

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5477

(As amended, November 13, 2014)

<<A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending sections 2, 3, 6, 8, 14, 122, and 152 (MCL 207.1002,
207.1003, 207.1006, 207.1008, 207.1014, 207.1122, and 207.1152),
sections 2 and 122 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) "APPLICABLE PERCENTAGE" MEANS 1 OF THE FOLLOWING:

5 (i) BEGINNING APRIL 1, 2015, 9.50%.

6 (ii) FOR THE YEAR BEGINNING JANUARY 1, 2016, 11.50%.

1 (iii) FOR THE YEAR BEGINNING JANUARY 1, 2017, 13.50%.

2 (iv) FOR THE YEAR BEGINNING JANUARY 1, 2018 AND EACH CALENDAR
3 YEAR THEREAFTER, 15.50%.

4 (C) "AVERAGE WHOLESALE PRICE" MEANS THE STATEWIDE AVERAGE
5 WHOLESALE PRICE OF GASOLINE AS DETERMINED BY THE DEPARTMENT BASED
6 UPON A 12-MONTH ROLLING AVERAGE OF THE WHOLESALE PRICE. FOR EACH
7 RATE IN EFFECT FOR A PARTICULAR YEAR UNDER SECTION 8(1)(C), THE 12-
8 MONTH ROLLING AVERAGE PERIOD ENDS ON THE LAST DAY OF THE MONTH THAT
9 IS 3 MONTHS PRIOR TO THE DATE ON WHICH THE RATE DETERMINED UNDER
10 SECTION 8(1)(C) BECOMES EFFECTIVE. IF THE 12-MONTH ROLLING AVERAGE
11 OF THE WHOLESALE PRICE FOR THE PERIOD ENDING ON THE LAST DAY OF THE
12 MONTH THAT IS 3 MONTHS PRIOR TO THE DATE ON WHICH THE RATE
13 DETERMINED UNDER SECTION 8(1)(C) BECOMES EFFECTIVE EXCEEDS THE
14 IMMEDIATELY PRECEDING YEAR'S AVERAGE WHOLESALE PRICE BY MORE THAN
15 5%, THE AVERAGE WHOLESALE PRICE IS THE IMMEDIATELY PRECEDING YEAR'S
16 AVERAGE WHOLESALE PRICE MULTIPLIED BY 1.05. IF THE 12-MONTH ROLLING
17 AVERAGE OF THE WHOLESALE PRICE FOR THE PERIOD ENDING ON THE LAST
18 DAY OF THE MONTH THAT IS 3 MONTHS PRIOR TO THE DATE ON WHICH THE
19 RATE DETERMINED UNDER SECTION 8(1)(C) BECOMES EFFECTIVE IS MORE
20 THAN 5% LESS THAN THE IMMEDIATELY PRECEDING YEAR'S AVERAGE
21 WHOLESALE PRICE, THE AVERAGE WHOLESALE PRICE IS THE IMMEDIATELY
22 PRECEDING YEAR'S AVERAGE WHOLESALE PRICE MULTIPLIED BY 0.95.

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

26 (E) ~~(e)~~—"Blended motor fuel" means a mixture of motor fuel and
27 another liquid, other than a de minimis amount of a product

1 including, but not limited to, carburetor detergent or oxidation
2 inhibitor, that can be used as motor fuel in a motor vehicle.

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

5 (G) ~~(e)~~—"Blends" or "blending" means the mixing of 1 or more
6 petroleum products, with or without another product, regardless of
7 the original character of the product blended, if the product
8 obtained by the blending is capable of use in the generation of
9 power for the propulsion of a motor vehicle, an airplane, or a
10 marine vessel. Blending does not include mixing that occurs in the
11 process of refining by the original refiner of crude petroleum or
12 the blending of products known as lubricating oil in the production
13 of lubricating oils and greases.

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

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

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

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

27 (ii) Pipeline movements of motor fuel from a refinery or

1 terminal to a terminal.

2 (iii) Book transfers of motor fuel within a terminal between
3 licensed suppliers before completion of removal across the terminal
4 rack.

