

RENEWABLE FUELS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1074 as passed by the Senate
Sponsor: Sen. Jud Gilbert, II

Senate Bill 1077 as passed by the Senate
Sponsor: Sen. Jim Barcia

Senate Bill 1075 as passed by the Senate
Sponsor: Sen. Wayne Kuipers

Senate Bill 1078 as passed by the Senate
Sponsor: Sen. Bruce Patterson

Senate Bill 1076 as passed by the Senate
Sponsor: Sen. Ron Jelinek

Senate Bill 1079 as passed by the Senate
Sponsor: Sen. Cameron S. Brown

House Committee: Agriculture
Senate Committee: Technology and Energy

Complete to 5-1-06

A SUMMARY OF SENATE BILLS 1074 – 1079 AS PASSED BY THE SENATE 4-20-06

The bills constitute the Senate version of the renewable fuels package. The House passed a similar version of this legislation in mid-March. (See House Bills 5181 and 5751-5755].

- Senate Bill 1074 is the companion bill to House Bill 5751, introduced by Rep. Philip LaJoy. Among other things, the Senate bill requires blenders of ethanol and biodiesel fuel to obtain a blender's license and requires bills of lading and invoices to identify the blended product. Additionally, the Senate bill reduces the motor fuel tax to 12 cents per gallon for gasoline containing at least 70 percent ethanol and diesel containing at least five percent biodiesel, and restores the tax on such fuels to 19 cents (gasoline) and 15 cents (diesel) 10 years after the bill's effective date or after the amount of revenue lost because of the reduced rate reaches \$2.5 million. [House Bill 5751, as reported from committee, would have also dropped to rates for fuels containing ethanol or biodiesel to 12 cents per gallon, although that provision was removed on the House floor.]
- Senate Bill 1075 is the companion bill to House Bill 5753, introduced by Rep. Gabe Leland. The bills, as passed by their respective chambers, are identical.
- Senate Bill 1076 is the companion bill to House Bill 5754, introduced by Rep. Neal Nitz. The Senate bill has two material differences with House Bill 5754: (1) HB 5754 would provide a maximum grant of \$20,000, rather than \$15,000, to bulk plants creating new biodiesel delivery systems, and (2) HB 5754 does not specify how much of the grant is to be repaid when a grantee stops using the fuel system within three years.

- Senate Bill 1077 is the companion bill to House Bill 5181, introduced by Rep. Jeff Mayes. The bills, as passed by their respective chambers, are identical.
- Senate Bill 1078 is the companion bill to House Bill 5752, introduced by Rep. Tom Casperson. Senate Bill 1078 includes in the definition of “renewable energy facility” wind conversion devices and photovoltaic cells. The bill also reflects changes made to Section 6 of the act by Public Act 116 of 2006.
- Senate Bill 1079 is the companion bill to House Bill 5755, introduced by Rep. John Stahl. There are no material differences between the bills as passed by their respective chambers.

Senate Bill 1074 (Motor Fuel Tax Act Amendments)

Reduced Tax Rate for Ethanol and Biodiesel

The Motor Fuel Tax Act imposes a 19-cent tax on gasoline and a 15-cent tax on diesel fuel imported into or sold, delivered, or used in the state. The bill will would reduce the tax to 12 cents for gasoline containing at least 70 percent ethanol and for diesel fuel containing at least five percent biodiesel. The reduced rate would remain in effect until (1) 10 years after the bill’s effective date or (2) four months after the date on which the Department of Treasury certifies that the amount of revenue “lost” because of the reduced rate is \$2.5 million, whichever is earlier.

Blender’s License

The bill would require a person who blends ethanol and gasoline or biodiesel and diesel outside of the bulk transfer terminal system to obtain a blender’s license and comply with the act’s blender reporting requirements. Licensed suppliers who blend fuel would also be required to obtain a blender’s license.

Annual Appropriation to the Michigan Transportation Fund

The bill would require the legislature to annually appropriate the amount of revenue lost because of the reduced rate to the Michigan Transportation Fund. If the legislature does not do this, the reduced rate would cease beginning the first calendar year after the fiscal year in which the appropriation should have been made.

Bills of Lading and Invoices

The bill would require bills of lading and invoices to identify the blended fuel product and the correct fuel product code, with tax rate for each product being listed separately. When fuel is blended below the terminal rack, new bills of lading and invoices would have to be generated.

Terminal Operators License and Suppliers License

The bill provides that all facilities that produce motor fuel and distribute fuel from the rack for purposes of the act would be considered to be a “terminal” and be required to obtain a terminal operator license and comply with all terminal operator reporting requirements. The bill also requires that all position holders in these facilities to obtain a suppliers license and comply with all other supplier requirements provided under the act.

