

HOUSE BILL 1379

C5, C2, M3

9lr3298
CF SB 555

By: **Delegates Hubbard, Barnes, V. Clagett, Frush, and Wood**

Introduced and read first time: February 23, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Biomass and Biofuels – In-State Production Incentives**

3 FOR the purpose of altering certain provisions relating to net energy metering to
4 allows certain eligible customer generators generating electricity from cellulosic
5 feedstock to recover certain accrued generation credit for certain electricity fed
6 back to the grid; prohibiting a person from selling or offering for sale diesel fuel
7 in the State more than a certain period after the in-State production level of
8 biodiesel reaches certain levels unless the diesel fuel contains certain
9 percentages of biodiesel by volume; authorizing the use of certain renewable
10 diesel in place of biodiesel to satisfy up to a certain percentage of the biodiesel
11 content requirements of this Act; providing that certain biodiesel content
12 requirements apply only if the Comptroller, in consultation with the
13 Department of Agriculture and the Department of Transportation, makes a
14 certain determination; prohibiting a person from selling or offering for sale
15 gasoline in the State more than a certain period after the in-State production
16 level of cellulosic biofuel reaches a certain level unless the gasoline contains a
17 certain percentage of cellulosic biofuel by volume; authorizing the use of
18 renewable fuel in place of cellulosic biofuel to satisfy the cellulosic biofuel
19 content requirements of this Act; providing that the Comptroller, in
20 consultation with the Department of Agriculture and the Department of
21 Transportation, may suspend or reduce the biodiesel and cellulosic biofuel
22 content requirements under certain circumstances; requiring the Comptroller,
23 after consulting with the Department of Agriculture and the Department of
24 Transportation, to report to the General Assembly on certain matters on or
25 before a certain date each year; providing for the application of certain
26 provisions of this Act; defining certain terms; making stylistic changes; and
27 generally relating to net energy metering and motor fuel.

28 BY repealing and reenacting, with amendments,
29 Article – Public Utility Companies
30 Section 7–306

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 10–101(d), (e), (f), and (l)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – Business Regulation
Section 10–304.2
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utility Companies

7–306.

(a) (1) In this section the following words have the meanings indicated.

(2) “Biomass” means [“qualified] **“QUALIFYING** biomass” as defined in
§ 7–701 of this title.

**(3) “CELLULOSIC FEEDSTOCK” MEANS A CROP OR PORTION OF A
CROP CONTAINING LIGNOCELLULOSE OR HEMICELLULOSE, INCLUDING BARLEY
GRAIN, GRAPESEED, FOREST THINNINGS, SWITCHGRASS, RICE BRAN, RICE
HULLS, RICE STRAW, AND SOYBEAN MATTER.**

[(3)] (4) “Eligible customer–generator” means a customer that owns
and operates or leases and operates a biomass, solar, or wind electric generating
facility that:

(i) is located on the customer’s premises;

(ii) is interconnected and operated in parallel with an electric
company’s transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer’s
own electricity requirements.

[(4)] (5) “Net energy metering” means measurement of the difference
between the electricity that is supplied by an electric company and the electricity that

1 is generated by an eligible customer-generator and fed back to the electric company
2 over the eligible customer-generator's billing period.

3 (b) The General Assembly finds and declares that a program to provide net
4 energy metering for eligible customer-generators is a means to encourage private
5 investment in renewable energy resources, stimulate in-State economic growth,
6 enhance continued diversification of the State's energy resource mix, and reduce costs
7 of interconnection and administration.

8 (c) An electric company serving an eligible customer-generator shall ensure
9 that the meter installed for net energy metering is capable of measuring the flow of
10 electricity in two directions.

11 (d) The Commission shall require electric utilities to develop a standard
12 contract or tariff for net energy metering and make it available to eligible
13 customer-generators on a first-come, first-served basis until the rated generating
14 capacity owned and operated by eligible customer-generators in the State reaches
15 1,500 megawatts.

16 (e) (1) Except as provided in subsection (g) of this section, a net energy
17 metering contract or tariff shall be identical, in energy rates, rate structure, and
18 monthly charges, to the contract or tariff that the customer would be assigned if the
19 customer were not an eligible customer-generator.

