

**SUBSTITUTE FOR
SENATE BILL NO. 1029**

A bill to amend 2000 PA 403, entitled
"Motor fuel tax act,"
by amending the title and sections 8, 143, and 152 (MCL 207.1008,
207.1143, and 207.1152), as amended by 2015 PA 176.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to prescribe a tax on the sale and use of certain types
3 of fuel in motor vehicles on the public roads or highways of this
4 state and on certain other types of gas; to prescribe the manner
5 and the time of collection and payment of this tax and the duties
6 of officials and others pertaining to the payment and collection of
7 this tax; to provide for the licensing of persons involved in the
8 sale, use, or transportation of motor fuel and the collection and

1 payment of the tax imposed by this act; to prescribe fees; to
2 prescribe certain other powers and duties of certain state agencies
3 and other persons; to provide for exemptions and refunds and for
4 the disposition of the proceeds of this tax; to provide for
5 appropriations from the proceeds of this tax; **to make certain other**
6 **appropriations**; to prescribe remedies and penalties for the
7 violation of this act; and to repeal acts and parts of acts.

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

12 (a) Except as otherwise provided in subdivision (c) **or (d)**, as
13 follows:

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

15 (ii) Beginning January 1, 2017, 26.3 cents per gallon on
16 gasoline.

17 (b) Except as otherwise provided in subdivision (c) **or (d)**, as
18 follows:

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

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

23 (c) Beginning with the rate effective on January 1, 2022 and
24 January 1 of each year thereafter, the department shall determine a
25 cents-per-gallon rate on motor fuel that shall be derived by
26 multiplying the cents-per-gallon rate in effect during the
27 immediately preceding calendar year by 1 plus the lesser of 0.05 or
28 the inflation rate and rounding up the product to the nearest 1/10
29 of a cent. **In making this determination, the department shall not**

1 consider subdivision (d). However, the increased rate under this
2 subdivision does not apply while the rate under subdivision (d)
3 applies.

4 (d) Notwithstanding subdivisions (a) to (c), beginning June
5 15, 2022 through September 15, 2022, the rate of tax on motor fuel
6 under this subsection shall be zero cents per gallon.

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

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

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

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

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

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

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

29 (d) That the tax imposed by this act be collected and paid at

1 those times, in the manner, and by those persons specified in this
2 act.

3 **(e) That end users receive the benefit of the reduction in**
4 **taxes resulting from the application of subsection (1) (d).**

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

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

21 (8) Beginning with the rate in effect on January 1, 2022 and
22 January 1 of each year thereafter, the department shall publish
23 notice of the tax rate under this section **after application of**
24 **subsection (1) (c)** not later than 30 days before the effective date
25 of the rate **or 30 days before the date the rate would take effect**
26 **if not for the application of subsection (1) (d), whichever is**
27 **earlier.**

28 (9) A determination by the department of the ~~consumer price~~
29 ~~index,~~**Consumer Price Index**, the inflation rate, or the tax rate

1 under this section is presumed correct and shall not be set aside
 2 unless an administrative tribunal or a court of competent
 3 jurisdiction finds the department's determination to be clearly
 4 erroneous.

5 **(10) A person other than an end user shall not enrich themselves**
 6 **from a reduction in rate under subsection (1) (d), but shall pass**
 7 **the reduction on to the end user.**

8 Sec. 143. (1) Except as otherwise provided in subsection (2)
 9 or in section 142, all sums of money received and collected under
 10 this act, except for license fees, and after the payment of the
 11 necessary expenses incurred in the enforcement of this act, are
 12 appropriated to and shall be deposited in the state treasury to the
 13 credit of the Michigan transportation fund created in section 10 of
 14 1951 PA 51, MCL 247.660.

15 (2) Beginning in fiscal year 2016-2017 and each fiscal year
 16 thereafter, the first \$100,000,000.00 received and collected
 17 attributable to taxes imposed under section 8(1) shall be annually
 18 deposited into the state treasury to the credit of the roads
 19 innovation fund created in section 1j of 1951 PA 51, MCL 247.651j.
 20 However, once the funds are released by the 1-time concurrent
 21 resolution required under section 1j of 1951 PA 51, MCL 247.651j,
 22 funds shall no longer be annually deposited into the roads
 23 innovation fund under this subsection.

24 **(3) For the fiscal year ending September 30, 2022,**
 25 **\$300,000,000.00 is appropriated from the general fund to be**
 26 **distributed as follows to compensate for the revenue lost as a**
 27 **result of the application of section 8(1) (d):**

28 **(a) \$192,610,800.00 to be distributed among the county road**
 29 **commissions in accordance with section 12 of 1951 PA 51, MCL**

1 247.662, to be used by county road commissions as provided under
2 that section.

3 (b) \$107,389,200.00 to be distributed among cities and
4 villages in accordance with section 13 of 1951 PA 51, MCL 247.663,
5 to be used by cities and villages as provided under that section.

6 Sec. 152. (1) Except as otherwise provided in this section and
7 sections 154 and 155, a tax at the rate per gallon equal to the tax
8 on motor fuel is imposed upon all alternative fuel used in this
9 state. Except as provided in section 154 or 155, the tax shall be
10 paid at the times and in the manner specified in this section. The
11 tax on alternative fuel sold or delivered either by placing it into
12 a permanently attached fuel supply tank on a motor vehicle, or by
13 exchanging or replacing the fuel supply tank of a motor vehicle,
14 shall be collected by the alternative fuel dealer from the
15 purchaser, consumer, or end user and paid over monthly to the
16 department as provided in this act. Alternative fuel delivered in
17 this state into the storage facility of any person ~~when~~**if** the
18 exclusive purpose of the storage facility is for resale or use in a
19 motor vehicle on the public roads or highways of this state, shall,
20 upon delivery to storage facility, be subject to tax. An
21 alternative fuel dealer shall, upon delivery of the alternative
22 fuel, collect and remit the tax to the department as provided in
23 this act. A person shall not operate a motor vehicle on the public
24 roads or highways of this state from the cargo containers of a
25 truck, trailer, or semitrailer with alternative fuel in vapor or
26 liquid form, as applicable, except when the alternative fuel in the
27 liquid or vapor phase is withdrawn from the cargo container for use
28 in motor vehicles through a permanently installed and approved
29 metering device. The tax on alternative fuel withdrawn from a cargo

1 container through a permanently installed and approved metering
2 device shall apply in accordance with measured gallons or gallon
3 equivalents, if applicable, as reflected by meter reading, and
4 shall be paid monthly by the alternative fuel dealer to the
5 department as provided in this act.

6 (2) The rate of tax on the following alternative fuels shall
7 be equal to the tax on motor fuel per gallon equivalent or
8 fractional part thereof rounded to the nearest 1/10 of 1 gallon:

9 (a) Compressed natural gas.

10 (b) Hydrogen.

11 (c) Hydrogen compressed natural gas.

12 (d) Liquefied natural gas.

13 (3) The tax imposed under this section does not apply to an
14 alternative fuel commercial user described in section 154(2) until
15 January 1, 2017.

16 (4) The tax imposed under this section does not apply to a
17 person described in section 154(3) until January 1, 2018.

18 **(5) If the tax on motor fuel is zero cents per gallon under**
19 **section 8(1)(d), then the tax on alternative fuel is zero cents per**
20 **gallon equivalent.**