

# HOUSE BILL No. 5477

April 23, 2014, Introduced by Reps. VerHeulen and Walsh and referred to the Committee on Transportation and Infrastructure.

A bill to amend 2000 PA 403, entitled  
"Motor fuel tax act,"  
by amending sections 2, 3, 6, 8, and 152 (MCL 207.1002, 207.1003,  
207.1006, 207.1008, and 207.1152), section 2 as amended by 2002 PA  
668, section 3 as amended by 2006 PA 277, and section 8 as amended  
by 2006 PA 268.

## 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) "AVERAGE WHOLESALE PRICE" MEANS THE STATEWIDE AVERAGE  
5       WHOLESALE PRICE AS DETERMINED BY THE DEPARTMENT BASED UPON A 12-  
6       MONTH ROLLING AVERAGE OF THE WHOLESALE PRICE. THE 12-MONTH ROLLING  
7       AVERAGE PERIOD ENDS ON THE LAST DAY OF THE MONTH THAT IS 3 MONTHS

1 PRIOR TO THE MONTH IN WHICH THE RATE IS DETERMINED BY THE  
2 DEPARTMENT UNDER SECTION 8(1)(C).

3 (C) "BASE YEAR REVENUE" MEANS THE TOTAL REVENUE COLLECTED BY  
4 THE DEPARTMENT DURING THE FISCAL YEAR ENDING SEPTEMBER 30, 2014  
5 DERIVED FROM MOTOR FUEL SOLD, DELIVERED, OR USED IN THIS STATE UPON  
6 WHICH THE TAX UNDER SECTION 8(1) WAS IMPOSED.

7 (D) ~~(b)~~—"Blendstock" means and includes any petroleum product  
8 component of motor fuel, such as naphtha, reformat, or toluene; or  
9 any oxygenate that can be blended for use in a motor fuel.

10 (E) ~~(e)~~—"Blended motor fuel" means a mixture of motor fuel and  
11 another liquid, other than a de minimis amount of a product  
12 including, but not limited to, carburetor detergent or oxidation  
13 inhibitor, that can be used as motor fuel in a motor vehicle.

14 (F) ~~(d)~~—"Blender" means and includes any person who produces  
15 blended motor fuel outside of the bulk transfer/terminal system.

16 (G) ~~(e)~~—"Blends" or "blending" means the mixing of 1 or more  
17 petroleum products, with or without another product, regardless of  
18 the original character of the product blended, if the product  
19 obtained by the blending is capable of use in the generation of  
20 power for the propulsion of a motor vehicle, an airplane, or a  
21 marine vessel. Blending does not include mixing that occurs in the  
22 process of refining by the original refiner of crude petroleum or  
23 the blending of products known as lubricating oil in the production  
24 of lubricating oils and greases.

25 (H) ~~(f)~~—"Bulk end user" means a person who receives into the  
26 person's own storage facilities by transport truck or tank wagon  
27 motor fuel for the person's own consumption.

1           (I) ~~(g)~~—"Bulk plant" means a motor fuel storage and  
2 distribution facility that is not a terminal and from which motor  
3 fuel may be withdrawn by a tank wagon, a transport truck, or a  
4 marine vessel.

5           (J) ~~(h)~~—"Bulk transfer" means a transfer of motor fuel from 1  
6 location to another by pipeline tender or marine delivery within  
7 the bulk transfer/terminal system, including, but not limited to,  
8 all of the following transfers:

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

11           (ii) Pipeline movements of motor fuel from a refinery or  
12 terminal to a terminal.

13           (iii) Book transfers of motor fuel within a terminal between  
14 licensed suppliers before completion of removal across the terminal  
15 rack.

