

# HOUSE BILL No. 4358

February 28, 2013, Introduced by Rep. Schmidt and referred to the Committee on  
Transportation and Infrastructure.

A bill to amend 1980 PA 119, entitled  
"Motor carrier fuel tax act,"  
by amending sections 2 and 6a (MCL 207.212 and 207.216a), section 2  
as amended by 2006 PA 346 and section 6a as added by 1996 PA 584.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. (1) A motor carrier licensed under this act shall pay  
2 a road tax calculated on the amount of motor fuel consumed in  
3 qualified commercial motor vehicles on the public roads or highways  
4 within this state. ~~Except as otherwise provided under subsection~~  
5 ~~(6), the~~ **THE** tax shall be at the rate of ~~15 cents per gallon on~~  
6 **PRESCRIBED UNDER SECTION 8(1)(D) OF THE MOTOR FUEL TAX ACT, 2000 PA**  
7 **403, MCL 207.1008, FOR** motor fuel consumed on the public roads or  
8 highways within this state. In addition, qualified commercial motor

1 vehicles licensed under this act that travel in interstate commerce  
2 ~~will be~~ **ARE** subject to the definition of taxable motor fuels and  
3 rates as defined by the respective international fuel tax agreement  
4 member jurisdictions. A **MOTOR CARRIER LICENSED UNDER THIS ACT SHALL**  
5 **FILE A** return ~~shall be filed,~~ and **PAY** the tax due ~~paid,~~ quarterly  
6 to the department on or before the last day of January, April,  
7 July, and October of each year on a form prescribed and furnished  
8 by the department. Each quarterly return and tax payment shall  
9 cover the liability for the annual quarter ending on the last day  
10 of the preceding month.

11 (2) The amount of motor fuel consumed in the operation of a  
12 motor carrier on public roads or highways within this state shall  
13 be determined by dividing the miles traveled within ~~Michigan~~ **THIS**  
14 **STATE** by the average miles per gallon of motor fuel. The average  
15 miles per gallon of motor fuel shall be determined by dividing the  
16 miles traveled within and outside of ~~Michigan~~ **THIS STATE** by the  
17 total amount of motor fuel consumed within and outside of  
18 ~~Michigan~~ **THIS STATE**.

19 (3) In the absence of records showing the average number of  
20 miles operated per gallon of motor fuel, it ~~shall be~~ **IS** presumed  
21 that 1 gallon of motor fuel is consumed for every 4 miles traveled.

22 (4) The quarterly tax return shall be accompanied by a  
23 remittance covering any tax due.

24 (5) The commissioner, when he or she considers it necessary to  
25 ensure payment of the tax or to provide a more efficient  
26 administration of the tax, may require the filing of returns and  
27 payment of the tax for other than quarterly periods.

1 ~~—— (6) The road tax required under this section shall be at a~~  
2 ~~rate of 12 cents per gallon for diesel fuel that contains at least~~  
3 ~~5% biodiesel. As used in this subsection, "biodiesel" means a fuel~~  
4 ~~composed of mono alkyl esters of long chain fatty acids derived~~  
5 ~~from vegetable oils or animal fats and, in accordance with~~  
6 ~~standards specified by the American society for testing and~~  
7 ~~materials, designated B100 and meeting the requirements of D-6751,~~  
8 ~~as approved by the department of agriculture.~~

9 ~~—— (7) Beginning on September 1, 2006, the state treasurer shall~~  
10 ~~annually determine, for the 12 month period ending May 1 and for~~  
11 ~~any additional times that the treasurer may determine, the~~  
12 ~~difference between the amount of motor fuel tax collected and the~~  
13 ~~amount of motor fuel tax that would have been collected but for the~~  
14 ~~differential rates on motor fuel in section 8 of the motor fuel tax~~  
15 ~~act, 2000 PA 403, MCL 207.1008, and on motor fuel in subsection~~  
16 ~~(6). Subsection (6) is no longer effective the earlier of 10 years~~  
17 ~~after September 1, 2006 or the first day of the first month that is~~  
18 ~~not less than 90 days after the state treasurer certifies that the~~  
19 ~~total cumulative rate differential due to the differential rates in~~  
20 ~~section 8 of the motor fuel tax act, 2000 PA 403, MCL 207.1008, and~~  
21 ~~subsection (6) from September 1, 2006 is greater than~~  
22 ~~\$2,500,000.00.~~

23 ~~—— (8) The legislature shall annually appropriate to the Michigan~~  
24 ~~transportation fund created in 1951 PA 51, MCL 247.651 to 247.675,~~  
25 ~~the amount determined as the rate differential certified by the~~  
26 ~~state treasurer for the 12 month period ending on May 1 of the~~  
27 ~~calendar year in which the fiscal year begins. Subsection (6) shall~~

1 ~~not be effective beginning January of any fiscal year for which the~~  
2 ~~appropriation required under this subsection has not been made by~~  
3 ~~the first day of the fiscal year.~~

4       Sec. 6a. (1) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (3), THE** tax  
5 imposed by this act shall be administered pursuant to ~~Act No. 122~~  
6 ~~of the Public Acts of 1941. 1941 PA 122, MCL 205.1 TO 205.31.~~ In  
7 case of conflict between ~~Act No. 122 of the Public Acts of 1941~~  
8 **1941 PA 122, MCL 205.1 TO 205.31,** and this act, this act shall  
9 prevail.

10       (2) Tax due other member jurisdictions of the international  
11 fuel tax agreement **THAT IS** incurred by persons while operating on a  
12 current, suspended, or revoked license issued by the department  
13 under the international fuel tax agreement ~~shall be~~ **IS** considered  
14 tax imposed by this act and a tax debt due this state.

15       **(3) A REFUND CLAIM INVOLVING THE PAYMENT OF A TAX THAT WAS**  
16 **PAID UNDER THIS ACT OR IN CONNECTION WITH A RETURN FILED UNDER THIS**  
17 **ACT MAY NOT BE FILED MORE THAN 18 MONTHS AFTER THE DATE THE MOTOR**  
18 **FUEL WAS PURCHASED.**

19       Enacting section 1. This amendatory act takes effect on the  
20 first day of the first calendar quarter immediately following the  
21 date this amendatory act is enacted into law.

22       Enacting section 2. This amendatory act does not take effect  
23 unless Senate Bill No. \_\_\_\_ or House Bill No. 4359 (request no.  
24 00009'13) of the 97th Legislature is enacted into law.