

SUBSTITUTE FOR
SENATE BILL NO. 1074

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending section 8 (MCL 207.1008), as amended by 2002 PA 668.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) Subject to the exemptions provided for in this
2 act, tax is imposed on motor fuel imported into or sold, delivered,
3 or used in this state at the following rates:

4 (a) ~~Nineteen~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION**
5 **(C), 19** cents per gallon on gasoline.

6 (b) ~~Fifteen~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (D),**
7 **15** cents per gallon on diesel fuel.

8 **(C) SUBJECT TO SUBSECTIONS (8) AND (9), 12 CENTS PER GALLON ON**

1 GASOLINE THAT IS AT LEAST 70% ETHANOL. UNDER THIS SUBDIVISION,
2 BLENDERS OF ETHANOL AND GASOLINE OUTSIDE OF THE BULK TRANSFER
3 TERMINAL SYSTEM SHALL OBTAIN A BLENDER'S LICENSE AND ARE SUBJECT TO
4 THE BLENDER REPORTING REQUIREMENTS UNDER THIS ACT. A LICENSED
5 SUPPLIER WHO BLENDS ETHANOL AND GASOLINE SHALL ALSO OBTAIN A
6 BLENDER'S LICENSE.

7 (D) SUBJECT TO SUBSECTIONS (8) AND (9), 12 CENTS PER GALLON ON
8 DIESEL FUEL THAT CONTAINS AT LEAST 5% BIODIESEL. UNDER THIS
9 SUBDIVISION, BLENDERS OF BIODIESEL AND DIESEL FUEL OUTSIDE OF THE
10 BULK TRANSFER TERMINAL SYSTEM ARE REQUIRED TO OBTAIN A BLENDER'S
11 LICENSE AND ARE SUBJECT TO THE BLENDER REPORTING REQUIREMENTS UNDER
12 THIS ACT. A LICENSED SUPPLIER WHO BLENDS BIODIESEL AND DIESEL FUEL
13 SHALL ALSO OBTAIN A BLENDER'S LICENSE.

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

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

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

26 (5) It is the intent of this act:

27 (a) To require persons who operate a motor vehicle on the

1 public roads or highways of this state to pay for the privilege of
2 using those roads or highways.

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

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

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

12 (6) **BILLS OF LADING AND INVOICES SHALL IDENTIFY THE BLENDED**
13 **PRODUCT AND THE CORRECT FUEL PRODUCT CODE. THE MOTOR FUEL TAX RATE**
14 **FOR EACH PRODUCT SHALL BE LISTED SEPARATELY ON EACH INVOICE.**
15 **LICENSEES SHALL REPORT THE CORRECT FUEL PRODUCT CODE FOR THE**
16 **BLENDED PRODUCT AS REQUIRED BY THE DEPARTMENT. WHEN FUEL IS BLENDED**
17 **BELOW THE TERMINAL RACK, NEW BILLS OF LADING AND INVOICES SHALL BE**
18 **GENERATED AND SUBMITTED TO THE DEPARTMENT UPON REQUEST. ALL BILLS**
19 **OF LADING AND INVOICES SHALL MEET THE REQUIREMENTS PROVIDED UNDER**
20 **THIS ACT.**

21 (7) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, ALL**
22 **FACILITIES IN THIS STATE THAT PRODUCE MOTOR FUEL AND DISTRIBUTE THE**
23 **FUEL FROM A RACK FOR PURPOSES OF THIS ACT ARE A TERMINAL AND SHALL**
24 **OBTAIN A TERMINAL OPERATOR LICENSE AND SHALL COMPLY WITH ALL**
25 **TERMINAL OPERATOR REPORTING REQUIREMENTS UNDER THIS ACT. ALL**
26 **POSITION HOLDERS IN THESE FACILITIES SHALL BE LICENSED AS A**
27 **SUPPLIER AND SHALL COMPLY WITH ALL SUPPLIER REQUIREMENTS UNDER THIS**

