

HOUSE BILL No. 6200

November 8, 1990, Introduced by Rep. Bryant and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and section 1 of Act No. 384 of the Public Acts of 1976, entitled

"An act to protect the environment and human health; to regulate the distribution and sale of certain chlorofluorocarbon compounds and to provide for their prohibition in this state; to prescribe powers and duties of the department of public health; and to prescribe penalties,"

being section 336.101 of the Michigan Compiled Laws; and to add part 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 1 of Act No. 384 of the
2 Public Acts of 1976, being section 336.101 of the Michigan
3 Compiled Laws, are amended and part 2 is added to read as
4 follows:

1 TITLE

2 An act to protect the environment and human health; to regu-
3 late ~~the distribution and sale of~~ certain ~~chlorofluorocarbon~~
4 ~~compounds~~ CHLOROFLUOROCARBONS AND OTHER CHEMICALS and to provide
5 for their prohibition in this state; to prescribe powers and
6 duties of the department of public health AND THE AIR POLLUTION
7 CONTROL COMMISSION; and to prescribe penalties.

8 PART I

9 Sec. 1. As used in this ~~act~~ PART:

10 (a) "Chlorofluorocarbon compound" means

11 ~~trichloromonofluoromethane (CFCl₃) (propellant 11), dichlorodi-~~
12 ~~fluoromethane (CF₂Cl₂) (propellant 12), or tetrafluorodichloroet-~~
13 ~~hane (C₂F₄Cl₂) (propellant 14)~~ TRICHLOROFLUOROMETHANE (CFC-11),
14 DICHLORODIFLUOROMETHANE (CFC-12), DICHLOROTETRAFLUOROETHANE
15 (CFC-114), TRICHLOROTRIFLUOROETHANE (CFC-113), CHLOROPENTAFLUO-
16 ROETHANE (CFC-115), BROMOCHLORODIFLUOROMETHANE (HALON-1211), BRO-
17 MOTRIFLUOROMETHANE (HALON-1301), DIBROMOTETRAFLUOROETHANE
18 (HALON-2402), CARBON TETRACHLORIDE, OR METHYL CHLOROFORM.

19 (b) "Department" means the department of public health.

20 (c) "Nonhydrogenated" means containing no hydrogen.

21 (d) "Ozone" means an allotropic, triatomic form of oxygen,
22 chemically described as O₃.

23 (e) "Restricted use chlorofluorocarbon compound" means a
24 chlorofluorocarbon compound and those related nonhydrogenated
25 chlorofluorocarbons with similar physical and chemical proper-
26 ties, which the department finds is likely to contribute to the
27 depletion of the ozone layer and by virtue of this depletion

1 creates a present or future risk of harmful effects to human
2 beings or other forms of life.

3 PART II

4 SEC. 21. AS USED IN THIS PART:

5 (A) "APPROVED REFRIGERANT RECYCLING EQUIPMENT" MEANS EQUIP-
6 MENT THAT IS APPROVED BY THE COMMISSION, IN CONSULTATION WITH THE
7 SECRETARY OF STATE, THAT WILL MINIMIZE THE AMOUNT OF GROUP I
8 CHEMICALS RELEASED INTO THE ATMOSPHERE.

9 (B) "COMMISSION" MEANS THE AIR POLLUTION CONTROL
10 COMMISSION.

11 (C) "GROUP I CHEMICAL" MEANS CHLOROFLUOROCARBON-11,
12 CHLOROFLUOROCARBON-12, CHLOROFLUOROCARBON-113,
13 CHLOROFLUOROCARBON-114, CHLOROFLUOROCARBON-115, HALON-1211,
14 HALON-1301, HALON-2402, CARBON TETRACHLORIDE, METHYL CHLOROFORM,
15 AND ANY MIXTURE CONTAINING 1 OR MORE OF THESE CHEMICALS.

