

# HOUSE BILL NO. 5570

November 30, 2021, Introduced by Reps. Steven Johnson, Beeler, Eisen, Markkanen, Martin, Allor, Borton and Bellino and referred to the Committee on Tax Policy.

A bill to amend 2000 PA 403, entitled  
"Motor fuel tax act,"  
by amending sections 2, 3, and 8 (MCL 207.1002, 207.1003, and  
207.1008), as amended by 2015 PA 176.

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

- 1           Sec. 2. As used in this act:
- 2           (a) "Alcohol" means fuel grade ethanol or a mixture of fuel
- 3 grade ethanol and another product.
- 4           (b) "Blendstock" means ~~and includes~~ any petroleum product
- 5 component of motor fuel, such as naphtha, reformate, or toluene; or

1 any oxygenate that can be blended for use in a motor fuel.

2 (c) "Blended motor fuel" means a mixture of motor fuel and  
3 another liquid, other than a de minimis amount of a product  
4 including, but not limited to, carburetor detergent or oxidation  
5 inhibitor, that can be used as motor fuel in a motor vehicle.

6 (d) "Blender" means ~~and includes~~ any person ~~who~~ **that** produces  
7 blended motor fuel outside of the bulk transfer/terminal system.

8 (e) "Blends" or "blending" means the mixing of 1 or more  
9 petroleum products, with or without another product, regardless of  
10 the original character of the product blended, if the product  
11 obtained by the blending is capable of use in the generation of  
12 power for the propulsion of a motor vehicle, an airplane, or a  
13 marine vessel. Blending does not include mixing that occurs in the  
14 process of refining by the original refiner of crude petroleum or  
15 the blending of products known as lubricating oil in the production  
16 of lubricating oils and greases.

17 (f) "Bulk end user" means a person who receives into the  
18 person's own storage facilities by transport truck or tank wagon  
19 motor fuel for the person's own consumption.

20 (g) "Bulk plant" means a motor fuel storage and distribution  
21 facility that is not a terminal and from which motor fuel may be  
22 withdrawn by a tank wagon, a transport truck, or a marine vessel.

23 (h) "Bulk transfer" means a transfer of motor fuel from 1  
24 location to another by pipeline tender or marine delivery within  
25 the bulk transfer/terminal system, including, but not limited to,  
26 all of the following transfers:

27 (i) A marine vessel movement of motor fuel from a refinery or  
28 terminal to a terminal.

29 (ii) Pipeline movements of motor fuel from a refinery or

1 terminal to a terminal.

2 (iii) Book transfers of motor fuel within a terminal between  
3 licensed suppliers before completion of removal across the terminal  
4 rack.

5 (iv) Two-party exchanges between licensed suppliers.

6 (i) "Bulk transfer/terminal system" means the motor fuel  
7 distribution system consisting of refineries, pipelines, marine  
8 vessels, and terminals. Motor fuel in a refinery, pipeline,  
9 terminal, or a marine vessel transporting motor fuel to a refinery  
10 or terminal is in the bulk transfer/terminal system. Motor fuel in  
11 a fuel storage facility including, but not limited to, a bulk plant  
12 that is not part of a refinery or terminal, in the fuel supply tank  
13 of any engine or motor vehicle, in a marine vessel transporting  
14 motor fuel to a fuel storage facility that is not in the bulk  
15 transfer/terminal system, or in any tank car, rail car, trailer,  
16 truck, or other equipment suitable for ground transportation is not  
17 in the bulk transfer/terminal system.

18 (j) "Carrier" means an operator of a pipeline or marine vessel  
19 engaged in the business of transporting motor fuel above the  
20 terminal rack.

21 (k) "Commercial motor vehicle" means a motor vehicle licensed  
22 as a qualified commercial motor vehicle under the motor carrier  
23 fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, or a motor  
24 vehicle licensed under an international fuel tax agreement under  
25 section 2a of the motor carrier fuel tax act, 1980 PA 119, MCL  
26 207.212a.

