

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

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 2, 3, 5, 6, 8, 14, 122, and 152 (MCL 207.1002,
207.1003, 207.1005, 207.1006, 207.1008, 207.1014, 207.1122, and
207.1152), sections 2, 5, and 122 as amended by 2002 PA 668,
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. 2. As used in this act:
- 2 (a) "Alcohol" means fuel grade ethanol or a mixture of fuel
- 3 grade ethanol and another product.
- 4 **(B) "APPLICABLE PERCENTAGE" MEANS 6%.**
- 5 **(C) "AVERAGE WHOLESALE PRICE" MEANS THE STATEWIDE AVERAGE**

1 WHOLESALE PRICE OF GASOLINE AS DETERMINED BY THE DEPARTMENT BASED
2 UPON A 12-MONTH ROLLING AVERAGE OF THE WHOLESALE PRICE. FOR EACH
3 RATE IN EFFECT FOR A PARTICULAR YEAR UNDER SECTION 8(1)(C), THE 12-
4 MONTH ROLLING AVERAGE PERIOD ENDS ON THE LAST DAY OF THE MONTH THAT
5 IS 3 MONTHS PRIOR TO THE DATE IN WHICH THE RATE IS DETERMINED UNDER
6 SECTION 8(1)(C).

7 (D) ~~(b)~~—"Blendstock" means and includes any petroleum product
8 component of motor fuel, such as naphtha, reformat, or toluene; or
9 any oxygenate that can be blended for use in a motor fuel.

10 (E) ~~(e)~~—"Blended motor fuel" means a mixture of motor fuel and
11 another liquid, other than a de minimis amount of a product
12 including, but not limited to, carburetor detergent or oxidation
13 inhibitor, that can be used as motor fuel in a motor vehicle.

14 (F) ~~(d)~~—"Blender" means and includes any person who produces
15 blended motor fuel outside of the bulk transfer/terminal system.

16 (G) ~~(e)~~—"Blends" or "blending" means the mixing of 1 or more
17 petroleum products, with or without another product, regardless of
18 the original character of the product blended, if the product
19 obtained by the blending is capable of use in the generation of
20 power for the propulsion of a motor vehicle, an airplane, or a
21 marine vessel. Blending does not include mixing that occurs in the
22 process of refining by the original refiner of crude petroleum or
23 the blending of products known as lubricating oil in the production
24 of lubricating oils and greases.

25 (H) ~~(f)~~—"Bulk end user" means a person who receives into the
26 person's own storage facilities by transport truck or tank wagon
27 motor fuel for the person's own consumption.

1 (I) ~~(g)~~—"Bulk plant" means a motor fuel storage and
2 distribution facility that is not a terminal and from which motor
3 fuel may be withdrawn by a tank wagon, a transport truck, or a
4 marine vessel.

5 (J) ~~(h)~~—"Bulk transfer" means a transfer of motor fuel from 1
6 location to another by pipeline tender or marine delivery within
7 the bulk transfer/terminal system, including, but not limited to,
8 all of the following transfers:

9 (i) A marine vessel movement of motor fuel from a refinery or
10 terminal to a terminal.

11 (ii) Pipeline movements of motor fuel from a refinery or
12 terminal to a terminal.

13 (iii) Book transfers of motor fuel within a terminal between
14 licensed suppliers before completion of removal across the terminal
15 rack.

16 (iv) Two-party exchanges between licensed suppliers.

17 (K) ~~(i)~~—"Bulk transfer/terminal system" means the motor fuel
18 distribution system consisting of refineries, pipelines, marine
19 vessels, and terminals. Motor fuel in a refinery, pipeline,
20 terminal, or a marine vessel transporting motor fuel to a refinery
21 or terminal is in the bulk transfer/terminal system. Motor fuel in
22 a fuel storage facility including, but not limited to, a bulk plant
23 that is not part of a refinery or terminal, in the fuel supply tank
24 of any engine or motor vehicle, in a marine vessel transporting
25 motor fuel to a fuel storage facility that is not in the bulk
26 transfer/terminal system, or in any tank car, rail car, trailer,
27 truck, or other equipment suitable for ground transportation is not

1 in the bulk transfer/terminal system.

