

SUBSTITUTE FOR
HOUSE BILL NO. 5477

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 2, 3, 5, 6, 8, and 152 (MCL 207.1002,
207.1003, 207.1005, 207.1006, 207.1008, and 207.1152), sections 2
and 5 as amended by 2002 PA 668, section 3 as amended by 2006 PA
277, and section 8 as amended by 2006 PA 268.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Alcohol" means fuel grade ethanol or a mixture of fuel
3 grade ethanol and another product.

4 (b) "AVERAGE WHOLESALE DIESEL FUEL PRICE" MEANS THE STATEWIDE
5 AVERAGE WHOLESALE PRICE OF DIESEL FUEL AS DETERMINED BY THE
6 DEPARTMENT BASED UPON A 12-MONTH ROLLING AVERAGE OF THE DIESEL FUEL
7 WHOLESALE PRICE. FOR EACH RATE IN EFFECT FOR A PARTICULAR YEAR

1 UNDER SECTION 8(1)(D), THE 12-MONTH ROLLING AVERAGE PERIOD ENDS ON
2 THE LAST DAY OF THE MONTH THAT IS 3 MONTHS PRIOR TO THE DATE IN
3 WHICH THE RATE DETERMINED UNDER SECTION 8(1)(D) IS IN EFFECT.

4 (C) "AVERAGE WHOLESALE GASOLINE PRICE" MEANS THE STATEWIDE
5 AVERAGE WHOLESALE PRICE OF GASOLINE AS DETERMINED BY THE DEPARTMENT
6 BASED UPON A 12-MONTH ROLLING AVERAGE OF THE GASOLINE WHOLESALE
7 PRICE. FOR EACH RATE IN EFFECT FOR A PARTICULAR YEAR UNDER SECTION
8 8(1)(C), THE 12-MONTH ROLLING AVERAGE PERIOD ENDS ON THE LAST DAY
9 OF THE MONTH THAT IS 3 MONTHS PRIOR TO THE DATE IN WHICH THE RATE
10 DETERMINED UNDER SECTION 8(1)(C) IS IN EFFECT.

11 (D) ~~(b)~~—"Blendstock" means and includes any petroleum product
12 component of motor fuel, such as naphtha, reformat, or toluene; or
13 any oxygenate that can be blended for use in a motor fuel.

14 (E) ~~(e)~~—"Blended motor fuel" means a mixture of motor fuel and
15 another liquid, other than a de minimis amount of a product
16 including, but not limited to, carburetor detergent or oxidation
17 inhibitor, that can be used as motor fuel in a motor vehicle.

18 (F) ~~(d)~~—"Blender" means and includes any person who produces
19 blended motor fuel outside of the bulk transfer/terminal system.

20 (G) ~~(e)~~—"Blends" or "blending" means the mixing of 1 or more
21 petroleum products, with or without another product, regardless of
22 the original character of the product blended, if the product
23 obtained by the blending is capable of use in the generation of
24 power for the propulsion of a motor vehicle, an airplane, or a
25 marine vessel. Blending does not include mixing that occurs in the
26 process of refining by the original refiner of crude petroleum or
27 the blending of products known as lubricating oil in the production

1 of lubricating oils and greases.

2 (H) ~~(f)~~—"Bulk end user" means a person who receives into the
3 person's own storage facilities by transport truck or tank wagon
4 motor fuel for the person's own consumption.

5 (I) ~~(g)~~—"Bulk plant" means a motor fuel storage and
6 distribution facility that is not a terminal and from which motor
7 fuel may be withdrawn by a tank wagon, a transport truck, or a
8 marine vessel.

9 (J) ~~(h)~~—"Bulk transfer" means a transfer of motor fuel from 1
10 location to another by pipeline tender or marine delivery within
11 the bulk transfer/terminal system, including, but not limited to,
12 all of the following transfers:

13 (i) A marine vessel movement of motor fuel from a refinery or
14 terminal to a terminal.

15 (ii) Pipeline movements of motor fuel from a refinery or
16 terminal to a terminal.

