

SENATE BILL 555

C5, C2, M3

9lr1274

By: **Senators Middleton, Brinkley, Colburn, Currie, DeGrange, Della, Exum, Garagiola, Glassman, Haines, Harrington, Jacobs, Jones, Kasemeyer, Kelley, King, Kittleman, Klausmeier, Kramer, Lenett, Madaleno, McFadden, Miller, Munson, Muse, Peters, Pugh, Robey, Stoltzfus, and Zirkin**

Introduced and read first time: February 5, 2009

Assigned to: Finance and Education, Health, and Environmental Affairs

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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Public Utility Companies
3 Section 7–306
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2008 Supplement)

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

11 BY adding to
12 Article – Business Regulation
13 Section 10–304.2
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2008 Supplement)

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

18 **Article – Public Utility Companies**

19 7–306.

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

21 (2) “Biomass” means [“qualified] **“QUALIFYING** biomass” as defined in
22 § 7–701 of this title.

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

27 **[(3)] (4)** “Eligible customer–generator” means a customer that owns
28 and operates or leases and operates a biomass, solar, or wind electric generating
29 facility that:

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

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

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

1 [(4)] (5) “Net energy metering” means measurement of the difference
2 between the electricity that is supplied by an electric company and the electricity that
3 is generated by an eligible customer-generator and fed back to the electric company
4 over the eligible customer-generator’s billing period.

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

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

13 (d) The Commission shall require electric utilities to develop a standard
14 contract or tariff for net energy metering and make it available to eligible
15 customer-generators on a first-come, first-served basis until the rated generating
16 capacity owned and operated by eligible customer-generators in the State reaches
17 1,500 megawatts.

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

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

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

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

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

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

36 (4) If electricity generated by the eligible customer-generator exceeds
37 the electricity supplied by the grid, the eligible customer-generator shall be required

1 to pay only customer charges for that month in accordance with subsection (e) of this
2 section.

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

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

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

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

11 (6) [Any] **EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
12 **SUBSECTION, ANY** remaining accrued generation credit at the expiration of the
13 12-month accrual period under paragraph (5)(ii)2 of this subsection:

14 (i) shall revert to the electric company; and

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

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

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

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

23 **AND**

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

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

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

31 (ii) shall develop a credit formula that:

1 1. excludes recovery of transmission and distribution
2 costs; and

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

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

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

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

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

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

22 (i) install additional controls;

23 (ii) perform or pay for additional tests; or

24 (iii) purchase additional liability insurance.

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

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

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

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

1 (3) other pertinent information.

2 **Article – Business Regulation**

3 10–101.

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

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

7 (ii) is designated as gasoline by the Comptroller.

8 (2) “Gasoline” includes:

9 (i) casing head gasoline;

10 (ii) absorption gasoline;

11 (iii) other natural gasoline; and

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

14 (e) “Motor fuel” means:

15 (1) gasoline; or

16 (2) special fuel.

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

18 (1) is self-propelled;

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

20 (3) is not operated only on rails.

21 (1) (1) “Special fuel” means a product that is usable as fuel in an internal
22 combustion engine.

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

24 **10–304.2.**

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

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

7 (3) “CELLULOSIC BIOFUEL” HAS THE MEANING STATED IN §
8 211(O)(1)(E) OF THE CLEAN AIR ACT (42 U.S.C. § 7545(O)(1)(E)).

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

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

16 (5) “RENEWABLE DIESEL” MEANS A NON-ESTER DIESEL FUEL
17 SUBSTITUTE THAT:

18 (I) IS DERIVED FROM NONPETROLEUM RENEWABLE
19 RESOURCES;

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

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

23 (IV) MEETS OTHER STANDARDS ADOPTED BY THE
24 COMPTROLLER.

25 (6) “RENEWABLE FUEL” MEANS A GASOLINE SUBSTITUTE OTHER
26 THAN CELLULOSIC BIOFUEL THAT:

27 (I) IS DERIVED FROM NONPETROLEUM RENEWABLE
28 RESOURCES;

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

31 (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

1 STATE MORE THAN 1 YEAR AFTER THE DEPARTMENT OF AGRICULTURE
2 CERTIFIES THAT THE IN-STATE PRODUCTION LEVEL OF CELLULOSIC BIOFUEL
3 HAS REACHED 25,000,000 GALLONS UNLESS THE GASOLINE CONTAINS AT LEAST
4 10% CELLULOSIC BIOFUEL BY VOLUME.

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

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

11 (1) WOULD SUBSTANTIALLY INCREASE COSTS TO CONSUMERS; OR

12 (2) CANNOT BE MET:

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

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

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

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

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

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

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