

HOUSE BILL No. 5383

September 17, 2009, Introduced by Reps. Gonzales, Warren, Scripps, Lisa Brown, Roberts, Huckleberry, Slezak, Spade, Donigan, Miller, Valentine, Byrnes, Johnson, Gregory, Lipton, Bledsoe, Kennedy, Constan, Meadows and Leland and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 67.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 67. LOW CARBON FUEL STANDARD

SEC. 6701. AS USED IN THIS PART:

(A) "ALTERNATIVE FUEL" MEANS ANY FUEL, OTHER THAN A MOTOR
VEHICLE FUEL, USED FOR THE GENERATION OF POWER IN AN AUTOMOBILE,
SPORT UTILITY VEHICLE, OR TRUCK, INCLUDING ELECTRICITY, HYDROGEN,
AND FUEL CELLS.

(B) "CARBON INTENSITY" MEANS THE AVERAGE FULL FUEL-CYCLE
GREENHOUSE GAS EMISSIONS PER UNIT OF MOTOR VEHICLE FUEL ENERGY

1 USED.

2 (C) "COMMITTEE" MEANS THE LOW CARBON FUEL SUSTAINABILITY
3 TECHNICAL ADVISORY COMMITTEE CREATED IN SECTION 6709.

4 (D) "FULL FUEL-CYCLE" MEANS THE PRODUCTION, EXTRACTION,
5 CULTIVATION, TRANSPORTATION, AND STORAGE OF FUEL FEEDSTOCK; THE
6 PRODUCTION, MANUFACTURE, DISTRIBUTION, MARKETING, TRANSPORTATION,
7 AND STORAGE OF FUEL; AND VEHICLE OPERATION INCLUDING REFUELING,
8 COMBUSTION, CONVERSION, AND EVAPORATION. THE FULL FUEL-CYCLE
9 INCLUDES TRANSPORTATION OF, AND USE OF, WATER AND CHANGES IN LAND
10 USE AND LAND COVER ASSOCIATED WITH FUEL FEEDSTOCK AND FUEL
11 PRODUCTION.

12 (E) "GREENHOUSE GAS" MEANS ALL GASES THAT THE
13 INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE ESTABLISHED BY THE WORLD
14 METEOROLOGICAL ORGANIZATION AND BY THE UNITED NATIONS ENVIRONMENT
15 PROGRAM HAVE DESIGNATED AS CONTRIBUTING TO GLOBAL WARMING,
16 INCLUDING WATER VAPOR, CARBON DIOXIDE (CO_2), NITROUS OXIDE (N_2O),
17 METHANE (CH_4), SULFUR HEXAFLUORIDE (SF_6), HYDROFLUOROCARBONS,
18 PERFLUOROCARBONS, NITROGEN TRIFLUORIDE (NF_3), TRIFLUOROMETHYL
19 SULPHUR PENTAFLUORIDE (SF_5CF_3), HALOGENATED ETHERS, AND OTHER
20 HALOCARBONS.

21 (F) "LOW CARBON FUEL STANDARD" OR "STANDARD" MEANS A MAXIMUM
22 CARBON INTENSITY STANDARD ADOPTED UNDER SECTION 6703(1).

23 (G) "MOTOR VEHICLE FUEL" MEANS ANY LIQUID PRODUCT USED FOR THE
24 GENERATION OF POWER IN AN INTERNAL COMBUSTION ENGINE, EXCEPT FOR
25 AVIATION GASOLINE, AVIATION JET FUELS, AND LIQUEFIED PETROLEUM GAS.

26 (H) "PROVIDER" MEANS A REFINER, BLENDER, PRODUCER, OR IMPORTER
27 OF MOTOR VEHICLE FUEL THAT OPERATES IN THIS STATE.

1 SEC. 6703. (1) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS
2 SECTION, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL ADOPT A LOW
3 CARBON FUEL STANDARD FOR ALTERNATIVE FUELS AND MOTOR VEHICLE FUELS
4 THAT ACHIEVES THE MAXIMUM TECHNOLOGICALLY FEASIBLE AND COST-
5 EFFECTIVE GREENHOUSE GAS EMISSIONS REDUCTIONS. THE STANDARD SHALL
6 BE SET TO ACHIEVE A GOAL OF REDUCING THE CARBON INTENSITY OF MOTOR
7 VEHICLE FUELS AND ALTERNATIVE FUELS BY AT LEAST 10% BY THE YEAR
8 2020. THE STANDARD SHALL APPLY TO ALL PROVIDERS IN THIS STATE.