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

6 (K) ~~(i)~~—"Bulk transfer/terminal system" means the motor fuel
7 distribution system consisting of refineries, pipelines, marine
8 vessels, and terminals. Motor fuel in a refinery, pipeline,
9 terminal, or a marine vessel transporting motor fuel to a refinery
10 or terminal is in the bulk transfer/terminal system. Motor fuel in
11 a fuel storage facility including, but not limited to, a bulk plant
12 that is not part of a refinery or terminal, in the fuel supply tank
13 of any engine or motor vehicle, in a marine vessel transporting
14 motor fuel to a fuel storage facility that is not in the bulk
15 transfer/terminal system, or in any tank car, rail car, trailer,
16 truck, or other equipment suitable for ground transportation is not
17 in the bulk transfer/terminal system.

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

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

27 (N) ~~(l)~~—"Dead storage" is the amount of motor fuel that cannot

1 be pumped out of a motor fuel storage tank because the motor fuel
2 is below the mouth of the tank's draw pipe. The amount of motor
3 fuel in dead storage is 200 gallons for a tank with a capacity of
4 less than 10,000 gallons and 400 gallons for a tank with a capacity
5 of 10,000 gallons or more.

6 (O) ~~(m)~~ "Denaturants" means ~~and includes~~ gasoline, natural
7 gasoline, gasoline components, or toxic or noxious materials added
8 to fuel grade ethanol to make it unsuitable for beverage use but
9 not unsuitable for automotive use.

10 (P) ~~(n)~~ "Department" means the ~~bureau of revenue within the~~
11 department of treasury or its designee.

12 (Q) ~~(o)~~ "Destination state" means ~~the~~ A state, Canadian
13 province or territory, or foreign country to which motor fuel is
14 directed for export.

15 (R) ~~(p)~~ "Diesel fuel" means any liquid other than gasoline
16 that is capable of use as a fuel or a component of a fuel in a
17 motor vehicle that is propelled by a diesel-powered engine or in a
18 diesel-powered train. Diesel fuel includes number 1 and number 2
19 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel
20 fuel also includes any blendstock or additive that is sold for
21 blending with diesel fuel, any liquid prepared, advertised, offered
22 for sale, sold for use as, or used in the generation of power for
23 the propulsion of a diesel-powered engine, airplane, or marine
24 vessel. An additive or blendstock is presumed to be sold for
25 blending unless a certification is obtained for federal purposes
26 that the substance is for a use other than blending for diesel
27 fuel. Diesel fuel does not include an excluded liquid.

1 (S) ~~(q)~~—"Dyed diesel fuel" means diesel fuel that is dyed in
 2 accordance with internal revenue service rules or pursuant to any
 3 other internal revenue service requirements, including any
 4 invisible marker requirements.

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

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

10 (V) ~~(t)~~—"Export" means to obtain motor fuel in this state for
 11 sale or other distribution outside of this state. Motor fuel
 12 delivered outside of this state by or for the seller constitutes an
 13 export by the seller and motor fuel delivered outside of this state
 14 by or for the purchaser constitutes an export by the purchaser.

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

16 Sec. 3. As used in this act:

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

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

24 (c) "Fuel transportation vehicle" means a vehicle designed or
 25 used to transport motor fuel on the public roads or highways. Fuel
 26 transportation vehicle includes, but is not limited to, a transport
 27 truck and a tank wagon. Fuel transportation vehicle does not

1 include a vehicle transporting a nurse tank or limited volume
2 auxiliary-mounted supply tank used for fueling an implement of
3 husbandry.

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

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

13 (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,
14 casing head or natural gasoline, benzol, benzine, naphtha, and any
15 blendstock additive, or other product including methanol that is
16 sold for blending with gasoline or for use on the road other than
17 products typically sold in containers of less than 5 gallons.
18 Gasoline also includes a liquid prepared, advertised, offered for
19 sale, sold for use as, or used in the generation of power for the
20 propulsion of a motor vehicle, airplane, or marine vessel,
21 including a product obtained by blending together any 1 or more
22 products of petroleum, with or without another product, and
23 regardless of the original character of the petroleum products
24 blended, if the product obtained by the blending is capable of use
25 in the generation of power for the propulsion of a motor vehicle,
26 airplane, or marine vessel. The blending of all of the above named
27 products, regardless of their name or characteristics, shall

1 conclusively be presumed to have been done to produce motor fuel,
2 unless the product obtained by the blending is entirely incapable
3 of use as motor fuel. Gasoline also includes transmix. Gasoline
4 does not include diesel fuel or leaded racing fuel. An additive or
5 blendstock is presumed to be sold for blending unless a
6 certification is obtained for federal purposes that the substance
7 is for a use other than blending for gasoline.