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

17           (K) ~~(i)~~—"Bulk transfer/terminal system" means the motor fuel  
18 distribution system consisting of refineries, pipelines, marine  
19 vessels, and terminals. Motor fuel in a refinery, pipeline,  
20 terminal, or a marine vessel transporting motor fuel to a refinery  
21 or terminal is in the bulk transfer/terminal system. Motor fuel in  
22 a fuel storage facility including, but not limited to, a bulk plant  
23 that is not part of a refinery or terminal, in the fuel supply tank  
24 of any engine or motor vehicle, in a marine vessel transporting  
25 motor fuel to a fuel storage facility that is not in the bulk  
26 transfer/terminal system, or in any tank car, rail car, trailer,  
27 truck, or other equipment suitable for ground transportation is not

1 in the bulk transfer/terminal system.

2 (I) ~~(j)~~—"Carrier" means an operator of a pipeline or marine  
3 vessel engaged in the business of transporting motor fuel above the  
4 terminal rack.

5 (M) ~~(k)~~—"Commercial motor vehicle" means a motor vehicle  
6 licensed **AS A QUALIFIED COMMERCIAL MOTOR VEHICLE** under the motor  
7 carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, **OR A**  
8 **MOTOR VEHICLE LICENSED UNDER AN INTERNATIONAL FUEL TAX AGREEMENT**  
9 **UNDER SECTION 2A OF THE MOTOR CARRIER FUEL TAX ACT, 1980 PA 119,**  
10 **MCL 207.212A.**

11 (N) ~~(l)~~—"Dead storage" is the amount of motor fuel that cannot  
12 be pumped out of a motor fuel storage tank because the motor fuel  
13 is below the mouth of the tank's draw pipe. The amount of motor  
14 fuel in dead storage is 200 gallons for a tank with a capacity of  
15 less than 10,000 gallons and 400 gallons for a tank with a capacity  
16 of 10,000 gallons or more.

17 (O) ~~(m)~~—"Denaturants" means ~~and includes~~ gasoline, natural  
18 gasoline, gasoline components, or toxic or noxious materials added  
19 to fuel grade ethanol to make it unsuitable for beverage use but  
20 not unsuitable for automotive use.

21 (P) ~~(n)~~—"Department" means the ~~bureau of revenue within the~~  
22 department of treasury or its designee.

23 (Q) ~~(o)~~—"Destination state" means ~~the~~ **A** state, Canadian  
24 province or territory, or foreign country to which motor fuel is  
25 directed for export.

26 (R) ~~(p)~~—"Diesel fuel" means any liquid other than gasoline  
27 that is capable of use as a fuel or a component of a fuel in a

1 motor vehicle that is propelled by a diesel-powered engine or in a  
2 diesel-powered train. Diesel fuel includes number 1 and number 2  
3 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel  
4 fuel also includes any blendstock or additive that is sold for  
5 blending with diesel fuel, any liquid prepared, advertised, offered  
6 for sale, sold for use as, or used in the generation of power for  
7 the propulsion of a diesel-powered engine, airplane, or marine  
8 vessel. An additive or blendstock is presumed to be sold for  
9 blending unless a certification is obtained for federal purposes  
10 that the substance is for a use other than blending for diesel  
11 fuel. Diesel fuel does not include an excluded liquid.

12 (S) ~~(q)~~—"Dyed diesel fuel" means diesel fuel that is dyed in  
13 accordance with internal revenue service rules or pursuant to any  
14 other internal revenue service requirements, including any  
15 invisible marker requirements.

16 (T) ~~(r)~~—"Eligible purchaser" means a person who has been  
17 authorized by the department under section 75 to make ~~the~~ **AN**  
18 election under section 74.

19 (U) ~~(s)~~—"Excluded liquid" means that term as defined in 26  
20 ~~C.F.R.~~ **CFR** 48.4081-1.

21 (V) ~~(t)~~—"Export" means to obtain motor fuel in this state for  
22 sale or other distribution outside of this state. Motor fuel  
23 delivered outside of this state by or for the seller constitutes an  
24 export by the seller and motor fuel delivered outside of this state  
25 by or for the purchaser constitutes an export by the purchaser.

26 (W) ~~(u)~~—"Exporter" means a person who exports motor fuel.

