

## INCREASE DIESEL FUEL TAX

**House Bill 4813 as passed by the House  
First Analysis (9-23-97)**

**Sponsor: Rep. Tom Alley  
Committee: Transportation (Discharged)**

### ***THE APPARENT PROBLEM:***

The tax on gasoline (paid at the pump by drivers of autos) is 19 cents a gallon. The major tax on diesel fuel (there are a total of four taxes or credits) is 21 cents per gallon (paid by the wholesale distributor quarterly and passed on to the retailer and consumer), although a motor carrier, or trucker, may claim a credit against the tax of 6 cents per gallon in order to off-set the sales tax paid on the diesel fuel purchased in Michigan. In effect, then, diesel fuel is taxed at 15 cents a gallon for truckers, while gasoline is taxed at 19 cents a gallon for other drivers, some would argue inappropriately so. Historically, Michigan has taxed gasoline and diesel fuel at the same rate.

The difference in the tax rates of the two fuel taxes is due to two recently enacted laws. Effective March 31, 1997, Public Act 584 of 1996 raised the diesel fuel tax to 21 cents per gallon and created a new 6 cent credit which can be applied against each gallon of diesel purchased in Michigan. Using the credit, the effective diesel tax rate for motor carriers is 15 cents a gallon. (This tax and tax credit program for truckers replaced a combination tax and decal registration program that formerly taxed diesel fuel at 9 cents per gallon and charged truckers \$92 for a diesel decal, or \$25 if out-of-state). Then, effective August 1, 1997, Public Act 83 raised the gas tax to 19 cents per gallon. When Public Act 83 of 1997 increased the gas tax from 15 cents to 19 cents per gallon, there was no concurrent legislative action taken to raise the diesel fuel tax. Consequently, there now exists a 4 cent difference between the tax rates of gasoline and diesel fuels.

In order that there be parity between drivers of automobiles and drivers of trucks, some argue that the tax on each gallon of both types of fuel should be the same. Given the diesel discount program, parity would require a per gallon tax on motor carrier diesel fuel of 25 cents, a 4 cent increase. Further, some point out that Michigan sales of diesel fuel reportedly amount to over 700 million gallons per year. They argue that the need for additional revenue in the Michigan Transportation Fund in order to build and maintain highways and roads requires that the tax rate on diesel fuel be increased to 25 cents.

## **THE CONTENT OF THE BILL:**

House Bill 4813 would amend the Motor Fuel Tax Act to increase the tax on diesel fuel from 21 cents per gallon to 25 cents per gallon. The bill also would repeal the Motor Carrier Fuel Tax Act, which regulates trucks' use of diesel fuel, and would add the provisions of that act to the Motor Fuel Tax Act, which regulates gasoline. In addition, House Bill 4813 would describe the procedures a motor carrier could follow to obtain a trip permit that would authorize an unlicensed motor carrier to operate a commercial motor vehicle for up to five days and no more than three times each year; authorize the Revenue Division of the Department of Treasury to examine the books and records of a motor carrier; require motor carriers to keep certain records for at least 4 years; set misdemeanor penalties for noncompliance; allow the State Commissioner of Revenue to employ clerical assistants, examiners, and investigators to fulfill the requirements of the act (including entering into enforcement agreements with appropriate authorities in other states having similar statutes); and, require that money received and collected by the Department of Treasury under this chapter be deposited to the credit of the Michigan Transportation Fund.

House Bill 4813 also would retain the diesel discount program, entitling qualified motor carriers to a refund of 6 cents per gallon of diesel fuel. The bill would continue to exempt commercial motor vehicles owned by governments, or owned or leased by nonprofit private or public schools and universities (including buses) from this chapter of the Motor Fuel Tax Act, as well as to exempt farm vehicles.

MCL 207.141 et al.

