

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536Telephone: (517) 373-5383
Fax: (517) 373-1986House Bill 5477 (Substitute S-13 as passed by the Senate)
Sponsor: Representative Rob Verheulen
House Committee: Transportation and Infrastructure
Senate Committee: Infrastructure Modernization

Date Completed: 11-21-14

CONTENT

The bill would amend the Motor Fuel Tax Act to provide for excise taxes on gasoline fuel and diesel fuel that would be adjusted annually based on 1) a percentage of the respective fuel's average wholesale market price and 2) criteria establishing limits on rates and rate changes.

Currently, the fuel tax on gasoline is 19 cents per gallon, and the fuel tax on diesel fuel is 15 cents per gallon. The bill would retain these rates through December 31, 2014.

On April 1, 2015, and January 1 of each year after, the Department of Treasury would have to determine the rate of taxation on gasoline and diesel fuel. The Department would determine the rate by multiplying the average wholesale price by the applicable percentage, and rounding up to the nearest 1/10 of one cent. (It is important to note that the tax rate of diesel fuel would be based on the average wholesale price of gasoline, not diesel fuel.) The applicable percentage would change annually until 2018, when the applicable percentage would be set at 15.5%, as detailed in [Table 1](#). The bill would limit changes to the average wholesale price to plus or minus 5% of the prior year's average wholesale price.

Table 1

Applicable Percentage of Wholesale Price for Fuel Tax Calculation	
Beginning Date	Applicable Percentage of Wholesale Price
4-1-2015	9.5%
1-1-2016	11.5%
1-1-2017	13.5%
1-1-2018	15.5%

("Average wholesale price" would mean the statewide average wholesale price of gasoline as determined by the Department based upon a 12-month rolling average of the wholesale price. For each rate in effect for a particular year, the 12-month rolling average period would end on the last day of the month that was three months prior to the effective date of the most recently set tax rate. If the 12-month rolling average exceeded the prior year's average wholesale price by more than 5%, the average wholesale price would be the prior year's average wholesale price multiplied by 1.05. If the 12-month rolling average were more than 5% less than the prior year's average wholesale price, the average wholesale price would be the prior year's average wholesale price multiplied by .95.

"Wholesale price" would mean the price per gallon of self-serve unleaded regular gasoline charged by a licensed supplier to a purchaser at the time of removal from a terminal across the rack, as determined by the Department, based on available pricing data that best reflect or approximate Michigan rack prices as reported by the United States Energy Administration, the Oil Price Information Service, or a similar nationally recognized source for such pricing data, whether publicly available or available only by subscription. The term would not include the tax imposed under the bill, prepaid State sales tax, Federal excise tax, any other Federal motor fuel tax, or an environmental protection regulatory fee pursuant to the Natural Resources and Environmental Protection Act.)

The bill also would require liquefied petroleum gas (LPG) to be taxed at the same rate as discussed above beginning January 1, 2015. Currently, the tax rate on LPG is 15 cents per gallon.

The Department would have to publish notice of gasoline and diesel fuel tax rates on January 1 of each year and at least 30 days before the effective date of the new rate. The rate determination would be presumed to be correct and could be set aside only if an administrative tribunal or court found the Department's determination to be clearly erroneous.

Currently, in computing the tax, a supplier may deduct 1.5% of the quantity of gasoline removed by the supplier to allow for the cost of remitting the tax. The bill instead would allow a deduction of 1.0%. The amount may be credited to a wholesaler or supplier, and in some circumstances, the retailer.

The bill would increase civil penalties for operators, owners, or drivers of vehicles using dyed diesel fuel. Dyed diesel fuel generally is restricted to non-roadway use. Currently, the penalties are \$200 for each of the first two violations within one year, and \$5,000 for each third and subsequent violation within one year. The bill would require a civil penalty of \$1,000 for the first violation and \$5,000 for each subsequent violation.

The bill would take effect on January 1, 2015.

