

HOUSE BILL No. 4571

May 2, 2017, Introduced by Reps. Pagan, Rabhi, Cochran, Peterson, Hertel, Green, Ellison, Lasinski, Hammoud, Geiss, Chang, Garrett, Hoadley, Sabo, Sneller, Sowerby, Gay-Dagnogo, Moss, Jones, Yanez, Neeley, Phelps, Schor, Wittenberg, Robinson, Santana, Liberati, LaGrand, Faris, Brinks and Zemke and referred to the Committee on Energy Policy.

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

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

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

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

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

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

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

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

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

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

26 (2) ~~A person exercising or claiming the right to carry~~ **EXCEPT**
27 **AS AUTHORIZED BY THIS ACT, A PERSON SHALL NOT DO ANY OF THE**

1 FOLLOWING:

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

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

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

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

26 Sec. 2. (1) A person ~~described in section 1 is granted the~~
 27 ~~right to~~ MAY condemn property by eminent domain and ~~the use of the~~

1 highways ~~in this state to acquire~~ **FOR** necessary rights-of-way for
2 any of the following purposes:

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

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

7 (2) Condemnation proceedings under subsection (1) shall be
8 conducted as provided in the uniform condemnation procedures act,
9 1980 PA 87, MCL 213.51 to 213.75.

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

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

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

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

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

1 (c) Written assurance that topsoil that is disturbed by
2 construction or repair of a pipeline is properly separated and
3 replaced. As used in this subdivision, "topsoil" means surface soil
4 that is presumed to be fertile as distinguished from subsoil.

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

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

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

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

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

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

1 (3) THE COMMISSION SHALL APPROVE A CONSTRUCTION PERMIT UNDER
2 THIS SECTION IF THE COMMISSION DETERMINES ALL OF THE FOLLOWING:

3 (A) THE PIPELINE WILL BE CONSTRUCTED IN COMPLIANCE WITH THIS
4 ACT AND THE RULES PROMULGATED UNDER THIS ACT.

5 (B) THE OPERATION OF THE PIPELINE IN THE LOCATION PROPOSED IN
6 THE APPLICATION IS NOT LIKELY TO ADVERSELY IMPACT PUBLIC HEALTH,
7 SAFETY, OR WELFARE OR TO THE ENVIRONMENT.

8 (4) A PERSON CONSTRUCTING OR REPAIRING A pipeline company
9 shall make a good-faith effort to minimize the physical impact and
10 economic damage that result from the construction and ~~OR~~ repair of
11 a pipeline.

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

15 (a) Exercising or claiming the right to carry or transport
16 crude oil or petroleum, or any of the products thereof, or carbon
17 dioxide substances, by or through ~~pipe line or lines, for hire,~~
18 ~~compensation, or otherwise~~ **A PIPELINE LOCATED** within this state.

19 (b) Exercising or claiming the right to engage in the business
20 of piping, transporting, or storing crude oil or petroleum, or any
21 of the products thereof, or carbon dioxide substances within this
22 state.

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

26 ~~—— (2) Producers or refiners of crude oil or petroleum or carbon~~
27 ~~dioxide substances or operators of private trunk or gathering lines~~

1 ~~or other methods of conveying those products, are not subject to~~
2 ~~this act if the nature and extent of their business is private and~~
3 ~~no public interest is involved in the conduct of the business.~~

4 (2) A PERSON SHALL NOT OPERATE A PIPELINE IN THIS STATE UNLESS
5 THE PERSON IS IN POSSESSION OF AN OPERATING PERMIT ISSUED BY THE
6 COMMISSION.

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

10 (4) THE COMMISSION SHALL APPROVE AN OPERATING PERMIT
11 APPLICATION UNDER THIS SECTION IF THE COMMISSION DETERMINES ALL OF
12 THE FOLLOWING:

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

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

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

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

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

27 SEC. 3B. A PERSON THAT OWNS OR OPERATES A PIPELINE IN THIS

1 STATE SHALL DO BOTH OF THE FOLLOWING:

2 (A) PROVIDE TO THE COMMISSION AND THE DEPARTMENT OF
3 ENVIRONMENTAL QUALITY COPIES OF ANY INSPECTION REPORTS REQUIRED TO
4 BE FILED WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION
5 PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.

6 (B) IF THE FEDERAL GOVERNMENT ISSUES TO THE PERSON A WARNING
7 OR CITATION RELATED TO THE OPERATION OF THE PIPELINE, IMMEDIATELY
8 NOTIFY THE COMMISSION AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY
9 AND PROVIDE A COPY OF THE WARNING OR CITATION TO THE COMMISSION AND
10 THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

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

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

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

1 BOTH OF THE FOLLOWING:

2 (i) THE EMERGENCY MANAGEMENT ACT, 1976 PA 390, MCL 30.401 TO
3 30.421.

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

5 (B) FIFTY PERCENT OF EACH PIPELINE IMPACT FEE COLLECTED SHALL
6 BE FORWARDED TO THE STATE TREASURER TO BE DEPOSITED INTO THE
7 GENERAL FUND, FOR USE IN IMPLEMENTING THE STATE'S RESPONSIBILITIES
8 UNDER BOTH OF THE FOLLOWING:

9 (i) THE EMERGENCY MANAGEMENT ACT, 1976 PA 390, MCL 30.401 TO
10 30.421.

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

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

1 substances produced in the vicinity, then it shall purchase,
2 transport, or store crude oil or petroleum, **OR PRODUCTS THEREOF**, or
3 carbon dioxide substances from each producer or other person
4 ratably, in proportion to the average daily production. A common
5 purchaser shall not discriminate in price or amount for like grades
6 of crude oil or petroleum, **OR PRODUCTS THEREOF**, or carbon dioxide
7 substances or facilities as between producers or other persons. If
8 a common purchaser is also a producer, ~~it~~**THE COMMON PURCHASER**
9 shall not discriminate in favor of its own production, or storage,
10 or any production or storage in which it is interested directly or
11 indirectly in whole or in part, and shall treat its own production
12 and storage like that of any other producer or other person.

13 Enacting section 1. This amendatory act does not take effect
14 unless all of the following bills of the 99th Legislature are
15 enacted into law:

16 (a) Senate Bill No.____ or House Bill No. 4570 (request no.
17 02069'17).

18 (b) Senate Bill No.____ or House Bill No. 4572 (request no.
19 02439'17).

20 (c) Senate Bill No.____ or House Bill No.____ (request no.
21 02442'17).