17 (iii) Book transfers of motor fuel within a terminal between
18 licensed suppliers before completion of removal across the terminal
19 rack.

20 (iv) Two-party exchanges between licensed suppliers.

21 (K) ~~(i)~~—"Bulk transfer/terminal system" means the motor fuel
22 distribution system consisting of refineries, pipelines, marine
23 vessels, and terminals. Motor fuel in a refinery, pipeline,
24 terminal, or a marine vessel transporting motor fuel to a refinery
25 or terminal is in the bulk transfer/terminal system. Motor fuel in
26 a fuel storage facility including, but not limited to, a bulk plant
27 that is not part of a refinery or terminal, in the fuel supply tank

1 of any engine or motor vehicle, in a marine vessel transporting
 2 motor fuel to a fuel storage facility that is not in the bulk
 3 transfer/terminal system, or in any tank car, rail car, trailer,
 4 truck, or other equipment suitable for ground transportation is not
 5 in the bulk transfer/terminal system.

6 (I) ~~(j)~~—"Carrier" means an operator of a pipeline or marine
 7 vessel engaged in the business of transporting motor fuel above the
 8 terminal rack.

9 (M) ~~(k)~~—"Commercial motor vehicle" means a motor vehicle
 10 licensed **AS A QUALIFIED COMMERCIAL MOTOR VEHICLE** under the motor
 11 carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, **OR A**
 12 **MOTOR VEHICLE LICENSED UNDER AN INTERNATIONAL FUEL TAX AGREEMENT**
 13 **UNDER SECTION 2A OF THE MOTOR CARRIER FUEL TAX ACT, 1980 PA 119,**
 14 **MCL 207.212A.**

15 (N) ~~(l)~~—"Dead storage" is the amount of motor fuel that cannot
 16 be pumped out of a motor fuel storage tank because the motor fuel
 17 is below the mouth of the tank's draw pipe. The amount of motor
 18 fuel in dead storage is 200 gallons for a tank with a capacity of
 19 less than 10,000 gallons and 400 gallons for a tank with a capacity
 20 of 10,000 gallons or more.

21 (O) ~~(m)~~—"Denaturants" means ~~and includes~~ gasoline, natural
 22 gasoline, gasoline components, or toxic or noxious materials added
 23 to fuel grade ethanol to make it unsuitable for beverage use but
 24 not unsuitable for automotive use.

25 (P) ~~(n)~~—"Department" means the ~~bureau of revenue within the~~
 26 department of treasury or its designee.

27 (Q) ~~(o)~~—"Destination state" means ~~the~~ **A** state, Canadian

1 province or territory, or foreign country to which motor fuel is
2 directed for export.

3 **(R)** ~~(p)~~—"Diesel fuel" means any liquid other than gasoline
4 that is capable of use as a fuel or a component of a fuel in a
5 motor vehicle that is propelled by a diesel-powered engine or in a
6 diesel-powered train. Diesel fuel includes number 1 and number 2
7 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel
8 fuel also includes any blendstock or additive that is sold for
9 blending with diesel fuel, any liquid prepared, advertised, offered
10 for sale, sold for use as, or used in the generation of power for
11 the propulsion of a diesel-powered engine, airplane, or marine
12 vessel. An additive or blendstock is presumed to be sold for
13 blending unless a certification is obtained for federal purposes
14 that the substance is for a use other than blending for diesel
15 fuel. Diesel fuel does not include an excluded liquid.

16 **(S)** ~~(q)~~—"Dyed diesel fuel" means diesel fuel that is dyed in
17 accordance with internal revenue service rules or pursuant to any
18 other internal revenue service requirements, including any
19 invisible marker requirements.

20 **(T)** ~~(r)~~—"Eligible purchaser" means a person who has been
21 authorized by the department under section 75 to make ~~the~~**AN**
22 election under section 74.

23 **(U)** ~~(s)~~—"Excluded liquid" means that term as defined in 26
24 ~~C.F.R.~~**CFR** 48.4081-1.

