

HOUSE BILL No. 5985

December 2, 2014, Introduced by Reps. Irwin, Cochran, Singh, Zemke, Barnett, Tlaib, Switalski, Driskell and Geiss and referred to the Committee on Natural Resources.

A bill to amend 1929 PA 16, entitled

"An act to regulate the business of carrying or transporting, buying, selling, or dealing in crude oil or petroleum or its products, or certain substances consisting primarily of carbon dioxide through pipe lines; to authorize the use of public highways and the condemnation of private property; to regulate the purchase and storage of crude oil or petroleum or certain substances consisting primarily of carbon dioxide; to provide for the control and regulation of all corporations, associations, and persons engaged in such business, by the Michigan public service commission; to define the powers and duties of the commission in relation thereto; and to prescribe penalties,"

by amending the title and sections 1, 2, 2a, 2b, 3, and 4 (MCL 483.1, 483.2, 483.2a, 483.2b, 483.3, and 483.4), the title and sections 1, 3, and 4 as amended by 2014 PA 85, section 2 as amended by 2014 PA 84, section 2a as amended by 2014 PA 83, and section 2b as added by 1997 PA 125, and by adding sections 3a, 3b, and 3c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate the business of carrying or transporting,

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1 buying, selling, or dealing in crude oil or petroleum or its
2 products, or certain substances consisting primarily of carbon
3 dioxide through ~~pipe lines~~; **PIPELINES**; to authorize the use of
4 public highways and the condemnation of private property; to
5 regulate the purchase and storage of crude oil or petroleum or
6 certain substances consisting primarily of carbon dioxide; to
7 provide for the control and regulation of all corporations,
8 associations, and persons engaged in such business, by the Michigan
9 public service commission; to define the powers and duties of the
10 commission in relation thereto; **TO IMPOSE A FEE**; and to prescribe
11 penalties.

12 Sec. 1. (1) As used in this act:

13 (a) "Carbon dioxide substance" means a gaseous or liquid
14 substance, consisting primarily of carbon dioxide, that will be put
15 in storage or that has been or will be used to produce hydrocarbons
16 in a secondary or enhanced recovery operation.

17 (b) "Commission" means the Michigan public service commission.

18 (c) "Person" means an individual, partnership, corporation,
19 association, governmental entity, or other legal entity.

20 (D) **"PIPELINE" MEANS A PIPELINE USED OR TO BE USED TO**
21 **TRANSPORT ANY OF THE FOLLOWING:**

22 (i) **CRUDE OIL OR PETROLEUM.**

23 (ii) **ANY OF THE PRODUCTS OF CRUDE OIL OR PETROLEUM.**

24 (iii) **CARBON DIOXIDE SUBSTANCES.**

25 (2) ~~A person exercising or claiming the right to carry~~ **EXCEPT**
26 **AS AUTHORIZED BY THIS ACT, A PERSON DOES NOT HAVE THE RIGHT TO DO**
27 **ANY OF THE FOLLOWING, IN WHOLE OR IN PART:**

1 (A) **CARRY** or transport crude oil or petroleum, or any of the
 2 products thereof, or carbon dioxide substances, by or through pipe
 3 ~~line or lines,~~ **PIPELINE**, for hire, **OR** compensation, or otherwise,
 4 ~~or exercising or claiming the right to engage in the business of~~
 5 piping, transporting, or storing crude oil or petroleum, or any of
 6 the products thereof, or carbon dioxide substances, or ~~engaging~~
 7 **ENGAGE** in the business of buying, selling, or dealing in crude oil
 8 or petroleum, **OR ANY OF THE PRODUCTS THEREOF**, or carbon dioxide
 9 substances within this state. ~~, does not have or possess the right~~
 10 ~~to conduct or engage in the business or operations, in whole or in~~
 11 ~~part, or have or possess the right to locate,~~

12 (B) **LOCATE**, maintain, or operate the necessary ~~pipe lines,~~
 13 **PIPELINES**, fixtures, and equipment belonging to, or used in
 14 connection with ~~that~~ **A BUSINESS OR OPERATIONS UNDER SUBDIVISION (A)**
 15 on, over, along, across, through, in or under any present or future
 16 highway, or part thereof, or elsewhere, within this state. ~~, or~~
 17 ~~have or possess~~

18 (C) **EXERCISE** the right of eminent domain, or any other right,
 19 concerning the business or operations ~~, in whole or in part, except~~
 20 ~~as authorized by and subject to this act.~~ **UNDER SUBDIVISION (A)**.