27 Sec. 3. As used in this act:

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

4 (b) "Fuel grade ethanol" means the American society for  
5 testing and materials standard in effect on ~~the effective date of~~  
6 ~~this act~~ **APRIL 1, 2001** as the D-4806 specification for denatured  
7 fuel grade ethanol for blending with gasoline.

8 (c) "Fuel transportation vehicle" means a vehicle designed or  
9 used to transport motor fuel on the public roads or highways. Fuel  
10 transportation vehicle includes, but is not limited to, a transport  
11 truck and a tank wagon. Fuel transportation vehicle does not  
12 include a vehicle transporting a nurse tank or limited volume  
13 auxiliary-mounted supply tank used for fueling an implement of  
14 husbandry.

15 (d) "Gallon" means a unit of liquid measure as customarily  
16 used in the United States containing 231 cubic inches, or 4 quarts,  
17 or its metric equivalent expressed in liters. Where the term gallon  
18 appears in this act, the term liters is interchangeable so long as  
19 the equivalence of a gallon and 3.785 liters is preserved. A  
20 quantity required to be furnished under this act may be specified  
21 in liters when authorized by the department.

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

24 (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,  
25 casing head or natural gasoline, benzol, benzine, naphtha, and any  
26 blendstock additive, or other product including methanol that is  
27 sold for blending with gasoline or for use on the road other than

1 products typically sold in containers of less than 5 gallons.  
2 Gasoline also includes a liquid prepared, advertised, offered for  
3 sale, sold for use as, or used in the generation of power for the  
4 propulsion of a motor vehicle, airplane, or marine vessel,  
5 including a product obtained by blending together any 1 or more  
6 products of petroleum, with or without another product, and  
7 regardless of the original character of the petroleum products  
8 blended, if the product obtained by the blending is capable of use  
9 in the generation of power for the propulsion of a motor vehicle,  
10 airplane, or marine vessel. The blending of all of the above named  
11 products, regardless of their name or characteristics, shall  
12 conclusively be presumed to have been done to produce motor fuel,  
13 unless the product obtained by the blending is entirely incapable  
14 of use as motor fuel. Gasoline also includes transmix. Gasoline  
15 does not include diesel fuel or leaded racing fuel. An additive or  
16 blendstock is presumed to be sold for blending unless a  
17 certification is obtained for federal purposes that the substance  
18 is for a use other than blending for gasoline.

19 (g) "Gross gallons" means the total measured product,  
20 exclusive of any temperature or pressure adjustments,  
21 considerations, or deductions, in gallons.

22 (h) "Heating oil" means a motor fuel including dyed diesel  
23 fuel that is burned in a boiler, furnace, or stove for heating,  
24 agricultural, or industrial processing purposes.

25 (i) "Implement of husbandry" means ~~and includes~~ a farm  
26 tractor, a vehicle designed to be drawn or pulled by a farm tractor  
27 or animal, a vehicle that directly harvests farm products, ~~and OR~~ a

1 vehicle that directly applies fertilizer, spray, or seeds to a farm  
2 field. Implement of husbandry does not include a motor vehicle  
3 licensed for use on the public roads or highways of this state.

4 (j) "Import" means to bring motor fuel into this state by  
5 motor vehicle, marine vessel, pipeline, or any other means.

6 ~~However, import~~ **IMPORT** does not include bringing motor fuel into  
7 this state in the fuel supply tank of a motor vehicle if the motor  
8 fuel is used to power that motor vehicle. Motor fuel delivered into  
9 this state from outside of this state by or for the seller  
10 constitutes an import by the seller, and motor fuel delivered into  
11 this state from ~~out~~ **OUTSIDE** of this state by or for the purchaser  
12 constitutes an import by the purchaser.

13 (k) "Importer" means a person who imports motor fuel into this  
14 state.

15 (l) "Import verification number" means the number assigned by  
16 the department to an individual delivery of motor fuel by a  
17 transport truck, tank wagon, marine vessel, or rail car in response  
18 to a request for a number from an importer or transporter carrying  
19 motor fuel into this state for the account of an importer.