8 (g) "Gross gallons" means the total measured product,
9 exclusive of any temperature or pressure adjustments,
10 considerations, or deductions, in gallons.

11 ~~—— (h) "Heating oil" means a motor fuel including dyed diesel~~
12 ~~fuel that is burned in a boiler, furnace, or stove for heating,~~
13 ~~agricultural, or industrial processing purposes.~~

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

20 (I) ~~(j)~~ "Import" means to bring motor fuel into this state by
21 motor vehicle, marine vessel, pipeline, or any other means.
22 ~~However, import~~ **IMPORT** does not include bringing motor fuel into
23 this state in the fuel supply tank of a motor vehicle if the motor
24 fuel is used to power that motor vehicle. Motor fuel delivered into
25 this state from outside of this state by or for the seller
26 constitutes an import by the seller, and motor fuel delivered into
27 this state from ~~out~~ **OUTSIDE** of this state by or for the purchaser

1 constitutes an import by the purchaser.

2 **(J)** ~~(K)~~—"Importer" means a person who imports motor fuel into
3 this state.

4 **(K)** ~~(L)~~—"Import verification number" means the number assigned
5 by the department to an individual delivery of motor fuel by a
6 transport truck, tank wagon, marine vessel, or rail car in response
7 to a request for a number from an importer or transporter carrying
8 motor fuel into this state for the account of an importer.

9 **(L)** ~~(M)~~—"In this state" means the area within the borders of
10 this state, including all territories within the borders owned by,
11 held in trust by, or added to the United States of America.

12 **(M)** ~~(N)~~—"Invoiced gallons" means the number of gallons
13 actually billed on an invoice.

14 Sec. 6. As used in this act:

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

18 (b) "Tank wagon operator-importer" means a person who operates
19 a tank wagon and imports motor fuel into this state from another
20 state.

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

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

25 (i) Is registered as a qualified terminal by the internal
26 revenue service.

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

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

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

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

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

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

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

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

22 (ii) The exchange transaction is completed before removal
23 across the rack from the terminal by the receiving licensed
24 supplier or licensed permissive supplier.

25 (iii) The terminal operator in its books and records treats the
26 receiving exchange party as the supplier that removes the product
27 across a terminal rack for purposes of reporting the transaction to

1 the department.

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

4 (K) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF SELF-SERVE
5 UNLEADED REGULAR GASOLINE CHARGED BY A LICENSED SUPPLIER TO A
6 PURCHASER AT THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE RACK,
7 AS DETERMINED BY THE DEPARTMENT, BASED ON AVAILABLE PRICING DATA
8 THAT BEST REFLECT OR APPROXIMATE MICHIGAN RACK PRICES AS REPORTED
9 BY THE UNITED STATES ENERGY ADMINISTRATION, THE OIL PRICE
10 INFORMATION SERVICE, OR A SIMILAR NATIONALLY RECOGNIZED SOURCE FOR
11 SUCH PRICING DATA, WHETHER PUBLICLY AVAILABLE OR AVAILABLE ONLY BY
12 SUBSCRIPTION. WHOLESALE PRICE DOES NOT INCLUDE THE TAX IMPOSED BY
13 THIS ACT, PREPAID SALES TAX UNDER SECTION 6A OF THE GENERAL SALES
14 TAX ACT, 1933 PA 167, MCL 205.56A, FEDERAL EXCISE TAX UNDER SECTION
15 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER FEDERAL
16 TAX UPON MOTOR FUEL, OR AN ENVIRONMENTAL PROTECTION REGULATORY FEE
17 IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES AND
18 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

