

HOUSE BILL No. 4838

April 28, 2009, Introduced by Reps. Meekhof, Ball, Booher and Agema and referred to the Committee on Energy and Technology.

A bill to amend 2006 PA 110, entitled
"Michigan zoning enabling act,"
(MCL 125.3101 to 125.3702) by adding section 515.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 515. (1) A ZONING ORDINANCE THAT PROVIDES FOR AN
2 AGRICULTURAL DISTRICT SHALL PROVIDE THAT AN ETHANOL PRODUCTION
3 FACILITY IS A USE BY RIGHT IN ANY AGRICULTURAL DISTRICT IF BOTH OF
4 THE FOLLOWING REQUIREMENTS ARE MET:

5 (A) NONE OF THE LAND ADJACENT TO THE LAND ON WHICH THE ETHANOL
6 PRODUCTION FACILITY IS LOCATED IS ZONED FOR ANY RESIDENTIAL USE.

7 (B) NOT MORE THAN 100,000 GALLONS OF ETHANOL IS PRODUCED AT
8 THE FACILITY ANNUALLY.

9 (2) A ZONING ORDINANCE THAT PROVIDES FOR AN AGRICULTURAL

1 DISTRICT SHALL PROVIDE THAT IF AN ETHANOL PRODUCTION FACILITY DOES
2 NOT MEET THE REQUIREMENTS OF SUBSECTION (1), THE ETHANOL PRODUCTION
3 FACILITY IS SUBJECT TO APPROVAL AS A SPECIAL LAND USE IN ANY
4 AGRICULTURAL DISTRICT.

5 (3) AN APPLICATION FOR SPECIAL LAND USE APPROVAL UNDER
6 SUBSECTION (2) SHALL INCLUDE ALL OF THE FOLLOWING:

7 (A) A SITE PLAN AS REQUIRED UNDER SECTION 501, INCLUDING A MAP
8 OF THE PROPERTY AND EXISTING AND PROPOSED BUILDINGS AND OTHER
9 FACILITIES.

10 (B) A DESCRIPTION OF THE PROCESS TO BE USED TO PRODUCE
11 ETHANOL.

12 (C) THE NUMBER OF GALLONS OF ETHANOL ANTICIPATED TO BE
13 PRODUCED ANNUALLY.

14 (D) AN EMERGENCY ACCESS AND FIRE PROTECTION PLAN THAT HAS BEEN
15 REVIEWED AND APPROVED BY THE APPROPRIATE RESPONDING POLICE AND FIRE
16 DEPARTMENTS.

17 (E) WRITTEN DOCUMENTATION FROM APPLICABLE AGENCIES THAT THE
18 PROPOSED USE WILL COMPLY WITH LOCAL, STATE, AND FEDERAL LAWS,
19 INCLUDING, BUT NOT LIMITED TO, LAWS GOVERNING AIR QUALITY, THE
20 TRANSPORTATION OF FUEL, THE REUSE AND DISPOSAL OF BYPRODUCTS, AND
21 THE STORAGE OF RAW MATERIALS, FUEL, AND BYPRODUCTS.

22 (F) A STUDY OF ANTICIPATED WATER USAGE AT THE ETHANOL
23 PRODUCTION FACILITY CONDUCTED BY A PROFESSIONAL ENGINEER OR OTHER
24 PROFESSIONAL FAMILIAR WITH HYDROGEOLOGIC REPORTS. THE STUDY SHALL
25 ADDRESS HOW MUCH WATER WILL BE UTILIZED AND IDENTIFY THE EFFECT
26 UPON WATERS OF THIS STATE AND UPON WATER SUPPLY AND WASTEWATER
27 INFRASTRUCTURE NEEDS OF THE LOCAL UNIT OF GOVERNMENT.

1 (G) INFORMATION THAT DEMONSTRATES COMPLIANCE WITH SUBSECTION
2 (4) .

3 (H) ANY ADDITIONAL RELEVANT INFORMATION AS REQUIRED BY THE
4 BODY OR OFFICIAL RESPONSIBLE FOR GRANTING SPECIAL LAND USE
5 APPROVAL .

