

SENATE BILL No. 811

March 18, 1992, Introduced by Senators N. SMITH and FAUST
and referred to the Committee on Transportation and
Tourism.

A bill to amend sections 8, 22, and 27 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 8 as amended by Act No. 146 of the Public Acts of 1985,
section 22 as amended by Act No. 437 of the Public Acts of 1982,
and section 27 as amended by Act No. 163 of the Public Acts of
1980, being sections 207.108, 207.122, and 207.127 of the
Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 8, 22, and 27 of Act No. 150 of the
2 Public Acts of 1927, section 8 as amended by Act No. 146 of the
3 Public Acts of 1985, section 22 as amended by Act No. 437 of the
4 Public Acts of 1982, and section 27 as amended by Act No. 163 of
5 the Public Acts of 1980, being sections 207.108, 207.122, and
6 207.127 the Michigan Compiled Laws, are amended to read as
7 follows:

8 Sec. 8. (1) For the purpose of determining the amount of
9 the specific tax imposed by this act, every wholesale distributor
10 shall, on or before the twentieth day of each month, except when
11 the twentieth day of any month falls on a Saturday, Sunday, or
12 legal holiday, then on the next regular business day, file with
13 the department of treasury, on forms prescribed and furnished by
14 the department, a verified statement, showing the number of gal-
15 lons of gasoline ~~which has been or is in his, her, or its pos-~~
16 ~~session in the state on September 5, 1927, upon which the tax has~~
17 ~~not been paid, and all gasoline thereafter~~ received, as shown by
18 the shipper's invoices, ~~thereof,~~ by the wholesale distributor
19 in the state from any source, during the preceding calendar
20 month; the date of purchase; the name of the manufacturer or
21 person, persons, firm, association, or corporation from whom pur-
22 chased; the date of receipt of the shipment of gasoline; the
23 point of origin; the point of destination of each shipment; the
24 quantity of each of the purchases or shipments; the name of the
25 carrier; the number of the car in which the purchases or
26 shipments were shipped, if shipped by rail, or the name and owner

1 of the boat, ship, barge, or vessel, if shipped by water; the
2 owner and license number of the automobile or truck used in
3 transporting the gasoline within this state, when the gasoline
4 was purchased from the manufacturer; ~~the name and address of the~~
5 ~~owner of the wagon, or other means of transportation, if brought~~
6 ~~into this state by such mode;~~ and in case gasoline is not so
7 received and the wholesale distributor manufactures or produces
8 within this state the gasoline in his, her, or its possession in
9 the state, the report required shall in lieu of the foregoing
10 information set forth the following: All gasoline manufactured,
11 stored, used, distributed, and sold within this state during the
12 preceding calendar month, and date of each sale, use, or distri-
13 bution; the quantity of each sale; the name and address of each
14 purchaser; the name of the carrier; the number of the car in
15 which the purchases or shipments were shipped, if shipped by
16 rail; or the name and owner of the boat, ship, barge, or vessel,
17 if shipped by water; the owner and license number of the automo-
18 bile or truck used in transporting the gasoline; the name and
19 address of the owner of the ~~wagon or other~~ means of transporta-
20 tion employed in the delivery of the gasoline so sold or distrib-
21 uted within this state, and any other information pertaining to
22 receipts, manufacture, use, distribution, or sales of gasoline as
23 the department requires. In addition, the report shall state the
24 total number of gallons of gasoline sold by the wholesale dis-
25 tributor to all retail dealers during the preceding calendar
26 month. Each wholesale distributor, at the time of filing a
27 report, shall compute the amount of tax payable on account at the