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

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

27 (a) ~~Except as otherwise provided in subdivision (c),~~ **THROUGH**

1 **MARCH 31, 2015, 19 cents per gallon on gasoline.**

2 (b) ~~Except as otherwise provided in subdivision (d),~~ **THROUGH**
3 **MARCH 31, 2015, 15 cents per gallon on diesel fuel.**

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

11 ~~—— (d) Subject to subsections (10) and (11), 12 cents per gallon~~
12 ~~on diesel fuel that contains at least 5% biodiesel. Under this~~
13 ~~subdivision, blenders of biodiesel and diesel fuel outside of the~~
14 ~~bulk transfer terminal system are required to obtain a blender's~~
15 ~~license and are subject to the blender reporting requirements under~~
16 ~~this act. A licensed supplier who blends biodiesel and diesel fuel~~
17 ~~shall also obtain a blender's license.~~

18 **(C) BEGINNING APRIL 1, 2015, AND JANUARY 1 OF EACH YEAR**
19 **THEREAFTER, A CENTS PER GALLON RATE ON MOTOR FUEL THAT SHALL BE**
20 **DETERMINED BY THE DEPARTMENT BY MULTIPLYING THE AVERAGE WHOLESALE**
21 **PRICE BY THE APPLICABLE PERCENTAGE, ROUNDED UP TO THE NEAREST 1/10**
22 **OF 1 CENT.**

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

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

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

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

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

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

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

18 (d) That the tax imposed by this act be collected and paid at
19 those times, in the manner, and by those persons specified in this
20 act.

21 (6) Bills of lading and invoices shall identify the blended
22 product and the correct fuel product code. The motor fuel tax rate
23 for each product shall be listed separately on each invoice.
24 Licensees shall report the correct fuel product code for the
25 blended product as required by the department. When fuel is blended
26 below the terminal rack, new bills of lading and invoices shall be
27 generated and submitted to the department upon request. All bills

1 of lading and invoices shall meet the requirements ~~provided~~ under
2 this act.

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

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

20 ~~—— (a) The refund shall be claimed on a form prescribed by the~~
21 ~~department.~~

22 ~~—— (b) The refund shall apply only to:~~

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

26 ~~—— (ii) Previously taxed gasoline containing at least 70% ethanol~~
27 ~~or diesel fuel containing at least 5% biodiesel held for sale that~~

1 ~~is in excess of dead storage.~~

2 ~~—— (9) A refund request shall be filed within 60 days after the~~
3 ~~last day of the month in which the amendatory act that added this~~
4 ~~subsection took effect. A taxpayer shall provide documentation that~~
5 ~~the department requires in order to verify the request for refund.~~
6 ~~A person who may claim a refund under subsection (8) shall do all~~
7 ~~of the following to claim the refund.~~

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

12 ~~—— (b) Deduct 3,000 gallons if the person claiming the refund is~~
13 ~~an end user.~~

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

17 ~~—— (10) Beginning on the effective date of the amendatory act~~
18 ~~that added this subsection, the state treasurer shall annually~~
19 ~~determine, for the 12-month period ending May 1 and for any~~
20 ~~additional times that the treasurer may determine, the difference~~
21 ~~between the amount of motor fuel tax collected and the amount of~~
22 ~~motor fuel tax that would have been collected but for the~~
23 ~~differential rates on gasoline pursuant to subsection (1)(c) and~~
24 ~~biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d)~~
25 ~~is no longer effective the earlier of 10 years after the effective~~
26 ~~date of the amendatory act that added this subsection or the first~~
27 ~~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 for use in a spark ignition engine when mixed with gasoline so long as the mixture meets the American society for testing and materials D-5798 specifications.~~

(8) BEGINNING WITH THE RATE IN EFFECT ON APRIL 1, 2015, AND JANUARY 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL PUBLISH NOTICE OF THE TAX RATE UNDER THIS SECTION NOT LATER THAN 30 DAYS BEFORE THE EFFECTIVE DATE OF THE RATE.