## **BACKGROUND INFORMATION:**

In 1980, the Diesel Fuel Tax Package created the Motor Carrier Fuel Tax (not to be confused either with the motor fuel [gasoline] tax, or the diesel fuel tax). According to the analysis of that legislation by the House Legislative Analysis Section dated 7-23-80, gasoline and diesel fuel taxes were increased by 2 cents a gallon in 1978 (to 9 cents) to help finance expansion of transportation programs. At that time, truck stop

operators, particularly those near Michigan's borders with Ohio, Indiana, and Wisconsin, predicted that their businesses would suffer drastic decreases in sales, not only of fuel, but of food and repair services, and in motel rentals. They pointed out that increasing the diesel fuel tax to 9 cents a gallon would, when combined with the state's 4 percent sales tax, make diesel fuel 6.2 cents more expensive in Michigan than it was in Ohio and Wisconsin, and 5 cents more expensive than it was in Indiana.

As a result, the treasury department's revenue office tallied diesel fuel sales in January and February 1979, and contrasted them with the sales in January and February 1980, to learn that diesel fuel sales had decreased 11.6 percent in January, and 21.7 percent in February. Evidence also showed that truckers from out of state had actually increased their purchases in Ohio and Wisconsin to avoid buying fuel in Michigan. Statistics for 1979 revealed that Michigan diesel sales declined in all but three months, but sales increased dramatically (or dropped slightly) in almost every month in Wisconsin and Ohio. Out-of-state carriers, having fueled-up outside the state to make their Michigan runs, had shifted the burden of taxation so that it fell most heavily on Michigan's own truckers, about 90,000 of them, and not on the 240,000 out-of-staters who had avoided paying taxes.

Supporters of the 1978 transportation package agreed, in return for the support of the Michigan trucking industry, to work on a comprehensive solution to the problems of truck stop operators that would not destroy the equity of the fuel tax system and cause a shortage of transportation revenue. The complex solution, a three-bill package, created the motor carrier fuel tax, increased the rate of the diesel fuel tax to 11 cents a gallon, and allowed people whose commercial vehicles had three or more axles and which were licensed under a new licensing and registration system to claim a discount of six cents. Farm vehicles were exempt. For eligible motor carriers, the effective rate of the 11 cent per gallon tax was 5 cents.

In 1997, the legislature enacted Public Act 584 of 1996. (The bill went into effect on March 31, 1997). The act made three changes to the motor carrier diesel fuel tax: increased the tax rate from 9 cents to 21 cents per gallon; created a new credit against the motor carrier diesel fuel tax equal to 6 cents for each gallon of diesel fuel purchased in Michigan; and, eliminated the annual per vehicle fee of \$92 for in-state motor carriers and \$25 for out-of-state motor carriers. These changes also are reflected in House Bill 4813. Although the bill would repeal the Motor Carrier Fuel Tax Act, the bill also would add most of that act's provisions to the Motor Fuel Tax Act.

**FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, House Bill 4813 would increase state revenues deposited in the Michigan Transportation Fund by approximately \$24.5 million in fiscal year 1997-98. These additional revenues would be distributed according to statutory formula, with 10 percent of the revenues (\$2.5 million) distributed to the Comprehensive Transportation Fund for appropriation to various public transit programs. The remaining revenue would be distributed 39.1 percent (\$8.6 million) to the State Trunkline Fund, 39.1 percent (\$8.6 million) to county road commissions, and 21.8 percent (\$4.8 million) to eligible cities and villages for road and bridge projects. (9-23-97)

**ARGUMENTS:****For:**

Diesel fuel and gasoline tax rates should be the same per gallon of fuel. House Bill 4813 would increase the motor carrier diesel tax by 4 cents, the same amount as the gasoline tax was increased. Drivers of trucks and drivers of autos should have the same fuel tax rate.

**For:**

Roadway construction and repair requires more state funding. Among the revenue sources for the Michigan Transportation Fund is the diesel motor carrier tax. In fact, overall, the major transportation revenue source in Michigan is motor fuel taxes: gasoline taxes constitute 50 percent of total revenue, and diesel taxes constitute 5 percent of revenue. (In contrast to this 55 percent, motor vehicle registration fees provide 40 percent of revenue). Senate fiscal analysts estimate that changes in the motor carrier diesel tax act enacted in March 1997 will have the effect of reducing revenue during fiscal year 1996-97 by \$3 million. That revenue and more could be recovered if this bill is passed and the diesel fuel tax is increased.