25 **(V)** ~~(t)~~—"Export" means to obtain motor fuel in this state for
26 sale or other distribution outside of this state. Motor fuel
27 delivered outside of this state by or for the seller constitutes an

1 export by the seller and motor fuel delivered outside of this state
2 by or for the purchaser constitutes an export by the purchaser.

3 (W) ~~(u)~~—"Exporter" means a person who exports motor fuel.

4 Sec. 3. As used in this act:

5 (a) "Fuel feedstock user" means a person who receives motor
6 fuel for the person's own use in the manufacture or production of
7 any substance other than motor fuel.

8 (b) "Fuel grade ethanol" means the American society for
9 testing and materials standard in effect on ~~the effective date of~~
10 ~~this act~~ **APRIL 1, 2001** as the D-4806 specification for denatured
11 fuel grade ethanol for blending with gasoline.

12 (c) "Fuel transportation vehicle" means a vehicle designed or
13 used to transport motor fuel on the public roads or highways. Fuel
14 transportation vehicle includes, but is not limited to, a transport
15 truck and a tank wagon. Fuel transportation vehicle does not
16 include a vehicle transporting a nurse tank or limited volume
17 auxiliary-mounted supply tank used for fueling an implement of
18 husbandry.

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

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

1 (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,
2 casing head or natural gasoline, benzol, benzine, naphtha, and any
3 blendstock additive, or other product including methanol that is
4 sold for blending with gasoline or for use on the road other than
5 products typically sold in containers of less than 5 gallons.

6 Gasoline also includes a liquid prepared, advertised, offered for
7 sale, sold for use as, or used in the generation of power for the
8 propulsion of a motor vehicle, airplane, or marine vessel,
9 including a product obtained by blending together any 1 or more
10 products of petroleum, with or without another product, and
11 regardless of the original character of the petroleum products
12 blended, if the product obtained by the blending is capable of use
13 in the generation of power for the propulsion of a motor vehicle,
14 airplane, or marine vessel. The blending of all of the above named
15 products, regardless of their name or characteristics, shall
16 conclusively be presumed to have been done to produce motor fuel,
17 unless the product obtained by the blending is entirely incapable
18 of use as motor fuel. Gasoline also includes transmix. Gasoline
19 does not include diesel fuel or leaded racing fuel. An additive or
20 blendstock is presumed to be sold for blending unless a
21 certification is obtained for federal purposes that the substance
22 is for a use other than blending for gasoline.

23 (g) "Gross gallons" means the total measured product,
24 exclusive of any temperature or pressure adjustments,
25 considerations, or deductions, in gallons.

26 ~~—— (h) "Heating oil" means a motor fuel including dyed diesel~~
27 ~~fuel that is burned in a boiler, furnace, or stove for heating,~~

1 ~~agricultural, or industrial processing purposes.~~

2 (H) ~~(i)~~ "Implement of husbandry" means ~~and includes~~ a farm
3 tractor, a vehicle designed to be drawn or pulled by a farm tractor
4 or animal, a vehicle that directly harvests farm products, ~~and OR~~ a
5 vehicle that directly applies fertilizer, spray, or seeds to a farm
6 field. Implement of husbandry does not include a motor vehicle
7 licensed for use on the public roads or highways of this state.

8 (I) ~~(j)~~ "Import" means to bring motor fuel into this state by
9 motor vehicle, marine vessel, pipeline, or any other means.
10 ~~However, import~~ **IMPORT** does not include bringing motor fuel into
11 this state in the fuel supply tank of a motor vehicle if the motor
12 fuel is used to power that motor vehicle. Motor fuel delivered into
13 this state from outside of this state by or for the seller
14 constitutes an import by the seller, and motor fuel delivered into
15 this state from ~~out~~ **OUTSIDE** of this state by or for the purchaser
16 constitutes an import by the purchaser.

17 (J) ~~(k)~~ "Importer" means a person who imports motor fuel into
18 this state.

19 (K) ~~(l)~~ "Import verification number" means the number assigned
20 by the department to an individual delivery of motor fuel by a
21 transport truck, tank wagon, marine vessel, or rail car in response
22 to a request for a number from an importer or transporter carrying
23 motor fuel into this state for the account of an importer.