(9) A DETERMINATION BY THE DEPARTMENT OF THE AVERAGE WHOLESALE

1 PRICE, THE WHOLESALE PRICE, OR THE TAX RATE UNDER THIS SECTION IS
2 PRESUMED TO BE CORRECT AND SHALL NOT BE SET ASIDE UNLESS AN
3 ADMINISTRATIVE TRIBUNAL OR A COURT OF COMPETENT JURISDICTION FINDS
4 THE DEPARTMENT'S DETERMINATION TO BE CLEARLY ERRONEOUS.

5 Sec. 14. (1) The department may require a supplier required to
6 remit tax under this act to remit the tax by an electronic funds
7 transfer acceptable to the department. The remittance shall be made
8 on or before the date the tax is due.

9 (2) In computing the tax, a supplier may deduct ~~1.5%~~ 1.0% of
10 the quantity of gasoline removed by the supplier to allow for the
11 cost of remitting the tax. This deduction is not allowed for the
12 quantity of gasoline removed by the supplier and sold tax-free. At
13 the time of filing the report and paying the tax, the supplier
14 shall submit satisfactory evidence to the department that the
15 amount of tax represented by the deduction was paid or credited to
16 the supplier or wholesaler who purchased the gasoline from the
17 supplier or wholesaler. The amount of the deduction shall be paid
18 or credited by each supplier or wholesaler to the purchaser at each
19 subsequent sale to a wholesaler. When a wholesaler or supplier
20 sells gasoline to a retailer, the wholesaler or supplier shall pay
21 or credit to the retailer 1/3 of the deduction on quantities sold
22 to that retailer.

23 Sec. 122. (1) A person shall not operate or maintain a motor
24 vehicle on the public roads or highways of this state with dyed
25 diesel fuel in the vehicle's fuel supply tank.

26 (2) This section does not apply to dyed diesel fuel used in
27 any of the following:

1 (a) A motor vehicle owned and operated or leased and operated
2 by the federal or state government or a political subdivision of
3 this state.

4 (b) A motor vehicle used exclusively by the American red
5 cross.

6 (c) An implement of husbandry.

7 (d) A passenger vehicle that has a capacity of 10 or more and
8 that operates over regularly traveled routes expressly provided for
9 in 1 or more of the following that applies to the passenger
10 vehicle:

11 (i) A certificate of authority issued by the state
12 transportation department.

13 (ii) A municipal franchise.

14 (iii) A municipal license.

15 (iv) A municipal permit.

16 (v) A municipal agreement.

17 (vi) A municipal grant.

18 (3) An owner, operator, or driver of a vehicle who uses dyed
19 diesel fuel on the public roads or highways of this state is
20 subject to a civil penalty of ~~\$200.00~~ **\$1,000.00** for each of the
21 first 2 violations within a 12 month period. For a third violation
22 ~~within a 12 month period, and~~ **VIOLATION, AND A CIVIL PENALTY OF**
23 **\$5,000.00** for each subsequent violation. ~~thereafter, the person is~~
24 ~~subject to a civil penalty of \$5,000.00.~~ An owner, operator, or
25 driver of a motor vehicle who knowingly violates the prohibition
26 against the sale or use of dyed diesel fuel upon the public roads
27 or highways of this state is subject to a civil penalty equal to

1 that imposed by section 6714 of the internal revenue code.

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

18 (2) A person shall not operate a motor vehicle on the public
19 roads or highways of this state from the cargo containers of a
20 truck, trailer, or semitrailer with liquefied petroleum gas in
21 vapor or liquid form, except when the fuel in the liquid or vapor
22 phase is withdrawn from the cargo container for use in motor
23 vehicles through a permanently installed and approved metering
24 device. The tax on liquefied petroleum gas withdrawn from a cargo
25 container through a permanently installed and approved metering
26 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons
27 as reflected by meter reading, and shall be paid quarterly by the

1 LPG dealer to the department as provided in this act.

2 (3) BEGINNING APRIL 1, 2015, AND JANUARY 1 OF EACH YEAR
3 THEREAFTER, THE TAX DESCRIBED IN SUBSECTIONS (1) AND (2) SHALL BE
4 IMPOSED AT A RATE EQUAL TO THE RATE PER GALLON FOR MOTOR FUEL IN
5 EFFECT FOR THAT YEAR.

6 Enacting section 1. This amendatory act takes effect January
7 1, 2015.