SENATE BILL NO. 275

April 19, 2023, Introduced by Senators SINGH, MCMORROW, CAVANAGH, IRWIN, SHINK, SANTANA, GEISS, CHANG, CAMILLERI, HERTEL, MOSS, BAYER, BRINKS and ANTHONY and referred to the Committee on Energy and Environment.

A bill to establish a standard to reduce the carbon intensity of transportation fuels; to establish a market for trading carbon intensity credits; and to provide for the powers and duties of state and local governmental entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Clean fuel" means a transportation fuel that has a carbon intensity level that is below the current clean fuels standard.

(b) "Credit" means a measure, in metric tons of carbon dioxide

equivalent, of the amount by which the carbon intensity of a clean fuel provider's transportation fuel volume produced or imported for use in this state is exceeded by the carbon intensity of the current clean fuels standard.

(c) "Credit generator" means a person that produces or imports a clean fuel for use in this state, which in the case of electricity used as a transportation fuel could include, but is not limited to, automakers, electric charging providers, electric utilities, and electric vehicle fleet operators.

(d) "Deficit" means a measure, in metric tons of carbon dioxide equivalent, of the degree to which the carbon intensity of a fuel provider's transportation fuel volume produced or imported for use in this state exceeds the carbon intensity of the applicable annual clean fuels standard.

(e) "Deficit generator" means a fuel provider that generates deficits and that first produces or imports a transportation fuel for use in this state.

(f) "Department" means the department of environment, Great Lakes, and energy.

(g) "Fuel pathway" means a detailed description of all stages of a transportation fuel's production and use, including extraction, processing, transportation, distribution, and combustion or use by an end user.

(h) "Fuel provider" means a person that produces or imports a transportation fuel for use in this state.

(i) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.

(j) "GREET model" means the Argonne National Laboratory's most

recent Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation model.

(k) "MDOT" means the state transportation department.

(*l*) "Motor vehicle" means an automobile, motorcycle, truck, train, light rail vehicle, ship, aircraft, forklift, or other road or nonroad vehicle.

(m) "Office" means the Michigan economic development corporation's office of future mobility and electrification.

(n) "Person" means an individual or a partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(o) "Petroleum-only portion of transportation fuels" means the component of gasoline or diesel fuel before blending with ethanol, biodiesel, biofuel, or other low-carbon-intensity fuel.

(p) "Transportation fuel" means fuel, including, but not limited to, electricity, gasoline, diesel, ethanol, biodiesel, renewable diesel, propane, renewable propane, natural gas, renewable natural gas, hydrogen, aviation fuel, and biomethane, that is both of the following:

(*i*) Blended, sold, supplied, offered for sale, or used to propel a motor vehicle.

(*ii*) Compliant with applicable standards, specifications, and testing requirements under this act and rules promulgated under this act.

Sec. 3. The department shall calculate the baseline carbon intensity of the petroleum-only portion of all transportation fuel produced or imported in 2019 for use in this state by doing both of the following:

(a) Reviewing and considering the best available applicable

scientific data and calculations.

(b) Using a lifecycle missions performance-based approach that is technology and feedstock neutral.

Sec. 5. (1) As an overall clean fuels standard, the carbon intensity of all transportation fuel produced or imported for use in this state shall be reduced to at least 25% below the 2019 baseline level, as determined under section 3, by the end of 2035. The carbon intensity of the overall clean fuels standard is subject to further reduction by the department based on all of the following:

(a) The cost of compliance.

(b) Advances in technology available to fuel providers to achieve the further reduction.

(c) The need to maintain fuel quality and availability.

(d) The goals of the department's MI Healthy Climate Plan.

(2) The department, in consultation with MDOT, shall establish a schedule of annual clean fuels standards to progressively meet the overall clean fuels standard. In establishing the schedule, the department shall consider the cost of compliance, the technologies available to fuel providers to achieve the annual standards, and the need to maintain fuel quality and availability.

