

SUBSTITUTE FOR
HOUSE BILL NO. 4571

A bill to amend 1945 PA 327, entitled
"Aeronautics code of the state of Michigan,"
by amending section 203 (MCL 259.203), as amended by 2008 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 203. (1) There is hereby imposed a ~~privilege tax~~ **AT THE**
2 **RATE** of ~~3 cents per gallon~~ **2% OF THE AVERAGE WHOLESALE PRICE** on all
3 **EACH GALLON OF AVIATION JET fuel, AVIATION GASOLINE, AND FUEL** sold
4 or used in producing or generating power for propelling aircraft
5 using the aeronautical facilities on the lands and waters of this
6 state. The tax shall be collected and remitted in the same manner
7 and method and at the same time as prescribed by law for the
8 collection of the gasoline tax imposed on all gasoline used in
9 producing or generating power for propelling motor vehicles used

1 upon the public highways of this state under the motor fuel tax
2 act, 2000 PA 403, MCL 207.1001 to 207.1170. ~~A refund of 1 1/2 cents~~
3 ~~per gallon shall be made to airline operators who show proof within~~
4 ~~6 months after purchase that they are operating interstate on~~
5 ~~scheduled operations.~~

6 (2) If a person required to register with the department of
7 treasury under section 94 of the motor fuel tax act, 2000 PA 403,
8 MCL 207.1094, is not registered, the person shall not ~~purchase~~ **PAY**
9 **TAX UNDER SUBSECTION (1) ON AVIATION JET FUEL, AVIATION GASOLINE,**
10 **OR** fuel ~~under this act at the rate imposed by subsection (1), but~~
11 shall pay the applicable rate imposed on motor fuel by section 8 of
12 the motor fuel tax act, 2000 PA 403, MCL 207.1008.

13 (3) The tax **OTHERWISE** imposed under subsection (1) is not
14 imposed on aviation fuel if the purchaser has certified in writing
15 to the seller that the aviation fuel is being purchased solely for
16 the purpose of formulating leaded racing fuel as that term is
17 defined in section 4 of the motor fuel tax act, 2000 PA 403, MCL
18 207.1004. Aviation fuel qualifying under this subsection shall be
19 identified on shipping papers and invoices as "aviation fuel exempt
20 for LRF".

21 (4) **THE TAX RATE PER GALLON ON AVIATION JET FUEL, AVIATION**
22 **GASOLINE, AND FUEL UNDER SUBSECTION (1) SHALL BE DETERMINED BY THE**
23 **DEPARTMENT ON A QUARTERLY BASIS. EXCEPT AS OTHERWISE PROVIDED IN**
24 **SUBSECTION (5), THE RATE SHALL BE EQUAL TO THE PRODUCT OF THE**
25 **AVERAGE WHOLESALE PRICE PER GALLON OF AVIATION JET FUEL, AVIATION**
26 **GASOLINE, OR FUEL AND 2%, ROUNDED UP TO THE NEAREST 1/10 OF 1 CENT.**
27 **THE TAX RATE DETERMINED UNDER THIS SUBSECTION SHALL BE IN EFFECT**

1 FOR THE 3-MONTH PERIOD BEGINNING ON THE FIRST DAY OF THE MONTH
2 FOLLOWING THE MONTH IN WHICH THE RATE IS DETERMINED. FOR PURPOSES
3 OF DETERMINING THE TAX RATE UNDER THIS SUBSECTION, THE AVERAGE
4 WHOLESALE PRICE PER GALLON OF FUEL SHALL BE THE SAME AS THE AVERAGE
5 WHOLESALE PRICE PER GALLON OF AVIATION GASOLINE. THE AVERAGE
6 WHOLESALE PRICE ADJUSTMENT FOR EACH QUARTERLY PERIOD MAY NOT
7 INCREASE OR DECREASE BY MORE THAN 1% OF THE AVERAGE WHOLESALE PRICE
8 FOR THE PREVIOUS PERIOD. THE DEPARTMENT SHALL PUBLISH NOTICE OF THE
9 RATE DETERMINED UNDER THIS SUBSECTION NO LATER THAN THE TENTH DAY
10 OF THE MONTH IMMEDIATELY PRECEDING THE MONTH IN WHICH THE RATE IS
11 EFFECTIVE. THE DEPARTMENT SHALL DETERMINE THE WHOLESALE PRICE OF
12 AVIATION JET FUEL, AVIATION GASOLINE, AND FUEL BASED ON AVAILABLE
13 WHOLESALE OR RESALE PRICING DATA THAT BEST REFLECT OR APPROXIMATE
14 MICHIGAN RACK PRICES FOR THESE FUEL TYPES, AS REPORTED BY THE
15 UNITED STATES ENERGY INFORMATION ADMINISTRATION, THE OIL PRICE
16 INFORMATION SERVICE, OR ANY OTHER SIMILAR SOURCE FOR SUCH PRICING
17 DATA, WHETHER PUBLICLY AVAILABLE OR AVAILABLE ONLY BY SUBSCRIPTION.