24 (L) ~~(m)~~ "In this state" means the area within the borders of
25 this state, including all territories within the borders owned by,
26 held in trust by, or added to the United States of America.

27 (M) **"INDEX" MEANS THE NATIONAL HIGHWAY CONSTRUCTION COST INDEX**

1 OR, IF THE FEDERAL HIGHWAY ADMINISTRATION CEASES PUBLICATION OF THE
2 NATIONAL HIGHWAY CONSTRUCTION COST INDEX, THE PUBLISHED INDEX THAT
3 MOST CLOSELY MEASURES INFLATION IN THE COSTS OF HIGHWAY
4 CONSTRUCTION, AS DETERMINED BY THE DEPARTMENT.

5 (N) "INFLATION RATE" MEANS THE PERCENTAGE CHANGE BETWEEN THE
6 MOST RECENT CALENDAR YEAR INDEX AND THE INDEX FOR THE CALENDAR YEAR
7 IMMEDIATELY PRECEDING THE MOST RECENT CALENDAR YEAR, AS DETERMINED
8 BY THE DEPARTMENT.

9 (O) ~~(n)~~—"Invoiced gallons" means the number of gallons
10 actually billed on an invoice.

11 Sec. 5. (1) As used in this act:

12 (a) "Rack" means a mechanism for delivering motor fuel from a
13 refinery, a terminal, or a marine vessel into a railroad tank car,
14 a transport truck, a tank wagon, the fuel supply tank of a marine
15 vessel, or other means of transfer outside of the bulk
16 transfer/terminal system.

17 (B) "RATE CEILING" MEANS A CENTS PER GALLON UPPER LIMIT ON THE
18 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON GASOLINE UNDER
19 SECTION 8(1)(C) AND ON DIESEL FUEL UNDER SECTION 8(1)(D). BEGINNING
20 ON THE EFFECTIVE DATE OF THE 2014 AMENDATORY ACT THAT AMENDED THIS
21 SUBDIVISION, RATE CEILING MEANS 32.5 CENTS.

22 (C) "RATE FLOOR" MEANS A CENTS PER GALLON LOWER LIMIT ON THE
23 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON GASOLINE UNDER
24 SECTION 8(1)(C) AND ON DIESEL FUEL UNDER SECTION 8(1)(D). BEGINNING
25 ON THE EFFECTIVE DATE OF THE 2014 AMENDATORY ACT THAT AMENDED THIS
26 SUBDIVISION, RATE FLOOR MEANS 19 CENTS.

27 (D) ~~(b)~~—"Refiner" means a person who owns, operates, or

1 otherwise controls a refinery within the United States.

2 (E) ~~(e)~~—"Refinery" means a facility used to produce motor fuel
3 from crude oil, unfinished oils, natural gas liquids, or other
4 hydrocarbons and from which motor fuel may be removed by pipeline,
5 by marine vessel, or at a rack.

6 (F) ~~(d)~~—"Removal" or "removed" means a physical transfer other
7 than by evaporation, loss, or destruction of motor fuel from a
8 terminal, manufacturing plant, customs custody, pipeline, marine
9 vessel, or refinery that stores motor fuel.

10 (G) ~~(e)~~—"Retail diesel dealer" means a person who sells or
11 distributes diesel fuel to an end user in this state.

12 (H) ~~(f)~~—"Retail marine diesel dealer" means a person who sells
13 or distributes diesel fuel to an end user in this state for use in
14 boats or other marine vessels.

15 (I) ~~(g)~~—"Source state" means the state, Canadian province or
16 territory, or foreign country from which motor fuel is imported.

17 (J) ~~(h)~~—"Stationary engine" means a temporary or permanently
18 affixed engine designed and used to supply power primarily for
19 agricultural or construction work. Stationary engine includes, but
20 is not limited to, an engine powering irrigation equipment,
21 generators, or earth-moving equipment.

22 (K) ~~(i)~~—"Supplier", in addition to subsection (2), means a
23 person who meets all of the following requirements:

24 (i) Is subject to the general taxing jurisdiction of this
25 state.