21 (3) Subsection (2) does not apply to a right that exists on
 22 March 27, 1929 and is valid, vested, and incapable of revocation by
 23 any law of this state or of the United States.

24 Sec. 2. (1) A person ~~described in section 1 is granted the~~
 25 ~~right to~~ **MAY** condemn property by eminent domain and the use of the
 26 highways in this state to acquire necessary rights-of-way for any
 27 of the following purposes:

1 (a) To transport crude oil or petroleum, **OR ANY OF THE**
2 **PRODUCTS THEREOF**, or carbon dioxide substances.

3 (b) To locate, lay, construct, maintain, and operate pipelines
4 for the purposes of subdivision (a).

5 (2) Condemnation proceedings under subsection (1) shall be
6 conducted as provided in the uniform condemnation procedures act,
7 1980 PA 87, MCL 213.51 to 213.75.

8 Sec. 2a. ~~(1) As used in this section and section 2b,~~
9 ~~"pipeline" means a pipeline used or to be used to transport crude~~
10 ~~oil or petroleum or carbon dioxide substances.~~

11 (1) ~~(2)~~ A person ~~who~~ **THAT** is conducting survey work for a
12 proposed pipeline under this act shall notify all affected property
13 owners in writing before a survey crew enters the owner's property.

14 (2) ~~(3)~~ Any offer to a landowner for an easement for the
15 purpose of locating, laying, constructing, maintaining, and
16 operating pipelines on agricultural property shall include all of
17 the following information:

18 (a) The anticipated physical impact of pipeline construction
19 on the landowner's property.

20 (b) Written assurance that any agricultural drainage tile that
21 is damaged or removed during the construction or repair of a
22 pipeline will be repaired or replaced to preconstruction working
23 condition. As used in this subdivision, "drainage tile" includes
24 any surface or subsurface system by which the movement of water is
25 redirected.

26 (c) Written assurance that topsoil that is disturbed by
27 construction or repair of a pipeline is properly separated and

1 replaced. As used in this subdivision, "topsoil" means surface soil
2 that is presumed to be fertile as distinguished from subsoil.

3 (d) The method by which property will be appraised.

4 (e) For property used to produce crops ~~prior to~~ **BEFORE**
5 construction of a pipeline, an estimate of the value of the loss of
6 the productivity based on the historic yield of the site before
7 construction of a pipeline. ~~The~~ **FOR THE PURPOSES OF THIS**
8 **SUBDIVISION, THE** agricultural property owner shall provide **THE**
9 **PIPELINE COMPANY WITH** historic crop yield values upon request.

10 (f) That payment will be made for all damages incurred after
11 construction of the pipeline because of the pipeline owner's or
12 operator's entry upon the property to exercise easement rights,
13 except that the owner or operator of the pipeline may maintain a
14 clear right-of-way without further compensating the landowner.

15 (g) That the landowner has rights under the uniform
16 condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, and
17 a copy of that act.

18 Sec. 2b. (1) **BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY**
19 **ACT THAT ADDED THIS SUBSECTION, THE COMMISSION SHALL ENSURE THAT**
20 **THE SITING OF A PIPELINE IN THIS STATE IS NOT LIKELY TO ADVERSELY**
21 **IMPACT PUBLIC HEALTH, SAFETY, OR WELFARE OR THE ENVIRONMENT.**

22 (2) **A PERSON THAT INTENDS TO CONSTRUCT A PIPELINE IN THIS**
23 **STATE SHALL SUBMIT A CONSTRUCTION PERMIT APPLICATION TO THE**
24 **COMMISSION CONTAINING THE INFORMATION REQUIRED BY THE COMMISSION.**

25 (3) **THE COMMISSION SHALL APPROVE A CONSTRUCTION PERMIT UNDER**
26 **THIS SECTION IF THE COMMISSION DETERMINES ALL OF THE FOLLOWING:**

27 (A) **THE PIPELINE WILL BE CONSTRUCTED IN COMPLIANCE WITH THIS**

1 ACT AND THE RULES PROMULGATED UNDER THIS ACT.

2 (B) THE OPERATION OF THE PIPELINE IN THE LOCATION PROPOSED IN
3 THE APPLICATION WILL NOT POSE A THREAT TO PUBLIC HEALTH, SAFETY, OR
4 WELFARE OR TO THE ENVIRONMENT.

