

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5959**

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 3, 4, and 39 (MCL 207.1003, 207.1004, and
207.1039), sections 3 and 4 as amended by 2002 PA 668.

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
7 this act as the D-4806 specification for denatured fuel grade
8 ethanol for blending with gasoline.

9 (c) "Fuel transportation vehicle" means a vehicle designed or

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

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

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

16 (f) "Gasoline" means and includes gasoline, alcohol, gasohol,
17 casing head or natural gasoline, benzol, benzine, naphtha, and any
18 blendstock additive, or other product including methanol that is
19 sold for blending with gasoline or for use on the road other than
20 products typically sold in containers of less than 5 gallons.
21 Gasoline also includes a liquid prepared, advertised, offered for
22 sale, sold for use as, or used in the generation of power for the
23 propulsion of a motor vehicle, airplane, or marine vessel,
24 including a product obtained by blending together any 1 or more
25 products of petroleum, with or without another product, and
26 regardless of the original character of the petroleum products
27 blended, if the product obtained by the blending is capable of use

1 in the generation of power for the propulsion of a motor vehicle,
2 airplane, or marine vessel. The blending of all of the above named
3 products, regardless of their name or characteristics, shall
4 conclusively be presumed to have been done to produce motor fuel,
5 unless the product obtained by the blending is entirely incapable
6 of use as motor fuel. Gasoline also includes transmix. Gasoline
7 does not include diesel fuel **OR LEADED RACING FUEL**. An additive or
8 blendstock is presumed to be sold for blending unless a
9 certification is obtained for federal purposes that the substance
10 is for a use other than blending for gasoline.

11 (g) "Gross gallons" means the total measured product,
12 exclusive of any temperature or pressure adjustments,
13 considerations, or deductions, in gallons.

14 (h) "Heating oil" means a motor fuel including dyed diesel
15 fuel that is burned in a boiler, furnace, or stove for heating,
16 agricultural, or industrial processing purposes.

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

23 (j) "Import" means to bring motor fuel into this state by
24 motor vehicle, marine vessel, pipeline, or any other means.
25 However, import does not include bringing motor fuel into this
26 state in the fuel supply tank of a motor vehicle if the motor fuel
27 is used to power that motor vehicle. Motor fuel delivered into this

1 state from outside of this state by or for the seller constitutes
2 an import by the seller, and motor fuel delivered into this state
3 from out of this state by or for the purchaser constitutes an
4 import by the purchaser.

5 (k) "Importer" means a person who imports motor fuel into this
6 state.

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

12 (m) "In this state" means the area within the borders of this
13 state, including all territories within the borders owned by, held
14 in trust by, or added to the United States of America.

15 (n) "Invoiced gallons" means the number of gallons actually
16 billed on an invoice.

17 Sec. 4. As used in this act:

18 (a) "Kerosene" means all grades of kerosene, including, but
19 not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K,
20 commonly known as K-1 kerosene and K-2 kerosene respectively,
21 described in American society for testing and materials
22 specifications D-3699, in effect on January 1, 1999, and kerosene-
23 type jet fuel described in American society for testing and
24 materials specification D-1655 and military specifications MIL-T-
25 5624r and MIL-T-83133d (grades jp-5 and jp-8), and any successor
26 internal revenue service rules or regulations, as the specification
27 for kerosene and kerosene-type jet fuel. Kerosene does not include

1 an excluded liquid.

2 (B) "LEADED RACING FUEL" IS A FUEL OTHER THAN DIESEL FUEL THAT
3 IS LEADED AND AT LEAST 100 OCTANE AND IS USED IN VEHICLES ON A
4 RACETRACK.

5 (C) ~~—(b)—~~ "Liquid" means any substance that is liquid in
6 excess of 60 degrees Fahrenheit and a pressure of 14.7 pounds per
7 square inch absolute.

8 (D) ~~—(e)—~~ "Motor fuel" means gasoline, diesel fuel, kerosene,
9 a mixture of gasoline, diesel fuel, or kerosene, or a mixture of
10 gasoline, diesel fuel, or kerosene and any other substance. **MOTOR**
11 **FUEL DOES NOT INCLUDE LEADED RACING FUEL.**

12 (E) ~~—(d)—~~ "Motor vehicle" means a vehicle that is propelled by
13 an internal combustion engine or motor and is designed to permit
14 the vehicle's mobile use on the public roads or highways of this
15 state. Motor vehicle does not include any of the following:

16 (i) An implement of husbandry.

17 (ii) A train or other vehicle operated exclusively on rails.

18 (iii) Machinery designed principally for off-road use and not
19 licensed for on-road use.

20 (iv) A stationary engine.

21 (F) ~~—(e)—~~ "Net gallons" means the remaining product, after all
22 considerations and deductions have been made, measured in gallons,
23 corrected to a temperature of 60 degrees Fahrenheit, 13 degrees
24 Celsius, and a pressure of 14.7 pounds per square inch, the
25 ultimate end amount.

26 (G) ~~—(f)—~~ "Oxygenate" means an oxygen-containing, ashless,
27 organic compound, such as an alcohol or ether, which may be used as

1 a fuel or fuel supplement.

2 (H) ~~—(g)—~~ "Permissive supplier" means a person who may not be
3 subject to the taxing jurisdiction of this state but who does meet
4 both of the following requirements:

5 (i) Is a position holder in a federally registered terminal
6 located outside of this state, or a person who acquires from a
7 position holder motor fuel in an out-of-state terminal in a
8 transaction that otherwise qualifies as a 2-party exchange under
9 this act.

10 (ii) Is registered under section 4101 of the internal revenue
11 code for transactions in motor fuel in the bulk transfer/terminal
12 system.

13 (I) ~~—(h)—~~ "Person" means and includes an individual,
14 cooperative, partnership, firm, association, limited liability
15 company, limited liability partnership, joint stock company,
16 syndicate, and corporation, both private and municipal, and any
17 receiver, trustee, conservator, or any other officer having
18 jurisdiction and control of property by law or by appointment of a
19 court other than units of government.

20 (J) ~~—(i)—~~ "Position holder" means a person who has a contract
21 with a terminal operator for the use of storage facilities and
22 other terminal services for motor fuel at the terminal, as
23 reflected in the records of the terminal operator. Position holder
24 includes a terminal operator who owns motor fuel in the terminal.

25 (K) ~~—(j)—~~ "Public roads or highways" means a road, street, or
26 place maintained by this state or a political subdivision of this
27 state and generally open to use by the public as a matter of right

1 for the purpose of vehicular travel, notwithstanding that they may
2 be temporarily closed or travel is restricted for the purpose of
3 construction, maintenance, repair, or reconstruction.

4 Sec. 39. An end user may seek a refund for tax paid under this
5 act on motor fuel **OR LEADED RACING FUEL** used in an implement of
6 husbandry or otherwise used for a nonhighway purpose not otherwise
7 expressly exempted under this act. However, a person shall not seek
8 and is not eligible for a refund for tax paid on gasoline **OR LEADED**
9 **RACING FUEL** used in a snowmobile, off-road vehicle, or vessel as
10 defined in the natural resources and environmental protection act,
11 1994 PA 451, MCL 324.101 to 324.90106.

12 Enacting section 1. This amendatory act shall be retroactively
13 applied to January 1, 2004 but shall not authorize refunds other
14 than to an end user for taxes previously paid.