1 ACT.

2 (8) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
3 ADDED THIS SUBSECTION, THE DEPARTMENT OF TREASURY SHALL, AT A
4 MINIMUM, DETERMINE AND REPORT TO THE LEGISLATURE ON APRIL 1 OF EACH
5 CALENDAR YEAR THE DIFFERENCE BETWEEN THE AMOUNT OF MOTOR FUEL TAX
6 COLLECTED AND THE AMOUNT OF MOTOR FUEL TAX THAT WOULD HAVE BEEN
7 COLLECTED BUT FOR THE DIFFERENTIAL RATES ON GASOLINE PURSUANT TO
8 SUBSECTION (1) (C) AND BIODIESEL FUEL PURSUANT TO SUBSECTION (1) (D).
9 SUBSECTION (1) (C) AND (D) SHALL NOT BE EFFECTIVE 10 YEARS AFTER THE
10 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION OR
11 AT THE BEGINNING OF THE FOURTH MONTH FOLLOWING THE DATE THAT THE
12 DEPARTMENT OF TREASURY CERTIFIES THAT THE TOTAL CUMULATIVE RATE
13 DIFFERENTIAL, CALCULATED FROM THE EFFECTIVE DATE OF THE AMENDATORY
14 ACT THAT ADDED THIS SUBSECTION, IS GREATER THAN \$2,500,000.00,
15 WHICHEVER OCCURS FIRST.

16 (9) THE LEGISLATURE SHALL ANNUALLY APPROPRIATE THE AMOUNT
17 DETERMINED AS THE RATE DIFFERENTIAL BY THE DEPARTMENT OF TREASURY
18 TO THE MICHIGAN TRANSPORTATION FUND CREATED IN 1951 PA 51, MCL
19 247.651 TO 247.675. IF THE LEGISLATURE DOES NOT ANNUALLY
20 APPROPRIATE THE AMOUNT DETERMINED AS THE RATE DIFFERENTIAL BY THE
21 DEPARTMENT OF TREASURY, SUBSECTION (1) (C) AND (D) SHALL NOT BE
22 EFFECTIVE AT THE BEGINNING OF THE FIRST CALENDAR YEAR AFTER THE
23 FISCAL YEAR IN WHICH THE ANNUAL APPROPRIATION REQUIRED UNDER THIS
24 SECTION IS NOT MADE.

25 (10) NOTWITHSTANDING ANYTHING IN THIS ACT TO THE CONTRARY, A
26 PERSON WHO IMPORTS INTO THIS STATE OR WITHDRAWS DIESEL FUEL THAT
27 CONTAINS AT LEAST 5% BIODIESEL OR GASOLINE THAT IS AT LEAST 70%

1 ETHANOL FROM A RACK IS A SUPPLIER FOR PURPOSES OF THIS ACT AND IS
2 REQUIRED TO OBTAIN A LICENSE UNDER THIS ACT. THE REQUIREMENT OF
3 THIS SUBSECTION THAT A PERSON OBTAIN A SUPPLIER LICENSE IS SEPARATE
4 FROM THE SUPPLIER LICENSE QUALIFICATION REQUIREMENTS OF THE OTHER
5 SECTIONS OF THIS ACT. HOWEVER, A PERSON LICENSED UNDER THIS
6 SUBSECTION SHALL COMPLY WITH ALL SUPPLIER DUTIES AND REPORTING
7 REQUIREMENTS IN THIS ACT. FACILITIES THAT MANUFACTURE MOTOR FUEL
8 UNDER THIS SECTION AND DISBURSE THE MOTOR FUEL FROM A RACK QUALIFY
9 AS A TERMINAL AND SHALL OBTAIN A TERMINAL OPERATOR LICENSE AND
10 COMPLY WITH ALL RESPONSIBILITIES AND REPORTING REQUIREMENTS
11 APPLICABLE TO TERMINAL OPERATORS UNDER THIS ACT.