Supplier Tax Deduction

The bill allows licensed suppliers to claim a deduction on a motor fuel tax return for motor fuel taxes paid for diesel fuel containing at least five percent biodiesel, if the supplier supplies biodiesel or gasoline containing at least 70 percent ethanol. The deduction would be three cents per gallon for biodiesel and seven cents for gasoline containing at least 70 percent ethanol. [It appears that, as written, the bill doesn’t actually allow a deduction for gasoline containing ethanol.]

The bill would require the Department of Treasury to annually determine the amount of revenue “lost” because of the deduction. The legislature would be required to appropriate the amount of revenue lost because of the deduction to the Michigan Transportation Fund within 60 days after the department certifies the amount.

The deduction would no longer be allowed 10 years after the bill’s effective date or the date on which the state treasurer certifies that the amount of revenue lost because of the deduction is \$2.5 million. Additionally, the deduction would no longer be allowed if the legislature doesn’t appropriate funds to the Michigan Transportation Fund as required.

Enacting Sections

The bill is tie-barred to House Bill 5755 and would take effect on the first day of the month immediately following the month in which the bill is signed by the governor and filed with the secretary of state.

Senate Bill 1075 (Management and Budget Act)

The bill would amend the Management and Budget Act to require the director of the Department of Management and Budget to install the necessary fueling infrastructure or contract with a supplier to supply gasoline containing 85 percent ethanol (E85) and biodiesel blends at all state motor transport facilities.

Senate Bill 1076 (Michigan Strategic Fund Act)

The bill would amend the Michigan Strategic Fund Act (MCL 125.2078) to require the Michigan Strategic Fund to create and administer matching grants programs to provide owners and operators of retail service stations and bulk plants with grants of up half of

the cost for renovating existing, and creating new, fuel delivery systems capable of providing E85 and biodiesel blends.

Grants to retail service station owners and operators for E85 stations would be capped at \$2,000 for the cost of converting an existing system, and \$15,000 for the cost of creating a new E85 system. Grants to service station owners and operators for biodiesel would be capped at \$2,000 for the cost of converting existing systems, and \$5,000 for the cost of creating a new biodiesel system.

Grants to bulk plants for biodiesel facilities would be capped at \$2,000 for the cost of converting an existing system into a biodiesel system, and \$15,000 for the cost of creating a new system. A "bulk plant" would be a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be withdrawn by a tank wagon, a transport truck, or a marine vessel. [The bill incorporates the definition of "bulk plant" from the Motor Fuel Tax Act.]

If a grantee stops using the fuel system within three years of receiving the grant, the grantee would be required to repay the amount of the grant, as follows:

$$\text{Amount to be repaid} = \text{Amount of grant} \times \frac{\text{Number of days facility not used}}{1,095}$$

The bill would also require the MSF to provide up to \$500,000 in FY 2006-2007 for the grant programs.

Senate Bill 1077 (Fuels of the Future Commission Act)

The bill would create the "Fuels of the Future Commission Act" to create the Fuels of the Future Commission within the Department of Agriculture to investigate and recommend strategies for encouraging the use of alternative fuels. The commission, chaired by the director of the Department of Agriculture (or his or her designee), would include members representing the Michigan Economic Development Corporation, the Department of Labor and Economic Growth, corn producers, soybean producers, automotive fuel blenders, retail petroleum sellers, biodiesel producers, ethanol producers, environmental organizations, automotive manufacturing, state colleges and universities researching alternative fuels, and any other member the governor believes is necessary to further the commission's purpose. The commission would have to issue a written report within one year of the bill's effective date and issue additional follow-up reports at least on an annual basis. The bill would be repealed January 1, 2010.

The bill is identical to the House-passed version of House Bill 5181.

Senate Bill 1078 (Michigan Renaissance Zone Act)

The bill would amend the Michigan Renaissance Zone Act (MCL 125.2683 et al.) to allow for the designation of up to ten additional renaissance zones, specifically for renewable energy facilities. A renaissance zone could only be created with the consent of the appropriate city, village, or township, or a combination, and the county in which the facility is located. The zones would be designated by the State Administrative Board on the recommendation of the Michigan Strategic Fund Board.

A renewable energy facility would be defined as a system that creates energy from a process using residues from agricultural products, forest production, paper products industries, and food production and processing; trees and grasses grown specifically to be used as energy crops; and gaseous fuels produced from solid biomass, animal wastes, municipal wastes, wind conversion devices, photovoltaic cells, or landfills.

[Renaissance zones are typically described as granting virtually tax-free status to the businesses or residents in them. Businesses in renaissance zones are exempt from the single business tax (SBT), the six-mill state education tax, local real and personal property taxes, specific taxes levied in lieu of property taxes, and (in Detroit) the utility users tax, as well as state and city income taxes.]