MCL 207.1002 et al

FISCAL IMPACT

House Bill 5477 (S-13) would increase net revenue to the State by an amount that would depend on the magnitude of motor fuel price increases and/or motor fuel consumption. This revenue generally would be distributed to the Michigan Transportation Fund (MTF), the Comprehensive Transportation Fund, and the Recreation Improvement Account of the Legacy Fund. Distributions are made from the MTF to the State Trunkline Fund, county road agencies, and cities and villages. Revenue estimates based on varied average wholesale price scenarios through FY 2018-19 are attached. These estimates are based in part on fuel consumption projections that take into account the price of gasoline, estimated future fleet fuel economy, and State GDP. The estimates also include comparisons to estimated revenue based on the current fuel tax structure.

This analysis assumes a wholesale price of \$2.81 per gallon in FY 2014-15.

The bill would replace the current fixed per gallon tax on motor fuels with a new per gallon tax that would vary based on the wholesale price of motor fuel. Eliminating the current tax would reduce MTF revenue by approximately \$927.6 million per year, and revenue to the Recreation Improvement Account by approximately \$18.9 million. The amount of revenue generated by the replacement tax would depend on the wholesale price of motor fuel, subject to certain limitations on how much the price used to compute the tax rate can change each year. For

example, if prices were to decline 5% or more each year through FY 2018-19, the replacement revenue to the MTF would total \$1.8 billion, an increase of \$858 million from current law. On the other hand, if prices were to rise 5% or more each year, FY 2018-19 replacement revenue to the MTF would total \$2.6 billion, an increase of \$1.7 billion from current law. For a breakdown of the distribution of these range estimates in FY 2018-19, when the 15.5% wholesale price tax would be fully phased in and realized, please see [Table 2](#).

Table 2

Estimated Distribution of Additional Revenue by Agency/Fund in FY 2018-19 (Dollars in Millions)		
Distribution To:	Max. Possible Revenue (5% Increase in Wholesale Gas Price per Year)	Min. Possible Revenue (5% Decrease in Wholesale Gas Price per Year)
<u>Michigan Transportation Fund (MTF)</u>		
Comprehensive Transportation Fund.	\$165.9	\$85.8
State Trunkline Fund (MDOT).....	584.0	301.9
County Road Agencies.....	584.0	301.9
Cities and Villages.....	325.6	168.3
MTF Total.....	\$1,659.5	\$857.9
Recreation Improvement Account....	\$27.2	\$13.8
Total.....	\$1,686.7	\$871.7

The fiscal impact assumes that corollary changes to those in the bill would be made to taxes assessed under the Motor Carrier Fuel Tax Act. The bill is not tie-barred to a bill that would make such changes.

The fiscal impact of increasing the fuel tax on LPG, and reducing the tax deduction for suppliers from 1.0% to 1.5%, would be nominal.

The fiscal impact of increasing civil fines for using dyed diesel in vehicles on roadways is indeterminate. Currently, fines are assessed according to a 12-month time period, after which the penalty "resets" to the original amount of \$200 for the first two offenses. Since the bill would provide for set fines regardless of the time frame in which multiple offenses occurred, based solely on the offense being either a first or subsequent offense, it is unclear what effect the bill's provisions for these penalties would have on revenue. Additionally, as the bill would substantially change the nature of these fines, in some cases resulting in a \$5,000 fine instead of a \$200 fine, it is unclear what effect the bill would have on motorist behavior.

Fiscal Analyst: Glenn Steffens
David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Comparison: Current Fuel Tax and Fuel Tax under HB 5477 (S-13)

SCENARIO 1: Wholesale Gasoline Price remains static at current price of \$2.81/gallon