2 (I) ~~(j)~~—"Carrier" means an operator of a pipeline or marine
3 vessel engaged in the business of transporting motor fuel above the
4 terminal rack.

5 (M) ~~(k)~~—"Commercial motor vehicle" means a motor vehicle
6 licensed **AS A QUALIFIED COMMERCIAL MOTOR VEHICLE** under the motor
7 carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, **OR A**
8 **MOTOR VEHICLE LICENSED UNDER AN INTERNATIONAL FUEL TAX AGREEMENT**
9 **UNDER SECTION 2A OF THE MOTOR CARRIER FUEL TAX ACT, 1980 PA 119,**
10 **MCL 207.212A.**

11 (N) ~~(l)~~—"Dead storage" is the amount of motor fuel that cannot
12 be pumped out of a motor fuel storage tank because the motor fuel
13 is below the mouth of the tank's draw pipe. The amount of motor
14 fuel in dead storage is 200 gallons for a tank with a capacity of
15 less than 10,000 gallons and 400 gallons for a tank with a capacity
16 of 10,000 gallons or more.

17 (O) ~~(m)~~—"Denaturants" means ~~and includes~~ gasoline, natural
18 gasoline, gasoline components, or toxic or noxious materials added
19 to fuel grade ethanol to make it unsuitable for beverage use but
20 not unsuitable for automotive use.

21 (P) ~~(n)~~—"Department" means the ~~bureau of revenue within the~~
22 department of treasury or its designee.

23 (Q) ~~(o)~~—"Destination state" means ~~the~~ **A** state, Canadian
24 province or territory, or foreign country to which motor fuel is
25 directed for export.

26 (R) ~~(p)~~—"Diesel fuel" means any liquid other than gasoline
27 that is capable of use as a fuel or a component of a fuel in a

1 motor vehicle that is propelled by a diesel-powered engine or in a
 2 diesel-powered train. Diesel fuel includes number 1 and number 2
 3 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel
 4 fuel also includes any blendstock or additive that is sold for
 5 blending with diesel fuel, any liquid prepared, advertised, offered
 6 for sale, sold for use as, or used in the generation of power for
 7 the propulsion of a diesel-powered engine, airplane, or marine
 8 vessel. An additive or blendstock is presumed to be sold for
 9 blending unless a certification is obtained for federal purposes
 10 that the substance is for a use other than blending for diesel
 11 fuel. Diesel fuel does not include an excluded liquid.

12 (S) ~~(q)~~—"Dyed diesel fuel" means diesel fuel that is dyed in
 13 accordance with internal revenue service rules or pursuant to any
 14 other internal revenue service requirements, including any
 15 invisible marker requirements.

16 (T) ~~(r)~~—"Eligible purchaser" means a person who has been
 17 authorized by the department under section 75 to make ~~the~~ **AN**
 18 election under section 74.

19 (U) ~~(s)~~—"Excluded liquid" means that term as defined in 26
 20 ~~C.F.R.~~ **CFR** 48.4081-1.

21 (V) ~~(t)~~—"Export" means to obtain motor fuel in this state for
 22 sale or other distribution outside of this state. Motor fuel
 23 delivered outside of this state by or for the seller constitutes an
 24 export by the seller and motor fuel delivered outside of this state
 25 by or for the purchaser constitutes an export by the purchaser.

26 (W) ~~(u)~~—"Exporter" means a person who exports motor fuel.

27 Sec. 3. As used in this act:

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

4 (b) "Fuel grade ethanol" means the American society for
5 testing and materials standard in effect on ~~the effective date of~~
6 ~~this act~~ **APRIL 1, 2001** as the D-4806 specification for denatured
7 fuel grade ethanol for blending with gasoline.

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

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

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

24 (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,
25 casing head or natural gasoline, benzol, benzine, naphtha, and any
26 blendstock additive, or other product including methanol that is
27 sold for blending with gasoline or for use on the road other than

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

19 (g) "Gross gallons" means the total measured product,
20 exclusive of any temperature or pressure adjustments,
21 considerations, or deductions, in gallons.