26 (ii) Is registered under section 4101 of the internal revenue
27 code for transactions in motor fuel in the bulk transfer/terminal

1 distribution system.

2 (iii) Is any 1 of the following:

3 (A) The position holder in a terminal or refinery in this
4 state.

5 (B) A person who imports fuel grade ethanol into this state.

6 (C) A person who acquires motor fuel from a terminal or
7 refinery in this state from a position holder pursuant to a 2-party
8 exchange.

9 (D) The position holder in a terminal or refinery outside this
10 state with respect to motor fuel which that person imports into
11 this state on its account.

12 (2) Supplier also means a person who either produces alcohol
13 or alcohol derivative substances in this state or produces alcohol
14 or alcohol derivative substances for import into a terminal in this
15 state, or who acquires immediately upon import by transport truck,
16 tank wagon, rail car, or marine vessel into a terminal or refinery
17 or other storage facility that is not part of a terminal or
18 refinery, alcohol or alcohol derivative substances. A terminal
19 operator is not considered a supplier merely because the terminal
20 operator handles motor fuel consigned to it within a terminal.
21 Supplier includes a permissive supplier unless otherwise
22 specifically provided in this act.

23 Sec. 6. As used in this act:

24 (a) "Tank wagon" means a straight truck having 1 or more
25 compartments other than the fuel supply tank designed or used to
26 carry motor fuel.

27 (b) "Tank wagon operator-importer" means a person who operates

1 a tank wagon and imports motor fuel into this state from another
2 state.

3 (c) "Tax" means a tax, interest, or penalty levied under this
4 act.

5 (d) "Terminal" means a motor fuel storage and distribution
6 facility that meets all of the following requirements:

7 (i) Is registered as a qualified terminal by the internal
8 revenue service.

9 (ii) Is supplied by pipeline or marine vessel.

10 (iii) Has a rack from which motor fuel may be removed.

11 (e) "Terminal operator" means a person who owns, operates, or
12 otherwise controls a terminal.

13 (f) "Transmix" means the mixed product that results from the
14 buffer or interface of 2 different products in a pipeline shipment,
15 or a mixture of 2 different products within a refinery or terminal
16 that results in an off-grade mixture.

17 (g) "Transport truck" means a semitrailer combination rig
18 designed or used for the purpose of transporting motor fuel over
19 the public roads or highways.

20 (h) "Transporter" means an operator of a railroad or rail car,
21 tank wagon, transport truck, or other fuel transportation vehicle
22 engaged in the business of transporting motor fuel below the
23 terminal rack.

24 (i) "Two-party exchange" means a transaction in which motor
25 fuel is transferred from 1 licensed supplier or licensed permissive
26 supplier to another licensed supplier or licensed permissive
27 supplier where all of the following occur:

1 (i) The transaction includes a transfer from the person who
2 holds the original inventory position for motor fuel in the
3 terminal as reflected in the records of the terminal operator.

4 (ii) The exchange transaction is completed before removal
5 across the rack from the terminal by the receiving licensed
6 supplier or licensed permissive supplier.

7 (iii) The terminal operator in its books and records treats the
8 receiving exchange party as the supplier that removes the product
9 across a terminal rack for purposes of reporting the transaction to
10 the department.

11 (j) "Ultimate vendor" means the person who sells motor fuel to
12 the end user of the fuel.

13 (K) "WHOLESALE GASOLINE PRICE" MEANS THE PRICE PER GALLON OF
14 UNLEADED REGULAR GASOLINE CHARGED BY A LICENSED SUPPLIER TO A
15 PURCHASER AT THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE RACK,
16 AS DETERMINED BY THE DEPARTMENT. WHOLESALE GASOLINE PRICE DOES NOT
17 INCLUDE THE TAX IMPOSED BY THIS ACT, PREPAID SALES TAX UNDER
18 SECTION 6A OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL 205.56A,
19 FEDERAL EXCISE TAX UNDER SECTION 4081 OF THE INTERNAL REVENUE CODE,
20 26 USC 4081, ANY OTHER FEDERAL TAX UPON MOTOR FUEL, OR AN
21 ENVIRONMENTAL PROTECTION REGULATORY FEE IMPOSED UNDER SECTION 21508
22 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
23 451, MCL 324.21508.