20 (2) (i) A net energy metering contract or tariff may not include
21 charges that would raise the eligible customer-generator's minimum monthly charge
22 above that of customers of the rate class to which the eligible customer-generator
23 would otherwise be assigned.

24 (ii) Charges prohibited by this paragraph include new or
25 additional demand charges, standby charges, customer charges, and minimum
26 monthly charges.

27 (f) (1) The electric company shall calculate net energy metering in
28 accordance with this subsection.

29 (2) Net energy produced or consumed on a monthly basis shall be
30 measured in accordance with standard metering practices.

31 (3) If electricity supplied by the grid exceeds electricity generated by
32 the eligible customer-generator during a month, the eligible customer-generator shall
33 be billed for the net energy supplied in accordance with subsection (e) of this section.

34 (4) If electricity generated by the eligible customer-generator exceeds
35 the electricity supplied by the grid, the eligible customer-generator shall be required
36 to pay only customer charges for that month in accordance with subsection (e) of this
37 section.

(5) (i) An eligible customer-generator under paragraph (4) of this subsection may accrue generation credit for a period not to exceed 12 months.

(ii) The electric company shall carry forward a negative kilowatt-hour reading until:

1. the eligible customer-generator's consumption of electricity from the grid eliminates the credit; or

2. the 12-month accrual period under subparagraph (i) of this paragraph expires.

(6) [Any] **EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS SUBSECTION, ANY** remaining accrued generation credit at the expiration of the 12-month accrual period under paragraph (5)(ii)2 of this subsection:

(i) shall revert to the electric company; and

(ii) may not be recovered by the eligible customer-generator.

(7) (I) THIS PARAGRAPH APPLIES TO ELIGIBLE CUSTOMER-GENERATORS THAT GENERATE ELECTRICITY FROM CELLULOSIC FEEDSTOCK GROWN ON THE CUSTOMER'S PREMISES.

(II) ANY REMAINING ACCRUED GENERATION CREDIT AT THE EXPIRATION OF THE 12-MONTH ACCRUAL PERIOD UNDER PARAGRAPH (5)(II)2 OF THIS SUBSECTION:

**1. MAY NOT REVERT TO THE ELECTRIC COMPANY;
AND**

**2. MAY BE RECOVERED BY THE ELIGIBLE
CUSTOMER-GENERATOR.**

(g) (1) For an eligible customer-generator whose facility is sized to produce energy in excess of the eligible customer-generator's annual energy consumption, the Commission:

(i) may require the eligible customer-generator to install a dual meter that is capable of measuring the flow of electricity in two directions; and

(ii) shall develop a credit formula that:

1. excludes recovery of transmission and distribution costs; and

2. provides that the credit may be calculated using a method other than a kilowatt-hour basis, including a method that allows a dollar-for-dollar offset of electricity supplied by the grid compared to electricity generated by the eligible customer-generator.

(2) In determining whether to require an eligible customer-generator to install a dual meter under paragraph (1)(i) of this subsection, the Commission shall consider the generating capacity of the eligible customer-generator.

(h) (1) The generating capacity of an electric generating system used by an eligible customer-generator for net metering may not exceed 2 megawatts.

(2) An electric generating system used by an eligible customer-generator for net metering shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(3) The Commission may adopt by regulation additional control and testing requirements for eligible customer-generators that the Commission determines are necessary to protect public safety and system reliability.

(4) An electric company may not require an eligible customer-generator whose electric generating system meets the standards of paragraphs (2) and (3) of this subsection to:

(i) install additional controls;

(ii) perform or pay for additional tests; or

(iii) purchase additional liability insurance.

(5) An eligible customer-generator shall own and have title to all renewable energy attributes or renewable energy credits associated with any electricity produced by its electric generating system.

(i) On or before February 1 of each year, the Commission shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the status of the net metering program under this section, including:

(1) the amount of capacity of electric generating facilities owned and operated by eligible customer-generators in the State by type of energy resource;

(2) based on the need to encourage a diversification of the State's energy resource mix to ensure reliability, whether the rated generating capacity limit in subsection (d) of this section should be altered; and

(3) other pertinent information.