18 (5) THE RATE DETERMINED BY THE DEPARTMENT UNDER THIS SECTION
19 SHALL NOT AT ANY TIME BE BELOW 6 CENTS PER GALLON OF AVIATION JET
20 FUEL, AVIATION GASOLINE, OR FUEL.

21 (6) A DETERMINATION BY THE DEPARTMENT OF THE RATE, WHOLESALE
22 PRICE, OR AVERAGE WHOLESALE PRICE UNDER THIS SECTION IS PRESUMED TO
23 BE CORRECT AND WILL NOT BE SET ASIDE UNLESS AN ADMINISTRATIVE
24 TRIBUNAL OR COURT OF COMPETENT JURISDICTION FINDS THE DEPARTMENT'S
25 DETERMINATION TO BE CLEARLY ERRONEOUS.

26 (7) BY JANUARY 1, 2014 AND EVERY 10 YEARS AFTER 2014, THE
27 DEPARTMENT SHALL COMPLETE A STUDY TO DETERMINE THE COST OF THE

1 CHANGES MADE TO THIS SECTION BY THE AMENDATORY ACT THAT ADDED THIS
2 SUBSECTION AND SHALL FORWARD A COPY OF THE STUDY TO THE MEMBERS OF
3 THE SENATE AND HOUSE COMMITTEES THAT CONSIDER AVIATION FUEL TAX
4 LEGISLATION.

5 (8) AS USED IN THIS SECTION:

6 (A) "AVIATION GASOLINE" MEANS FUEL THAT IS DESIGNED FOR USE IN
7 THE OPERATION OF AIRCRAFT OTHER THAN JET OR TURBO-PROP AIRCRAFT AND
8 THAT IS SOLD OR USED FOR THAT PURPOSE.

9 (B) "AVIATION JET FUEL" MEANS FUEL THAT IS DESIGNED FOR USE IN
10 THE OPERATION OF JET OR TURBO-PROP AIRCRAFT AND THAT IS SOLD OR
11 USED FOR THAT PURPOSE.

12 (C) "AVERAGE WHOLESALE PRICE" MEANS THE AVERAGE WHOLESALE
13 PRICE PER GALLON OF AVIATION JET FUEL, AVIATION GASOLINE, OR FUEL
14 AS DETERMINED BY THE DEPARTMENT BASED UPON A 12-MONTH ROLLING
15 AVERAGE OF THE WHOLESALE PRICE. FOR PURPOSES OF THIS SUBDIVISION,
16 THE 12-MONTH ROLLING AVERAGE PERIOD ENDS ON THE LAST DAY OF THE
17 MONTH THAT IS 3 MONTHS PRIOR TO THE MONTH IN WHICH THE RATE IS
18 DETERMINED BY THE DEPARTMENT UNDER SUBSECTION (4).

19 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

20 (E) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF AVIATION
21 JET FUEL, AVIATION GASOLINE, OR FUEL CHARGED BY A LICENSED SUPPLIER
22 TO A PURCHASER AT THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE
23 RACK, AS DETERMINED BY THE DEPARTMENT. WHOLESALE PRICE DOES NOT
24 INCLUDE THE TAX IMPOSED BY THIS ACT, FEDERAL EXCISE TAX IMPOSED
25 UNDER SECTION 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY
26 OTHER FEDERAL TAX ON FUEL, OR AN ENVIRONMENTAL REGULATORY
27 PROTECTION FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES

1 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

2 (F) "RACK" MEANS A MECHANISM FOR DELIVERING OR REMOVING
3 AVIATION JET FUEL, AVIATION GASOLINE, OR FUEL FROM A TERMINAL.

4 Enacting section 1. This amendatory act does not take effect
5 unless House Bill No. 4572 of the 97th Legislature is enacted into
6 law.