

SUBSTITUTE FOR
HOUSE BILL NO. 6750

A bill to amend 1980 PA 119, entitled
"Motor carrier fuel tax act,"
by amending section 2 (MCL 207.212), as amended by 2006 PA 346.

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 tax shall be at the rate of 15 cents per gallon~~ **THE TAX**
6 **SHALL BE** on motor fuel consumed on the public roads or highways
7 within this state **BASED ON THE AVERAGE WHOLESALE PRICE AT A RATE OF**
8 **0%.**

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

11 (3) ~~(2)~~—The amount of motor fuel consumed in the operation of
12 a motor carrier on public roads or highways within this state shall
13 be determined by dividing the miles traveled within Michigan by the
14 average miles per gallon of motor fuel. The average miles per
15 gallon of motor fuel shall be determined by dividing the miles
16 traveled within and outside of Michigan by the total amount of
17 motor fuel consumed within and outside of Michigan.

18 (4) ~~(3)~~—In the absence of records showing the average number
19 of miles operated per gallon of motor fuel, it shall be presumed
20 that 1 gallon of motor fuel is consumed for every 4 miles traveled.

21 (5) ~~(4)~~—The quarterly tax return shall be accompanied by a
22 remittance covering any tax due.

23 (6) ~~(5)~~—The commissioner, when he or she considers it
24 necessary to ensure payment of the tax or to provide a more
25 efficient administration of the tax, may require the filing of
26 returns and payment of the tax for other than quarterly periods.

27 ~~(6) The road tax required under this section shall be at a~~

~~rate of 12 cents per gallon for diesel fuel that contains at least 5% biodiesel. As used in this subsection, "biodiesel" means a fuel composed of mono alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and, in accordance with standards specified by the American society for testing and materials, designated B100 and meeting the requirements of D-6751, as approved by the department of agriculture.~~

~~—— (7) Beginning on September 1, 2006, 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 motor fuel in section 8 of the motor fuel tax act, 2000 PA 403, MCL 207.1008, and on motor fuel in subsection (6). Subsection (6) is no longer effective the earlier of 10 years after September 1, 2006 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 due to the differential rates in section 8 of the motor fuel tax act, 2000 PA 403, MCL 207.1008, and subsection (6) from September 1, 2006 is greater than \$2,500,000.00.~~

~~—— (8) The legislature shall annually appropriate to the Michigan transportation fund created in 1951 PA 51, MCL 247.651 to 247.675, the amount determined as the rate differential certified by the state treasurer for the 12 month period ending on May 1 of the calendar year in which the fiscal year begins. Subsection (6) shall not be effective beginning January of any fiscal year for which the~~

~~appropriation required under this subsection has not been made by
the first day of the fiscal year.~~

(7) AS USED IN THIS SECTION:

(A) "AVERAGE WHOLESALE PRICE" MEANS THE PER GALLON WHOLESALE PRICE ADJUSTED NO MORE FREQUENTLY THAN QUARTERLY AS DETERMINED BY THE DEPARTMENT. IN ANY ADMINISTRATIVE OR COURT PROCEEDING BROUGHT TO CHALLENGE THE DETERMINATION OF AVERAGE WHOLESALE PRICE, THE DEPARTMENT'S DETERMINATION IS PRESUMED TO BE CORRECT AND SHALL NOT BE SET ASIDE UNLESS IT IS CLEARLY ERRONEOUS.

(B) "WHOLESALE PRICE" MEANS THE PRICE CHARGED BY A SUPPLIER TO A PURCHASER, EXCLUDING THE TAX IMPOSED BY THIS ACT, PREPAID SALES TAX IMPOSED UNDER SECTION 6A OF THE GENERAL SALES TAX ACT, 1933 PA 167, MCL 205.56A, AND ANY ENVIRONMENTAL PROTECTION REGULATORY FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 4575.

(b) House Bill No. 4576.