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

25 (H) ~~(i)~~ "Implement of husbandry" means ~~and includes~~ a farm
26 tractor, a vehicle designed to be drawn or pulled by a farm tractor
27 or animal, a vehicle that directly harvests farm products, ~~and OR~~ a

1 vehicle that directly applies fertilizer, spray, or seeds to a farm
2 field. Implement of husbandry does not include a motor vehicle
3 licensed for use on the public roads or highways of this state.

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

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

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

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

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

23 (M) **"INDEX" MEANS THE NATIONAL HIGHWAY CONSTRUCTION COST INDEX**
24 **OR, IF THE FEDERAL HIGHWAY ADMINISTRATION CEASES PUBLICATION OF THE**
25 **NATIONAL HIGHWAY CONSTRUCTION COST INDEX, THE PUBLISHED INDEX THAT**
26 **MOST CLOSELY MEASURES INFLATION IN THE COSTS OF HIGHWAY**
27 **CONSTRUCTION, AS DETERMINED BY THE DEPARTMENT.**

1 (N) "INFLATION RATE" MEANS THE PERCENTAGE CHANGE BETWEEN THE
2 MOST RECENT CALENDAR YEAR INDEX AND THE INDEX FOR THE CALENDAR YEAR
3 IMMEDIATELY PRECEDING THE MOST RECENT CALENDAR YEAR, AS DETERMINED
4 BY THE DEPARTMENT.

5 (O) ~~(n)~~—"Invoiced gallons" means the number of gallons
6 actually billed on an invoice.

7 Sec. 5. (1) As used in this act:

8 (a) "Rack" means a mechanism for delivering motor fuel from a
9 refinery, a terminal, or a marine vessel into a railroad tank car,
10 a transport truck, a tank wagon, the fuel supply tank of a marine
11 vessel, or other means of transfer outside of the bulk
12 transfer/terminal system.

13 (B) "RATE FLOOR" MEANS A CENTS PER GALLON LOWER LIMIT ON THE
14 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON MOTOR FUEL
15 UNDER SECTION 8(1)(C). BEGINNING ON JANUARY 1, 2015, RATE FLOOR
16 MEANS THE TAX RATE IN EFFECT FOR THE IMMEDIATELY PRECEDING CALENDAR
17 YEAR.

18 (C) ~~(b)~~—"Refiner" means a person who owns, operates, or
19 otherwise controls a refinery within the United States.

20 (D) ~~(e)~~—"Refinery" means a facility used to produce motor fuel
21 from crude oil, unfinished oils, natural gas liquids, or other
22 hydrocarbons and from which motor fuel may be removed by pipeline,
23 by marine vessel, or at a rack.

24 (E) ~~(d)~~—"Removal" or "removed" means a physical transfer other
25 than by evaporation, loss, or destruction of motor fuel from a
26 terminal, manufacturing plant, customs custody, pipeline, marine
27 vessel, or refinery that stores motor fuel.

1 (F) ~~(e)~~—"Retail diesel dealer" means a person who sells or
2 distributes diesel fuel to an end user in this state.

3 (G) ~~(f)~~—"Retail marine diesel dealer" means a person who sells
4 or distributes diesel fuel to an end user in this state for use in
5 boats or other marine vessels.

6 (H) ~~(g)~~—"Source state" means the state, Canadian province or
7 territory, or foreign country from which motor fuel is imported.

8 (I) ~~(h)~~—"Stationary engine" means a temporary or permanently
9 affixed engine designed and used to supply power primarily for
10 agricultural or construction work. Stationary engine includes, but
11 is not limited to, an engine powering irrigation equipment,
12 generators, or earth-moving equipment.

13 (J) ~~(i)~~—"Supplier", in addition to subsection (2), means a
14 person who meets all of the following requirements:

15 (i) Is subject to the general taxing jurisdiction of this
16 state.

17 (ii) Is registered under section 4101 of the internal revenue
18 code for transactions in motor fuel in the bulk transfer/terminal
19 distribution system.