16 (D) "GROUP II CHEMICAL" MEANS ANY HYDROCHLOROFLUOROCARBON
17 (HCFC) AND ANY OTHER CHEMICAL DETERMINED BY THE COMMISSION BY
18 RULE TO HAVE THE POTENTIAL TO DEplete STRATOSPHERIC OZONE, AND
19 ANY MIXTURE CONTAINING 1 OR MORE OF THESE CHEMICALS.

20 (E) "MOTOR VEHICLE AIR CONDITIONER" MEANS MECHANICAL VAPOR
21 COMPRESSION REFRIGERATION EQUIPMENT USED TO COOL THE DRIVER OR
22 PASSENGER COMPARTMENT OR THE REFRIGERATED COMPARTMENT OF A MOTOR
23 VEHICLE AS DEFINED IN SECTION 33 OF THE MICHIGAN VEHICLE CODE,
24 ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.33 OF
25 THE MICHIGAN COMPILED LAWS.

26 (F) "OZONE" MEANS AN ALLOTROPIC, TRIATOMIC FORM OF OXYGEN
27 CHEMICALLY DESCRIBED AS O₃.

1 (G) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
2 ASSOCIATION, GOVERNMENTAL ENTITY, OR ANY OTHER ENTITY.

3 (H) "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. 22. (1) A PERSON THAT SERVICES OR DISPOSES OF A MOTOR
8 VEHICLE AIR CONDITIONER, ANY OTHER AIR CONDITIONING AND REFRIGER-
9 ATION SYSTEMS AND APPLIANCES, OR BUILDING AND APPLIANCE INSULA-
10 TION SHALL ATTAIN THE MAXIMUM FEASIBLE RECOVERY AND RECYCLING OF
11 GROUP I OR GROUP II CHEMICALS WHEN HE OR SHE PROVIDES A SERVICE
12 DESCRIBED IN THIS SUBSECTION.

13 (2) EXCEPT FOR SPECIFIC PHARMACEUTICAL APPLICATIONS AND FIRE
14 EXTINGUISHING APPLICATIONS FOR WHICH THE COMMISSION, BY RULE, HAS
15 DETERMINED THERE IS NO COMMERCIALY AVAILABLE ADEQUATE ALTERNA-
16 TIVE, A PERSON SHALL NOT MANUFACTURE, SELL, OR OFFER FOR SALE OR
17 USE ANY GROUP I CHEMICAL IN A CONTAINER THAT CONTAINS LESS THAN
18 15 POUNDS OF THE CHEMICAL.

19 (3) A PERSON SHALL NOT MANUFACTURE, SELL, OR OFFER FOR SALE
20 OR USE ANY PACKAGING MATERIAL THAT CONTAINS OR WAS MANUFACTURED
21 WITH A GROUP I CHEMICAL.

22 (4) THE COMMISSION SHALL PROMULGATE RULES TO ENSURE THAT ANY
23 SUBSTITUTE OR REPLACEMENT FOR A GROUP I CHEMICAL DOES NOT ENDAN-
24 GER HUMAN HEALTH.

25 (5) BY JANUARY 1, 1993, A PERSON THAT USES A GROUP I CHEMI-
26 CAL AS A FOAM BLOWING AGENT, AS A SOLVENT FOR INDUSTRIAL
27 CLEANING, DEFLUXING, OR DEGREASING, OR FOR ANY OTHER INDUSTRIAL

1 MANUFACTURING PURPOSE SHALL REDUCE THE ATMOSPHERIC EMISSIONS OF
2 THAT CHEMICAL BY AT LEAST 90% FROM THE AMOUNT EMITTED BY THAT
3 PERSON IN 1988, IF THAT PERSON EMITTED ATMOSPHERIC EMISSIONS IN
4 THAT YEAR.

5 (6) THIS SECTION DOES NOT PROHIBIT THE MAINTENANCE OR SERV-
6 ICE OF ANY PRODUCT WITH A GROUP I CHEMICAL, IF AFTER JANUARY 1,
7 1997, ONLY RECOVERED AND RECYCLED GROUP I CHEMICALS ARE USED FOR
8 THAT MAINTENANCE OR SERVICE.

