

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5477**

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 3, 8, and 152 (MCL 207.1003, 207.1008, and
207.1152), section 3 as amended by 2006 PA 277 and section 8 as
amended by 2006 PA 268.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Fuel feedstock user" means a person who receives motor
3 fuel for the person's own use in the manufacture or production of
4 any substance other than motor fuel.

5 (b) "Fuel grade ethanol" means the American society for
6 testing and materials standard in effect on ~~the effective date of~~

1 ~~this act~~ **APRIL 1, 2001** as the D-4806 specification for denatured
2 fuel grade ethanol for blending with gasoline.

3 (c) "Fuel transportation vehicle" means a vehicle designed or
4 used to transport motor fuel on the public roads or highways. Fuel
5 transportation vehicle includes, but is not limited to, a transport
6 truck and a tank wagon. Fuel transportation vehicle does not
7 include a vehicle transporting a nurse tank or limited volume
8 auxiliary-mounted supply tank used for fueling an implement of
9 husbandry.

10 (d) "Gallon" means a unit of liquid measure as customarily
11 used in the United States containing 231 cubic inches, or 4 quarts,
12 or its metric equivalent expressed in liters. Where the term gallon
13 appears in this act, the term liters is interchangeable so long as
14 the equivalence of a gallon and 3.785 liters is preserved. A
15 quantity required to be furnished under this act may be specified
16 in liters when authorized by the department.

17 (e) "Gasohol" means a blended motor fuel composed of gasoline
18 and fuel grade ethanol.

19 (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,
20 casing head or natural gasoline, benzol, benzine, naphtha, and any
21 blendstock additive, or other product including methanol that is
22 sold for blending with gasoline or for use on the road other than
23 products typically sold in containers of less than 5 gallons.
24 Gasoline also includes a liquid prepared, advertised, offered for
25 sale, sold for use as, or used in the generation of power for the
26 propulsion of a motor vehicle, airplane, or marine vessel,
27 including a product obtained by blending together any 1 or more

1 products of petroleum, with or without another product, and
2 regardless of the original character of the petroleum products
3 blended, if the product obtained by the blending is capable of use
4 in the generation of power for the propulsion of a motor vehicle,
5 airplane, or marine vessel. The blending of all of the above named
6 products, regardless of their name or characteristics, shall
7 conclusively be presumed to have been done to produce motor fuel,
8 unless the product obtained by the blending is entirely incapable
9 of use as motor fuel. Gasoline also includes transmixon. Gasoline
10 does not include diesel fuel or leaded racing fuel. An additive or
11 blendstock is presumed to be sold for blending unless a
12 certification is obtained for federal purposes that the substance
13 is for a use other than blending for gasoline.

14 (g) "Gross gallons" means the total measured product,
15 exclusive of any temperature or pressure adjustments,
16 considerations, or deductions, in gallons.

17 ~~—— (h) "Heating oil" means a motor fuel including dyed diesel~~
18 ~~fuel that is burned in a boiler, furnace, or stove for heating,~~
19 ~~agricultural, or industrial processing purposes.~~

20 (H) ~~(i)~~ "Implement of husbandry" means ~~and includes~~ a farm
21 tractor, a vehicle designed to be drawn or pulled by a farm tractor
22 or animal, a vehicle that directly harvests farm products, ~~and OR~~ a
23 vehicle that directly applies fertilizer, spray, or seeds to a farm
24 field. Implement of husbandry does not include a motor vehicle
25 licensed for use on the public roads or highways of this state.

26 (I) ~~(j)~~ "Import" means to bring motor fuel into this state by
27 motor vehicle, marine vessel, pipeline, or any other means.

1 ~~However, import~~ **IMPORT** does not include bringing motor fuel into
2 this state in the fuel supply tank of a motor vehicle if the motor
3 fuel is used to power that motor vehicle. Motor fuel delivered into
4 this state from outside of this state by or for the seller
5 constitutes an import by the seller, and motor fuel delivered into
6 this state from ~~out~~ **OUTSIDE** of this state by or for the purchaser
7 constitutes an import by the purchaser.

8 (J) ~~(k)~~ "Importer" means a person who imports motor fuel into
9 this state.

10 (K) ~~(l)~~ "Import verification number" means the number assigned
11 by the department to an individual delivery of motor fuel by a
12 transport truck, tank wagon, marine vessel, or rail car in response
13 to a request for a number from an importer or transporter carrying
14 motor fuel into this state for the account of an importer.

15 (L) ~~(m)~~ "In this state" means the area within the borders of
16 this state, including all territories within the borders owned by,
17 held in trust by, or added to the United States of America.