20 (iii) Is any 1 of the following:

21 (A) The position holder in a terminal or refinery in this
22 state.

23 (B) A person who imports fuel grade ethanol into this state.

24 (C) A person who acquires motor fuel from a terminal or
25 refinery in this state from a position holder pursuant to a 2-party
26 exchange.

27 (D) The position holder in a terminal or refinery outside this

1 state with respect to motor fuel which that person imports into
2 this state on its account.

3 (2) Supplier also means a person who either produces alcohol
4 or alcohol derivative substances in this state or produces alcohol
5 or alcohol derivative substances for import into a terminal in this
6 state, or who acquires immediately upon import by transport truck,
7 tank wagon, rail car, or marine vessel into a terminal or refinery
8 or other storage facility that is not part of a terminal or
9 refinery, alcohol or alcohol derivative substances. A terminal
10 operator is not considered a supplier merely because the terminal
11 operator handles motor fuel consigned to it within a terminal.
12 Supplier includes a permissive supplier unless otherwise
13 specifically provided in this act.

14 Sec. 6. As used in this act:

15 (a) "Tank wagon" means a straight truck having 1 or more
16 compartments other than the fuel supply tank designed or used to
17 carry motor fuel.

18 (b) "Tank wagon operator-importer" means a person who operates
19 a tank wagon and imports motor fuel into this state from another
20 state.

21 (c) "Tax" means a tax, interest, or penalty levied under this
22 act.

23 (d) "Terminal" means a motor fuel storage and distribution
24 facility that meets all of the following requirements:

25 (i) Is registered as a qualified terminal by the internal
26 revenue service.

27 (ii) Is supplied by pipeline or marine vessel.

1 (iii) Has a rack from which motor fuel may be removed.

2 (e) "Terminal operator" means a person who owns, operates, or
3 otherwise controls a terminal.

4 (f) "Transmix" means the mixed product that results from the
5 buffer or interface of 2 different products in a pipeline shipment,
6 or a mixture of 2 different products within a refinery or terminal
7 that results in an off-grade mixture.

8 (g) "Transport truck" means a semitrailer combination rig
9 designed or used for the purpose of transporting motor fuel over
10 the public roads or highways.

11 (h) "Transporter" means an operator of a railroad or rail car,
12 tank wagon, transport truck, or other fuel transportation vehicle
13 engaged in the business of transporting motor fuel below the
14 terminal rack.

15 (i) "Two-party exchange" means a transaction in which motor
16 fuel is transferred from 1 licensed supplier or licensed permissive
17 supplier to another licensed supplier or licensed permissive
18 supplier where all of the following occur:

19 (i) The transaction includes a transfer from the person who
20 holds the original inventory position for motor fuel in the
21 terminal as reflected in the records of the terminal operator.

22 (ii) The exchange transaction is completed before removal
23 across the rack from the terminal by the receiving licensed
24 supplier or licensed permissive supplier.

25 (iii) The terminal operator in its books and records treats the
26 receiving exchange party as the supplier that removes the product
27 across a terminal rack for purposes of reporting the transaction to

1 the department.

2 (j) "Ultimate vendor" means the person who sells motor fuel to
3 the end user of the fuel.

4 (K) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF UNLEADED
5 REGULAR GASOLINE CHARGED BY A LICENSED SUPPLIER TO A PURCHASER AT
6 THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE RACK, AS DETERMINED
7 BY THE DEPARTMENT. WHOLESALE PRICE DOES NOT INCLUDE THE TAX IMPOSED
8 BY THIS ACT, PREPAID SALES TAX UNDER SECTION 6A OF THE GENERAL
9 SALES TAX ACT, 1933 PA 167, MCL 205.56A, FEDERAL EXCISE TAX UNDER
10 SECTION 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER
11 FEDERAL TAX UPON MOTOR FUEL, OR AN ENVIRONMENTAL PROTECTION
12 REGULATORY FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES
13 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

14 (I) ~~(K)~~ "Wholesaler" means a person who acquires motor fuel
15 from a supplier or from another wholesaler for subsequent sale and
16 distribution at wholesale by a fuel transportation vehicle, rail
17 car, or other motor vehicle.