9 (7) THIS SECTION SHALL TAKE EFFECT JANUARY 1, 1993.

10 SEC. 23. (1) A PERSON SHALL NOT MANUFACTURE, SELL, OR OFFER
11 FOR SALE OR USE A NEW MOTOR VEHICLE, AS DEFINED IN SECTION 33 OF
12 THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF
13 1949, BEING SECTION 257.33 OF THE MICHIGAN COMPILED LAWS, THAT
14 CONTAINS A MOTOR VEHICLE AIR CONDITIONER THAT USES A GROUP I
15 CHEMICAL.

16 (2) A PERSON SHALL NOT MANUFACTURE, SELL, OR OFFER FOR SALE
17 OR USE ANY INSULATING MATERIAL, RIGID FOAM MATERIAL, OR SOFT FOAM
18 PRODUCT CONTAINING A GROUP I CHEMICAL.

19 (3) THIS SECTION SHALL TAKE EFFECT JANUARY 1, 1995.

20 SEC. 24. ON AND AFTER DECEMBER 31, 1996, A PERSON SHALL NOT
21 MANUFACTURE, SELL, OR OFFER FOR SALE OR USE ANY GROUP I CHEMICAL
22 OR ANY PRODUCT CONTAINING, ASSEMBLED, OR MANUFACTURED WITH A
23 GROUP I CHEMICAL, AND SHALL NOT USE A GROUP I CHEMICAL IN ANY
24 MANUFACTURING, ASSEMBLY, OR PACKAGING PROCESS.

25 SEC. 25. (1) EXCEPT AS PROVIDED IN SECTION 26, BY
26 JANUARY 1, 1992, A PERSON SHALL NOT PRODUCE, ASSEMBLE, PACKAGE,

1 SELL, OR OFFER FOR SALE OR USE AN AEROSOL PRODUCT, OTHER THAN A
2 PHARMACEUTICAL PRODUCT, CONTAINING A GROUP II CHEMICAL.

3 (2) EXCEPT AS PROVIDED IN SECTION 26, BY JANUARY 1, 1994, A
4 PERSON SHALL NOT PRODUCE, ASSEMBLE, PACKAGE, SELL, OR OFFER FOR
5 SALE OR USE ANY FOAM PRODUCT OTHER THAN INSULATING MATERIALS CON-
6 TAINING OR MANUFACTURED WITH A GROUP II CHEMICAL.

7 (3) EXCEPT AS PROVIDED IN SECTION 26, BEGINNING JANUARY 1,
8 2020, A PERSON SHALL NOT MANUFACTURE, SELL, OR OFFER FOR SALE OR
9 USE ANY GROUP II CHEMICAL OR PRODUCT CONTAINING, ASSEMBLED, OR
10 MANUFACTURED WITH A GROUP II CHEMICAL, AND SHALL NOT USE A
11 GROUP II CHEMICAL IN ANY MANUFACTURING, ASSEMBLY, OR PACKAGING
12 PROCESS.

13 SEC. 26. SECTIONS 22 AND 25 SHALL NOT PROHIBIT THE CONTIN-
14 UED USE OR RESALE OF A PRODUCT THAT CONTAINS A GROUP I OR GROUP
15 II CHEMICAL IF THE PRODUCT WAS MANUFACTURED, SOLD, OR OFFERED FOR
16 SALE OR USE BEFORE ANY APPLICABLE DEADLINE PROVIDED IN THIS
17 PART.

18 SEC. 27. (1) THE COMMISSION SHALL PROMULGATE RULES AS NEC-
19 ESSARY TO IMPLEMENT THIS PART, INCLUDING ANY ADDITIONAL MEASURES,
20 SUCH AS INTERMEDIATE DEADLINES, NECESSARY TO ACHIEVE THE PURPOSES
21 OF SECTION 25.