18 (M) **"INDEX" MEANS THE NATIONAL HIGHWAY CONSTRUCTION COST INDEX**
19 **OR, IF THE FEDERAL HIGHWAY ADMINISTRATION CEASES PUBLICATION OF THE**
20 **NATIONAL HIGHWAY CONSTRUCTION COST INDEX, THE PUBLISHED INDEX THAT**
21 **MOST CLOSELY MEASURES INFLATION IN THE COSTS OF HIGHWAY**
22 **CONSTRUCTION, AS DETERMINED BY THE DEPARTMENT.**

23 (N) **"INFLATION RATE" MEANS, FOR PURPOSES OF THE ADJUSTMENT**
24 **UNDER SECTION 8(2) IN 2015 ONLY, THE PERCENTAGE CHANGE BETWEEN THE**
25 **MOST RECENT CALENDAR YEAR INDEX AND THE INDEX FOR THE 2013 CALENDAR**
26 **YEAR. INFLATION RATE MEANS, FOR PURPOSES OF THE ADJUSTMENT UNDER**
27 **SECTION 8(2) IN 2016 AND ALL SUBSEQUENT YEARS, THE PERCENTAGE**

1 CHANGE BETWEEN THE MOST RECENT CALENDAR YEAR INDEX AND THE INDEX
 2 FOR THE 2013 CALENDAR YEAR REDUCED BY THE TOTAL PERCENTAGE INCREASE
 3 IN THE RATE CALCULATED UNDER SECTION 8(1)(C), AS ADJUSTED BY
 4 SECTION 8(2), FOR THE PERIOD STARTING OCTOBER 1, 2015 AND ENDING ON
 5 SEPTEMBER 30 OF THE IMMEDIATELY PRECEDING FISCAL YEAR. IF THAT
 6 NUMBER IS NEGATIVE, THE INFLATION RATE IS 0%.

7 (O) ~~(n)~~ "Invoiced gallons" means the number of gallons
 8 actually billed on an invoice.

9 Sec. 8. (1) ~~Subject~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT**
 10 **AND SUBJECT** to the exemptions provided ~~for~~ in this act, tax is
 11 imposed on motor fuel imported into or sold, delivered, or used in
 12 this state at the following rates:

13 (a) ~~Except as otherwise provided in subdivision (c),~~ **THROUGH**
 14 **SEPTEMBER 30, 2014,** 19 cents per gallon on gasoline.

15 (b) ~~Except as otherwise provided in subdivision (d),~~ **THROUGH**
 16 **SEPTEMBER 30, 2014,** 15 cents per gallon on diesel fuel.

17 ~~—— (c) Subject to subsections (10) and (11), 12 cents per gallon~~
 18 ~~on gasoline that is at least 70% ethanol. Under this subdivision,~~
 19 ~~blenders of ethanol and gasoline outside of the bulk transfer~~
 20 ~~terminal system shall obtain a blender's license and are subject to~~
 21 ~~the blender reporting requirements under this act. A licensed~~
 22 ~~supplier who blends ethanol and gasoline shall also obtain a~~
 23 ~~blender's license.~~

24 ~~—— (d) Subject to subsections (10) and (11), 12 cents per gallon~~
 25 ~~on diesel fuel that contains at least 5% biodiesel. Under this~~
 26 ~~subdivision, blenders of biodiesel and diesel fuel outside of the~~
 27 ~~bulk transfer terminal system are required to obtain a blender's~~

1 ~~license and are subject to the blender reporting requirements under~~
2 ~~this act. A licensed supplier who blends biodiesel and diesel fuel~~
3 ~~shall also obtain a blender's license.~~

4 (C) SUBJECT TO SUBSECTION (2), BEGINNING OCTOBER 1, 2014, THE
5 RATE PER GALLON ON MOTOR FUEL SHALL BE 19 CENTS PER GALLON.

6 (2) SUBJECT TO SUBSECTION (3), BEGINNING OCTOBER 1, 2015 AND
7 ANNUALLY THEREAFTER, THE RATE PER GALLON ON MOTOR FUEL SHALL BE THE
8 RATE IN EFFECT FOR THE IMMEDIATELY PRECEDING FISCAL YEAR MULTIPLIED
9 BY 1 PLUS THE LESSER OF THE FOLLOWING, ROUNDED UP TO THE NEAREST
10 1/10 OF 1 CENT:

11 (A) FIVE PERCENT.

12 (B) THE INFLATION RATE.

13 (3) THE RATE UNDER SUBSECTION (1) (C), AS ADJUSTED UNDER
14 SUBSECTION (2), SHALL NOT EXCEED 32.5 CENTS.

15 (4) ~~(2)~~—Tax shall not be imposed under this section on motor
16 fuel that is in the bulk transfer/terminal system.

17 (5) ~~(3)~~—The collection, payment, and remittance of the tax
18 imposed by this section shall be accomplished in the manner and at
19 the time provided for in this act.