When designating a renaissance zone for a renewable energy facility, the State Administrative Board would consider: the economic impact on local suppliers who supply raw materials, goods, and services to the facility; the creation of jobs "relative to the employment base of the community rather than the static number of jobs created"; the viability of the project; and the economic impact on the community where the facility is located. Preference would be given, "other things being equal," to a business entity already located in the state.

The SAB could revoke the designation of all or a portion of a zone for a renewable energy facility if it determined that the facility failed to commence operations; ceased operations; or failed to commence construction or renovation within one year from the date the zone was designated.

The bill is similar to House Bill 5752. Senate Bill 1078 includes in the definition of "renewable energy facility" wind conversion devices and photovoltaic cells. The bill also reflects changes made to Section 6 of the act by Public Act 116 of 2006.

Senate Bill 1079 (Motor Fuels Quality Act)

Generally speaking, Senate Bill 1079 would extend provisions in the Motor Fuels Quality Act (MCL 290.642 et al.), which regulates the sale and quality of gasoline sold or offered for sale in the state, to also apply to diesel fuel, biodiesel, biodiesel blends, and hydrogen fuel. Specifically, the bill would do the following:

- Require the director of the Department of Agriculture to establish standards relating to the purity and quality of diesel fuel sold or offered for sale in the state, and standards for the amount and types of additives that may be included in diesel fuel.
- Require firms selling hydrogen fuel to register and obtain approval from the Department of Agriculture.
- Prohibit retail outlets from selling or offering for sale diesel fuel, biodiesel, or biodiesel blends if there is at least two inches of water or water-alcohol in the storage tank.
- Prohibit the manufacture of diesel fuel and hydrogen fuel that does not meet the specifications required by the Department of Agriculture.
- Prohibit firms from transferring, selling, offering for sale, or dispensing diesel fuel, biodiesel, or biodiesel blends not meeting the required specifications.
- Prohibit refiners and distributors from transferring, selling, or dispensing diesel fuel, biodiesel, biodiesel blends, or hydrogen fuel unless sales invoices identify the name of the wholesale distributor who received delivery of the fuel.
- Prohibit refiners and distributors from transferring, selling, or dispensing diesel fuel, biodiesel, biodiesel blends, or hydrogen fuel to a retailer unless the retailer has a valid gasoline outlet license from the Department of Agriculture.
- Require sales invoices for diesel fuel, biodiesel, biodiesel blends, or hydrogen fuel sold to individuals not required to obtain a license under the Motor Fuels Quality Act or the Motor Fuels Tax Act to include identifying information of the purchaser.
- Prohibit firms from selling, transferring, or dispensing diesel fuel, biodiesel, or biodiesel blends unless the fuel is visibly free of undissolved water, sediments, and other suspended matter.
- Require distributors and retailers selling or transferring diesel fuel, biodiesel, biodiesel blends, or hydrogen fuel to obtain a license from the Department of Agriculture for each retail outlet from which the fuel is sold.
- Requires firms to provide the Department of Agriculture, in the course of an investigation into alleged violations of the act, with access to documents concerning the receipt, transfer, sale, or storage of diesel fuel, biodiesel, biodiesel blends, or hydrogen fuel
- Require the director of the MDA to establish an inspection, investigation, and testing program for diesel fuel, biodiesel, and biodiesel blends.

FISCAL IMPACT:

Senate Bill 1074

According to the Department of Treasury, the bill would initially reduce Motor Fuel Tax revenue by an estimated \$100,000, with the potential for a greater reduction in future years as the consumption increases. However, the reduced rates for E85 and biodiesel would cease (1) 10 years after the effective date of this bill or (2) the date that the total cumulative differential in tax receipts was greater than \$2.5 million, whichever is earlier.

Senate Bill 1075

According to the Department of Management and Budget, the bill would increase costs to the department by an estimated \$146,000 for construction of E85 facilities and \$14,000 for using E85, because of lower fuel efficiency.

Senate Bill 1076

For FY 2006-2007, the total grant awards could not exceed \$500,000.

Senate Bill 1077

The bill would not appear to have a significant fiscal impact on the state or local governmental units.

Senate Bill 1078

In the short term, there will be no significant fiscal impact on either the State of Michigan or its local units of government. In the long term, the impact is indeterminate and will depend on the availability, at competitive prices, of automobiles that can use ethanol, bio-diesel, or biomass fuels.

Senate Bill 1079

According to the Department of Agriculture, the bill would result in one-time costs of \$2.5 million in capital expenses, and on-going costs of an estimated \$800,000 for lab and investigation costs.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Richard Child

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.