22 (2) THE COMMISSION SHALL PROMULGATE RULES THAT PROVIDE FOR A
23 PERSON TO PETITION, NOT LATER THAN 1 YEAR PRIOR TO THE APPLICABLE
24 DEADLINE, FOR AN EXTENSION OF A DEADLINE ESTABLISHED UNDER
25 SECTION 22 OR 25. THE COMMISSION MAY GRANT UP TO 3 EXTENSIONS OF
26 NOT MORE THAN 2 YEARS EACH, IF THE PETITIONER DEMONSTRATES BY

1 CLEAR AND CONVINCING EVIDENCE THAT ALL OF THE FOLLOWING
2 REQUIREMENTS HAVE BEEN MET:

3 (A) THE PETITIONER HAS THOROUGHLY AND FAIRLY CONSIDERED ALL
4 ALTERNATIVE CHEMICALS, PRODUCTS, OR PROCESSES THAT POTENTIALLY
5 WOULD ACHIEVE COMPLIANCE WITH THE APPLICABLE DEADLINE OR WOULD
6 RESULT IN A LOWER LEVEL OF OZONE DEPLETION.

7 (B) AN ALTERNATIVE IS NOT AVAILABLE FOR THE PETITIONER'S
8 PARTICULAR APPLICATION.

9 (C) IF THE DEADLINE IS EXTENDED, THE PETITIONER AGREES TO
10 IMPLEMENT ALL COMMERCIALY AVAILABLE MEANS TO PREVENT THE EMIS-
11 SION OF GROUP I OR GROUP II CHEMICALS INTO THE ATMOSPHERE.

12 (D) THE EXTENSION IS NECESSARY TO AVOID SUBSTANTIAL AND
13 WIDESPREAD ECONOMIC AND SOCIAL HARDSHIPS TO THE GENERAL PUBLIC.

14 (3) NOTWITHSTANDING SUBSECTION (2), THE COMMISSION, UPON
15 APPLICATION, MAY GRANT AN EXTENSION OR EXTENSIONS OF AN APPLICA-
16 BLE DEADLINE AS NECESSARY FOR BASIC RESEARCH PURPOSES OR FOR MED-
17 ICAL PURPOSES.

18 (4) THE COMMISSION MAY, BY RULE, ALTER ANY DEADLINE ESTAB-
19 LISHED PURSUANT TO SECTION 22 OR 25, IN ORDER TO ESTABLISH AN
20 EARLIER DEADLINE, IF THE COMMISSION FINDS THAT FEASIBLE AND COM-
21 Mercially PRACTICABLE ALTERNATIVES TO SPECIFIC USES OF GROUP I OR
22 GROUP II CHEMICALS ARE AVAILABLE EARLIER THAN THE DATE PROVIDED.

23 SEC. 28. BY JANUARY 1, 1993, THE SECRETARY OF STATE SHALL
24 ESTABLISH BY RULE AND ADMINISTER A PROGRAM MANDATING THE INSTAL-
25 LATION AND PROPER USE OF APPROVED REFRIGERANT RECYCLING EQUIPMENT
26 BY ANY PERSON WHO SERVICES MOTOR VEHICLE AIR CONDITIONERS, AND
27 ENFORCING THE USE OF THAT EQUIPMENT.

1 SEC. 29. (1) A PERSON WHO VIOLATES THIS PART OR A RULE
2 PROMULGATED UNDER THIS PART IS GUILTY OF A MISDEMEANOR, PUNISH-
3 ABLE BY A FINE OF NOT MORE THAN \$10,000.00 AND IN ADDITION MAY BE
4 FINED NOT MORE THAN \$2,000.00 PER DAY A VIOLATION CONTINUES.

5 (2) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION
6 OF THIS PART OR A RULE PROMULGATED UNDER THIS PART IS GUILTY OF A
7 FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR
8 BY A FINE OF NOT MORE THAN \$1,000,000.00, AND IN ADDITION MAY BE
9 FINED NOT MORE THAN \$200,000.00 PER DAY A VIOLATION CONTINUES, OR
10 ANY COMBINATION OF THESE PENALTIES.