20 (6) ~~(4)~~—Tax is also imposed at the rate described in
21 subsection (1) on net gallons of motor fuel, including transmix,
22 lost or unaccounted for, at each terminal in this state. The tax
23 shall be measured annually and shall apply to the net gallons of
24 motor fuel lost or unaccounted for that are in excess of 1/2 of 1%
25 of all net gallons of fuel removed from the terminal across the
26 rack or in bulk.

27 (7) ~~(5)~~—It is the intent of this act:

1 (a) To require persons who operate a motor vehicle on the
2 public roads or highways of this state to pay for the privilege of
3 using those roads or highways.

4 (b) To impose on suppliers a requirement to collect and remit
5 the tax imposed by this act at the time of removal of motor fuel
6 unless otherwise specifically provided in this act.

7 (c) To allow persons who pay the tax imposed by this act and
8 who use the fuel for a nontaxable purpose to seek a refund or claim
9 a deduction as provided in this act.

10 (d) That the tax imposed by this act be collected and paid at
11 those times, in the manner, and by those persons specified in this
12 act.

13 (8) ~~(6)~~ Bills of lading and invoices shall identify the
14 blended product and the correct fuel product code. The motor fuel
15 tax rate for each product shall be listed separately on each
16 invoice. Licensees shall report the correct fuel product code for
17 the blended product as required by the department. When fuel is
18 blended below the terminal rack, new bills of lading and invoices
19 shall be generated and submitted to the department upon request.
20 All bills of lading and invoices shall meet the requirements
21 ~~provided~~ under this act.

22 (9) ~~(7)~~ Notwithstanding any other provision of this act, ~~all~~
23 ~~facilities~~ **A FACILITY** in this state that ~~produce~~ **PRODUCES** motor
24 fuel and ~~distribute~~ **DISTRIBUTES** the fuel from a rack for purposes
25 of this act ~~are~~ **IS** a terminal, ~~and~~ shall obtain a terminal operator
26 license, and shall comply with all terminal operator reporting
27 requirements under this act. ~~All~~ **A** position holders **HOLDER** in these

1 ~~facilities~~ **A FACILITY** shall be licensed as a supplier and shall
2 comply with all supplier requirements under this act.

3 ~~—— (8) If the tax on gasoline that contains at least 70% ethanol~~
4 ~~or diesel fuel that contains at least 5% biodiesel held in storage~~
5 ~~outside of the bulk transfer/terminal system on the effective date~~
6 ~~of the amendatory act that added this subsection has previously~~
7 ~~been paid at the rates imposed by subsection (1) (a) and (b), the~~
8 ~~person who paid the tax may claim a refund for the difference~~
9 ~~between the rates imposed by subsection (1) (a) and (b) and the~~
10 ~~rates imposed by subsection (1) (c) and (d). All of the following~~
11 ~~shall apply to a refund claimed under this subsection:~~

12 ~~—— (a) The refund shall be claimed on a form prescribed by the~~
13 ~~department.~~

14 ~~—— (b) The refund shall apply only to:~~

15 ~~—— (i) Previously taxed gasoline containing at least 70% ethanol~~
16 ~~or diesel fuel containing at least 5% biodiesel in excess of 3,000~~
17 ~~gallons held in storage by an end user.~~

18 ~~—— (ii) Previously taxed gasoline containing at least 70% ethanol~~
19 ~~or diesel fuel containing at least 5% biodiesel held for sale that~~
20 ~~is in excess of dead storage.~~

21 ~~—— (9) A refund request shall be filed within 60 days after the~~
22 ~~last day of the month in which the amendatory act that added this~~
23 ~~subsection took effect. A taxpayer shall provide documentation that~~
24 ~~the department requires in order to verify the request for refund.~~
25 ~~A person who may claim a refund under subsection (8) shall do all~~
26 ~~of the following to claim the refund:~~

27 ~~—— (a) Not later than 12 a.m. on the effective date of the~~

1 ~~amendatory act that added this subsection, take an inventory of~~
2 ~~gasoline containing at least 70% ethanol or undyed diesel fuel~~
3 ~~containing at least 5% biodiesel.~~

4 ~~—— (b) Deduct 3,000 gallons if the person claiming the refund is~~
5 ~~an end user.~~

6 ~~—— (c) Deduct the number of gallons in dead storage if the~~
7 ~~gasoline containing at least 70% ethanol or the undyed diesel fuel~~
8 ~~containing at least 5% biodiesel is held for subsequent sale.~~

