

# SENATE BILL No. 46

January 20, 2011, Introduced by Senator MEEKHOF and referred to the Committee on Agriculture.

A bill to amend 2006 PA 110, entitled  
"Michigan zoning enabling act,"  
(MCL 125.3101 to 125.3702) by adding section 513.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 513. (1) A BIOFUEL PRODUCTION FACILITY IS A PERMITTED USE  
2        OF PROPERTY IN ANY AGRICULTURAL ZONING DISTRICT AND IS NOT SUBJECT  
3        TO SPECIAL USE OR SITE PLAN APPROVAL IF BOTH OF THE FOLLOWING  
4        REQUIREMENTS ARE MET:

5        (A) NONE OF THE LAND ADJACENT TO THE LAND ON WHICH THE BIOFUEL  
6        PRODUCTION FACILITY IS TO BE LOCATED IS ZONED RESIDENTIAL.

7        (B) NOT MORE THAN 500,000 PROOF GALLONS OF BIOFUEL WILL BE  
8        PRODUCED AT THE FACILITY ANNUALLY.

9        (2) A BIOFUEL PRODUCTION FACILITY THAT DOES NOT MEET THE  
10       REQUIREMENTS OF SUBSECTION (1) IS A PERMITTED USE OF PROPERTY IN

1 ANY AGRICULTURAL DISTRICT, SUBJECT TO SPECIAL LAND USE APPROVAL.

2 (3) AN APPLICATION FOR SPECIAL LAND USE APPROVAL FOR A BIOFUEL  
3 PRODUCTION FACILITY SHALL INCLUDE ALL OF THE FOLLOWING:

4 (A) A SITE PLAN AS REQUIRED UNDER SECTION 501, INCLUDING A MAP  
5 OF THE PROPERTY AND EXISTING AND PROPOSED BUILDINGS AND OTHER  
6 FACILITIES. IN ADDITION TO MEETING ANY OTHER SETBACK REQUIREMENTS,  
7 BUILDINGS AND OTHER FACILITIES SHALL BE AT LEAST 100 FEET FROM ANY  
8 PROPERTY LINE BORDERING THE SITE.

9 (B) A DESCRIPTION OF THE PROCESS TO BE USED TO PRODUCE  
10 BIOFUEL.

11 (C) THE NUMBER OF PROOF GALLONS OF BIOFUEL ANTICIPATED TO BE  
12 PRODUCED ANNUALLY.

13 (D) AN EMERGENCY ACCESS AND FIRE PROTECTION PLAN THAT HAS BEEN  
14 REVIEWED AND APPROVED BY THE APPROPRIATE RESPONDING POLICE AND FIRE  
15 DEPARTMENTS.

16 (E) FOR AN ETHANOL PRODUCTION FACILITY THAT WILL PRODUCE MORE  
17 THAN 10,000 PROOF GALLONS ANNUALLY, COMPLETED UNITED STATES  
18 DEPARTMENT OF THE TREASURY, ALCOHOL AND TOBACCO TAX AND TRADE  
19 BUREAU, FORMS 5000.29 (ENVIRONMENTAL INFORMATION) AND 5000.30  
20 (SUPPLEMENTAL INFORMATION ON WATER QUALITY CONSIDERATIONS UNDER 33  
21 USC 1341(A)), OR SUCCESSOR FORMS, REQUIRED TO IMPLEMENT REGULATIONS  
22 UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, 42 USC 4321 TO  
23 4347, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 USC 1251 TO  
24 1387.

25 (F) INFORMATION THAT DEMONSTRATES THAT THE BIOFUEL PRODUCTION  
26 FACILITY WILL COMPLY WITH THE REQUIREMENTS LISTED IN SUBSECTION  
27 (4).

1 (G) ANY ADDITIONAL RELEVANT INFORMATION AS REQUIRED BY THE  
2 BODY OR OFFICIAL RESPONSIBLE FOR GRANTING SPECIAL LAND USE  
3 APPROVAL.