27 ~~(l) "Consumer price index" means United States consumer price~~  
28 ~~index for all urban consumers as defined and reported by the United~~  
29 ~~States Department of Labor, Bureau of Labor Statistics.~~

1           **(l)** ~~(m)~~—"Dead storage" is the amount of motor fuel that cannot  
2 be pumped out of a motor fuel storage tank because the motor fuel  
3 is below the mouth of the tank's draw pipe. The amount of motor  
4 fuel in dead storage is 200 gallons for a tank with a capacity of  
5 less than 10,000 gallons and 400 gallons for a tank with a capacity  
6 of 10,000 gallons or more.

7           **(m)** ~~(n)~~—"Denaturants" means gasoline, natural gasoline,  
8 gasoline components, or toxic or noxious materials added to fuel  
9 grade ethanol to make it unsuitable for beverage use but not  
10 unsuitable for automotive use.

11           **(n)** ~~(o)~~—"Department" means the department of treasury or its  
12 designee.

13           **(o)** ~~(p)~~—"Destination state" means a state, Canadian province  
14 or territory, or foreign country to which motor fuel is directed  
15 for export.

16           **(p)** ~~(q)~~—"Diesel fuel" means any liquid other than gasoline  
17 that is capable of use as a fuel or a component of a fuel in a  
18 motor vehicle that is propelled by a diesel-powered engine or in a  
19 diesel-powered train. Diesel fuel includes number 1 and number 2  
20 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel  
21 fuel also includes any blendstock or additive that is sold for  
22 blending with diesel fuel, any liquid prepared, advertised, offered  
23 for sale, sold for use as, or used in the generation of power for  
24 the propulsion of a diesel-powered engine, airplane, or marine  
25 vessel. An additive or blendstock is presumed to be sold for  
26 blending unless a certification is obtained for federal purposes  
27 that the substance is for a use other than blending for diesel  
28 fuel. Diesel fuel does not include an excluded liquid.

29           **(q)** ~~(r)~~—"Dyed diesel fuel" means diesel fuel that is dyed in

1 accordance with ~~internal revenue service~~ **Internal Revenue Service**  
2 rules or pursuant to any other ~~internal revenue service~~ **Internal**  
3 **Revenue Service** requirements, including any invisible marker  
4 requirements.

5 (r) ~~(s)~~—"Eligible purchaser" means a person who has been  
6 authorized by the department under section 75 to make an election  
7 under section 74.

8 (s) ~~(t)~~—"Excluded liquid" means that term as defined in 26 CFR  
9 48.4081-1.

10 (t) ~~(u)~~—"Export" means to obtain motor fuel in this state for  
11 sale or other distribution outside of this state. Motor fuel  
12 delivered outside of this state by or for the seller constitutes an  
13 export by the seller and motor fuel delivered outside of this state  
14 by or for the purchaser constitutes an export by the purchaser.

15 (u) ~~(v)~~—"Exporter" means a person who exports motor fuel.

16 Sec. 3. As used in this act:

17 (a) "Fuel feedstock user" means a person who receives motor  
18 fuel for the person's own use in the manufacture or production of  
19 any substance other than motor fuel.

20 (b) "Fuel grade ethanol" means the American Society for  
21 Testing and Materials standard in effect on April 1, 2001 as the D-  
22 4806 specification for denatured fuel grade ethanol for blending  
23 with gasoline.

24 (c) "Fuel transportation vehicle" means a vehicle designed or  
25 used to transport motor fuel on the public roads or highways. Fuel  
26 transportation vehicle includes, but is not limited to, a transport  
27 truck and a tank wagon. Fuel transportation vehicle does not  
28 include a vehicle transporting a nurse tank or limited volume  
29 auxiliary-mounted supply tank used for fueling an implement of

1 husbandry.

