

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4571

A bill to amend 1945 PA 327, entitled
"Aeronautics code of the state of Michigan,"
by amending section 203 (MCL 259.203), as amended by 2008 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) There is hereby imposed a ~~privilege-tax~~ **AT THE**
2 **RATE** of ~~3 cents per gallon~~ **4% OF THE AVERAGE WHOLESALE PRICE OF**
3 **AVIATION JET FUEL** on ~~all~~ **EACH GALLON OF AVIATION JET fuel, AVIATION**
4 **GASOLINE, AND OTHER AVIATION FUEL** sold or used in producing or
5 generating power for propelling aircraft using the aeronautical
6 facilities on the lands and waters of this state. The tax shall be
7 collected and remitted in the same manner and method and at the
8 same time as prescribed by law for the collection of the gasoline
9 tax imposed on all gasoline used in producing or generating power

1 for propelling motor vehicles used upon the public highways of this
2 state under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to
3 207.1170. ~~A refund of 1 1/2 cents per gallon shall be made to~~
4 ~~airline operators who show proof within 6 months after purchase~~
5 ~~that they are operating interstate on scheduled operations.~~

6 (2) If a person required to register with the department of
7 treasury under section 94 of the motor fuel tax act, 2000 PA 403,
8 MCL 207.1094, is not registered, the person shall not ~~purchase~~ **PAY**
9 **TAX UNDER SUBSECTION (1) ON AVIATION JET FUEL, AVIATION GASOLINE,**
10 **OR OTHER AVIATION** fuel ~~under this act at the rate imposed by~~
11 ~~subsection (1),~~ but shall pay the applicable rate imposed on motor
12 fuel by section 8 of the motor fuel tax act, 2000 PA 403, MCL
13 207.1008.

14 (3) The tax **OTHERWISE** imposed under subsection (1) is not
15 imposed on aviation fuel if the purchaser has certified in writing
16 to the seller that the aviation fuel is being purchased solely for
17 the purpose of formulating leaded racing fuel as that term is
18 defined in section 4 of the motor fuel tax act, 2000 PA 403, MCL
19 207.1004. Aviation fuel qualifying under this subsection shall be
20 identified on shipping papers and invoices as "aviation fuel exempt
21 for LRF".

22 (4) **THE TAX RATE PER GALLON ON FUEL UNDER SUBSECTION (1) SHALL**
23 **BE DETERMINED BY THE DEPARTMENT ON A CALENDAR QUARTERLY BASIS.**
24 **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), THE RATE SHALL BE**
25 **EQUAL TO THE PRODUCT OF THE AVERAGE WHOLESALE PRICE AND 4%, ROUNDED**
26 **UP TO THE NEAREST 1/10 OF 1 CENT. THE TAX RATE DETERMINED UNDER**
27 **THIS SUBSECTION SHALL BE IN EFFECT FOR THE 3-MONTH PERIOD BEGINNING**

1 ON THE FIRST DAY OF THE FIRST MONTH OF THE CALENDAR QUARTER FOR
2 WHICH THE RATE WAS DETERMINED. THE AVERAGE WHOLESALE PRICE FOR EACH
3 QUARTERLY PERIOD MAY NOT INCREASE OR DECREASE BY MORE THAN 1% OF
4 THE AVERAGE WHOLESALE PRICE FOR THE PREVIOUS PERIOD. THE DEPARTMENT
5 SHALL PUBLISH NOTICE OF THE TAX RATE APPLICABLE TO A PARTICULAR
6 CALENDAR QUARTER NO LATER THAN THE TENTH DAY OF THE MONTH
7 IMMEDIATELY PRECEDING THE FIRST MONTH IN THE CALENDAR QUARTER IN
8 WHICH THE RATE IS EFFECTIVE. THE DEPARTMENT SHALL DETERMINE THE
9 WHOLESALE PRICE BASED ON AVAILABLE WHOLESALE OR RESALE PRICING DATA
10 THAT BEST REFLECT OR APPROXIMATE MICHIGAN RACK PRICES FOR AVIATION
11 JET FUEL AS MAY BE REPORTED BY THE UNITED STATES ENERGY INFORMATION
12 ADMINISTRATION, THE OIL PRICE INFORMATION SERVICE, OR ANY OTHER
13 SIMILAR SOURCE FOR SUCH PRICING DATA, WHETHER PUBLICLY AVAILABLE OR
14 AVAILABLE ONLY BY SUBSCRIPTION.