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

22 (a) ~~Except as otherwise provided in subdivision (c),~~ **THROUGH**
23 **DECEMBER 31, 2014,** 19 cents per gallon on gasoline.

24 (b) ~~Except as otherwise provided in subdivision (d),~~ **THROUGH**
25 **DECEMBER 31, 2014,** 15 cents per gallon on diesel fuel.

26 ~~—— (c) Subject to subsections (10) and (11), 12 cents per gallon~~
27 ~~on gasoline that is at least 70% ethanol. Under this subdivision,~~

~~blenders of ethanol and gasoline outside of the bulk transfer terminal system shall obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends ethanol and gasoline shall also obtain a blender's license.~~

~~— (d) Subject to subsections (10) and (11), 12 cents per gallon on diesel fuel that contains at least 5% biodiesel. Under this subdivision, blenders of biodiesel and diesel fuel outside of the bulk transfer terminal system are required to obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends biodiesel and diesel fuel shall also obtain a blender's license.~~

(C) SUBJECT TO SUBSECTIONS (2) AND (3), BEGINNING JANUARY 1, 2015 AND ANNUALLY THEREAFTER, A CENTS PER GALLON RATE ON MOTOR FUEL THAT SHALL BE DETERMINED BY THE DEPARTMENT BY MULTIPLYING THE AVERAGE WHOLESALE PRICE BY THE APPLICABLE PERCENTAGE, ROUNDED UP TO THE NEAREST 1/10 OF 1 CENT.

(2) THE RATE DETERMINED BY THE DEPARTMENT UNDER SUBSECTION (1) (C), AS ADJUSTED BY THE DEPARTMENT UNDER SUBSECTION (3), SHALL NOT BE BELOW THE RATE FLOOR.

(3) SUBJECT TO SUBSECTION (2), BEGINNING JANUARY 1, 2020 AND ANNUALLY THEREAFTER, THE RATE DETERMINED BY THE DEPARTMENT UNDER SUBSECTION (1) (C) SHALL BE ADJUSTED BY MULTIPLYING THE RATE BY 1 PLUS THE LESSER OF THE FOLLOWING:

(A) FIVE PERCENT.

(B) THE INFLATION RATE.

(4) ~~(2)~~ Tax shall not be imposed under this section on motor

1 fuel that is in the bulk transfer/terminal system.

2 (5) ~~(3)~~—The collection, payment, and remittance of the tax
3 imposed by this section shall be accomplished in the manner and at
4 the time provided for in this act.

5 (6) ~~(4)~~—Tax is also imposed at the rate described in
6 subsection (1) on net gallons of motor fuel, including transmix,
7 lost or unaccounted for, at each terminal in this state. The tax
8 shall be measured annually and shall apply to the net gallons of
9 motor fuel lost or unaccounted for that are in excess of 1/2 of 1%
10 of all net gallons of fuel removed from the terminal across the
11 rack or in bulk.

12 (7) ~~(5)~~—It is the intent of this act:

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

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

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

22 (d) That the tax imposed by this act be collected and paid at
23 those times, in the manner, and by those persons specified in this
24 act.

25 (8) ~~(6)~~—Bills of lading and invoices shall identify the
26 blended product and the correct fuel product code. The motor fuel
27 tax rate for each product shall be listed separately on each

1 invoice. Licensees shall report the correct fuel product code for
 2 the blended product as required by the department. When fuel is
 3 blended below the terminal rack, new bills of lading and invoices
 4 shall be generated and submitted to the department upon request.
 5 All bills of lading and invoices shall meet the requirements
 6 ~~provided under this act.~~

7 (9) ~~(7)~~ Notwithstanding any other provision of this act, ~~all~~
 8 ~~facilities~~ **A FACILITY** in this state that ~~produce~~ **PRODUCES** motor
 9 fuel and ~~distribute~~ **DISTRIBUTES** the fuel from a rack for purposes
 10 of this act ~~are~~ **IS** a terminal, ~~and~~ shall obtain a terminal operator
 11 license, and shall comply with all terminal operator reporting
 12 requirements under this act. ~~All~~ **A** position holders **HOLDER** in ~~these~~
 13 ~~facilities~~ **A FACILITY** shall be licensed as a supplier and shall
 14 comply with all supplier requirements under this act.