**Against:**

In 1996, Michigan joined the International Fuel Tax Agreement (IFTA), a prorating agreement that allows states to benefit from commercial vehicles driving into their state, even though fuel is not purchased in that state. In effect, the reciprocity and prorating agreements allow participating states to apportion fuel tax and registration fee revenue, in proportion to the total miles traveled in that state. The Citizens Research Council observes that membership in IFTA reduces the need for a Motor Carrier Fuel Tax separate from the diesel fuel tax. Under the IFTA, motor carriers pay fuel

taxes to each state according to the distance traveled in that state, and as a result Michigan receives revenues for trucks operating in the state, regardless where they purchased their fuel.

***Response:***

Michigan is one of six states that charges a sales tax on motor fuels. That was the case in 1980 when the motor carrier diesel fuel tax was created, and that continues to be the case in 1997. In order to keep the sales of diesel fuel competitive with neighboring states (none of which applies the sales tax to diesel fuel), the motor carrier fuel tax act's diesel discount program should continue.

***Reply:***

Although states neighboring Michigan do not charge sales tax on diesel motor fuel, all states have higher effective diesel fuel tax rates than does Michigan. Considering the 6 cent diesel discount on each gallon, Michigan's effective tax rate is 15 cents. According to the Senate Fiscal Agency, the 1997 rates for nearby states are: Indiana 16 cents; Illinois 21.5 cents; Ohio 22 cents; and Wisconsin 23.7 cents. If Michigan raises its effective diesel tax rate to 21 cents, it will rank 4th among the neighboring states in the region.

***For:***

Taxes should be levied in proportion to the damage particular kinds of vehicles cause to road and bridge surfaces throughout the state. Drivers of cars should not subsidize the drivers of trucks. According to the Citizens Research Council Report published in May 1997 and entitled "Michigan Highway Finance and Governance," cost-allocation studies, which try to ascribe proportions of costs for road and bridge repair to various classes of vehicles, have found that the average fully loaded truck does as much damage to the road surface as about 9,600 cars. Axle weights, the key determinant of how much stress and deterioration a vehicle imposes upon road pavement, range from 12,000 to 17,000 pounds for the average 80,000 pound truck and from 13,000 to 18,000 pounds for a 154,000 pound truck. The diesel gas tax and the motor carrier fuel tax provide revenue to the Michigan Transportation Fund that is necessary to repair the damage trucks do to Michigan roadways.

***Against:***

Many states set their tax rate on diesel fuel higher than their rate on gasoline. Michigan does not. Instead, taking into account the sales tax on fuel, the state historically has set one tax rate for users of gasoline and users of diesel. Setting tax rates or changing the tax base every few years in statute is an important matter of public policy. Too often though, careful deliberation is impeded by partisan and special interests. A better way to ensure steady revenue and investment for the purpose of road repair and construction is to index the

motor fuel tax rate--both diesel and gasoline. One appropriate index, used

by the neighboring states of Wisconsin and Ohio (and used briefly by Michigan when it was enacted as Public Act 437 of 1982) is the Highway Maintenance and Operations Cost (HMOC) Index. According to the Citizens Research Council, Ohio was the first state to use the federal highway maintenance and operations cost index to determine its motor fuel tax rate. Michigan followed, modeling its index after that used in Ohio. Wisconsin also adopted the formula. Well into a second decade of use, the motor fuel tax rate in Ohio is currently 22 cents per gallon; the motor fuel tax rate in Wisconsin is 23.4 cents per gallon.

***Response:***

The danger with an index automatically determining the gas tax rate is the potential creation of a continuous upward cycle. As the Citizens Research Council points out, it is possible that an increased investment creates a greater demand for the units of production, including labor, equipment, and supplies. Increased demand may increase the cost of obtaining them. If it does increase the cost, this would cause an increase in the index, which would cause the motor fuel tax rates to increase. And the cycle could continue indefinitely.

***POSITIONS:***

There are no positions on the bill.

Analyst: J. Hunault

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.