9 (2) IN DEVELOPING THE STANDARD, THE DEPARTMENT OF
10 ENVIRONMENTAL QUALITY SHALL DO BOTH OF THE FOLLOWING:

11 (A) CONSULT WITH THE DEPARTMENT OF AGRICULTURE AND THE
12 DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.

13 (B) TO THE EXTENT POSSIBLE, REACH AGREEMENT WITH OTHER STATES
14 PARTICIPATING IN THE MIDWESTERN GOVERNORS ASSOCIATION CLIMATE
15 INITIATIVE ON THE DESIGN OF A REGIONAL LOW CARBON FUEL STANDARD.

16 SEC. 6705. (1) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS
17 SECTION, THE DEPARTMENT OF ENVIRONMENTAL QUALITY, IN CONSULTATION
18 WITH THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF ENERGY,
19 LABOR, AND ECONOMIC GROWTH, SHALL CREATE A SYSTEM TO MEASURE CARBON
20 INTENSITY.

21 (2) WITHIN 1 YEAR AND 26 WEEKS AFTER THE EFFECTIVE DATE OF
22 THIS SECTION, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL DO ALL
23 OF THE FOLLOWING:

24 (A) MEASURE THE CARBON INTENSITY OF EACH ALTERNATIVE FUEL AND
25 MOTOR VEHICLE FUEL REFINED, BLENDED, OR PRODUCED IN OR IMPORTED
26 INTO THIS STATE.

27 (B) ESTABLISH A SYSTEM BY WHICH PROVIDERS EXCEEDING THE

1 PERFORMANCE REQUIRED BY THE LOW CARBON FUEL STANDARD RECEIVE
2 CREDITS THAT MAY BE APPLIED TO FUTURE OBLIGATIONS UNDER THE
3 STANDARD OR TRADED TO PROVIDERS THAT DO NOT MEET THE STANDARD. IN
4 ADDITION TO CREDITS, THE SYSTEM MAY INCLUDE OTHER MARKET-BASED
5 INCENTIVES.

6 SEC. 6707. (1) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS
7 SECTION, THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF
8 NATURAL RESOURCES SHALL ESTABLISH BEST MANAGEMENT PRACTICES,
9 SUSTAINABILITY CRITERIA, INCENTIVES, OR CERTIFICATION PROGRAMS TO
10 DO BOTH OF THE FOLLOWING:

11 (A) AVOID OR REDUCE, TO THE MAXIMUM EXTENT PRACTICABLE,
12 NEGATIVE IMPACTS ON AIR QUALITY, BIODIVERSITY, WILDLIFE HABITAT,
13 SENSITIVE LANDS, SOIL AND FOREST HEALTH, WATER QUALITY, WATER
14 QUANTITY, ENVIRONMENTAL JUSTICE, FOOD SECURITY, OR OTHER
15 ENVIRONMENTAL CONDITIONS AS A RESULT OF IMPLEMENTATION OF THE LOW
16 CARBON FUEL STANDARD.

17 (B) AVOID OR MINIMIZE NEGATIVE ENVIRONMENTAL IMPACTS FROM THE
18 SOURCING AND PRODUCTION OF POTENTIAL NEW FUELS, INCLUDING
19 ALTERNATIVE FUELS.

20 (2) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THIS
21 SECTION, THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF ENERGY,
22 LABOR, AND ECONOMIC GROWTH, AND THE DEPARTMENT OF ENVIRONMENTAL
23 QUALITY, IN CONSULTATION WITH THE COMMITTEE, SHALL JOINTLY ISSUE A
24 BIENNIAL REPORT ON PROGRESS AND PROBLEMS IN IMPLEMENTING SUBSECTION
25 (1).

