

HOUSE BILL No. 5139

November 10, 1987, Introduced by Rep. Maynard and referred to the
Committee on Taxation.

A bill to amend sections 2, 8, and 10 of Act No. 150 of the
Public Acts of 1927, entitled as amended

"An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors and the registration of retail dealers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act,"

section 2 as amended by Act No. 437 of the Public Acts of 1982,
section 8 as amended by Act No. 146 of the Public Acts of 1985,
and section 10 as amended by Act No. 419 of the Public Acts of
1980, being sections 207.102, 207.108, and 207.110 of the
Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 8, and 10 of Act No. 150 of the
2 Public Acts of 1927, section 2 as amended by Act No. 437 of the
3 Public Acts of 1982, section 8 as amended by Act No. 146 of the
4 Public Acts of 1985, and section 10 as amended by Act No. 419 of
5 the Public Acts of 1980, being sections 207.102, 207.108, and
6 207.110 of the Michigan Compiled Laws, are amended to read as
7 follows:

8 Sec. 2. (1) A specific tax at ~~a~~ THE rate of cents per
9 gallon determined under subsection (2) ~~or (3)~~ is imposed on all
10 gasoline, DIESEL FUEL, AND ALCOHOL-GASOLINE sold or used in
11 producing or generating power for propelling motor vehicles used
12 upon the public roads and highways in this state. The tax shall
13 be paid at those times, in the manner, and by those persons spec-
14 ified in this act. It is the intent of this act to impose a tax
15 upon the owners and drivers of motor vehicles using an internal
16 combustion type of engine upon the public roads and highways of
17 this state by requiring them to pay for the privilege of using
18 the public roads and highways of this state, in addition to the
19 motor vehicle license tax.

20 (2) ~~Until January 1, 1983, the tax rate imposed under sub-~~
21 ~~section (1) shall be 11 cents per gallon. Beginning January 1,~~
22 ~~1983, and ending December 31, 1984, the~~ THE tax rate imposed
23 under subsection (1) ~~for each 12-month period after December 31,~~
24 ~~1982~~ SHALL BE 15 CENTS PER GALLON THROUGH DECEMBER 31, 1987 AND
25 AFTER DECEMBER 31, 1987, shall be ~~11~~ 15 cents per gallon ~~or~~
26 ~~the tax rate calculated by the state commissioner of revenue as~~

1 ~~follows, with the final result of the calculation being rounded~~
2 ~~to the nearest 1/10 of a cent, whichever is the greater.~~ PLUS,
3 BEGINNING IN 1988, 15% OF ANY INCREASE IN THE STATEWIDE AVERAGE
4 PRICE OF A GALLON OF GASOLINE, DIESEL FUEL, OR ALCOHOL-GASOLINE
5 AT THE REFINERY LEVEL IN THIS STATE AS DETERMINED BY THE COMMIS-
6 SIONER OF REVENUE ON JUNE 1 AND DECEMBER 1 EACH YEAR AND ROUNDED
7 TO THE NEAREST WHOLE CENT. THE RATE AS THUS DETERMINED BY THE
8 COMMISSIONER SHALL BE THE NEW RATE EFFECTIVE JULY 1 AND JANUARY 1
9 EACH YEAR. THE RATE DETERMINED UNDER THIS SUBSECTION IS SUBJECT
10 TO SUBSECTION (3).

11 ~~(a) The latest available maintenance index figure for the~~
12 ~~most recent preceding calendar year for which a maintenance index~~
13 ~~figure is available shall be divided by the maintenance index~~
14 ~~figure for 1980.~~

15 ~~(b) The gallonage figure for the fiscal year ending~~
16 ~~September 30, 1980, shall be divided by the gallonage figure for~~
17 ~~the fiscal year preceding the 12-month period for which the tax~~
18 ~~is being calculated.~~

19 ~~(c) The quotient derived in subdivision (a) shall be multi-~~
20 ~~plied by the quotient derived in subdivision (b).~~

