

HOUSE BILL No. 4653

March 19, 2009, Introduced by Rep. Opsommer and referred to the Committee on Tax Policy.

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 (E) THAT THE TAX IMPOSED ON MOTOR FUEL BY THIS ACT IS
11 REPRESENTATIVE OF THE TYPE OF ENERGY-CONSUMPTION-BASED REVENUE
12 SCHEME THAT IS THE PRIMARY METHOD THAT THE LEGISLATURE TAXES
13 PERSONS FOR DRIVING MOTOR VEHICLES ON THE PUBLIC ROADS AND HIGHWAYS
14 OF THIS STATE. THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT
15 ANY FORM OF TAXATION OR FEES THAT IS BASED ON THE TRACKING OF WHERE
16 VEHICLES DRIVE IS NOT AN ACCEPTABLE METHOD OF REVENUE GENERATION
17 AND WILL NOT BE EMPLOYED BY THIS STATE.

18 (6) Bills of lading and invoices shall identify the blended
19 product and the correct fuel product code. The motor fuel tax rate
20 for each product shall be listed separately on each invoice.
21 Licensees shall report the correct fuel product code for the
22 blended product as required by the department. When fuel is blended
23 below the terminal rack, new bills of lading and invoices shall be
24 generated and submitted to the department upon request. All bills
25 of lading and invoices shall meet the requirements provided under
26 this act.

27 (7) Notwithstanding any other provision of this act, all

1 facilities in this state that produce motor fuel and distribute the
2 fuel from a rack for purposes of this act are a terminal and shall
3 obtain a terminal operator license and shall comply with all
4 terminal operator reporting requirements under this act. All
5 position holders in these facilities shall be licensed as a
6 supplier and shall comply with all supplier requirements under this
7 act.

8 (8) If the tax on gasoline that contains at least 70% ethanol
9 or diesel fuel that contains at least 5% biodiesel held in storage
10 outside of the bulk transfer/terminal system on ~~the effective date~~
11 ~~of the amendatory act that added this subsection~~ **SEPTEMBER 1, 2006**
12 has previously been paid at the rates imposed by subsection (1)(a)
13 and (b), the person who paid the tax may claim a refund for the
14 difference between the rates imposed by subsection (1)(a) and (b)
15 and the rates imposed by subsection (1)(c) and (d). All of the
16 following shall apply to a refund claimed under this subsection:

17 (a) The refund shall be claimed on a form prescribed by the
18 department.

19 (b) The refund shall apply only to:

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

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

26 (9) A refund request shall be filed within 60 days after ~~the~~
27 ~~last day of the month in which the amendatory act that added this~~

1 ~~subsection took effect~~ **SEPTEMBER 30, 2006**. A taxpayer shall provide
2 documentation that the department requires in order to verify the
3 request for refund. A person who may claim a refund under
4 subsection (8) shall do all of the following to claim the refund:

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

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

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

14 (10) Beginning on ~~the effective date of the amendatory act~~
15 ~~that added this subsection~~ **SEPTEMBER 1, 2006**, the state treasurer
16 shall annually determine, for the 12-month period ending May 1 and
17 for any additional times that the treasurer may determine, the
18 difference between the amount of motor fuel tax collected and the
19 amount of motor fuel tax that would have been collected but for the
20 differential rates on gasoline pursuant to subsection (1)(c) and
21 biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d)
22 is no longer effective the earlier of 10 years after ~~the effective~~
23 ~~date of the amendatory act that added this subsection~~ **SEPTEMBER 1,**
24 **2006** or the first day of the first month that is not less than 90
25 days after the state treasurer certifies that the total cumulative
26 rate differential from ~~the effective date of this amendatory act~~
27 **SEPTEMBER 1, 2006** is greater than \$2,500,000.00.

1 (11) The legislature shall annually appropriate to the
2 Michigan transportation fund created in 1951 PA 51, MCL 247.651 to
3 247.675, the amount determined as the rate differential certified
4 by the state treasurer for the 12-month period ending on May 1 of
5 the calendar year in which the fiscal year begins. Subsection
6 (1)(c) and (d) shall not be effective beginning January of any
7 fiscal year for which the appropriation required under this
8 subsection has not been made by the first day of the fiscal year.

9 (12) As used in this section:

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

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