4 (4) SPECIAL LAND USE APPROVAL OF A BIOFUEL PRODUCTION FACILITY  
5 SHALL BE MADE EXPRESSLY CONDITIONAL ON THE FACILITY'S MEETING ALL  
6 OF THE FOLLOWING REQUIREMENTS BEFORE THE FACILITY BEGINS OPERATION:

7 (A) BUILDINGS, FACILITIES, AND EQUIPMENT USED IN THE  
8 PRODUCTION OR STORAGE OF BIOFUEL COMPLY WITH LOCAL, STATE, AND  
9 FEDERAL LAWS.

10 (B) THE OWNER OR OPERATOR OF THE BIOFUEL PRODUCTION FACILITY  
11 PROVIDES THE LOCAL UNIT OF GOVERNMENT WITH PROOF THAT ALL NECESSARY  
12 APPROVALS HAVE BEEN OBTAINED FROM THE DEPARTMENT OF NATURAL  
13 RESOURCES AND ENVIRONMENT AND OTHER STATE AND FEDERAL AGENCIES THAT  
14 ARE INVOLVED IN PERMITTING ANY OF THE FOLLOWING ASPECTS OF BIOFUEL  
15 PRODUCTION:

16 (i) AIR POLLUTION EMISSIONS.

17 (ii) TRANSPORTATION OF BIOFUEL OR ADDITIONAL PRODUCTS RESULTING  
18 FROM BIOFUEL PRODUCTION.

19 (iii) USE OR REUSE OF ADDITIONAL PRODUCTS RESULTING FROM BIOFUEL  
20 PRODUCTION.

21 (iv) STORAGE OF RAW MATERIALS, FUEL, AND ADDITIONAL PRODUCTS  
22 USED IN, OR RESULTING FROM, BIOFUEL PRODUCTION.

23 (C) THE BIOFUEL PRODUCTION FACILITY INCLUDES BOTH OF THE  
24 FOLLOWING:

25 (i) SUFFICIENT STORAGE FOR RAW MATERIALS AND FUEL.

26 (ii) SUFFICIENT STORAGE FOR ADDITIONAL PRODUCTS RESULTING FROM  
27 BIOFUEL PRODUCTION OR THE CAPACITY TO DISPOSE OF ADDITIONAL

1 PRODUCTS THROUGH LAND APPLICATION, LIVESTOCK CONSUMPTION, SALE, OR  
2 OTHER LEGAL USE.

3 (5) THE OWNER OR OPERATOR OF A BIOFUEL PRODUCTION FACILITY  
4 SHALL MAINTAIN THE FACILITY IN AN ORDERLY AND CLEAN CONDITION,  
5 MINIMIZE NOISE, ODORS, AND LIGHT POLLUTION FROM OPERATION OF THE  
6 FACILITY, AND NOT CREATE A NUISANCE.

7 (6) THE LOCAL UNIT OF GOVERNMENT WHERE THE BIOFUEL PRODUCTION  
8 FACILITY IS LOCATED MAY INSPECT THE BIOFUEL PRODUCTION FACILITY AT  
9 ANY REASONABLE TIME TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS  
10 OF THIS SECTION.

11 (7) AN AMENDMENT TO A ZONING ORDINANCE ADOPTED UNDER THIS  
12 SECTION IS NOT SUBJECT TO A PROTEST PETITION UNDER SECTION 403.

13 (8) AS USED IN THIS SECTION:

14 (A) "BIODIESEL" MEANS A FUEL COMPOSED OF MONO-ALKYL ESTERS OF  
15 LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL FATS,  
16 DESIGNATED B100, AND MEETING THE REQUIREMENTS OF ASTM D 6751.

17 (B) "BIOFUEL" MEANS ANY RENEWABLE FUEL PRODUCT, WHETHER SOLID,  
18 LIQUID, OR GAS, THAT IS DERIVED FROM RECENTLY LIVING ORGANISMS OR  
19 THEIR METABOLIC BY-PRODUCTS AND MEETS APPLICABLE QUALITY STANDARDS,  
20 INCLUDING, BUT NOT LIMITED TO, ETHANOL AND BIODIESEL.

21 (C) "PROOF GALLON" MEANS THAT TERM AS DEFINED IN 27 CFR  
22 19.907.