5 (4) A pipeline company shall make a good-faith effort to
6 minimize the physical impact and economic damage that result from
7 the construction and repair of a pipeline.

8 Sec. 3. (1) ~~Subject to subsection (2), the~~ **THE** commission is
9 granted the power to control, investigate, and regulate a person
10 doing any of the following:

11 (a) Exercising or claiming the right to carry or transport
12 crude oil or petroleum, or any of the products thereof, or carbon
13 dioxide substances, by or through ~~pipe line or lines,~~ **PIPELINE**, for
14 hire, **OR** compensation, or otherwise, within this state.

15 (b) Exercising or claiming the right to engage in the business
16 of piping, transporting, or storing crude oil or petroleum, or any
17 of the products thereof, or carbon dioxide substances within this
18 state.

19 (c) Engaging in the business of buying, selling, or dealing in
20 crude oil or petroleum, **OR ANY OF THE PRODUCTS THEREOF**, or carbon
21 dioxide substances within this state.

22 ~~—— (2) Producers or refiners of crude oil or petroleum or carbon~~
23 ~~dioxide substances or operators of private trunk or gathering lines~~
24 ~~or other methods of conveying those products, are not subject to~~
25 ~~this act if the nature and extent of their business is private and~~
26 ~~no public interest is involved in the conduct of the business.~~

27 (2) A PERSON SHALL NOT OPERATE A PIPELINE IN THIS STATE UNLESS

1 THE PERSON IS IN POSSESSION OF AN OPERATING PERMIT ISSUED BY THE
2 COMMISSION.

3 (3) TO OBTAIN AN OPERATING PERMIT FROM THE COMMISSION, A
4 PERSON SHALL SUBMIT TO THE COMMISSION AN APPLICATION CONTAINING THE
5 INFORMATION REQUIRED BY THE COMMISSION.

6 (4) THE COMMISSION SHALL APPROVE AN OPERATING PERMIT
7 APPLICATION UNDER THIS SECTION IF THE COMMISSION DETERMINES ALL OF
8 THE FOLLOWING:

9 (A) THE PIPELINE WILL BE OPERATED IN COMPLIANCE WITH THIS ACT
10 AND THE RULES PROMULGATED UNDER THIS ACT.

11 (B) THE PIPELINE WILL BE OPERATED IN COMPLIANCE WITH THE
12 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
13 MCL 324.101 TO 324.90106.

14 (C) THE OPERATION OF THE PIPELINE WILL NOT POSE A THREAT TO
15 PUBLIC HEALTH, SAFETY, OR WELFARE OR TO THE ENVIRONMENT.

16 SEC. 3A. (1) A PERSON THAT OWNS OR OPERATES A PIPELINE IN THIS
17 STATE SHALL POST AT EACH PARCEL OF PROPERTY IN WHICH THE PIPELINE
18 IS LOCATED CONTACT INFORMATION FOR NOTIFYING THE DEPARTMENT OF
19 ENVIRONMENTAL QUALITY OF A RELEASE FROM THE PIPELINE.

20 (2) AS USED IN THIS SECTION, "RELEASE" MEANS THAT TERM AS IT
21 IS DEFINED IN SECTION 20101 OF THE NATURAL RESOURCES AND
22 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20101.

23 SEC. 3B. A PERSON THAT OWNS OR OPERATES A PIPELINE IN THIS
24 STATE SHALL DO BOTH OF THE FOLLOWING:

25 (A) PROVIDE TO THE COMMISSION AND THE DEPARTMENT OF
26 ENVIRONMENTAL QUALITY COPIES OF ANY INSPECTION REPORTS REQUIRED TO
27 BE FILED WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION

1 PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.

2 (B) IF THE FEDERAL GOVERNMENT ISSUES TO THE PERSON A WARNING
3 OR CITATION RELATED TO THE OPERATION OF THE PIPELINE, IMMEDIATELY
4 NOTIFY THE COMMISSION AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY
5 AND PROVIDE A COPY OF THE WARNING OR CITATION TO THE COMMISSION AND
6 THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

7 SEC. 3C. (1) THE OWNER OR OPERATOR OF A PIPELINE LOCATED IN
8 WHOLE OR IN PART IN THIS STATE IS SUBJECT TO AN ANNUAL PIPELINE
9 IMPACT FEE IN AN AMOUNT PROVIDED BY RULE FOR EACH MILE OR PORTION
10 OF A MILE OF PIPELINE. THE COMMISSION SHALL PROMULGATE RULES TO
11 IMPLEMENT THIS SUBSECTION AND SHALL ANNUALLY ASSESS THE OWNER OR
12 OPERATOR FOR THE PIPELINE IMPACT FEE. THE OWNER OR OPERATOR OF A
13 PIPELINE SHALL PAY THE PIPELINE IMPACT FEE IN THE MANNER PRESCRIBED
14 BY THE COMMISSION.