9 ~~—— (10) Beginning on the effective date of the amendatory act~~
10 ~~that added this subsection, the state treasurer shall annually~~
11 ~~determine, for the 12-month period ending May 1 and for any~~
12 ~~additional times that the treasurer may determine, the difference~~
13 ~~between the amount of motor fuel tax collected and the amount of~~
14 ~~motor fuel tax that would have been collected but for the~~
15 ~~differential rates on gasoline pursuant to subsection (1)(c) and~~
16 ~~biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d)~~
17 ~~is no longer effective the earlier of 10 years after the effective~~
18 ~~date of the amendatory act that added this subsection or the first~~
19 ~~day of the first month that is not less than 90 days after the~~
20 ~~state treasurer certifies that the total cumulative rate~~
21 ~~differential from the effective date of this amendatory act is~~
22 ~~greater than \$2,500,000.00.~~

23 ~~—— (11) The legislature shall annually appropriate to the~~
24 ~~Michigan transportation fund created in 1951 PA 51, MCL 247.651 to~~
25 ~~247.675, the amount determined as the rate differential certified~~
26 ~~by the state treasurer for the 12-month period ending on May 1 of~~
27 ~~the calendar year in which the fiscal year begins. Subsection~~

1 ~~(1)(c) and (d) shall not be effective beginning January of any~~
2 ~~fiscal year for which the appropriation required under this~~
3 ~~subsection has not been made by the first day of the fiscal year.~~

4 ~~—— (12) As used in this section:~~

5 ~~—— (a) "Biodiesel" means a fuel composed of mono alkyl esters of~~
6 ~~long chain fatty acids derived from vegetable oils or animal fats~~
7 ~~and, in accordance with standards specified by the American society~~
8 ~~for testing and materials, designated B100 and meeting the~~
9 ~~requirements of D 6751, as approved by the department of~~
10 ~~agriculture.~~

11 ~~—— (b) "Ethanol" means denatured fuel ethanol that is suitable~~
12 ~~for use in a spark ignition engine when mixed with gasoline so long~~
13 ~~as the mixture meets the American society for testing and materials~~
14 ~~D 5798 specifications.~~

15 **(10) THE DEPARTMENT SHALL PUBLISH NOTICE OF EACH TAX RATE**
16 **UNDER SUBSECTION (1)(C) AND (2) NOT LATER THAN 30 DAYS BEFORE THE**
17 **EFFECTIVE DATE OF THE RATE.**

18 **(11) A DETERMINATION OF THE RATE UNDER SUBSECTION (1)(C) OR**
19 **(2) IS PRESUMED TO BE CORRECT AND SHALL NOT BE SET ASIDE UNLESS AN**
20 **ADMINISTRATIVE TRIBUNAL OR A COURT OF COMPETENT JURISDICTION FINDS**
21 **THE DEPARTMENT'S DETERMINATION TO BE CLEARLY ERRONEOUS.**

22 **Sec. 152. (1) A-EXCEPT AS PROVIDED IN SUBSECTION (3), A tax at**
23 **a rate of 15 cents per gallon is imposed upon all liquefied**
24 **petroleum gas used in this state. The tax shall be paid at the**
25 **times and in the manner specified in this section. The tax on**
26 **liquefied petroleum gas fuel sold or delivered either by placing**
27 **into a permanently attached fuel supply tank on a motor vehicle, or**

1 exchanging or replacing the fuel supply tank of a motor vehicle,
2 shall be collected by the LPG dealer from the purchaser and paid
3 ~~ever quarterly~~ to the department **QUARTERLY** as provided in this act.
4 Liquefied petroleum gas fuel delivered in this state into the
5 storage facility of any person when the exclusive purpose of the
6 storage facility is for resale or use in a motor vehicle on the
7 public roads or highways of this state, shall, upon delivery to
8 storage facility, be subject to tax. An LPG dealer shall, upon
9 delivery of the liquefied petroleum gas, collect and remit the tax
10 to the department as provided in this act.

11 (2) A person shall not operate a motor vehicle on the public
12 roads or highways of this state from the cargo containers of a
13 truck, trailer, or semitrailer with liquefied petroleum gas in
14 vapor or liquid form, except when the fuel in the liquid or vapor
15 phase is withdrawn from the cargo container for use in motor
16 vehicles through a permanently installed and approved metering
17 device. The tax on liquefied petroleum gas withdrawn from a cargo
18 container through a permanently installed and approved metering
19 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons
20 as reflected by meter reading, and shall be paid quarterly by the
21 LPG dealer to the department as provided in this act.

22 (3) **BEGINNING OCTOBER 1, 2014, THE TAX DESCRIBED IN**
23 **SUBSECTIONS (1) AND (2) SHALL BE IMPOSED AT A RATE EQUAL TO THE**
24 **RATE PER GALLON FOR MOTOR FUEL UNDER SECTION 8(1)(C) OR 8(2).**

25 Enacting section 1. This amendatory act takes effect October
26 1, 2014.