2 (d) "Gallon" means a unit of liquid measure as customarily  
3 used in the United States containing 231 cubic inches, or 4 quarts,  
4 or its metric equivalent expressed in liters. Where the term gallon  
5 appears in this act, the term liters is interchangeable ~~so long as~~  
6 **if** the equivalence of a gallon and 3.785 liters is preserved. A  
7 quantity required to be furnished under this act may be specified  
8 in liters ~~when~~ **if** authorized by the department.

9 (e) "Gasohol" means a blended motor fuel composed of gasoline  
10 and fuel grade ethanol.

11 (f) "Gasoline" means gasoline, alcohol, gasohol, casing head  
12 or natural gasoline, benzol, benzine, naphtha, and any blendstock  
13 additive, or other product including methanol that is sold for  
14 blending with gasoline or for use on the road other than products  
15 typically sold in containers of less than 5 gallons. Gasoline also  
16 includes a liquid prepared, advertised, offered for sale, sold for  
17 use as, or used in the generation of power for the propulsion of a  
18 motor vehicle, airplane, or marine vessel, including a product  
19 obtained by blending together any 1 or more products of petroleum,  
20 with or without another product, and regardless of the original  
21 character of the petroleum products blended, if the product  
22 obtained by the blending is capable of use in the generation of  
23 power for the propulsion of a motor vehicle, airplane, or marine  
24 vessel. The blending of all of the above named products **in this**  
25 **subdivision**, regardless of their name or characteristics, ~~shall is~~  
26 conclusively ~~be~~ presumed to have been done to produce motor fuel,  
27 unless the product obtained by the blending is entirely incapable  
28 of use as motor fuel. Gasoline also includes transmixon. Gasoline  
29 does not include diesel fuel or leaded racing fuel. An additive or

1 blendstock is presumed to be sold for blending unless a  
2 certification is obtained for federal purposes that the substance  
3 is for a use other than blending for gasoline.

4 (g) "Gross gallons" means the total measured product,  
5 exclusive of any temperature or pressure adjustments,  
6 considerations, or deductions, in gallons.

7 (h) "Implement of husbandry" means a farm tractor, a vehicle  
8 designed to be drawn or pulled by a farm tractor or animal, a  
9 vehicle that directly harvests farm products, or a vehicle that  
10 directly applies fertilizer, spray, or seeds to a farm field.  
11 Implement of husbandry does not include a motor vehicle licensed  
12 for use on the public roads or highways of this state.

13 (i) "Import" means to bring motor fuel into this state by  
14 motor vehicle, marine vessel, pipeline, or any other means. Import  
15 does not include bringing motor fuel into this state in the fuel  
16 supply tank of a motor vehicle if the motor fuel is used to power  
17 that motor vehicle. Motor fuel delivered into this state from  
18 outside of this state by or for the seller constitutes an import by  
19 the seller, and motor fuel delivered into this state from outside  
20 of this state by or for the purchaser constitutes an import by the  
21 purchaser.

22 (j) "Importer" means a person who imports motor fuel into this  
23 state.

24 (k) "Import verification number" means the number assigned by  
25 the department to an individual delivery of motor fuel by a  
26 transport truck, tank wagon, marine vessel, or rail car in response  
27 to a request for a number from an importer or transporter carrying  
28 motor fuel into this state for the account of an importer.

29 ~~(l) "Inflation rate" means the annual percentage change in the~~

1 ~~consumer price index, as determined by the department, comparing~~  
 2 ~~the 2 most recent October 1 through September 30 periods that are~~  
 3 ~~immediately preceding the effective date of the rate prescribed~~  
 4 ~~under section 8(1)(c), converted to decimals. If the annual~~  
 5 ~~percentage change is negative, then the inflation rate is zero.~~

6 (l) ~~(m)~~—"In this state" means the area within the borders of  
 7 this state, including all territories within the borders owned by,  
 8 held in trust by, or added to the United States of America.

