

Act No. 221
Public Acts of 1987
Approved by the Governor
December 28, 1987
Filed with the Secretary of State
December 28, 1987

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1987**

Introduced by Reps. Alley, Ouwinga, Gagliardi, Hickner, Middaugh, Sitz, Weeks, Dutko, Rocca, DeMars, Sofio, Connors, Allen, Stacey, Docherty, Griffin, Power and Joe Young, Jr.

ENROLLED HOUSE BILL No. 4169

AN ACT to create the recreation improvement fund; to provide for a privilege tax and the distribution of the privilege tax on gasoline and diesel fuel sold for certain vehicles and watercraft; to provide for refunds from the tax; to prescribe the powers and duties of certain state agencies; to prescribe penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "recreation improvement fund act".

Sec. 2. As used in this act:

- (a) "Associated facilities" means restrooms, shelters, campgrounds, and parking lots, which directly relate to trails or waterways projects.
- (b) "Commission" means the commission of natural resources.
- (c) "Department" means the department of natural resources.
- (d) "Director" means the director of the department.
- (e) "Fund" means the recreation improvement fund created in section 5.
- (f) "Michigan state waterways fund" means the Michigan state waterways fund created in section 8 of Act No. 320 of the Public Acts of 1947, being section 281.508 of the Michigan Compiled Laws.
- (g) "Off-road vehicle" means ORV as it is defined in section 1 of Act No. 319 of the Public Acts of 1975, being section 257.1601 of the Michigan Compiled Laws, which are required to be registered under Act No. 319 of the Public Acts of 1975, being sections 257.1601 to 257.1626 of the Michigan Compiled Laws.
- (h) "Recreational projects" means, in addition to the activities provided for in this act, the construction, maintenance, and operation of trails and associated facilities which may be used by off-road vehicles, cross-country skiers, horseback riders, and hikers; and inland lake cleanup grants as provided by the inland lake improvement act of 1966, Act No. 345 of the Public Acts of 1966, being sections 281.901 to 281.930 of the Michigan Compiled Laws.
- (i) "Recreational snowmobile trail improvement fund" means the recreational snowmobile trail improvement fund created in section 4e of Act No. 74 of the Public Acts of 1968, being section 257.1504e of the Michigan Compiled Laws.
- (j) "Vessel" means all watercraft except the following:
 - (i) Watercraft used for commercial fishing.
 - (ii) Watercraft used by the Sea Scout department of the Boy Scouts of America chiefly for training scouts in seamanship.

(iii) Watercraft owned by this state or any political subdivision of this state or by the federal government.

(iv) Watercraft, when used in interstate or foreign commerce, and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft, when used in trade, including watercraft when used in connection with an activity which constitutes a person's chief business or means of livelihood.

(k) "Watercraft" means any contrivance now known or hereafter invented, used, or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, except watercraft used or owned by the United States.

Sec. 3. (1) There is a privilege tax imposed on all gasoline and diesel fuel sold in this state which is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The privilege tax shall be paid to the department of treasury in the same manner, at the same time, and at the rate per gallon as the tax levied under Act No. 150 of the Public Acts of 1927, being sections 207.101 to 207.202 of the Michigan Compiled Laws. The privilege tax imposed by this section shall not apply to liquefied petroleum gas.

Sec. 4. (1) The legislature finds 2.0% of all the gasoline sold in this state for consumption in internal combustion engines is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The department and the state transportation department shall prepare a joint report to the legislature by January 1, 1992 providing their estimate of actual gasoline and diesel fuel usage based on any data collected from the effective date of this act to January 1, 1991 and their observation of the historical trends of gasoline and diesel fuel usage in this state of the following categories:

(a) Off-road vehicles.

(b) Watercraft.

(c) Snowmobiles.

Sec. 5. (1) The purchaser of gasoline for the operation of vessels excepted from this act by section 1 shall be entitled to a refund of tax paid on that gasoline, upon filing a sworn claim with the department of treasury, upon forms prescribed and furnished by it, within 6 months from the date of purchase, as shown by the invoice. The retail distributor shall furnish a purchaser with an invoice showing the amount of gasoline purchased, the date of the purchase, and the total amount of tax paid on the purchase. Each dealer or distributor shall keep a copy of the invoices issued for a period of 2 years subject to examination by the department of treasury. Each claim for refund shall have attached to the claim the original invoice received by the purchaser, and when approved by the department of treasury, the claims shall be paid out of the state waterways fund upon warrant of the department of treasury.

(2) A person who makes a false statement in a claim or invoice presented to the department of treasury, or who presents to the department of treasury a claim or invoice containing a false statement, or who collects or causes to be paid to the person or any other person a refund without being entitled to the refund, shall forfeit the full amount of the claim and is guilty of a misdemeanor.

Sec. 6. The recreation improvement fund is created in the state treasury and shall be administered by the department of natural resources.

Sec. 7. The department of treasury shall annually present to the commission of natural resources an accurate total of all the gasoline taxes collected and determine the amount of revenue derived from them. The department of treasury shall determine the portion of these revenues derived from the sale of gasoline as described in section 3 by multiplying the total by 2.0% and shall credit this amount to the recreation improvement fund, less a deduction for collection costs and refunds.

Sec. 8. Any money remaining in the recreation improvement fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall only be used for the purposes stated in this act.

Sec. 9. (1) The commission shall annually review and make recommendations to the legislature for distributions of the fund, including recreational projects and geographic locations.

(2) Of the total fund, not less than 80% shall be credited to the Michigan state waterways fund, not less than 14% to the recreational snowmobile trail improvement fund, and the remaining balance, if any, shall be

distributed to recreational projects. Of the remaining balance credited to recreational projects in a fiscal year, not less than 25% of any funds designated for projects intended for off-road vehicles shall be expended on projects to repair damages as a result of pollution, impairment, or destruction of air, water, or other natural resources, or the public trust therein, as a result of the use of off-road vehicles.

Sec. 10. Section 9 of Act No. 320 of the Public Acts of 1947, being section 281.509 of the Michigan Compiled Laws, is repealed.

Sec. 11. This act shall not take effect unless all of the following bills of the 84th Legislature are enacted into law:

(a) Senate Bill No. 152.

(b) Senate Bill No. 321.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.