1 applicable rate of tax per gallon, and ~~to~~ SHALL pay to the
2 department at the time of filing the report the full amount of
3 the tax PLUS 1% OF THE AMOUNT DUE AS A COLLECTION FEE. ~~In com-~~
4 ~~puting the tax, a deduction of 2% of the quantity of gasoline~~
5 ~~received shall be deducted to allow for evaporation and loss. At~~
6 ~~the time of filing the report and paying the tax, the wholesale~~
7 ~~distributor shall submit satisfactory evidence to the department~~
8 ~~that the amount of tax represented by 1/3 of the deduction shall~~
9 ~~have been paid or credited to the registered retail dealers on~~
10 ~~quantities sold to them during the period covered by the report.~~
11 ~~Within 1 year after the effective date of section 3b, the depart-~~
12 ~~ment of treasury shall provide a report to the standing commit-~~
13 ~~tees of the house of representatives and the senate responsible~~
14 ~~for tax legislation. The report shall detail the actual amount~~
15 ~~of evaporation and loss of gasoline experienced by persons taxed~~
16 ~~under this act.~~ In computing the tax all gasoline while in pro-
17 cess of transfer from tank steamers at boat terminal transfers
18 and while held in storage, pending wholesale bulk distribution by
19 land transportation, or in tanks and equipment used in receiving
20 and storing gasoline from interstate pipelines pending wholesale
21 bulk reshipment, shall be exempt from the payment of the tax.
22 Gasoline refined at a refinery in this state or gasoline stored
23 at a boat terminal transfer in this state may be sold, shipped,
24 or delivered to wholesale distributors who are holders of unre-
25 voked wholesale distributors' licenses issued by the department
26 as provided in this act without liability on the part of the
27 seller for the tax imposed by this act but the purchasers shall

1 be liable for the tax on the gasoline and shall for the purposes
2 of this act be ~~deemed~~ CONSIDERED to be the wholesale distribu-
3 tors of the gasoline so received.

4 (2) A wholesale distributor may claim a credit on the return
5 required to be filed under subsection (1) for prepayments of tax
6 made under section 6a of the general sales tax act, Act No. 167
7 of the Public Acts of 1933, being section 205.56a of the Michigan
8 Compiled Laws. Prepayments claimed on the return filed under
9 subsection (1) shall be based on the difference in the prepay-
10 ments made in the immediately preceding month and collections of
11 prepaid tax received from sales or transfer and shall be for pre-
12 payments made in the month in which the return is due.

13 ~~Prepayments claimed on the return due in January 1984 shall be~~
14 ~~based, at the option of the taxpayer, on retail sales for~~
15 ~~December 1983, or the number of gallons for which tax is due for~~
16 ~~December 1983.~~ Amounts credited pursuant to this subsection
17 shall not be deducted from amounts required to be credited to the
18 Michigan transportation fund pursuant to section 18b. The dif-
19 ference in actual prepayments shall be reconciled on the return
20 filed pursuant to section 3b in accordance with procedures pre-
21 scribed by the department. The department may establish proce-
22 dures for the election of claims under this subsection and
23 section 6a of the general sales tax act to avoid duplication of
24 claims. This subsection shall take effect January 1, 1984.

25 Sec. 22. (1) A specific tax at a rate of cents per gallon
26 equal to the rate per gallon imposed under section 2(1) is
27 imposed upon all diesel motor fuel sold or used in producing or

1 generating power for propelling motor vehicles used upon the
2 public roads and highways in this state. The tax shall be paid
3 at those times, in the manner, and by those persons specified in
4 this act.

5 (2) There shall be allowed a discount of ~~-6-~~ 3 cents per
6 gallon of the tax imposed pursuant to subsection (1) if the
7 diesel motor fuel is delivered into the fuel supply tanks of
8 ~~either~~ a commercial motor vehicle licensed under the motor car-
9 rier fuel tax act, Act No. 119 of the Public Acts of 1980, being
10 sections 207.211 to ~~-207.236-~~ 207.235 of the Michigan Compiled
11 Laws. ~~, or a commercial motor vehicle for which a license is~~
12 ~~waived during the period from the effective date of Act No. 119~~
13 ~~of the Public Acts of 1980 until August 1, 1980. This subsection~~
14 ~~shall expire on the date on which the motor carrier fuel tax act~~
15 ~~expires or is repealed.~~