(3) The department shall develop a mechanism that automatically increases the stringency of the schedule of annual clean fuels standards if there is a sustained oversupply of credits for 2 years.

Sec. 7. (1) The department shall establish a process to review fuel pathways submitted by credit generators. Fuel pathways shall be calculated using the GREET model. The fuel pathway review process shall meet all of the following requirements:

(a) Be consistent for all fuel types.

(b) Be science- and engineering-based.

(c) Reflect differences in motor vehicle fuel efficiency and drive trains.

(2) The department shall consult with MDOT and the office to determine fuel pathways and may coordinate with third-party entities or other states to review and approve pathways.

Sec. 9. (1) The department shall establish a fair and reasonable program for tradable credits and deficits. The generation of credits shall use a life-cycle emissions performance-based approach that is technology and feedstock neutral to achieve fuel decarbonization. The program shall include the following:

(a) A market mechanism that allows credits to be traded or banked for future use.

(b) Transaction fees associated with the credit market.

(c) Procedures to verify the validity of credits and deficits.

(d) The ability to carry over up to 5% of deficits each year if credits are unavailable under section 11.

(2) The department may allow the generation of credits associated with the clean fuel or infrastructure that existed before the effective date of this section or the start date of program requirements.

(3) Aviation fuels are exempt from the clean fuels standard. However, sustainable aviation fuel is eligible to generate credits on an opt-in basis.

Sec. 11. (1) A fuel provider that is a deficit generator during a year shall eliminate the deficit by doing either or both of the following:

(a) Producing or importing transportation fuels whose carbon

intensity is at or below the level of that year's annual clean fuels standard.

(b) Purchasing credits to offset the deficit.

(2) A fuel provider that violates subsection (1) may be ordered to pay a civil fine of 200% of the value of the credits needed to offset the violation. The civil violation may be prosecuted by the prosecutor of the county in which the violation occurred or by the attorney general.

Sec. 13. The department shall collaborate with MDOT and the office to develop a compliance reporting process, including forms, for credit generators and deficit generators. The department shall regularly post on the department's website data on deficit and credit generation and credit prices.

Sec. 15. By 2 years after the effective rules promulgated under section 15, the department shall submit a report detailing program implementation to the senate and house committees responsible for transportation, energy, and natural resources legislation. The department shall make summary information on the program available to the public.

Sec. 17. (1) By 1 year after the effective date of this act, the department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

(2) In developing the rules, the department shall do all of the following:

(a) Consult with MDOT and the office.

(b) Solicit input from stakeholders, including, but not limited to, fuel providers; consumers; rural, urban, and tribal communities; agricultural organizations; environmental and

environmental justice organizations; and technology providers, through a task force, working groups, public meetings, and other means.

(c) Endeavor to do all of the following:

(*i*) Support the growth and creation of high-paying jobs in the clean fuels and automotive industries in this state.

(*ii*) Ensure transparency and fair competition.

(*iii*) Complement and further both of the following:

(A) Existing state and federal fuel, transit and mobility, transportation decarbonization, infrastructure, and greenhouse gas emissions policies and programs.

(B) Existing efforts by the agricultural sector to increase the adoption of practices that improve soil health and water quality.

(*iv*) Recognize voluntary farm emissions reductions that contribute to the reduced carbon intensity of fuels by allowing credit generators to choose between a credit premium or individualized farm-level carbon intensity scoring for approved sustainable agricultural practices.

(*v*) Identify safeguards and incentives to protect biodiversity, reduce potential land use impacts, consider unintended consequences at scale, safeguard customer privacy, and promote equity.

(d) Support clean energy and accessible transportation projects in disadvantaged communities by directing certain credit generators to allocate revenue earned from trading certain credits toward those projects. The department shall determine projects and goals under this subdivision in consultation with credit generators, communities, community leaders, and environmental

justice advocates.