24 (l) "WHOLESALE DIESEL FUEL PRICE" MEANS THE PRICE PER GALLON OF
25 UNDYED NO. 2 ULTRA-LOW SULFUR DIESEL FUEL CHARGED BY A LICENSED
26 SUPPLIER TO A PURCHASER AT THE TIME OF REMOVAL FROM A TERMINAL
27 ACROSS THE RACK, AS DETERMINED BY THE DEPARTMENT. WHOLESALE DIESEL

FUEL PRICE DOES NOT INCLUDE THE TAX IMPOSED BY THIS ACT, PREPAID SALES TAX UNDER SECTION 6A OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL 205.56A, FEDERAL EXCISE TAX UNDER SECTION 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER FEDERAL TAX UPON MOTOR FUEL, OR AN ENVIRONMENTAL PROTECTION REGULATORY FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

(M) ~~(k)~~ "Wholesaler" means a person who acquires motor fuel from a supplier or from another wholesaler for subsequent sale and distribution at wholesale by a fuel transportation vehicle, rail car, or other motor vehicle.

Sec. 8. (1) ~~Subject~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT AND SUBJECT** to the exemptions provided ~~for~~ in this act, tax is imposed on motor fuel imported into or sold, delivered, or used in this state at the following rates:

(a) ~~Except as otherwise provided in subdivision (c),~~ **THROUGH SEPTEMBER 30, 2014,** 19 cents per gallon on gasoline.

(b) ~~Except as otherwise provided in subdivision (d),~~ **THROUGH SEPTEMBER 30, 2014,** 15 cents per gallon on diesel fuel.

~~—— (c) Subject to subsections (10) and (11), 12 cents per gallon on gasoline that is at least 70% ethanol. Under this subdivision, blenders of ethanol and gasoline outside of the bulk transfer terminal system shall obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends ethanol and gasoline shall also obtain a blender's license.~~

~~—— (d) Subject to subsections (10) and (11), 12 cents per gallon~~

~~on diesel fuel that contains at least 5% biodiesel. Under this subdivision, blenders of biodiesel and diesel fuel outside of the bulk transfer terminal system are required to obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends biodiesel and diesel fuel shall also obtain a blender's license.~~

(C) SUBJECT TO SUBSECTIONS (2), (3), AND (4), BEGINNING OCTOBER 1, 2014 AND ANNUALLY THEREAFTER, THE DEPARTMENT SHALL DETERMINE A CENTS PER GALLON RATE ON GASOLINE THAT SHALL BE DERIVED BY MULTIPLYING THE AVERAGE WHOLESALE GASOLINE PRICE BY 6%, ROUNDED UP TO THE NEAREST 1/10 OF 1 CENT.

(D) SUBJECT TO SUBSECTIONS (2), (3), AND (4), BEGINNING OCTOBER 1, 2014 AND ANNUALLY THEREAFTER, THE DEPARTMENT SHALL DETERMINE A CENTS PER GALLON RATE ON DIESEL FUEL THAT SHALL BE DERIVED BY MULTIPLYING THE AVERAGE WHOLESALE DIESEL FUEL PRICE BY 6%, ROUNDED UP TO THE NEAREST 1/10 OF 1 CENT.

(2) THE RATES DETERMINED UNDER SUBSECTION (1)(C) AND (D) SHALL NOT EXCEED THE RATE CEILING OR BE BELOW THE RATE FLOOR FOR ANY YEAR FOR WHICH THE RATES ARE IN EFFECT.

(3) SUBJECT TO SUBSECTIONS (2) AND (4), BEGINNING OCTOBER 1, 2014, THE RATES DETERMINED UNDER SUBSECTION (1)(C) AND (D) SHALL NOT EXCEED THE RATES IN EFFECT FOR THE IMMEDIATELY PRECEDING YEAR BY MORE THAN 1 CENT.