12 (11) A LICENSED SUPPLIER MAY CLAIM A DEDUCTION ON ITS SUPPLIER
13 RETURN FOR TAX PAID UNDER THIS ACT FOR DIESEL FUEL THAT CONTAINS AT
14 LEAST 5% BIODIESEL IF THE PERSON IS A SUPPLIER OF BIODIESEL OR
15 GASOLINE THAT IS AT LEAST 70% ETHANOL. THE DEDUCTION SHALL ONLY BE
16 CLAIMED BY THE LICENSED SUPPLIER WITHDRAWING THE FUEL FROM THE RACK
17 OR IMPORTING THE FUEL AS INDICATED BY THE BILL OF LADING FOR LOADS
18 WITH A DESTINATION IN THIS STATE OTHER THAN A TERMINAL. THE
19 DEDUCTION FOR BIODIESEL IS 3 CENTS PER GALLON. THE DEDUCTION FOR
20 GASOLINE THAT CONTAINS AT LEAST 70% ETHANOL IS 7 CENTS PER GALLON.

21 (12) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
22 THAT ADDED THIS SUBSECTION, THE STATE TREASURER SHALL AT A MINIMUM
23 ANNUALLY DETERMINE THE DIFFERENCE BETWEEN THE AMOUNT OF MOTOR FUEL
24 TAX COLLECTED AND THE AMOUNT OF MOTOR FUEL TAX THAT WOULD HAVE BEEN
25 COLLECTED BUT FOR THE REFUND RATES PURSUANT TO SUBSECTION (11) AND
26 BIODIESEL FUEL PURSUANT TO SUBSECTION (11). SUBSECTION (11) IS NO
27 LONGER EFFECTIVE THE EARLIER OF 10 YEARS AFTER THE EFFECTIVE DATE

1 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION OR THE DATE THAT
2 THE STATE TREASURER CERTIFIES THAT THE TOTAL CUMULATIVE RATE
3 DIFFERENTIAL FROM THE EFFECTIVE DATE OF THIS AMENDATORY ACT IS
4 GREATER THAN \$2,500,000.00. THE LEGISLATURE SHALL APPROPRIATE THE
5 AMOUNT DETERMINED AS THE RATE DIFFERENTIAL BY THE STATE TREASURER
6 ANNUALLY WITHIN 60 DAYS OF THE CERTIFICATION TO THE MICHIGAN
7 TRANSPORTATION FUND CREATED IN 1951 PA 51, MCL 247.651 TO 247.675.
8 SUBSECTION (11) IS NO LONGER EFFECTIVE IF THE LEGISLATURE DOES NOT
9 ANNUALLY APPROPRIATE THE AMOUNT DETERMINED AS THE RATE DIFFERENTIAL
10 BY THE STATE TREASURER WITHIN 60 DAYS OF THE CERTIFICATION REQUIRED
11 UNDER THIS SUBSECTION.

12 (13) AS USED IN THIS SECTION:

13 (A) "BIODIESEL" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
14 MOTOR FUELS QUALITY ACT, 1984 PA 44, MCL 290.642.

15 (B) "ETHANOL" MEANS DENATURED FUEL ETHANOL THAT IS SUITABLE
16 FOR USE IN A SPARK-IGNITION ENGINE WHEN MIXED WITH GASOLINE SO LONG
17 AS THE MIXTURE MEETS THE AMERICAN SOCIETY FOR TESTING AND MATERIALS
18 D-5798 SPECIFICATIONS.

19 Enacting section 1. This amendatory act does not take effect
20 unless House Bill No. 5755 of the 93rd Legislature is enacted into
21 law.

22 Enacting section 2. This amendatory act takes effect on the
23 first day of the month immediately succeeding the month in which
24 this amendatory act was signed by the governor and filed with the
25 secretary of state.