

# SENATE BILL No. 418

June 18, 2015, Introduced by Senator SCHMIDT and referred to the Committee on Commerce.

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~~ **A tax AT THE**  
 2 **RATE** of ~~3 cents per gallon~~ **2% OF THE AVERAGE WHOLESALE PRICE IS**  
 3 **IMPOSED** on ~~all~~ **EACH GALLON OF AVIATION JET fuel, AVIATION GASOLINE,**  
 4 **AND FUEL** sold or used in producing or generating power for  
 5 propelling aircraft using the aeronautical facilities on the lands  
 6 and waters of this state. The tax ~~shall~~ **MUST** be collected and  
 7 remitted in the same manner and method and at the same time as  
 8 prescribed by law for the collection of the gasoline tax imposed on  
 9 all gasoline used in producing or generating power for propelling  
 10 motor vehicles used ~~upon~~ **ON** the public highways of this state under  
 11 the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170. ~~A~~

1 ~~refund of 1 1/2 cents per gallon shall be made to airline operators~~  
2 ~~who show proof within 6 months after purchase that they are~~  
3 ~~operating interstate on scheduled operations.~~

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

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

19 (4) **THE DEPARTMENT SHALL DETERMINE THE TAX RATE PER GALLON ON**  
20 **AVIATION JET FUEL, AVIATION GASOLINE, AND FUEL UNDER SUBSECTION (1)**  
21 **ON A QUARTERLY BASIS. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**  
22 **(5), THE RATE MUST BE EQUAL TO THE PRODUCT OF THE AVERAGE WHOLESALE**  
23 **PRICE PER GALLON OF AVIATION JET FUEL, AVIATION GASOLINE, OR FUEL**  
24 **AND 2%, ROUNDED UP TO THE NEAREST 1/10 OF 1 CENT. THE TAX RATE**  
25 **DETERMINED UNDER THIS SUBSECTION APPLIES FOR THE 3-MONTH PERIOD**  
26 **BEGINNING ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IN**  
27 **WHICH THE RATE IS DETERMINED. FOR PURPOSES OF DETERMINING THE TAX**

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

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

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

24 (7) BY JANUARY 1, 2016 AND EVERY 10 YEARS AFTER 2016, THE  
25 DEPARTMENT SHALL COMPLETE A STUDY TO DETERMINE THE COST OF THE  
26 CHANGES MADE TO THIS SECTION BY THE AMENDATORY ACT THAT ADDED THIS  
27 SUBSECTION AND SHALL FORWARD A COPY OF THE STUDY TO THE MEMBERS OF

1 THE SENATE AND HOUSE COMMITTEES THAT CONSIDER AVIATION FUEL TAX  
2 LEGISLATION.

3 (8) AS USED IN THIS SECTION:

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

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

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

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

18 (E) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF AVIATION  
19 JET FUEL, AVIATION GASOLINE, OR FUEL CHARGED BY A LICENSED SUPPLIER  
20 TO A PURCHASER AT THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE  
21 RACK, AS DETERMINED BY THE DEPARTMENT. WHOLESALE PRICE DOES NOT  
22 INCLUDE THE TAX IMPOSED BY THIS ACT, FEDERAL EXCISE TAX IMPOSED  
23 UNDER SECTION 4081 OF THE INTERNAL REVENUE CODE OF 1986, 26 USC  
24 4081, ANY OTHER FEDERAL TAX ON FUEL, OR AN ENVIRONMENTAL REGULATORY  
25 PROTECTION FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES  
26 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

27 (F) "RACK" MEANS A MECHANISM FOR DELIVERING OR REMOVING

1 **AVIATION JET FUEL, AVIATION GASOLINE, OR FUEL FROM A TERMINAL.**

2 Enacting section 1. This amendatory act takes effect 90 days  
3 after the date it is enacted into law.

4 Enacting section 2. This amendatory act does not take effect  
5 unless Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
6 03139'15) of the 98th Legislature is enacted into law.