	Current Fuel Tax:				Tax Rate under HB 5477 (S-13):				Net Gain in MTF Under HB 5477 (S-13)
	State Fuel Tax Per Gallon	Gasoline Pump Price	Diesel Pump Price	MTF Revenue	State Fuel Tax Per Gallon	Gasoline Pump Price	Diesel Pump Price	MTF Revenue	
FY 2014-2015	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.23	\$931,800,000	\$0.267	\$3.98	\$4.34	\$1,135,800,000	\$204,000,000
FY 2015-2016	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.24	\$929,700,000	\$0.324	\$4.03	\$4.42	\$1,553,100,000	\$623,400,000
FY 2016-2017	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.26	\$924,900,000	\$0.380	\$4.09	\$4.49	\$1,828,400,000	\$903,500,000
FY 2017-2018	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.28	\$914,900,000	\$0.436	\$4.15	\$4.57	\$2,089,600,000	\$1,174,700,000
FY 2018-2019	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.30	\$901,900,000	\$0.436	\$4.15	\$4.59	\$2,132,600,000	\$1,230,700,000

SCENARIO 2: Wholesale Gasoline Price increases by 5%/year (Rate Adjustment Ceiling) - Maximum Estimated Revenue

	Current Fuel Tax:				Tax Rate under HB 5477 (S-13):				Net Gain in MTF Under HB 5477 (S-13)
	State Fuel Tax Per Gallon	Gasoline Pump Price	Diesel Pump Price	MTF Revenue	State Fuel Tax Per Gallon	Gasoline Pump Price	Diesel Pump Price	MTF Revenue	
FY 2014-2015	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.23	\$931,800,000	\$0.267	\$3.98	\$4.34	\$1,135,800,000	\$204,000,000
FY 2015-2016	\$.19 (gas) \$.15 (diesel)	\$4.08	\$4.24	\$929,700,000	\$0.340	\$4.23	\$4.43	\$1,613,200,000	\$683,500,000
FY 2016-2017	\$.19 (gas) \$.15 (diesel)	\$4.26	\$4.26	\$924,900,000	\$0.419	\$4.49	\$4.53	\$1,994,300,000	\$1,069,400,000
FY 2017-2018	\$.19 (gas) \$.15 (diesel)	\$4.45	\$4.28	\$914,900,000	\$0.505	\$4.77	\$4.64	\$2,393,800,000	\$1,478,900,000
FY 2018-2019	\$.19 (gas) \$.15 (diesel)	\$4.66	\$4.30	\$901,900,000	\$0.530	\$5.00	\$4.68	\$2,561,400,000	\$1,659,500,000

SCENARIO 3: Wholesale Gasoline Price decreases by 5%/year (Rate Adjustment Floor) - Minimum Estimated Revenue

	Current Fuel Tax:				Tax Rate under HB 5477 (S-13):				Net Gain in MTF Under HB 5477 (S-13)
	State Fuel Tax Per Gallon	Gasoline Pump Price	Diesel Pump Price	MTF Revenue	State Fuel Tax Per Gallon	Gasoline Pump Price	Diesel Pump Price	MTF Revenue	
FY 2014-2015	\$.19 (gas) \$.15 (diesel)	\$3.90	\$4.23	\$931,800,000	\$0.267	\$3.98	\$4.34	\$1,135,800,000	\$204,000,000
FY 2015-2016	\$.19 (gas) \$.15 (diesel)	\$3.72	\$4.24	\$929,700,000	\$0.307	\$3.84	\$4.40	\$1,489,100,000	\$559,400,000
FY 2016-2017	\$.19 (gas) \$.15 (diesel)	\$3.56	\$4.26	\$924,900,000	\$0.343	\$3.71	\$4.46	\$1,668,600,000	\$743,700,000
FY 2017-2018	\$.19 (gas) \$.15 (diesel)	\$3.40	\$4.28	\$914,900,000	\$0.374	\$3.58	\$4.51	\$1,813,600,000	\$898,700,000
FY 2018-2019	\$.19 (gas) \$.15 (diesel)	\$3.25	\$4.30	\$901,900,000	\$0.355	\$3.41	\$4.51	\$1,759,800,000	\$857,900,000

Based on an initial wholesale price of \$2.81 per gallon.

Estimates subject to changes in gasoline and diesel fuel prices, distribution/profit, and fuel demand.