

SENATE BILL No. 1362

(As amended, August 9, 2006)

July 26, 2006, Introduced by Senator GILBERT and referred to the Committee on Technology and Energy.

A bill to amend 1980 PA 119, entitled
"Motor carrier fuel tax act,"
by amending sections 2 and 4 (MCL 207.212 and 207.214), as amended
by 2002 PA 667.

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. <<The **EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION**
5 **(6), THE**>> tax shall be at the rate <<of 15 cents per

6 **gallon on**

7 <> motor fuel consumed on the public roads
8 or highways within this state. In addition, qualified commercial
9 motor vehicles licensed under this act that travel in interstate
commerce will be subject to the definition of taxable motor fuels

1 and rates as defined by the respective international fuel tax
2 agreement member jurisdictions. A return shall be filed, and the
3 tax due paid, quarterly to the department on or before the last day
4 of January, April, July, and October of each year on a form
5 prescribed and furnished by the department. Each quarterly return
6 and tax payment shall cover the liability for the annual quarter
7 ending on the last day of the preceding month.

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

15 (3) In the absence of records showing the average number of
16 miles operated per gallon of motor fuel, it shall be presumed that
17 1 gallon of motor fuel is consumed for every 4 miles traveled.

18 (4) The quarterly tax return shall be accompanied by a
19 remittance covering any tax due.

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

<<(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,

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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.>>

24 Sec. 4. (1) A person filing a return ~~pursuant to~~ **UNDER**
 25 section 2 who purchased motor fuel in this state upon which a tax
 26 was imposed and not refunded ~~pursuant to~~ **UNDER** the motor fuel tax
 27 act, 2000 PA 403, MCL 207.1001 TO 207.1170, shall be entitled to a

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1 credit against the tax imposed by this act equal to the tax paid
2 when purchasing the motor fuel ~~pursuant to~~ **UNDER** the motor fuel
3 tax act. The excess of a credit allowed by this subsection over tax
4 liabilities imposed by this act shall be refunded to the taxpayer.

5 (2) In order to secure credit under subsection (1) for motor
6 fuel purchased in this state the motor carrier shall secure a
7 receipt showing the seller's name, the number of gallons of motor
8 fuel, the type of motor fuel, **THE TAX RATE CHARGED**, the address of
9 the seller, the license number or unit number of the commercial
10 motor vehicle, and the date of sale.

11 (3) A refund, when approved by the department, shall be
12 payable from the revenue received under this act.

13 (4) A person, or an agent, employee, or representative of the
14 person, who makes a false statement in any return under this act or
15 who submits or provides an invoice or invoices in support of the
16 false statement upon which alterations or changes exist in the
17 date, name of seller or purchaser, number of gallons, identity of
18 the qualified commercial motor vehicle into which fuel was
19 delivered or the amount of tax that was paid, or who knowingly
20 presents any return or invoice containing a false statement, or who
21 collects or causes to be paid a refund without being entitled to
22 the refund, forfeits the full amount of the claim and is guilty of
23 a misdemeanor, punishable by a fine of not more than \$5,000.00 or
24 imprisonment for not more than 1 year, or both.

<<Enacting section 1. This amendatory act takes effect September 1,
2006.>>