16 (3) The tax on diesel motor fuel sold and delivered in this
17 state by the seller into the fuel supply tanks of motor vehicles
18 shall be collected by the ~~seller from the purchaser~~ SUPPLIER
19 and paid over monthly to the department of treasury EXCEPT THAT
20 THE DISCOUNT PERMITTED BY SUBSECTION (2) SHALL BE DEDUCTED BY THE
21 SELLER FROM THE PRICE CHARGED THE PURCHASER. The department ~~may~~
22 ~~permit any seller~~ SHALL DETERMINE THE MANNER IN WHICH SELLERS of
23 diesel motor fuel ~~to report and pay to the department the tax on~~
24 ~~diesel motor fuel delivered into a storage facility of a user or~~
25 ~~a dealer which will be used in producing or generating power for~~
26 ~~propelling motor vehicles used upon the public roads and highways~~
27 ~~in this state~~ SHALL BE REIMBURSED FOR THE DISCOUNT PERMITTED BY

1 SUBSECTION (2). Persons operating passenger vehicles of a
2 capacity of 10 or more under a certificate of public convenience
3 and necessity issued by the Michigan public service commission,
4 or under a municipal franchise, license, permit, agreement, or
5 grant, respectively, and operating over regularly traveled routes
6 expressly provided for in the certificate of convenience and
7 necessity, or municipal license, permit, agreement, or grant,
8 shall be entitled to a refund of the tax paid thereon, under the
9 rules prescribed by the department of treasury. Refunds provided
10 for under this section to a state certificated operator of an
11 intercity motor bus, shall apply only to those gallons of diesel
12 motor fuel producing mileage traveled by each intercity motor bus
13 over regular routes or on charter trips or portions of charter
14 trips within this state. The tax on diesel motor fuel delivered
15 in this state into the storage of a user or acquired by a user in
16 any manner, other than by delivery into the fuel supply tank of a
17 motor vehicle by a duly licensed dealer, shall upon the use
18 thereof be paid monthly by the user to the department of
19 treasury. A tax is not imposed under this act, nor shall a tax
20 be collected by a dealer, on fuel used in motor vehicles owned by
21 or leased and operated by a political subdivision of this state,
22 or motor vehicles owned and operated by this state or the federal
23 government.

24 Sec. 27. (1) For the purpose of determining the amount of
25 DIESEL MOTOR FUEL tax payable to the department, each ~~dealer~~
26 SUPPLIER shall ~~file~~ INCLUDE, on THE REPORT FILED ON or before
27 the twentieth day of each calendar month, with the department ~~on~~

1 ~~forms prescribed and furnished by the commissioner~~ PURSUANT TO
2 SECTION 8, a statement verified by the ~~dealer~~ SUPPLIER which
3 shall include the ~~number of gallons of diesel motor fuel deliv-~~
4 ~~ered by the dealer during the preceding calendar month into fuel~~
5 ~~supply tanks of motor vehicles together with other~~ information
6 the commissioner may require as to the amount of diesel motor
7 fuel on hand at the beginning of the month, the amount ~~purchased~~
8 ~~or otherwise acquired~~ SUPPLIED during the month, and the amount
9 remaining on hand at the close of the month. Each ~~dealer~~
10 SUPPLIER at the time of filing the report shall compute the
11 amount of tax payable by the ~~dealer~~ SUPPLIER as provided in
12 this chapter and pay to the department at the time of filing the
13 report the full amount of tax. ~~The commissioner shall not~~
14 ~~require inventory or purchase or acquirement reports covering the~~
15 ~~wholesale business of any dealer who is also a wholesale distrib-~~
16 ~~utor of diesel motor fuel, but every dealer shall with respect to~~
17 ~~that business be subject to section 28.~~

18 (2) The commissioner of revenue, when he or she considers it
19 necessary to insure payment of the tax or to provide a more effi-
20 cient administration of the tax, may require the filing of
21 returns and payment of the tax for other than monthly periods.