Article – Business Regulation

10–101.

(d) (1) “Gasoline” means a product that:

(i) is used as fuel in a spark ignited, internal combustion engine; or

(ii) is designated as gasoline by the Comptroller.

(2) “Gasoline” includes:

(i) casing head gasoline;

(ii) absorption gasoline;

(iii) other natural gasoline; and

(iv) aviation gasoline, as defined in § 9–101(c) of the Tax – General Article.

(e) “Motor fuel” means:

(1) gasoline; or

(2) special fuel.

(f) “Motor vehicle” means a vehicle that:

(1) is self-propelled;

(2) is designed to be operated on a public highway; and

(3) is not operated only on rails.

(1) (1) “Special fuel” means a product that is usable as fuel in an internal combustion engine.

(2) “Special fuel” does not include gasoline.

10–304.2.**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

1 (2) **“BIODIESEL” MEANS A RENEWABLE FUEL COMPRISED OF**
2 **MONO-ALKYL ESTERS OF LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE**
3 **OILS OR ANIMAL FATS THAT MEETS THE REQUIREMENTS OF ASTM D 6751 AND**
4 **ITS SUCCESSORS.**

5 (3) **“CELLULOSIC BIOFUEL” HAS THE MEANING STATED IN §**
6 **211(O)(1)(E) OF THE CLEAN AIR ACT (42 U.S.C. § 7545(O)(1)(E)).**

7 (4) (I) **“IN-STATE PRODUCTION LEVEL” MEANS THE**
8 **ANNUALIZED VOLUME OF IN-STATE PRODUCTION OF BIODIESEL OR**
9 **CELLULOSIC BIOFUEL OVER ANY 3-MONTH PERIOD, AS CERTIFIED BY THE**
10 **DEPARTMENT OF AGRICULTURE.**

11 (II) **CERTIFICATION BY THE DEPARTMENT OF**
12 **AGRICULTURE UNDER THIS PARAGRAPH SHALL BE PUBLISHED IN THE**
13 **MARYLAND REGISTER.**

14 (5) **“RENEWABLE DIESEL” MEANS A NON-ESTER DIESEL FUEL**
15 **SUBSTITUTE THAT:**

16 (I) **IS DERIVED FROM NONPETROLEUM RENEWABLE**
17 **RESOURCES;**

18 (II) **IS REGISTERED UNDER 40 C.F.R. PART 79 AS A MOTOR**
19 **VEHICLE FUEL OR FUEL ADDITIVE;**

20 (III) **IS SUITABLE FOR USE IN DIESEL ENGINES; AND**

21 (IV) **MEETS OTHER STANDARDS ADOPTED BY THE**
22 **COMPTROLLER.**

23 (6) **“RENEWABLE FUEL” MEANS A GASOLINE SUBSTITUTE OTHER**
24 **THAN CELLULOSIC BIOFUEL THAT:**

25 (I) **IS DERIVED FROM NONPETROLEUM RENEWABLE**
26 **RESOURCES;**

27 (II) **IS REGISTERED UNDER 40 C.F.R. PART 79 AS A MOTOR**
28 **VEHICLE FUEL OR FUEL ADDITIVE;**

29 (III) **IS SUITABLE FOR USE IN GASOLINE ENGINES;**

1 (IV) HAS AN EMISSIONS PROFILE AT LEAST AS
2 ENVIRONMENTALLY PROTECTIVE AS THE CELLULOSIC BIOFUEL THAT IT
3 REPLACES; AND

4 (V) MEETS OTHER STANDARDS ADOPTED BY THE
5 COMPTROLLER.

6 (B) THIS SECTION APPLIES TO MOTOR FUEL SOLD OR OFFERED FOR
7 SALE FOR USE IN A MOTOR VEHICLE.