15 (2) UPON RECEIPT OF A PIPELINE IMPACT FEE UNDER THIS SECTION,
16 THE COMMISSION SHALL DISTRIBUTE THE PIPELINE IMPACT FEE AS FOLLOWS:

17 (A) FIFTY PERCENT OF EACH PIPELINE IMPACT FEE THAT IS
18 COLLECTED ON A PIPELINE SHALL BE DISTRIBUTED TO THE COUNTY WITHIN
19 WHICH THE PIPELINE IS LOCATED. IF THE PIPELINE IS LOCATED IN MORE
20 THAN 1 COUNTY, 50% OF THE PIPELINE IMPACT FEE SHALL BE DISTRIBUTED
21 TO THOSE COUNTIES, PRORATED BASED ON THE NUMBER OF MILES OF THE
22 PIPELINE LOCATED IN EACH COUNTY. A COUNTY SHALL USE REVENUE
23 DISTRIBUTED UNDER THIS SUBDIVISION ONLY TO PERFORM ITS DUTIES UNDER
24 BOTH OF THE FOLLOWING:

25 (i) THE EMERGENCY MANAGEMENT ACT, 1976 PA 390, MCL 30.401 TO
26 30.421.

27 (ii) THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1 TO 29.33.

1 (B) FIFTY PERCENT OF EACH PIPELINE IMPACT FEE COLLECTED SHALL
2 BE FORWARDED TO THE STATE TREASURER TO BE DEPOSITED INTO THE
3 GENERAL FUND, WHERE IT IS AVAILABLE FOR USE IN IMPLEMENTING THE
4 STATE'S RESPONSIBILITIES UNDER BOTH OF THE FOLLOWING:

5 (i) THE EMERGENCY MANAGEMENT ACT, 1976 PA 390, MCL 30.401 TO
6 30.421.

7 (ii) THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1 TO 29.33.

8 Sec. 4. A person claiming or exercising the right to carry or
9 transport crude oil or petroleum, or any of the products thereof,
10 or carbon dioxide substances, by ~~pipe line or pipe lines,~~ **PIPELINE,**
11 for hire, **OR** compensation, or otherwise, in this state, as owner,
12 lessee, **OR** licensee, or by virtue of any other right or claim, or
13 engaging in the business of purchasing or storing crude oil or
14 petroleum, **OR PRODUCTS THEREOF,** or carbon dioxide substances is a
15 common purchaser thereof. The person shall purchase all the crude
16 oil or petroleum, **OR PRODUCTS THEREOF,** or carbon dioxide substances
17 in the vicinity of, or which may be reasonably reached by its ~~pipe~~
18 ~~lines,~~ **PIPELINES,** or gathering branches, without discrimination in
19 favor of any producer or other person as against another, and shall
20 fully perform all the duties of a common purchaser. However, if the
21 person is unable to perform the duties of a common purchaser or is
22 legally excused from purchasing, transporting, or storing all of
23 the crude oil or petroleum, **OR PRODUCTS THEREOF,** or carbon dioxide
24 substances produced in the vicinity, then it shall purchase,
25 transport, or store crude oil or petroleum, **OR PRODUCTS THEREOF,** or
26 carbon dioxide substances from each producer or other person
27 ratably, in proportion to the average daily production. A common

1 purchaser shall not discriminate in price or amount for like grades
2 of crude oil or petroleum, **OR PRODUCTS THEREOF**, or carbon dioxide
3 substances or facilities as between producers or other persons. If
4 a common purchaser is also a producer, it shall not discriminate in
5 favor of its own production, or storage, or any production or
6 storage in which it is interested directly or indirectly in whole
7 or in part, and shall treat its own production and storage like
8 that of any other producer or other person.

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 97th Legislature are
11 enacted into law:

12 (a) Senate Bill No. _____ or House Bill No. 5984 (request no.
13 02053'13).

14 (b) Senate Bill No. _____ or House Bill No. 5983 (request no.
15 02057'13).