(4) SUBJECT TO SUBSECTION (2), BEGINNING OCTOBER 1, 2015 AND ANNUALLY THEREAFTER, EACH OF THE RATES DETERMINED BY THE DEPARTMENT UNDER SUBSECTION (1)(C) AND (D) SHALL NOT EXCEED THE RATES IN EFFECT FOR THE IMMEDIATELY PRECEDING YEAR MULTIPLIED BY 1 PLUS THE

1 LESSER OF THE FOLLOWING:

2 (A) FIVE PERCENT.

3 (B) THE INFLATION RATE.

4 (5) ~~(2)~~—Tax shall not be imposed under this section on motor
5 fuel that is in the bulk transfer/terminal system.

6 (6) ~~(3)~~—The collection, payment, and remittance of the tax
7 imposed by this section shall be accomplished in the manner and at
8 the time provided for in this act.

9 (7) ~~(4)~~—Tax is also imposed at the rate described in
10 subsection (1) on net gallons of motor fuel, including transmix,
11 lost or unaccounted for, at each terminal in this state. The tax
12 shall be measured annually and shall apply to the net gallons of
13 motor fuel lost or unaccounted for that are in excess of 1/2 of 1%
14 of all net gallons of fuel removed from the terminal across the
15 rack or in bulk.

16 (8) ~~(5)~~—It is the intent of this act:

17 (a) To require persons who operate a motor vehicle on the
18 public roads or highways of this state to pay for the privilege of
19 using those roads or highways.

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

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

26 (d) That the tax imposed by this act be collected and paid at
27 those times, in the manner, and by those persons specified in this

1 act.

2 (9) ~~(6)~~ Bills of lading and invoices shall identify the
 3 blended product and the correct fuel product code. The motor fuel
 4 tax rate for each product shall be listed separately on each
 5 invoice. Licensees shall report the correct fuel product code for
 6 the blended product as required by the department. When fuel is
 7 blended below the terminal rack, new bills of lading and invoices
 8 shall be generated and submitted to the department upon request.
 9 All bills of lading and invoices shall meet the requirements
 10 ~~provided~~ under this act.

11 (10) ~~(7)~~ Notwithstanding any other provision of this act, ~~all~~
 12 ~~facilities~~ **A FACILITY** in this state that ~~produce~~ **PRODUCES** motor
 13 fuel and ~~distribute~~ **DISTRIBUTES** the fuel from a rack for purposes
 14 of this act ~~are~~ **IS** a terminal, ~~and~~ shall obtain a terminal operator
 15 license, and shall comply with all terminal operator reporting
 16 requirements under this act. ~~All~~ **A** position holders **HOLDER** in ~~these~~
 17 ~~facilities~~ **A FACILITY** shall be licensed as a supplier and shall
 18 comply with all supplier requirements under this act.

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

~~1 (a) The refund shall be claimed on a form prescribed by the
2 department.~~

~~3 (b) The refund shall apply only to:~~

~~4 (i) Previously taxed gasoline containing at least 70% ethanol
5 or diesel fuel containing at least 5% biodiesel in excess of 3,000
6 gallons held in storage by an end user.~~

~~7 (ii) Previously taxed gasoline containing at least 70% ethanol
8 or diesel fuel containing at least 5% biodiesel held for sale that
9 is in excess of dead storage.~~

~~10 (9) A refund request shall be filed within 60 days after the
11 last day of the month in which the amendatory act that added this
12 subsection took effect. A taxpayer shall provide documentation that
13 the department requires in order to verify the request for refund.
14 A person who may claim a refund under subsection (8) shall do all
15 of the following to claim the refund:~~

~~16 (a) Not later than 12 a.m. on the effective date of the
17 amendatory act that added this subsection, take an inventory of
18 gasoline containing at least 70% ethanol or undyed diesel fuel
19 containing at least 5% biodiesel.~~

~~20 (b) Deduct 3,000 gallons if the person claiming the refund is
21 an end user.~~

~~22 (c) Deduct the number of gallons in dead storage if the
23 gasoline containing at least 70% ethanol or the undyed diesel fuel
24 containing at least 5% biodiesel is held for subsequent sale.~~