26 SEC. 6709. (1) THE LOW CARBON FUEL SUSTAINABILITY TECHNICAL
27 ADVISORY COMMITTEE IS CREATED WITHIN THE DEPARTMENT OF

1 ENVIRONMENTAL QUALITY. THE COMMITTEE SHALL CONSIST OF ALL OF THE
2 FOLLOWING MEMBERS:

3 (A) A REPRESENTATIVE OF EACH OF THE FOLLOWING DEPARTMENTS
4 APPOINTED BY THE DIRECTOR OF THAT DEPARTMENT:

5 (i) THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

6 (ii) THE DEPARTMENT OF AGRICULTURE.

7 (iii) THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH.

8 (iv) THE DEPARTMENT OF NATURAL RESOURCES.

9 (B) A REPRESENTATIVE OF EACH OF THE FOLLOWING, APPOINTED BY
10 THE GOVERNOR:

11 (i) MICHIGAN STATE UNIVERSITY.

12 (ii) AN INSTITUTION OF HIGHER EDUCATION IN THIS STATE OTHER
13 THAN MICHIGAN STATE UNIVERSITY.

14 (iii) THE FOREST PRODUCTS INDUSTRY.

15 (iv) A STATEWIDE FARMING ORGANIZATION.

16 (v) A STATEWIDE ENVIRONMENTAL ORGANIZATION.

17 (vi) A STATEWIDE LAND CONSERVATION ORGANIZATION.

18 (vii) A STATEWIDE WILDLIFE CONSERVATION ORGANIZATION.

19 (C) TWO MEMBERS APPOINTED BY THE GOVERNOR AND SELECTED FOR
20 THEIR RELEVANT TECHNICAL EXPERTISE.

21 (2) THE MEMBERS FIRST APPOINTED TO THE COMMITTEE SHALL BE
22 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.
23 MEMBERS OF THE COMMITTEE SHALL SERVE FOR TERMS OF 3 YEARS OR UNTIL
24 A SUCCESSOR IS APPOINTED, WHICHEVER IS LATER, EXCEPT THAT THE
25 MEMBERS FIRST APPOINTED UNDER SUBSECTION (1) (A) SHALL SERVE FOR 1
26 YEAR AND THE MEMBERS FIRST APPOINTED UNDER SUBSECTION (1) (B) (i) TO
27 (iv) SHALL SERVE FOR 2 YEARS.

1 (3) IF A VACANCY OCCURS ON THE COMMITTEE, THE VACANCY SHALL BE
2 FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. THE
3 APPOINTING OFFICER MAY REMOVE A MEMBER OF THE COMMITTEE FOR
4 INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
5 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

6 (4) THE FIRST MEETING OF THE COMMITTEE SHALL BE CALLED BY THE
7 REPRESENTATIVE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. AT THE
8 FIRST MEETING, THE COMMITTEE SHALL ELECT FROM AMONG ITS MEMBERS A
9 CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR
10 APPROPRIATE. AFTER THE FIRST MEETING, THE COMMITTEE SHALL MEET AT
11 LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON
12 OR IF REQUESTED BY 3 OR MORE MEMBERS. A MAJORITY OF THE MEMBERS OF
13 THE COMMITTEE CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS
14 AT A MEETING OF THE COMMITTEE. A MAJORITY OF THE MEMBERS PRESENT
15 AND SERVING ARE REQUIRED FOR OFFICIAL ACTION OF THE COMMITTEE.

16 (5) THE BUSINESS THAT THE COMMITTEE MAY PERFORM SHALL BE
17 CONDUCTED AT A PUBLIC MEETING HELD IN COMPLIANCE WITH THE OPEN
18 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. A WRITING
19 PREPARED, OWNED, USED, IN THE POSSESSION OF, OR RETAINED BY THE
20 COMMITTEE IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS SUBJECT TO
21 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

22 (6) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT COMPENSATION
23 SPECIFICALLY FOR THEIR SERVICE ON THE COMMITTEE. HOWEVER, MEMBERS
24 OF THE COMMITTEE MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY
25 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS
26 MEMBERS OF THE COMMITTEE.

