issued under section 3 that
16 were in effect during the prior year, and expected changes in the
17 production and consumption of carbon dioxide during the current
18 year.

19 (2) The department shall assure that the annual level in any
20 year does not exceed the baseline level. If the expected annual
21 level computed under subsection (1) exceeds the baseline level,
22 the department shall issue orders under section 3 as are neces-
23 sary to avoid exceeding the baseline level.

24 Sec. 3. If the department determines under section 2 that
25 the expected annual level in any year exceeds the baseline level,
26 the department may issue administrative orders to do 1 or more of
27 the following:

1 (a) Order fair and equitable reductions in carbon dioxide
2 generating industries.

3 (b) Order the use of alternative fuels that produce less
4 carbon dioxide by industry and in motor vehicles.

5 (c) Require a person who owns a motor vehicle registered in
6 the state to keep his or her motor vehicle engine tuned.

7 (d) Order reductions in the production of electricity or
8 curtail or prohibit the production of electricity for sale or
9 resale outside of the state.

10 (e) Order such other and reasonable measures as the depart-
11 ment determines necessary to reduce the production or increase
12 the consumption, or both, of carbon dioxide.

13 Sec. 4. A person ordered under section 3 to reduce carbon
14 dioxide production may apply to the department for a full or par-
15 tial temporary exemption from the order if 1 or more of the fol-
16 lowing exist:

17 (a) The person shows that an activity of the person has
18 increased the consumption of carbon dioxide in excess of any
19 increase in the production of carbon dioxide from the previous
20 year.

21 (b) The person is not producing a greater amount of carbon
22 dioxide than that person produced in the previous year, the
23 activity to which the order applies is critical to the health,
24 safety, or welfare of the public, and the order's impact on the
25 activity would seriously jeopardize the health, safety, or wel-
26 fare of the public.

1 (c) The person has taken measures that reduce consumption of
2 fuel or electricity resulting in a net decrease in the production
3 of carbon dioxide from the previous year by that person by doing
4 1 or more of the following:

5 (i) Producing more energy efficient products.

6 (ii) Insulating buildings owned or operated by the person.

7 (iii) Using more energy efficient or otherwise less carbon
8 dioxide producing motor vehicles, by reducing mileage, or by
9 other proof of direct or indirect reduction of carbon dioxide
10 production.

11 (d) The person has leased or purchased and kept in its natu-
12 ral state property containing tropical rain forests in an amount
13 to offset increased production of carbon dioxide by the person
14 from the previous year.

15 Sec. 5. (1) The department shall plant or cause to be
16 planted not less than 10 trees for every tree that is cut from
17 state owned land.

18 (2) The department shall determine the amount of oxygen that
19 is produced by plant life in the state in the calendar year
20 1990. The department shall assure that the annual production of
21 oxygen in the state increases annually through the planting of
22 such additional trees as are necessary.

23 Sec. 6. The legislature shall appropriate not less than
24 1/100 of 1% of the total annual general fund appropriations to be
25 used to lease and leave in its natural state tropical rain forest
26 land or to be used to protect rain forests from substantial
27 cutting, burning, or other destruction.

1 Sec. 7. (1) An individual who violates this act is guilty
2 of a felony punishable by a fine of not more than \$1,000.00 per
3 day of violation.

4 (2) A person other than an individual who violates this act
5 is guilty of a felony punishable by a fine of not more than
6 \$10,000.00 per day of violation.

7 (3) In addition to the corporation or other entity liable
8 under this act, a member of the board of directors of a corpora-
9 tion or a member of a governing body of an entity governed by
10 this act shall be liable for a violation of this act.

11 Sec. 8. In addition to any other penalty provided in this
12 act, if the department determines that a person has violated or
13 has failed to comply with an administrative order issued under
14 section 3, the attorney general, on behalf of the department, may
15 commence a civil action seeking any of the following:

16 (a) A temporary or permanent injunction.

17 (b) Compliance with the administrative order.

18 (c) Any equitable remedy consistent with the administrative
19 order.

20 (d) All costs incurred by the state in enforcing the admin-
21 istrative order.