20 (m) "In this state" means the area within the borders of this  
21 state, including all territories within the borders owned by, held  
22 in trust by, or added to the United States of America.

23 **(N) "INDEX" MEANS THE NATIONAL HIGHWAY CONSTRUCTION COST INDEX**  
24 **OR, IF THE FEDERAL HIGHWAY ADMINISTRATION CEASES PUBLICATION OF THE**  
25 **NATIONAL HIGHWAY CONSTRUCTION COST INDEX, THE PUBLISHED INDEX THAT**  
26 **MOST CLOSELY MEASURES INFLATION IN THE COSTS OF HIGHWAY**  
27 **CONSTRUCTION, AS DETERMINED BY THE DEPARTMENT.**



1           (O) "INFLATION RATE" MEANS THE 4-CALENDAR-QUARTER AVERAGE OF  
2 THE INDEX FOR A CALENDAR YEAR AS DETERMINED BY THE DEPARTMENT.

3           (P) ~~(n)~~—"Invoiced gallons" means the number of gallons  
4 actually billed on an invoice.

5           Sec. 6. As used in this act:

6           (a) "Tank wagon" means a straight truck having 1 or more  
7 compartments other than the fuel supply tank designed or used to  
8 carry motor fuel.

9           (b) "Tank wagon operator-importer" means a person who operates  
10 a tank wagon and imports motor fuel into this state from another  
11 state.

12           (c) "Tax" means a tax, interest, or penalty levied under this  
13 act.

14           (d) "Terminal" means a motor fuel storage and distribution  
15 facility that meets all of the following requirements:

16           (i) Is registered as a qualified terminal by the internal  
17 revenue service.

18           (ii) Is supplied by pipeline or marine vessel.

19           (iii) Has a rack from which motor fuel may be removed.

20           (e) "Terminal operator" means a person who owns, operates, or  
21 otherwise controls a terminal.

22           (f) "Transmix" means the mixed product that results from the  
23 buffer or interface of 2 different products in a pipeline shipment,  
24 or a mixture of 2 different products within a refinery or terminal  
25 that results in an off-grade mixture.

26           (g) "Transport truck" means a semitrailer combination rig  
27 designed or used for the purpose of transporting motor fuel over

1 the public roads or highways.

2 (h) "Transporter" means an operator of a railroad or rail car,  
3 tank wagon, transport truck, or other fuel transportation vehicle  
4 engaged in the business of transporting motor fuel below the  
5 terminal rack.

6 (i) "Two-party exchange" means a transaction in which motor  
7 fuel is transferred from 1 licensed supplier or licensed permissive  
8 supplier to another licensed supplier or licensed permissive  
9 supplier where all of the following occur:

10 (i) The transaction includes a transfer from the person who  
11 holds the original inventory position for motor fuel in the  
12 terminal as reflected in the records of the terminal operator.

13 (ii) The exchange transaction is completed before removal  
14 across the rack from the terminal by the receiving licensed  
15 supplier or licensed permissive supplier.

16 (iii) The terminal operator in its books and records treats the  
17 receiving exchange party as the supplier that removes the product  
18 across a terminal rack for purposes of reporting the transaction to  
19 the department.

20 (j) "Ultimate vendor" means the person who sells motor fuel to  
21 the end user of the fuel.

22 (K) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF UNLEADED  
23 REGULAR GASOLINE CHARGED BY A LICENSED SUPPLIER TO A PURCHASER AT  
24 THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE RACK, AS DETERMINED  
25 BY THE DEPARTMENT. WHOLESALE PRICE DOES NOT INCLUDE THE TAX IMPOSED  
26 BY THIS ACT, PREPAID SALES TAX UNDER SECTION 6A OF THE GENERAL  
27 SALES TAX ACT, 1933 PA 167, MCL 205.56A, FEDERAL EXCISE TAX UNDER

1 SECTION 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER  
 2 FEDERAL TAX UPON MOTOR FUEL, OR AN ENVIRONMENTAL PROTECTION  
 3 REGULATORY FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES  
 4 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

5 (I) ~~(k)~~ "Wholesaler" means a person who acquires motor fuel  
 6 from a supplier or from another wholesaler for subsequent sale and  
 7 distribution at wholesale by a fuel transportation vehicle, rail  
 8 car, or other motor vehicle.

