



HOUSE BILL No. 5307

October 25, 1995, Introduced by Rep. Bodem and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 12 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, certain retail dealers, exporters, and suppliers 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, partnerships, 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,"

as amended by Act No. 225 of the Public Acts of 1992, being section 207.112 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 12 of Act No. 150 of the Public Acts of
2 1927, as amended by Act No. 225 of the Public Acts of 1992, being

1 section 207.112 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 12. (1) The state government and the federal govern-
4 ment using gasoline in a state or federally owned motor vehicle,
5 and a political subdivision of the state using gasoline in a
6 vehicle owned by or leased and operated by the political subdivi-
7 sion of the state, are exempt from the tax on gasoline levied by
8 this act.

9 (2) The purchaser of gasoline used for a purpose other than
10 the operation of a motor vehicle on the public roads, streets,
11 and highways of this state, a person operating a passenger vehi-
12 cle of a capacity of 5 or more under a municipal franchise,
13 license, permit, agreement, or grant, respectively, a person
14 operating a passenger vehicle for the transportation of school
15 students under a certificate of authority issued by the state
16 transportation department pursuant to section 5 of article ~~2~~ II
17 of THE MOTOR CARRIER ACT, Act No. 254 of the Public Acts of
18 1933, being section 476.5 of the Michigan Compiled Laws, and com-
19 munity action agencies as described in FORMER title ~~2~~ II of the
20 economic opportunity act of 1964, ~~42 U.S.C. 2781 to 2837~~
21 PUBLIC LAW 88-452, which are not a part or division of a politi-
22 cal subdivision of this state shall be entitled to a refund of
23 the tax on the gasoline. Community action agencies shall make
24 the refund a state-contributed non-federal share to grants
25 received by such community action agencies from the community
26 services administration under FORMER title ~~22~~ II of the
27 economic opportunity act of 1964, ~~as amended,~~ by filing a

1 verified claim with the department upon forms prescribed and to
2 be furnished by it, within 1 year after the date of purchase, as
3 shown by the invoice. A claim mailed within the 1-year period,
4 as evidenced by the postmark, when received by the department,
5 shall be considered as filed within the required time. An amount
6 equal to the tax levied pursuant to section 2 shall be refunded
7 to each person operating a passenger vehicle of a capacity of 5
8 or more under a municipal franchise, license, permit, agreement,
9 or grant, respectively, and operated over regularly traveled
10 routes expressly provided for in the municipal licenses, permits,
11 agreements, or grants and to each person operating a passenger
12 vehicle for the transportation of school students under a certifi-
13 cate of authority issued by the state transportation
14 department. The retail dealer shall furnish the purchaser with
15 an invoice, showing the amount of gasoline purchased, the date of
16 purchase, and the amount of tax on the purchase, and the dealer
17 shall at the request of the department immediately supply the
18 department with a copy of an invoice issued by the dealer during
19 a 1-year period preceding the request. A claim for a refund
20 shall have attached to the claim the original invoice received by
21 the purchaser and, when approved by the department, shall be paid
22 out of the Michigan transportation fund upon the warrant of the
23 state treasurer. A claim for a refund shall not be assignable
24 without the prior written consent of the department. If the ver-
25 ified claim of the purchaser, in form and content as prescribed
26 by the department, shall show or it shall otherwise appear that
27 the amount of gasoline used by the purchaser for purposes on

1 which the taxes under the general sales tax act, Act No. 167 of
 2 the Public Acts of 1933, ~~as amended,~~ being sections 205.51 to
 3 205.78 of the Michigan Compiled Laws, are deductible pursuant to
 4 section 4a(f) of Act No. 167 of the Public Acts of 1933, ~~as~~
 5 ~~amended,~~ being section 205.54a of the Michigan Compiled Laws, is
 6 not the total amount included in the statement of the transferee
 7 under section 4a(f) of Act No. 167 of the Public Acts of 1933,
 8 ~~as amended,~~ the department shall deduct from the amount of the
 9 refund authorized by this section the rate of sales tax as is
 10 established in Act No. 167 of the Public Acts of 1933, ~~as~~
 11 ~~amended,~~ applicable to the retail sales price paid by the trans-
 12 feree on that portion of the gasoline not used for purposes
 13 described in section 4a(f) of Act No. 167 of the Public Acts of
 14 1933, ~~as amended,~~ and shall transfer the sales tax so deducted
 15 to the sales tax account of the department. The purchaser of
 16 gasoline used for the operation of a snowmobile as defined and
 17 regulated by ~~Act No. 74 of the Public Acts of 1968, as amended,~~
 18 ~~being sections 257.1501 to 257.1518~~ PART 821 (SNOWMOBILES) OF
 19 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT
 20 NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.82101 TO
 21 324.82159 of the Michigan Compiled Laws, shall not be entitled to
 22 a refund under this section.

23 (3) The department shall issue to each wholesale distributor
 24 who purchases gasoline or diesel motor fuel for an exempt purpose
 25 an exemption certificate upon the wholesale distributor filing a
 26 request for the certificate. The certificate shall be valid
 27 until the end of the calendar year in which the request was

1 filed. On or before the twentieth day of the month following the
2 close of the reporting period, the wholesale distributor shall
3 file with the department on forms prescribed by the department, a
4 report showing the number of gallons of gasoline and diesel motor
5 fuel received from a supplier or purchased from a wholesale dis-
6 tributor for a tax exempt purpose and the number of gallons of
7 gasoline and diesel motor fuel sold for a tax exempt purpose.
8 The wholesale distributor shall maintain records of purchases and
9 sales as prescribed by the department for a period of 4 years.
10 Each wholesale distributor shall at time of filing the report
11 required under this subsection pay to the department the amount
12 of tax payable at the applicable rate per gallon on all gallons
13 received tax exempt but not sold for tax exempt purposes during
14 the reporting period. Any liability for tax on taxable gallons
15 in excess of 15% of the amount of tax actually paid to a supplier
16 shall be treated as an underpayment of tax due as of the earliest
17 date during the 3-month period during which tax is due to the
18 supplier and shall be subject to the interest and penalties pre-
19 scribed in Act No. 122 of the Public Acts of 1941, being sections
20 205.1 to 205.31 of the Michigan Compiled Laws. At the time of
21 the filing of the report required by this section, the wholesale
22 distributor may file a claim for refund for taxes paid to a
23 licensed supplier or the state on gasoline or diesel motor fuel
24 sold during reporting period for tax exempt purposes.

25 (4) For purposes of this section, reporting periods shall be
26 January 1 through March 31, April 1 through June 30, July 1
27 through September 30, and October 1 through December 31.