

# SENATE BILL No. 1073

January 31, 2008, Introduced by Senator WHITMER and referred to the Committee on Transportation.

A bill to amend 2000 PA 403, entitled  
"Motor fuel tax act,"  
by amending section 8 (MCL 207.1008), as amended by 2006 PA 268.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 8. (1) Subject to the exemptions provided for in this  
2       act, tax is imposed on motor fuel imported into or sold, delivered,  
3       or used in this state at the following rates:

4           (a) Except as otherwise provided in subdivision (c), 19 cents  
5       per gallon on gasoline.

6           (b) Except as otherwise provided in subdivision (d), 15 cents  
7       per gallon on diesel fuel.

8           (c) Subject to subsections (10) and (11), 12 cents per gallon  
9       on gasoline that is at least 70% ethanol. Under this subdivision,  
10       blenders of ethanol and gasoline outside of the bulk transfer

1 terminal system shall obtain a blender's license and are subject to  
2 the blender reporting requirements under this act. A licensed  
3 supplier who blends ethanol and gasoline shall also obtain a  
4 blender's license.

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

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

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

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

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

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

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

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

7 (d) That the tax imposed by this act be collected and paid at  
8 those times, in the manner, and by those persons specified in this  
9 act.

10 (6) Bills of lading and invoices shall identify the blended  
11 product and the correct fuel product code. The motor fuel tax rate  
12 for each product shall be listed separately on each invoice.  
13 Licensees shall report the correct fuel product code for the  
14 blended product as required by the department. When fuel is blended  
15 below the terminal rack, new bills of lading and invoices shall be  
16 generated and submitted to the department upon request. All bills  
17 of lading and invoices shall meet the requirements provided under  
18 this act.

19 (7) Notwithstanding any other provision of this act, all  
20 facilities in this state that produce motor fuel and distribute the  
21 fuel from a rack for purposes of this act are a terminal and shall  
22 obtain a terminal operator license and shall comply with all  
23 terminal operator reporting requirements under this act. All  
24 position holders in these facilities shall be licensed as a  
25 supplier and shall comply with all supplier requirements under this  
26 act.

27 (8) If the tax on gasoline that contains at least 70% ethanol

1 or diesel fuel that contains at least 5% biodiesel held in storage  
2 outside of the bulk transfer/terminal system on ~~the effective date~~  
3 ~~of the amendatory act that added this subsection~~ **SEPTEMBER 1, 2006**  
4 has previously been paid at the rates imposed by subsection (1)(a)  
5 and (b), the person who paid the tax may claim a refund for the  
6 difference between the rates imposed by subsection (1)(a) and (b)  
7 and the rates imposed by subsection (1)(c) and (d). All of the  
8 following shall apply to a refund claimed under this subsection:

9 (a) The refund shall be claimed on a form prescribed by the  
10 department.

11 (b) The refund shall apply only to:

12 (i) Previously taxed gasoline containing at least 70% ethanol  
13 or diesel fuel containing at least 5% biodiesel in excess of 3,000  
14 gallons held in storage by an end user.

15 (ii) Previously taxed gasoline containing at least 70% ethanol  
16 or diesel fuel containing at least 5% biodiesel held for sale that  
17 is in excess of dead storage.

18 (9) A refund request shall be filed within 60 days after ~~the~~  
19 ~~last day of the month in which the amendatory act that added this~~  
20 ~~subsection took effect~~ **SEPTEMBER 30, 2006**. A taxpayer shall provide  
21 documentation that the department requires in order to verify the  
22 request for refund. A person who may claim a refund under  
23 subsection (8) shall do all of the following to claim the refund:

24 (a) Not later than 12 a.m. on ~~the effective date of the~~  
25 ~~amendatory act that added this subsection~~ **SEPTEMBER 1, 2006**, take  
26 an inventory of gasoline containing at least 70% ethanol or undyed  
27 diesel fuel containing at least 5% biodiesel.

1 (b) Deduct 3,000 gallons if the person claiming the refund is  
2 an end user.

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

6 (10) Beginning on ~~the effective date of the amendatory act~~  
7 ~~that added this subsection~~ **SEPTEMBER 1, 2006**, the state treasurer  
8 shall annually determine, for the 12-month period ending May 1 and  
9 for any additional times that the treasurer may determine, the  
10 difference between the amount of motor fuel tax collected and the  
11 amount of motor fuel tax that would have been collected but for the  
12 differential rates on gasoline pursuant to subsection (1)(c) and  
13 biodiesel pursuant to subsection (1)(d). **THE TREASURER SHALL NOTIFY**  
14 **THE CHAIRS OF THE APPROPRIATIONS COMMITTEES OF THE SENATE AND THE**  
15 **HOUSE OF REPRESENTATIVES, THE CHAIRS OF THE APPROPRIATIONS**  
16 **SUBCOMMITTEES ON TRANSPORTATION OF THE SENATE AND THE HOUSE OF**  
17 **REPRESENTATIVES, AND THE SENATE AND HOUSE FISCAL AGENCIES OF THE**  
18 **RATE DIFFERENTIAL NO LATER THAN 7 DAYS AFTER THE TREASURER HAS**  
19 **DETERMINED THE RATE DIFFERENTIAL.** Subsection (1)(c) and (d) is no  
20 longer effective the earlier of 10 years after ~~the effective date~~  
21 ~~of the amendatory act that added this subsection~~ **SEPTEMBER 1, 2006**  
22 or the first day of the first month that is not less than 90 days  
23 after the state treasurer certifies that the total cumulative rate  
24 differential from the effective date of this amendatory act is  
25 greater than \$2,500,000.00.

26 (11) The legislature shall annually appropriate to the  
27 Michigan transportation fund created in 1951 PA 51, MCL 247.651 to

1 247.675, the amount determined as the rate differential certified  
2 by the state treasurer for the 12-month period ending on May 1 of  
3 the calendar year in which the fiscal year begins. ~~Subsection~~

4 **EXCEPT FOR THE FISCAL YEAR THAT BEGINS OCTOBER 1, 2007, SUBSECTION**

5 (1)(c) and (d) shall not be effective beginning January of any  
6 fiscal year for which the appropriation required under this  
7 subsection has not been made by the first day of the fiscal year.

8 **FOR THE FISCAL YEAR THAT BEGINS OCTOBER 1, 2007, SUBSECTION (1)(C)**

9 **AND (D) SHALL BE SUSPENDED BEGINNING JANUARY 1, 2008 IF THE**

10 **APPROPRIATION REQUIRED UNDER THIS SUBSECTION HAS NOT BEEN MADE BY**

11 **OCTOBER 1, 2007 AND SHALL BECOME EFFECTIVE NO LATER THAN 14 DAYS**

12 **AFTER THE DEPARTMENT OF TREASURY DETERMINES THAT THE APPROPRIATION**

13 **REQUIRED UNDER THIS SUBSECTION HAS BEEN MADE.**

14 (12) As used in this section:

15 (a) "Biodiesel" means a fuel composed of mono-alkyl esters of  
16 long chain fatty acids derived from vegetable oils or animal fats  
17 and, in accordance with standards specified by the American society  
18 for testing and materials, designated B100 and meeting the  
19 requirements of D-6751, as approved by the department of  
20 agriculture.

21 (b) "Ethanol" means denatured fuel ethanol that is suitable  
22 for use in a spark-ignition engine when mixed with gasoline so long  
23 as the mixture meets the American society for testing and materials  
24 D-5798 specifications.