9 Sec. 8. (1) ~~Subject~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT**  
 10 **AND SUBJECT** to the exemptions provided ~~for~~ in this act, tax is  
 11 imposed on motor fuel imported into or sold, delivered, or used in  
 12 this state at the following rates:

13 (a) Except as otherwise provided in ~~subdivision~~ **SUBDIVISIONS**  
 14 (c) **AND (D)**, 19 cents per gallon on gasoline.

15 (b) Except as otherwise provided in ~~subdivision (d)~~,  
 16 **SUBDIVISIONS (C) AND (D)**, 15 cents per gallon on diesel fuel.

17 ~~—— (c) Subject to subsections (10) and (11), 12 cents per gallon~~  
 18 ~~on gasoline that is at least 70% ethanol. Under this subdivision,~~  
 19 ~~blenders of ethanol and gasoline outside of the bulk transfer~~  
 20 ~~terminal system shall obtain a blender's license and are subject to~~  
 21 ~~the blender reporting requirements under this act. A licensed~~  
 22 ~~supplier who blends ethanol and gasoline shall also obtain a~~  
 23 ~~blender's license.~~

24 ~~—— (d) Subject to subsections (10) and (11), 12 cents per gallon~~  
 25 ~~on diesel fuel that contains at least 5% biodiesel. Under this~~  
 26 ~~subdivision, blenders of biodiesel and diesel fuel outside of the~~  
 27 ~~bulk transfer terminal system are required to obtain a blender's~~

~~license and are subject to the blender reporting requirements under this act. A licensed supplier who blends biodiesel and diesel fuel shall also obtain a blender's license.~~

(C) SUBJECT TO SUBDIVISION (D), BEGINNING OCTOBER 1, 2014, 6% OF THE WHOLESALE PRICE AS CALCULATED BY THE DEPARTMENT.

(D) THE DEPARTMENT MAY ADJUST THE RATE CALCULATED UNDER SUBDIVISION (C) AS FOLLOWS:

(i) THE DEPARTMENT MAY DECREASE THE RATE BY THE LESSER OF THE FOLLOWING:

(A) THE AMOUNT NECESSARY TO LIMIT THE INCREASE IN REVENUE FROM THE TAX IMPOSED UNDER THIS SECTION BETWEEN A FISCAL YEAR AND THE IMMEDIATELY PRECEDING FISCAL YEAR TO 5%.

(B) THE INFLATION RATE.

(ii) THE DEPARTMENT MAY INCREASE THE RATE BY THE AMOUNT NECESSARY TO ENSURE THAT THE REVENUE GENERATED FROM THE TAX IMPOSED UNDER THIS SECTION IN A FISCAL YEAR IS NOT LESS THAN THE BASE YEAR REVENUE.

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

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

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

1 gallons of fuel removed from the terminal across the rack or in  
2 bulk.

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

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

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

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

13 (d) That the tax imposed by this act be collected and paid at  
14 those times, in the manner, and by those persons specified in this  
15 act.

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

25 (7) Notwithstanding any other provision of this act, ~~all~~  
26 ~~facilities~~ **A FACILITY** in this state that ~~produce~~ **PRODUCES** motor  
27 fuel and ~~distribute~~ **DISTRIBUTES** the fuel from a rack for purposes

1 of this act ~~are~~ **IS** a terminal, and shall obtain a terminal operator  
2 license, and shall comply with all terminal operator reporting  
3 requirements under this act. ~~All~~ **A** position holders **HOLDER** in these  
4 facilities **A FACILITY** shall be licensed as a supplier and shall  
5 comply with all supplier requirements under this act.