21 ~~(d) The product derived in subdivision (c) shall be multi-~~
22 ~~plied by 12 cents.~~

23 ~~(3) Beginning January 1, 1985, the tax rate imposed under~~
24 ~~subsection (1) shall be the tax rate imposed for the 12-month~~
25 ~~period ending December 31, 1984.~~

26 ~~(4) Notwithstanding any other provision of this section, if~~
27 ~~the United States department of transportation, federal highway~~

1 ~~administration, materially alters the component parts of the~~
2 ~~highway maintenance and operation index described in subsection~~
3 ~~(10), the tax rate imposed under subsection (1) using the formula~~
4 ~~prescribed by subsection (2) shall not change from the tax rate~~
5 ~~imposed under subsection (1) immediately preceding the~~
6 ~~alteration.~~

7 (3) ~~(5)~~ Notwithstanding any other provision of this sec-
8 tion, the tax rate imposed under subsection (1) for a ~~12-month~~
9 6-MONTH period shall not be more than 2 cents greater than the
10 tax rate imposed for the previous ~~12-month~~ 6-MONTH period.

11 (4) ~~(6)~~ The state commissioner of revenue shall notify
12 each REFINER, wholesale distributor, and ~~each~~ retail dealer of
13 gasoline in this state of the tax rate imposed under subsection
14 (1) immediately after the tax rate is determined.

15 ~~(7) Notwithstanding any other provision of this section but~~
16 ~~for subsections (8) and (9), a tax is imposed on all~~
17 ~~alcohol gasoline fuel sold or used in producing or generating~~
18 ~~power for propelling motor vehicles used upon the public roads~~
19 ~~and highways in this state. The rates imposed by this subsection~~
20 ~~shall apply only if the alcohol in the alcohol gasoline fuel was~~
21 ~~produced or distilled in this state or in any other state that~~
22 ~~provides a tax reduction, credit, or exemption for the sale or~~
23 ~~use of alcohol gasoline fuel containing alcohol produced or dis-~~
24 ~~tilled in this state that is at least equivalent to the per~~
25 ~~gallon rate reduction provided by this subsection for the appli-~~
26 ~~cable period from the rate specified by subsection (1). The tax~~

1 ~~shall be the same as that imposed under subsection (1), except as~~
2 ~~follows:~~

3 ~~(a) The tax rate per gallon for the balance of calendar year~~
4 ~~1982, calendar year 1983, and calendar year 1984 shall be 5 cents~~
5 ~~less than the tax rate imposed under subsection (1).~~

6 ~~(b) The tax rate per gallon for calendar year 1985 shall be~~
7 ~~3 cents less than the tax rate imposed under subsection (1).~~

8 ~~(c) The tax rate per gallon for calendar year 1986 shall be~~
9 ~~2 cents less than the tax rate imposed under subsection (1).~~

10 ~~(8) Notwithstanding any other provision of this section~~
11 ~~except for subsection (9), a tax is imposed on all~~
12 ~~alcohol gasoline fuel to which subsection (7) does not apply and~~
13 ~~which is sold or used in producing or generating power for pro-~~
14 ~~pellling motor vehicles used upon the public roads and highways in~~
15 ~~this state. The tax shall be the same as that imposed under sub-~~
16 ~~section (1), except as follows:~~

17 ~~(a) The tax rate per gallon for the balance of calendar year~~
18 ~~1982 shall be 5 cents less than the tax rate imposed under sub-~~
19 ~~section (1).~~

20 ~~(b) The tax rate per gallon for calendar year 1983 shall be~~
21 ~~3 cents less than the tax rate imposed under subsection (1).~~

22 ~~(c) The tax rate per gallon for calendar year 1984 shall be~~
23 ~~2 cents less than the tax rate imposed under subsection (1).~~

24 ~~(9) If, after January 1, 1983, the federal government~~
25 ~~increases the tax it imposes upon the sale of gasoline in this~~
26 ~~state and if the tax imposed by the federal government upon the~~
27 ~~sale of alcohol gasoline fuel in this state is more than 4 cents~~