6 (4) SPECIAL LAND USE APPROVAL OF AN ETHANOL PRODUCTION
7 FACILITY IS SUBJECT TO ALL OF THE FOLLOWING REQUIREMENTS:

8 (A) ALL BUILDINGS AND EQUIPMENT USED IN THE PRODUCTION OR
9 STORAGE OF ETHANOL SHALL MEET ALL APPLICABLE REQUIREMENTS OF LOCAL,
10 STATE, AND FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, SETBACK
11 REQUIREMENTS, AND SHALL BE AT LEAST 100 FEET FROM ANY PROPERTY LINE
12 BORDERING THE SITE .

13 (B) ETHANOL SHALL NOT BE PRODUCED UNLESS THE OWNER OR OPERATOR
14 OF THE ETHANOL PRODUCTION FACILITY PROVIDES THE LOCAL UNIT OF
15 GOVERNMENT WITH PROOF THAT ALL NECESSARY APPROVALS HAVE BEEN
16 OBTAINED FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND OTHER
17 STATE AND FEDERAL AGENCIES THAT ARE INVOLVED IN PERMITTING ANY OF
18 THE FOLLOWING ASPECTS OF ETHANOL PRODUCTION:

19 (i) STORAGE OF RAW MATERIALS, FUEL, AND BYPRODUCTS USED IN, OR
20 RESULTING FROM, ETHANOL PRODUCTION .

21 (ii) REUSE AND DISPOSAL OF BYPRODUCTS FROM ETHANOL PRODUCTION .

22 (iii) AIR QUALITY STANDARDS ASSOCIATED WITH ETHANOL PRODUCTION .

23 (iv) TRANSPORTATION OF ETHANOL OR ETHANOL PRODUCTION
24 BYPRODUCTS .

25 (C) AN ETHANOL PRODUCTION FACILITY SHALL INCLUDE BOTH OF THE
26 FOLLOWING:

27 (i) SUFFICIENT STORAGE FOR RAW MATERIALS AND FUEL .

1 (ii) SUFFICIENT STORAGE FOR BYPRODUCTS FROM ETHANOL PRODUCTION
2 OR THE CAPACITY TO DISPOSE OF BYPRODUCTS THROUGH LAND APPLICATION,
3 LIVESTOCK CONSUMPTION, OR SALE.

4 (5) THE OWNER OR OPERATOR OF AN ETHANOL PRODUCTION FACILITY
5 SHALL MAINTAIN THE FACILITY IN AN ORDERLY AND CLEAN CONDITION AND
6 OPERATE IT TO MINIMIZE NOISE, ODORS, AND LIGHT POLLUTION AND NOT
7 CREATE A NUISANCE. THE LOCAL UNIT OF GOVERNMENT MAY INSPECT THE
8 ETHANOL PRODUCTION FACILITY AT ANY REASONABLE TIME TO DETERMINE
9 COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

10 (6) A ZONING ORDINANCE SUBJECT TO THIS SECTION SHALL REQUIRE
11 THAT THE ETHANOL PRODUCTION FACILITY RENDER ETHANOL UNFIT FOR
12 BEVERAGE USE IF IT IS TO BE SOLD OFF PREMISES.

13 (7) AN AMENDMENT TO A ZONING ORDINANCE ADOPTED UNDER THIS
14 SECTION IS NOT SUBJECT TO A PROTEST PETITION UNDER SECTION 403.

15 (8) IF ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
16 THIS SECTION A LOCAL UNIT OF GOVERNMENT HAS IN EFFECT A ZONING
17 ORDINANCE THAT PROVIDES FOR AN AGRICULTURAL DISTRICT, THE LOCAL
18 UNIT OF GOVERNMENT SHALL AMEND THE ZONING ORDINANCE TO COMPLY WITH
19 THIS SECTION WITHIN 150 DAYS AFTER THE EFFECTIVE DATE OF THE
20 AMENDATORY ACT THAT ADDED THIS SECTION.