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

15 ~~—— (a) The refund shall be claimed on a form prescribed by the~~  
16 ~~department.~~

17 ~~—— (b) The refund shall apply only to:~~

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

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

24 ~~—— (9) A refund request shall be filed within 60 days after the~~  
25 ~~last day of the month in which the amendatory act that added this~~  
26 ~~subsection took effect. A taxpayer shall provide documentation that~~  
27 ~~the department requires in order to verify the request for refund.~~

~~A person who may claim a refund under subsection (8) shall do all of the following to claim the refund.~~

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

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

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

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

~~—— (11) The legislature shall annually appropriate to the 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 ~~(1)(c) and (d) shall not be effective beginning January of any~~  
5 ~~fiscal year for which the appropriation required under this~~  
6 ~~subsection has not been made by the first day of the fiscal year.~~

7 ~~—— (12) As used in this section:~~

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

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

18 (8) THE DEPARTMENT SHALL PUBLISH NOTICE OF THE APPLICABLE TAX  
19 RATE CALCULATED UNDER SUBSECTION (1)(C) OR (D) NOT LATER THAN 30  
20 DAYS BEFORE THE EFFECTIVE DATE OF THE RATE.

21 (9) A DEPARTMENTAL DETERMINATION OF THE AVERAGE WHOLESALE  
22 PRICE, THE WHOLESALE PRICE, BASE YEAR REVENUE, INFLATION RATE, OR  
23 THE RATE OR PERCENTAGE UNDER SUBSECTION (1)(C) OR (D) IS PRESUMED  
24 TO BE CORRECT AND SHALL NOT BE SET ASIDE UNLESS AN ADMINISTRATIVE  
25 TRIBUNAL OR A COURT OF COMPETENT JURISDICTION FINDS THE  
26 DEPARTMENT'S DETERMINATION TO BE CLEARLY ERRONEOUS.

27 Sec. 152. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A tax at



1 a rate of 15 cents per gallon is imposed upon all liquefied  
2 petroleum gas used in this state. The tax shall be paid at the  
3 times and in the manner specified in this section. The tax on  
4 liquefied petroleum gas fuel sold or delivered either by placing  
5 into a permanently attached fuel supply tank on a motor vehicle, or  
6 exchanging or replacing the fuel supply tank of a motor vehicle,  
7 shall be collected by the LPG dealer from the purchaser and paid  
8 ~~ever quarterly~~ to the department **QUARTERLY** as provided in this act.  
9 Liquefied petroleum gas fuel delivered in this state into the  
10 storage facility of any person when the exclusive purpose of the  
11 storage facility is for resale or use in a motor vehicle on the  
12 public roads or highways of this state, shall, upon delivery to  
13 storage facility, be subject to tax. An LPG dealer shall, upon  
14 delivery of the liquefied petroleum gas, collect and remit the tax  
15 to the department as provided in this act.

16 (2) A person shall not operate a motor vehicle on the public  
17 roads or highways of this state from the cargo containers of a  
18 truck, trailer, or semitrailer with liquefied petroleum gas in  
19 vapor or liquid form, except when the fuel in the liquid or vapor  
20 phase is withdrawn from the cargo container for use in motor  
21 vehicles through a permanently installed and approved metering  
22 device. The tax on liquefied petroleum gas withdrawn from a cargo  
23 container through a permanently installed and approved metering  
24 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons  
25 as reflected by meter reading, and shall be paid quarterly by the  
26 LPG dealer to the department as provided in this act.

27 (3) **BEGINNING OCTOBER 1, 2014, THE TAX DESCRIBED IN**

1 SUBSECTIONS (1) AND (2) SHALL BE IMPOSED AT A RATE EQUAL TO THE  
2 RATE PER GALLON FOR MOTOR FUEL UNDER SECTION 8(1)(C), AS ADJUSTED  
3 UNDER SECTION 8(1)(D).

4 Enacting section 1. This amendatory act takes effect on the  
5 first day of the first calendar quarter following the date of its  
6 enactment.