15 (5) THE TAX RATE FOR FUEL DETERMINED BY THE DEPARTMENT UNDER
16 THIS SECTION SHALL NOT AT ANY TIME BE BELOW 12 CENTS PER GALLON.

17 (6) A DETERMINATION BY THE DEPARTMENT OF THE RATE, WHOLESALE
18 PRICE, OR AVERAGE WHOLESALE PRICE UNDER THIS SECTION IS PRESUMED TO
19 BE CORRECT AND WILL NOT BE SET ASIDE UNLESS AN ADMINISTRATIVE
20 TRIBUNAL OR COURT OF COMPETENT JURISDICTION FINDS THE DEPARTMENT'S
21 DETERMINATION TO BE CLEARLY ERRONEOUS.

22 (7) AS USED IN THIS SECTION:

23 (A) "AVERAGE WHOLESALE PRICE" MEANS THE AVERAGE WHOLESALE
24 PRICE PER GALLON OF AVIATION JET FUEL, AVIATION GASOLINE, OR FUEL
25 AS DETERMINED BY THE DEPARTMENT BASED UPON A 12-MONTH ROLLING
26 AVERAGE OF THE WHOLESALE PRICE OF AVIATION JET FUEL. FOR PURPOSES
27 OF THIS SUBDIVISION, THE 12-MONTH ROLLING AVERAGE PERIOD ENDS ON

1 THE LAST DAY OF THE MONTH THAT IS 3 MONTHS PRIOR TO THE MONTH IN
2 WHICH THE RATE IS DETERMINED BY THE DEPARTMENT UNDER SUBSECTION
3 (4) .

4 (B) "AVIATION FUEL" MEANS ANY GASOLINE, DISTILLATE, BENZINE,
5 NAPHTHA, BENZOL, OR OTHER VOLATILE AND INFLAMMABLE LIQUID PRODUCED,
6 COMPOUNDED, AND USED FOR PROPELLING AIRCRAFT.

7 (C) "AVIATION GASOLINE" MEANS FUEL THAT IS DESIGNED FOR USE IN
8 THE OPERATION OF AIRCRAFT OTHER THAN JET OR TURBO-PROP AIRCRAFT AND
9 THAT IS SOLD OR USED FOR THAT PURPOSE.

10 (D) "AVIATION JET FUEL" MEANS FUEL THAT IS DESIGNED FOR USE IN
11 THE OPERATION OF JET OR TURBO-PROP AIRCRAFT AND THAT IS SOLD OR
12 USED FOR THAT PURPOSE.

13 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

14 (F) "RACK" MEANS A MECHANISM FOR DELIVERING OR REMOVING
15 AVIATION JET FUEL, AVIATION GASOLINE, OR OTHER AVIATION FUEL FROM A
16 TERMINAL.

17 (G) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF AVIATION
18 JET FUEL CHARGED BY A LICENSED SUPPLIER TO A PURCHASER AT THE TIME
19 OF REMOVAL FROM A TERMINAL ACROSS THE RACK, AS DETERMINED BY THE
20 DEPARTMENT. WHOLESALE PRICE DOES NOT INCLUDE THE TAX IMPOSED BY
21 THIS ACT, FEDERAL EXCISE TAX IMPOSED UNDER SECTION 4081 OF THE
22 INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER FEDERAL TAX ON FUEL,
23 OR AN ENVIRONMENTAL REGULATORY PROTECTION FEE IMPOSED UNDER SECTION
24 21508 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
25 1994 PA 451, MCL 324.21508.

26 Enacting section 1. This amendatory act does not take effect
27 unless House Bill No. 4572 of the 97th Legislature is enacted into

1 law.