~~25 (10) Beginning on the effective date of the amendatory act
26 that added this subsection, the state treasurer shall annually
27 determine, for the 12-month period ending May 1 and for any~~

~~additional times that the treasurer may determine, the difference between the amount of motor fuel tax collected and the amount of motor fuel tax that would have been collected but for the differential rates on gasoline pursuant to subsection (1)(c) and biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d) is no longer effective the earlier of 10 years after the effective date of the amendatory act that added this subsection or the first day of the first month that is not less than 90 days after the state treasurer certifies that the total cumulative rate differential from the effective date of this amendatory act is greater than \$2,500,000.00.~~

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

~~—— (12) As used in this section:~~

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

~~—— (b) "Ethanol" means denatured fuel ethanol that is suitable~~

1 ~~for use in a spark ignition engine when mixed with gasoline so long~~
2 ~~as the mixture meets the American society for testing and materials~~
3 ~~D-5798 specifications.~~

4 (11) THE DEPARTMENT SHALL PUBLISH NOTICE OF EACH TAX RATE
5 UNDER SUBSECTION (1)(C) AND (D) NOT LATER THAN 30 DAYS BEFORE THE
6 EFFECTIVE DATE OF THE RATE.

7 (12) A DETERMINATION OF THE AVERAGE WHOLESALE GASOLINE PRICE,
8 THE AVERAGE DIESEL FUEL PRICE, THE WHOLESALE GASOLINE PRICE, THE
9 WHOLESALE DIESEL FUEL PRICE, OR THE RATE UNDER SUBSECTION (1)(C) OR
10 (D) IS PRESUMED TO BE CORRECT AND SHALL NOT BE SET ASIDE UNLESS AN
11 ADMINISTRATIVE TRIBUNAL OR A COURT OF COMPETENT JURISDICTION FINDS
12 THE DEPARTMENT'S DETERMINATION TO BE CLEARLY ERRONEOUS.

13 Sec. 152. (1) ~~A-EXCEPT AS PROVIDED IN SUBSECTION (3), A~~ tax at
14 a rate of 15 cents per gallon is imposed upon all liquefied
15 petroleum gas used in this state. The tax shall be paid at the
16 times and in the manner specified in this section. The tax on
17 liquefied petroleum gas fuel sold or delivered either by placing
18 into a permanently attached fuel supply tank on a motor vehicle, or
19 exchanging or replacing the fuel supply tank of a motor vehicle,
20 shall be collected by the LPG dealer from the purchaser and paid
21 ~~ever quarterly~~ to the department **QUARTERLY** as provided in this act.
22 Liquefied petroleum gas fuel delivered in this state into the
23 storage facility of any person when the exclusive purpose of the
24 storage facility is for resale or use in a motor vehicle on the
25 public roads or highways of this state, shall, upon delivery to
26 storage facility, be subject to tax. An LPG dealer shall, upon
27 delivery of the liquefied petroleum gas, collect and remit the tax

1 to the department as provided in this act.

2 (2) A person shall not operate a motor vehicle on the public
3 roads or highways of this state from the cargo containers of a
4 truck, trailer, or semitrailer with liquefied petroleum gas in
5 vapor or liquid form, except when the fuel in the liquid or vapor
6 phase is withdrawn from the cargo container for use in motor
7 vehicles through a permanently installed and approved metering
8 device. The tax on liquefied petroleum gas withdrawn from a cargo
9 container through a permanently installed and approved metering
10 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons
11 as reflected by meter reading, and shall be paid quarterly by the
12 LPG dealer to the department as provided in this act.

13 (3) **BEGINNING OCTOBER 1, 2014, THE TAX DESCRIBED IN**
14 **SUBSECTIONS (1) AND (2) SHALL BE IMPOSED AT A RATE EQUAL TO THE**
15 **RATE PER GALLON FOR DIESEL FUEL UNDER SECTION 8(1)(D).**

16 Enacting section 1. This amendatory act takes effect on the
17 first day of the first calendar quarter following the date of its
18 enactment.