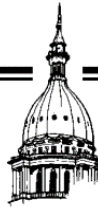




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4153 (as passed by the Senate)
Sponsor: Representative Mike Shirkey
House Committee: Transportation and Infrastructure
Senate Committee: Transportation

Date Completed: 2-27-13

RATIONALE

The General Sales Tax Act provides for the prepayment of a portion of the sales tax applicable to sales of gasoline by suppliers. The prepayment provisions are designed to help prevent tax evasion by gasoline retailers and suppliers. In some circumstances, however, the combination of quarterly prepayment calculations and the volatile fuel market resulted in retailers' and suppliers' prepaying more tax than taxpayers eventually owed. Retailers and suppliers suggested that more frequent adjustments to the prepayment calculation would resolve this problem. In response, Public Act 509 of 2012 was enacted to establish a method for monthly prepayment calculations. In addition, Public Act 509 requires that prepayments also apply to the sale of diesel fuel.

Although the legislation that became Public Act 509 stated an effective date of January 1, 2013, it was not given immediate effect by both houses of the Legislature. As a result, it will not take effect until March 28, 2013, although provisions of the Act refer to dates prior to March 28. It has been suggested that the dates should be adjusted to reflect this situation.

CONTENT

The bill would amend the General Sales Tax Act to provide an effective date of April 1, 2013, regarding changes to prepayment of fuel tax scheduled to take effect on March 28, 2013.

The Act requires the purchaser or receiver of gasoline to prepay a portion of the sales tax. Under amendments enacted by Public Act 509 of 2012, the prepayment requirement is

extended to diesel fuel; the Department of Treasury is required to determine the prepayment rate on a monthly basis (instead of every three months, as a rule); and credit is allowed for a person making a prepayment to another person for diesel fuel, as allowed for gasoline. These amendments will take effect on March 28, 2013.

The bill would re-enact current language that requires purchasers or receivers of gasoline to make prepayments at the time of purchase to the refiner, pipeline terminal operator, or marine terminal operator that provided the gasoline. If the purchase or receipt of gasoline is made outside of the State, for shipment to and sale within the State, the purchaser must direct any prepayment to the Department. This prepayment calculation must be based on 6% of the statewide average retail price of one gallon of self-serve unleaded gasoline, rounded up to the nearest 1/10 of 1 cent. Under the bill, these provisions would apply through March 31, 2013.

The provisions added by Public Act 509, which are virtually the same as the current provisions but apply to both gasoline and diesel fuel, would be effective April 1, 2013. (The prepayment calculation for gasoline remains the same, and the prepayments for diesel fuel must be based on 6% of the statewide average retail price of a gallon of undyed No. 2 ultra-low sulfur diesel fuel.)

The bill also would re-enact a current requirement that the Department determine the rate of gasoline tax prepayments, every three months, unless the Department certifies that the change in the statewide

average retail price of one gallon of gasoline has been less than 10% since the last rate went into effect. This requirement would apply through March 31, 2013.

Under the 2012 amendments, the Department is required to determine fuel prepayment rates on a monthly basis. The Department also must to publish notice of fuel prepayment rates by the 10th day of the month before the month in which the rate will take effect. Under the bill, these requirements would take effect April 1, 2013.

The Act provides that a person who makes prepayment to another person for fuel may claim an estimated prepayment credit in certain circumstances. Under the 2012 amendments, prepayment credits claimed with the return due in January 2013 will be based on the taxpayer's retail sales of diesel fuel in March 2013. The bill would change these dates. Prepayment claims that had a return due in April 2013 would be based on retail sales of diesel fuel in March 2013.

The recent amendments also provide that repayment of the credit claimed on the return due in January 2013 must be made by the earlier of the date that the taxpayer stops selling diesel fuel or July 15, 2013. The bill would change these dates. The repayment of the credit claimed on the return due in April 2013 would have to be made by the earlier of the date that the taxpayer stopped selling diesel fuel or October 15, 2013.

MCL 205.56a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Public Act 509 of 2012 set dates for implementation of new calculation standards, Department of Treasury responsibilities, and taxpayer requirements, which take place before the Act is effective. The bill would adjust these dates to logically correspond with an effective date of April 1, 2013.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.