~~1 per gallon less than the tax imposed by the federal government~~
~~2 upon the sale of gasoline in this state, the amount by which the~~
~~3 difference in the tax per gallon of the fuels exceeds 4 cents~~
~~4 shall be added to the rate per gallon that would otherwise be~~
~~5 imposed upon the sale or use of alcohol gasoline fuel in this~~
~~6 state under subsections (7) and (8). However, the tax on the~~
~~7 sale or use of alcohol gasoline fuel in this state shall not~~
~~8 exceed the tax on the sale of gasoline in this state.~~

~~9 (10) As used in this section:~~

~~10 (a) "Gallonge figure" means the number of gallons of gaso-~~
~~11 line, alcohol gasoline fuel, liquefied petroleum gas, diesel~~
~~12 motor fuel, and any other fuel taxed under this act during a des-~~
~~13 ignated year.~~

~~14 (b) "Maintenance index figure" means the maintenance index~~
~~15 total for a designated year as reported in the highway mainte-~~
~~16 nance and operation index published annually by the United States~~
~~17 department of transportation, federal highway administration.~~
~~18 cost trends highway maintenance and operation.~~

~~19 Sec. 8. (1) For the purpose of determining the amount of~~
~~20 the specific tax imposed by this act, every wholesale distributor~~
~~21 shall, on or before the twentieth day of each month, except when~~
~~22 the twentieth day of any month falls on a Saturday, Sunday, or~~
~~23 legal holiday, then on the next regular business day, file with~~
~~24 the department of treasury, on forms prescribed and furnished by~~
~~25 the department, a verified statement, showing the number of gal-~~
~~26 lons of gasoline which has been or is in his, her, or its~~
~~27 possession in the state on September 5, 1927, upon which the tax~~

1 has not been paid, and all gasoline thereafter received, as shown
2 by the shipper's invoices thereof, by the wholesale distributor
3 in the state from any source, during the preceding calendar
4 month; the date of purchase; the name of the manufacturer or
5 person, persons, firm, association, or corporation from whom pur-
6 chased; the date of receipt of the shipment of gasoline; the
7 point of origin; the point of destination of each shipment; the
8 quantity of each of the purchases or shipments; the name of the
9 carrier; the number of the car in which the purchases or ship-
10 ments were shipped, if shipped by rail, or the name and owner of
11 the boat, ship, barge, or vessel, if shipped by water; the owner
12 and license number of the automobile or truck used in transport-
13 ing the gasoline within this state, when the gasoline was pur-
14 chased from the manufacturer; the name and address of the owner
15 of the wagon, or other means of transportation, if brought into
16 this state by such mode; and in case gasoline is not so received
17 and the wholesale distributor manufactures or produces within
18 this state the gasoline in his, her, or its possession in the
19 state, the report required shall in lieu of the foregoing infor-
20 mation set forth the following: All gasoline manufactured,
21 stored, used, distributed, and sold within this state during the
22 preceding calendar month, and date of each sale, use, or distri-
23 bution; the quantity of each sale; the name and address of each
24 purchaser; the name of the carrier; the number of the car in
25 which the purchases or shipments were shipped, if shipped by
26 rail; or the name and owner of the boat, ship, barge, or vessel,
27 if shipped by water; the owner and license number of the