8 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
9 SUBSECTION, A PERSON MAY NOT SELL OR OFFER FOR SALE DIESEL FUEL IN
10 THE STATE MORE THAN 1 YEAR AFTER THE DEPARTMENT OF AGRICULTURE
11 CERTIFIES THAT THE IN-STATE PRODUCTION LEVEL OF:

12 (I) 5,000,000 GALLONS UNLESS THE DIESEL FUEL
13 CONTAINS AT LEAST 2% BIODIESEL BY VOLUME;

14 (II) 10,000,000 GALLONS UNLESS THE DIESEL FUEL
15 CONTAINS AT LEAST 5% BIODIESEL BY VOLUME;

16 (III) 15,000,000 GALLONS UNLESS THE DIESEL FUEL
17 CONTAINS AT LEAST 10% BIODIESEL BY VOLUME; AND

18 (IV) 30,000,000 GALLONS UNLESS THE DIESEL FUEL
19 CONTAINS AT LEAST 20% BIODIESEL BY VOLUME.

20 (2) RENEWABLE DIESEL PRODUCED IN THE STATE MAY BE USED
21 IN PLACE OF BIODIESEL TO SATISFY UP TO 25% OF THE BIODIESEL CONTENT
22 REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

23 (3) (I) THE BIODIESEL CONTENT REQUIREMENTS UNDER
24 PARAGRAPH (1)(III) AND (IV) OF THIS SUBSECTION SHALL APPLY ONLY IF THE
25 COMPTROLLER, IN CONSULTATION WITH THE DEPARTMENT OF
26 TRANSPORTATION, DETERMINES THAT MANUFACTURERS OF DIESEL MOTOR
27 VEHICLES SOLD IN THE STATE WILL NOT VOID ENGINE WARRANTIES DUE TO
28 THE USE OF BIODIESEL BLENDS AT THE REQUIRED PERCENTAGES.

29 (II) THE COMPTROLLER SHALL PUBLISH NOTICE OF ITS
30 DETERMINATION UNDER THIS PARAGRAPH IN THE MARYLAND REGISTER.

31 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
32 SUBSECTION, A PERSON MAY NOT SELL OR OFFER FOR SALE GASOLINE IN THE
33 STATE MORE THAN 1 YEAR AFTER THE DEPARTMENT OF AGRICULTURE

CERTIFIES THAT THE IN-STATE PRODUCTION LEVEL OF CELLULOSIC BIOFUEL HAS REACHED 25,000,000 GALLONS UNLESS THE GASOLINE CONTAINS AT LEAST 10% CELLULOSIC BIOFUEL BY VOLUME.

(2) RENEWABLE FUEL MAY BE USED IN PLACE OF CELLULOSIC BIOFUEL TO SATISFY THE REQUIREMENTS OF THIS SUBSECTION.

(E) THE COMPTROLLER, IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF TRANSPORTATION, MAY SUSPEND OR REDUCE THE CONTENT REQUIREMENTS OF SUBSECTIONS (C) AND (D) OF THIS SECTION IF THE CONTENT REQUIREMENTS:

(1) WOULD SUBSTANTIALLY INCREASE COSTS TO CONSUMERS; OR

(2) CANNOT BE MET:

(I) AS A RESULT OF INSUFFICIENT SUPPLIES OF BIODIESEL OR CELLULOSIC BIOFUEL; OR

(II) BECAUSE THE NECESSARY INFRASTRUCTURE, INCLUDING DISTRIBUTION SYSTEMS FOR BIODIESEL AND CELLULOSIC BIOFUEL, DOES NOT EXIST.

(F) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE COMPTROLLER, AFTER CONSULTING WITH THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF TRANSPORTATION, SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE STATE'S BIODIESEL AND CELLULOSIC BIOFUEL INDUSTRIES AND THE IMPLEMENTATION OF THIS SECTION, INCLUDING:

(1) THE ECONOMIC IMPACT OF THE BIODIESEL AND CELLULOSIC BIOFUEL CONTENT REQUIREMENTS;

(2) THE NAMES AND LOCATIONS OF BIODIESEL AND CELLULOSIC BIOFUEL PRODUCTION FACILITIES IN THE STATE; AND

(3) THE LEVEL OF IN-STATE PRODUCTION OF BIODIESEL AND CELLULOSIC BIOFUEL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.