

SENATE BILL No. 1158

February 28, 2008, Introduced by Senators JELINEK, PAPPAGEORGE, BROWN, BIRKHOLZ and WHITMER and referred to the Committee on Transportation.

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending section 8 (MCL 207.1008), as amended by 2006 PA 268.

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) Except as otherwise provided in subdivision (c), 19 cents
5 per gallon on gasoline.

6 (b) Except as otherwise provided in subdivision (d), 15 cents
7 per gallon on diesel fuel.

8 (c) Subject to ~~subsections~~ **SUBSECTION** (10), and ~~(11)~~,

9 **BEGINNING APRIL 1, 2008**, 12 cents per gallon on gasoline that is at
10 least 70% ethanol. Under this subdivision, blenders of ethanol and

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

5 (d) Subject to ~~subsections~~ **SUBSECTION** (10), and ~~(11)~~,
6 **BEGINNING APRIL 1, 2008**, 12 cents per gallon on diesel fuel that
7 contains at least 5% biodiesel. Under this subdivision, blenders of
8 biodiesel and diesel fuel outside of the bulk transfer terminal
9 system are required to obtain a blender's license and are subject
10 to the blender reporting requirements under this act. A licensed
11 supplier who blends biodiesel and diesel fuel shall also obtain a
12 blender's license.

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

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

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

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

26 (a) To require persons who operate a motor vehicle on the
27 public roads or highways of this state to pay for the privilege of

1 using those roads or highways.

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

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

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

11 (6) Bills of lading and invoices shall identify the blended
12 product and the correct fuel product code. The motor fuel tax rate
13 for each product shall be listed separately on each invoice.
14 Licensees shall report the correct fuel product code for the
15 blended product as required by the department. When fuel is blended
16 below the terminal rack, new bills of lading and invoices shall be
17 generated and submitted to the department upon request. All bills
18 of lading and invoices shall meet the requirements provided under
19 this act.

20 (7) Notwithstanding any other provision of this act, all
21 facilities in this state that produce motor fuel and distribute the
22 fuel from a rack for purposes of this act are a terminal and shall
23 obtain a terminal operator license and shall comply with all
24 terminal operator reporting requirements under this act. All
25 position holders in these facilities shall be licensed as a
26 supplier and shall comply with all supplier requirements under this
27 act.

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

10 (a) The refund shall be claimed on a form prescribed by the
11 department.

12 (b) The refund shall apply only to:

13 (i) Previously taxed gasoline containing at least 70% ethanol
14 or diesel fuel containing at least 5% biodiesel in excess of 3,000
15 gallons held in storage by an end user.

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

19 (9) A refund request shall be filed within 60 days after ~~the~~
20 ~~last day of the month in which the amendatory act that added this~~
21 ~~subsection took effect~~ **APRIL 1, 2008**. A taxpayer shall provide
22 documentation that the department requires in order to verify the
23 request for refund. A person who may claim a refund under
24 subsection (8) shall do all of the following to claim the refund:

25 (a) Not later than 12 a.m. on ~~the effective date of the~~
26 ~~amendatory act that added this subsection~~ **APRIL 1, 2008**, take an
27 inventory of gasoline containing at least 70% ethanol or undyed

1 diesel fuel containing at least 5% biodiesel.

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

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

7 (10) Beginning on ~~the effective date of the amendatory act~~
8 ~~that added this subsection~~ **APRIL 1, 2009**, the state treasurer shall
9 annually determine, for the 12-month period ending ~~May 1~~ **MARCH 31,**
10 **2009** and for any additional times that the treasurer may determine,
11 the difference between the amount of motor fuel tax collected and
12 the amount of motor fuel tax that would have been collected but for
13 the differential rates on gasoline pursuant to subsection (1)(c)
14 and biodiesel pursuant to subsection (1)(d). **THE TREASURER SHALL**
15 **NOTIFY THE CHAIRS OF THE APPROPRIATIONS COMMITTEES OF THE SENATE**
16 **AND THE HOUSE OF REPRESENTATIVES, THE CHAIRS OF THE APPROPRIATIONS**
17 **SUBCOMMITTEES ON TRANSPORTATION OF THE SENATE AND THE HOUSE OF**
18 **REPRESENTATIVES, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AND**
19 **THE SENATE AND HOUSE FISCAL AGENCIES OF THE RATE DIFFERENTIAL NO**
20 **LATER THAN 7 DAYS AFTER THE TREASURER HAS DETERMINED THE RATE**
21 **DIFFERENTIAL. THE STATE TREASURER SHALL DETERMINE THE RATE**
22 **DIFFERENTIAL FOR THE 12-MONTH PERIOD NO LATER THAN 30 DAYS AFTER**
23 **THE CLOSE OF THE 12-MONTH PERIOD.** Subsection (1)(c) and (d) is no
24 longer effective ~~the earlier of 10 years after the effective date~~
25 ~~of the amendatory act that added this subsection or the first day~~
26 of the first month that is not less than 90 days after the state
27 treasurer certifies that the total cumulative rate differential

1 from the effective date of this amendatory act is greater than
2 ~~\$2,500,000.00~~ **\$6,000,000.00**.

3 ~~—— (11) The legislature shall annually appropriate to the~~
4 ~~Michigan transportation fund created in 1951 PA 51, MCL 247.651 to~~
5 ~~247.675, the amount determined as the rate differential certified~~
6 ~~by the state treasurer for the 12 month period ending on May 1 of~~
7 ~~the calendar year in which the fiscal year begins. Subsection~~
8 ~~(1)(c) and (d) shall not be effective beginning January of any~~
9 ~~fiscal year for which the appropriation required under this~~
10 ~~subsection has not been made by the first day of the fiscal year.~~

11 (11) ~~(12)~~ As used in this section:

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

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