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

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

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

27 ~~—— (i) Previously taxed gasoline containing at least 70% ethanol~~

~~or diesel fuel containing at least 5% biodiesel in excess of 3,000 gallons held in storage by an end user.~~

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

~~—— (9) A refund request shall be filed within 60 days after the last day of the month in which the amendatory act that added this subsection took effect. A taxpayer shall provide documentation that the department requires in order to verify the request for refund.~~

~~A person who may claim a refund under subsection (8) shall do all of the following to claim the refund:~~

~~—— (a) Not later than 12 a.m. on the effective date of the amendatory act that added this subsection, take an inventory of gasoline containing at least 70% ethanol or undyed diesel fuel containing at least 5% biodiesel.~~

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

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

~~—— (10) Beginning on the effective date of the amendatory act that added this subsection, the state treasurer shall annually determine, for the 12 month period ending May 1 and for any additional times that the treasurer may determine, the difference between the amount of motor fuel tax collected and the amount of motor fuel tax that would have been collected but for the differential rates on gasoline pursuant to subsection (1) (c) and~~

~~biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d) is no longer effective the earlier of 10 years after the effective date of the amendatory act that added this subsection or the first day of the first month that is not less than 90 days after the state treasurer certifies that the total cumulative rate differential from the effective date of this amendatory act is greater than \$2,500,000.00.~~

~~—— (11) The legislature shall annually appropriate to the Michigan transportation fund created in 1951 PA 51, MCL 247.651 to 247.675, the amount determined as the rate differential certified by the state treasurer for the 12 month period ending on May 1 of the calendar year in which the fiscal year begins. Subsection (1)(c) and (d) shall not be effective beginning January of any fiscal year for which the appropriation required under this subsection has not been made by the first day of the fiscal year.~~

~~—— (12) As used in this section:~~

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

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

(10) BEGINNING JANUARY 1, 2015, AND ANNUALLY THEREAFTER, THE

1 DEPARTMENT SHALL PUBLISH NOTICE OF THE TAX RATE UNDER THIS SECTION
2 NOT LATER THAN 30 DAYS BEFORE THE EFFECTIVE DATE OF THE RATE.

3 (11) A DETERMINATION BY THE DEPARTMENT OF THE AVERAGE
4 WHOLESALE PRICE, THE WHOLESALE PRICE, THE INFLATION RATE, OR THE
5 TAX RATE UNDER THIS SECTION IS PRESUMED TO BE CORRECT AND SHALL NOT
6 BE SET ASIDE UNLESS AN ADMINISTRATIVE TRIBUNAL OR A COURT OF
7 COMPETENT JURISDICTION FINDS THE DEPARTMENT'S DETERMINATION TO BE
8 CLEARLY ERRONEOUS.

9 Sec. 14. ~~(1)~~—The department may require a supplier required to
10 remit tax under this act to remit the tax by an electronic funds
11 transfer acceptable to the department. The remittance shall be made
12 on or before the date the tax is due.

13 ~~—— (2) In computing the tax, a supplier may deduct 1.5% of the~~
14 ~~quantity of gasoline removed by the supplier to allow for the cost~~
15 ~~of remitting the tax. This deduction is not allowed for the~~
16 ~~quantity of gasoline removed by the supplier and sold tax free. At~~
17 ~~the time of filing the report and paying the tax, the supplier~~
18 ~~shall submit satisfactory evidence to the department that the~~
19 ~~amount of tax represented by the deduction was paid or credited to~~
20 ~~the supplier or wholesaler who purchased the gasoline from the~~
21 ~~supplier or wholesaler. The amount of the deduction shall be paid~~
22 ~~or credited by each supplier or wholesaler to the purchaser at each~~
23 ~~subsequent sale to a wholesaler. When a wholesaler or supplier~~
24 ~~sells gasoline to a retailer, the wholesaler or supplier shall pay~~
25 ~~or credit to the retailer 1/3 of the deduction on quantities sold~~
26 ~~to that retailer.~~

27 Sec. 122. (1) A person shall not operate or maintain a motor

1 vehicle on the public roads or highways of this state with dyed
2 diesel fuel in the vehicle's fuel supply tank.