27 (7) THE COMMITTEE SHALL ADVISE THE DEPARTMENT OF AGRICULTURE

1 AND THE DEPARTMENT OF NATURAL RESOURCES IN THE FULFILLMENT OF THEIR
2 DUTIES UNDER SECTION 6707.

3 SEC. 6711. WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS
4 SECTION, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL ESTABLISH A
5 REPORTING SYSTEM UNDER WHICH EACH PROVIDER IS REQUIRED TO IDENTIFY
6 THE FUELS USED TO COMPLY WITH THE LOW CARBON FUEL STANDARD AND TO
7 DEMONSTRATE AVAILABILITY TO THE PUBLIC OF MOTOR VEHICLE FUEL THAT
8 MEETS THE STANDARD.

9 SEC. 6713. WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THIS
10 SECTION AND ANNUALLY THROUGH 2020, EACH PROVIDER SHALL SUBMIT TO
11 THE DEPARTMENT OF ENVIRONMENTAL QUALITY ON A FORM PROVIDED BY THE
12 DEPARTMENT OF ENVIRONMENTAL QUALITY A REPORT INDICATING WHETHER THE
13 PROVIDER HAS MET ALL REQUIREMENTS OF THIS PART FOR THE PREVIOUS
14 CALENDAR YEAR. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL POST
15 THE REPORTS ON ITS WEBSITE THROUGH 2022.

16 SEC. 6715. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL
17 PROMULGATE RULES TO IMPLEMENT THIS PART PURSUANT TO THE
18 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
19 24.328.

20 SEC. 6717. THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE
21 ATTORNEY GENERAL, OR A COURT HAS THE SAME AUTHORITY WITH RESPECT TO
22 THIS PART AND RULES PROMULGATED OR ORDERS ISSUED UNDER THIS PART
23 THAT IT HAS UNDER SECTIONS 5526 AND 5530 WITH RESPECT TO PART 55
24 AND RULES PROMULGATED OR ORDERS ISSUED UNDER THAT PART.

25 SEC. 6719. (1) A PERSON WHO KNOWINGLY VIOLATES ANY REQUIREMENT
26 OR PROHIBITION OF AN APPLICABLE REQUIREMENT OF THIS PART OR A RULE
27 PROMULGATED UNDER THIS PART OR WHO FAILS TO COMPLY WITH A FINAL

1 ORDER ISSUED UNDER THIS PART IS GUILTY OF A MISDEMEANOR PUNISHABLE
2 BY A FINE OF NOT MORE THAN \$10,000.00 PER DAY, FOR EACH VIOLATION.

3 (2) A PERSON WHO KNOWINGLY DOES ANY OF THE FOLLOWING IS GUILTY
4 OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1
5 YEAR AND A FINE OF NOT MORE THAN \$10,000.00 PER DAY, FOR EACH
6 VIOLATION:

7 (A) MAKES A FALSE MATERIAL STATEMENT, REPRESENTATION, OR
8 CERTIFICATION IN, OMITTS MATERIAL INFORMATION FROM, OR ALTERS,
9 CONCEALS, OR FAILS TO FILE ANY NOTICE, APPLICATION, RECORD, REPORT,
10 PLAN, OR OTHER DOCUMENT REQUIRED TO BE SUBMITTED PURSUANT TO THIS
11 PART OR A RULE PROMULGATED UNDER THIS PART.

12 (B) FAILS TO NOTIFY OR REPORT INFORMATION REQUIRED TO BE
13 SUBMITTED UNDER THIS PART OR A RULE PROMULGATED UNDER THIS PART.

14 (C) FALSIFIES, TAMPERS WITH, RENDERS INACCURATE, OR FAILS TO
15 INSTALL ANY MONITORING DEVICE OR METHOD REQUIRED UNDER THIS PART OR
16 A RULE PROMULGATED UNDER THIS PART.

17 (3) FINES IMPOSED UNDER THIS SECTION SHALL BE ASSESSED FOR
18 EACH INSTANCE OF VIOLATION AND, IF THE VIOLATION IS CONTINUOUS,
19 SHALL BE ASSESSABLE UP TO THE MAXIMUM AMOUNT FOR EACH DAY OF
20 VIOLATION.