

FUEL TAX COLLECTION BY COMMERCIAL USERS OF COMPRESSED NATURAL GAS

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House Bill 5572 (reported from committee w/o amendment)

Sponsor: Rep. Michael D. McCready

Committee: Transportation and Infrastructure

Complete to 6-1-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Recent legislation increased the taxes on diesel fuel and gasoline to 26.3 cents per gallon, beginning January 1, 2017. As part of that legislation, the Motor Fuel Tax Act was amended to apply equivalent tax rates to certain alternative fuels, with the provisions applying to commercial users beginning January 1, 2017, and to a person other than alternative fuel commercial users or alternative fuel dealers beginning January 1, 2018.

The tax rate for alternative fuel is to be applied on a gallon-equivalent basis (which varies by kind of fuel). Currently, for compressed natural gas (CNG), the term "gallon equivalent" means *5.660 pounds or 126.67 cubic feet at 60 degrees Fahrenheit and 1 atmosphere of pressure*. (See MCL 207.1151)

House Bill 5572 would amend the act to say notwithstanding anything to the contrary, an *alternative fuel commercial user* could report and pay the tax imposed under Section 152 on compressed natural gas based on a gallon equivalent equal to *6.38 pounds or 142.8 cubic feet at 60 degrees Fahrenheit and 1 atmosphere of pressure*, if the fuel was placed in the commercial user's vehicle at an alternative fuel filling station that is owned or leased by that commercial user located at the user's place of business and that is unavailable for public use. This would apply beginning January 1, 2017.

The result of the bill will be a lower tax rate for certain commercial vehicles using compressed natural gas.

The act defines "alternative fuel commercial user" to mean a commercial or other business enterprise or entity that is a consumer or end user of alternative fuel to propel a motor vehicle on the public roads and highways of this state. The term "alternative fuel commercial user" does not include a person licensed as an alternative fuel dealer under Section 153.

DISCUSSION:

Proponents of the bill say that the change in equivalency proposed by the bill is the result of comparing compressed natural gas and diesel fuel based on what is needed to produce the same amount of energy.¹ They argue that the bill "makes the tax on diesel and CNG

¹ <https://session.mihouse.mi.gov/sessiondocs/2015-2016/testimony/Committee349-5-24-2016.pdf>

the same by converting the energy content in a gallon of diesel to a volume of CNG with that same amount of energy." They claim CNG now pays 12% more in fuel tax than diesel, based on energy produced, penalizing CNG vehicles and creating a disincentive to convert from diesel-using commercial trucks to a cleaner burning alternative fuel.

Some critics of the bill noted that since CNG is less expensive than gasoline or diesel fuel, users already pay a lower sales tax on the product. (The 6% sales tax is levied on motor fuels, in addition to the motor fuel tax.) Further, even though the energy produced by a gallon of gasoline is less than that produced by a gallon of diesel fuel, those two fuels will be subject to the same tax rate when the new fuel tax rates take effect in January 2017.

[It should be noted that this bill, as drafted, appears to leave in place two distinct and different ways of taxing compressed natural gas fuel. The definition section of the Motor Fuel Tax Act (Section 151) contains one kind of gallon equivalency, and the provision added to the act by this bill (in Section 154) provides a different gallon equivalency, and lower taxes, but only for certain selected taxpayers (commercial users with their own filling stations).]

FISCAL IMPACT:

Based on recent consumption data for compressed natural gas (CNG) as an alternative vehicle fuel in Michigan, changing the base from a gasoline gallon equivalent (GGE) to a diesel gallon equivalent (DGE) would reduce revenue designated for road funding by about \$100,000 per year.

POSITIONS:

Waste Management of Michigan testified in support of the bill. (5-24-16)

Also indicating support for the bill were the Michigan Waste & Recycling Association; Republic Services; and Clean Fuels Michigan. (5-24-16)

Legislative Analyst: Chris Couch
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.