1 automobile or truck used in transporting the gasoline; the name
2 and address of the owner of the wagon or other means of transpor-
3 tation employed in the delivery of the gasoline so sold or dis-
4 tributed within this state, and any other information pertaining
5 to receipts, manufacture, use, distribution, or sales of gasoline
6 as the department requires. In addition, the report shall state
7 the total number of gallons of gasoline sold by the wholesale
8 distributor to all retail dealers during the preceding calendar
9 month. Each wholesale distributor, at the time of filing a
10 report, shall compute the amount of tax payable on account at the
11 applicable rate of tax per gallon, and to pay to the department
12 at the time of filing the report the full amount of the tax. In
13 computing the tax, a deduction of 2% of the quantity of gasoline
14 received shall be deducted to allow for evaporation and loss. At
15 the time of filing the report and paying the tax, the wholesale
16 distributor shall submit satisfactory evidence to the department
17 that the amount of tax represented by 1/3 of the deduction shall
18 have been paid or credited to the registered retail dealers on
19 quantities sold to them during the period covered by the report.
20 Within 1 year after the effective date of section 3b, the depart-
21 ment of treasury shall provide a report to the standing commit-
22 tees of the house of representatives and the senate responsible
23 for tax legislation. The report shall detail the actual amount
24 of evaporation and loss of gasoline experienced by persons taxed
25 under this act. In computing the tax all gasoline while in pro-
26 cess of transfer from tank steamers at boat terminal transfers
27 and while held in storage, pending wholesale bulk distribution by

1 land transportation, or in tanks and equipment used in receiving
2 and storing gasoline from interstate pipelines pending wholesale
3 bulk reshipment, shall be exempt from the payment of the tax.
4 ~~Gasoline~~ EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, GASOLINE
5 refined at a refinery in this state or gasoline stored at a boat
6 terminal transfer in this state may be sold, shipped, or deliv-
7 ered to wholesale distributors who are holders of unrevoked
8 wholesale distributors' licenses issued by the department as pro-
9 vided in this act without liability on the part of the seller for
10 the tax imposed by this act but the purchasers shall be liable
11 for the tax on the gasoline and shall for the purposes of this
12 act be deemed to be the wholesale distributors of the gasoline so
13 received.

14 (2) A wholesale distributor may claim a credit on the return
15 required to be filed under subsection (1) for prepayments of tax
16 made under section 6a of the general sales tax act, Act No. 167
17 of the Public Acts of 1933, being section 205.56a of the Michigan
18 Compiled Laws. Prepayments claimed on the return filed under
19 subsection (1) shall be based on the difference in the prepay-
20 ments made in the immediately preceding month and collections of
21 prepaid tax received from sales or transfer and shall be for pre-
22 payments made in the month in which the return is due.
23 Prepayments claimed on the return due in January 1984 shall be
24 based, at the option of the taxpayer, on retail sales for
25 December 1983, or the number of gallons for which tax is due for
26 December 1983. Amounts credited pursuant to this subsection
27 shall not be deducted from amounts required to be credited to the

1 Michigan transportation fund pursuant to section 18b. The
2 difference in actual prepayments shall be reconciled on the
3 return filed pursuant to section 3b in accordance with procedures
4 prescribed by the department. The department may establish pro-
5 cedures for the election of claims under this subsection and
6 section 6a of the general sales tax act to avoid duplication of
7 claims. This subsection shall take effect January 1, 1984.

8 Sec. 10. On or before the ~~fifth~~ TWENTIETH day of each
9 month every resident agent or employee of every contract or
10 common carrier doing business in this state and having the cus-
11 tody of books and records showing the receipts of gasoline deliv-
12 ered to a consignee in this state, whether for storage, use,
13 sale, or distribution, shall forward to the department of trea-
14 sury a report of all gasoline delivered by the carrier during the
15 preceding calendar month. The report shall state the name of the
16 carrier; the month for which the report is rendered; THE PRICE
17 CHARGED FOR EACH GALLON OF GASOLINE DELIVERED; the station or
18 place where delivered; the initial and number of the car in which
19 the gasoline was delivered, if shipped by rail; the name of the
20 owner of the boat, ship, barge, or vessel, if shipped by water;
21 the names and addresses of the consignor and consignee; the
22 number of gallons of gasoline in each car, if shipped by rail,
23 and the number of gallons of gasoline in each shipment, if
24 shipped by water; the date of delivery to the consignee by the
25 carrier; and any other information that the department of trea-
26 sury may require.