9 (m) ~~(n)~~—"Invoiced gallons" means the number of gallons  
 10 actually billed on an invoice.

11 Sec. 8. (1) Except as otherwise provided in this act and  
 12 subject to the exemptions provided for in this act, tax is imposed  
 13 on motor fuel imported into or sold, delivered, or used in this  
 14 state at the following rates:

15 (a) ~~Except as otherwise provided in subdivision (c),~~ **For**  
 16 **gasoline**, as follows:

17 (i) Through December 31, 2016, 19 cents per gallon on gasoline.

18 (ii) Beginning January 1, 2017, 26.3 cents per gallon on  
 19 gasoline.

20 (b) ~~Except as otherwise provided in subdivision (c),~~ **For**  
 21 **diesel fuel**, as follows:

22 (i) Through December 31, 2016, 15 cents per gallon on diesel  
 23 fuel.

24 (ii) Beginning January 1, 2017, 26.3 cents per gallon on diesel  
 25 fuel.

26 ~~(c) Beginning with the rate effective on January 1, 2022 and~~  
 27 ~~January 1 of each year thereafter, the department shall determine a~~  
 28 ~~cents-per-gallon rate on motor fuel that shall be derived by~~  
 29 ~~multiplying the cents-per-gallon rate in effect during the~~



1 ~~immediately preceding calendar year by 1 plus the lesser of 0.05 or~~  
2 ~~the inflation rate and rounding up the product to the nearest 1/10~~  
3 ~~of a cent.~~

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

6 (3) The collection, payment, and remittance of the tax imposed  
7 by this section ~~shall~~**must** be accomplished in the manner and at the  
8 time provided for in this act.

9 (4) Tax is also imposed at the rate described in subsection  
10 (1) on net gallons of motor fuel, including transmix, lost or  
11 unaccounted for, at each terminal in this state. The tax ~~shall~~**must**  
12 be measured annually and ~~shall apply~~**applies** to the net gallons of  
13 motor fuel lost or unaccounted for that are in excess of 1/2 of 1%  
14 of all net gallons of fuel removed from the terminal across the  
15 rack or in bulk.

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

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

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

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

26 (d) That the tax imposed by this act be collected and paid at  
27 those times, in the manner, and by those persons specified in this  
28 act.

29 (6) Bills of lading and invoices ~~shall~~**must** identify the

1 blended product and the correct fuel product code. The motor fuel  
 2 tax rate for each product ~~shall~~**must** be listed separately on each  
 3 invoice. Licensees shall report the correct fuel product code for  
 4 the blended product as required by the department. ~~When~~**If** fuel is  
 5 blended below the terminal rack, new bills of lading and invoices  
 6 ~~shall~~**must** be generated and submitted to the department ~~upon~~**on**  
 7 request. All bills of lading and invoices ~~shall~~**must** meet the  
 8 requirements ~~provided under~~**of** this act.

9 (7) Notwithstanding any other provision of this act, a  
 10 facility in this state that produces motor fuel and distributes the  
 11 fuel from a rack for purposes of this act is a terminal, shall  
 12 obtain a terminal operator license, and shall comply with all  
 13 terminal operator reporting requirements under this act. A position  
 14 holder in a facility shall be licensed as a supplier and shall  
 15 comply with all supplier requirements under this act.

16 ~~(8) Beginning with the rate in effect on January 1, 2022 and~~  
 17 ~~January 1 of each year thereafter, the department shall publish~~  
 18 ~~notice of the tax rate under this section not later than 30 days~~  
 19 ~~before the effective date of the rate.~~

20 ~~(9) A determination by the department of the consumer price~~  
 21 ~~index, the inflation rate, or the tax rate under this section is~~  
 22 ~~presumed correct and shall not be set aside unless an~~  
 23 ~~administrative tribunal or a court of competent jurisdiction finds~~  
 24 ~~the department's determination to be clearly erroneous.~~