

Legislative Analysis



MOTOR CARRIER FUEL TAX ACT

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Senate Bill 1362 as enacted

Public Act 346 of 2006

Sponsor: Sen. Jud Gilbert, II

House Committee: Agriculture (Discharged)

Senate Committee: Technology and Energy (Discharged)

Complete to 12-12-06

A SUMMARY OF SENATE BILL 1362 AS ENACTED

Senate Bill 1362, enacted as Public Act 346 of 2006, would amend the Motor Carrier Fuel Tax Act (Public Act 119 of 1980) to conform to provisions of Senate Bill 1074 (enacted as Public Act 268 of 2006) which amended the Motor Fuel Tax Act to create a lower tax rate for certain alternative motor fuels (ethanol and biodiesel).

BACKGROUND INFORMATION:

Senate Bill 1074 created a 7-cent tax rate differential between gasoline and ethanol (i.e. gasoline containing at least 70 percent ethanol), and a 3-cent tax rate differential between diesel fuel and biodiesel (i.e. diesel fuel containing at least 5 percent biodiesel). Under provisions of the bill, effective September 1, 2006, ethanol and biodiesel will be taxed at 12 cents per gallon, instead of at 19 cents and 15 cents for gasoline and diesel fuel, respectively.

Although the motor fuel taxes imposed by the Motor Fuel Tax Act are collected from fuel suppliers, they are reflected in the pump price of fuel. Motorists who purchase fuel in Michigan effectively pay motor fuel taxes "at the pump." However, interstate motor carriers, who may use Michigan roads but never purchase fuel in Michigan, pay motor fuel taxes through quarterly International Fuel Tax Agreement (IFTA) filings authorized under the Motor Carrier Fuel Tax Act. The Motor Carrier Fuel Tax Act equates miles driven in Michigan with gallons consumed; either based on documented average miles per gallon, or, in the absence of records, bases on the presumption of one gallon of fuel consumption per each four miles driven. The total gallons consumed in Michigan are taxed under the Motor Carrier Fuel Tax Act at the same rate as the Motor Fuel Tax Act – currently 15 cents per gallon.

The Motor Fuel Tax and the Motor Carrier Fuel Tax Act work together; when a motor carrier files a quarterly IFTA report, he/she claims credit for the fuel tax already paid at the pump (if any) under the Motor Fuel Tax Act.

Senate Bill 1362 would amend the Motor Carrier Fuel Tax Act to conform to the provisions of Senate Bill 1074. It would tax biodiesel used in Michigan by motor carriers subject to the Motor Carrier Fuel Tax Act at 12 cents per gallon instead of at the 15-cent

per gallon rate applicable to regular diesel motor fuel. The bill has an effective date of September 1, 2006, to conform to the effective date of Senate Bill 1074.

FISCAL IMPACT:

Senate Bill 1074, enacted as Public Act 268 of 2006, amended the Motor Fuel Tax Act to establish a reduced tax rate for ethanol and biodiesel until: 1) 10 years after the bill's effective date i.e. 9/1/2016, or 2) four months after the date on which the Department of Treasury certifies that the amount of revenue "lost" because of the reduced rate is \$2.5 million, whichever is earlier. Senate Bill 1362 has similar provisions which, working together with Senate Bill 1074, would appear to limit the amount of revenue loss to the state to \$2.5 million over 10 years.

Revenue from both the Motor Fuel Tax Act and the Motor Carrier Fuel Tax Act is credited to the Michigan Transportation Fund (MTF) established under Public Act 51 of 1951 for state and local transportation programs. Both Senate Bill 1074 and Senate Bill 1362 would require the legislature to annually appropriate to the MTF (presumably from the state General Fund) the amount of revenue lost because of the reduced rate to the MTF. If the legislature does not do this, the reduced rate would cease beginning the first calendar year after the fiscal year in which the appropriation should have been made.

As noted above, the bills appear to limit the net revenue loss to the state to \$2.5 million over 10 years. However, the bills direct the State Treasurer (or Department of Treasury) to annually certify the amount of the "cumulative rate differential due to the differential rates..." It would appear to be possible that by the time the Treasurer makes an annual certification, the cumulative rate differential may have exceeded \$2.5 million.

The provisions of Senate Bill 1074 and Senate Bill 1362 which require the legislature to make an annual appropriation to the MTF of the amount of the rate differential are in conflict with provisions of Section 10 of Act 51 which identify the revenue sources for credit to the MTF and which prohibit the deposit of other monies from any other source, including the state General Fund, into the MTF.

While it may be relatively easy for the Michigan Department of Treasury to identify whether fuel distributed by suppliers is ethanol or biodiesel and thus subject to the lower tax rate, it is not clear how the department will determine whether interstate motor carriers are consuming regular diesel or bio-diesel while driving in Michigan.

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