3 (2) This section does not apply to dyed diesel fuel used in
4 any of the following:

5 (a) A motor vehicle owned and operated or leased and operated
6 by the federal or state government or a political subdivision of
7 this state.

8 (b) A motor vehicle used exclusively by the American red
9 cross.

10 (c) An implement of husbandry.

11 (d) A passenger vehicle that has a capacity of 10 or more and
12 that operates over regularly traveled routes expressly provided for
13 in 1 or more of the following that applies to the passenger
14 vehicle:

15 (i) A certificate of authority issued by the state
16 transportation department.

17 (ii) A municipal franchise.

18 (iii) A municipal license.

19 (iv) A municipal permit.

20 (v) A municipal agreement.

21 (vi) A municipal grant.

22 (3) An owner, operator, or driver of a vehicle who uses dyed
23 diesel fuel on the public roads or highways of this state is
24 subject to a civil penalty of ~~\$200.00~~ **\$1,000.00** for each of the
25 first 2 violations within a 12 month period. ~~For a third violation~~
26 ~~within a 12 month period, and~~ **VIOLATION, AND A CIVIL PENALTY OF**
27 **\$5,000.00** for each subsequent violation. ~~thereafter, the person is~~

1 ~~subject to a civil penalty of \$5,000.00.~~ An owner, operator, or
2 driver of a motor vehicle who knowingly violates the prohibition
3 against the sale or use of dyed diesel fuel upon the public roads
4 or highways of this state is subject to a civil penalty equal to
5 that imposed by section 6714 of the internal revenue code.

6 Sec. 152. (1) ~~A-EXCEPT AS PROVIDED IN SUBSECTION (3), A~~ tax at
7 a rate of 15 cents per gallon is imposed upon all liquefied
8 petroleum gas used in this state. The tax shall be paid at the
9 times and in the manner specified in this section. The tax on
10 liquefied petroleum gas fuel sold or delivered either by placing
11 into a permanently attached fuel supply tank on a motor vehicle, or
12 exchanging or replacing the fuel supply tank of a motor vehicle,
13 shall be collected by the LPG dealer from the purchaser and paid
14 ~~ever quarterly~~ to the department **QUARTERLY** as provided in this act.
15 Liquefied petroleum gas fuel delivered in this state into the
16 storage facility of any person when the exclusive purpose of the
17 storage facility is for resale or use in a motor vehicle on the
18 public roads or highways of this state, shall, upon delivery to
19 storage facility, be subject to tax. An LPG dealer shall, upon
20 delivery of the liquefied petroleum gas, collect and remit the tax
21 to the department as provided in this act.

22 (2) A person shall not operate a motor vehicle on the public
23 roads or highways of this state from the cargo containers of a
24 truck, trailer, or semitrailer with liquefied petroleum gas in
25 vapor or liquid form, except when the fuel in the liquid or vapor
26 phase is withdrawn from the cargo container for use in motor
27 vehicles through a permanently installed and approved metering

1 device. The tax on liquefied petroleum gas withdrawn from a cargo
2 container through a permanently installed and approved metering
3 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons
4 as reflected by meter reading, and shall be paid quarterly by the
5 LPG dealer to the department as provided in this act.

6 (3) BEGINNING JANUARY 1, 2015, AND ANNUALLY THEREAFTER, THE
7 TAX DESCRIBED IN SUBSECTIONS (1) AND (2) SHALL BE IMPOSED AT A RATE
8 EQUAL TO THE RATE PER GALLON FOR MOTOR FUEL IN EFFECT FOR THAT
9 YEAR.

10 Enacting section 1. This amendatory act takes effect January
11 1, 2015.