



SENATE BILL No. 203

February 1, 1995, Introduced by Senators MC MANUS and CARL and referred to the Committee on Transportation and Tourism.

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 Act No. 254 of the Public Acts of 1933, being section 476.5
18 of the Michigan Compiled Laws, and community action agencies as
19 described in ~~title 2 of the economic opportunity act of 1964, 42~~
20 ~~U.S.C. 2781 to 2837, which are not a part or division of a~~
21 ~~political subdivision of this state~~ SECTION 8 OF THE MICHIGAN
22 ECONOMIC AND SOCIAL OPPORTUNITY ACT OF 1981, ACT NO. 230 OF THE
23 PUBLIC ACTS OF 1981, BEING SECTION 400.1108 OF THE MICHIGAN
24 COMPILED LAWS, shall be entitled to a refund of the tax on the
25 gasoline. Community action agencies shall make the refund a
26 state-contributed non-federal share to grants received by such
27 community action agencies from the community services

1 administration under title 221 of the economic opportunity act of
2 1964, as amended, by filing a verified claim with the department
3 upon forms prescribed and to be furnished by it, within 1 year
4 after the date of purchase, as shown by the invoice. A claim
5 mailed within the 1-year period, as evidenced by the postmark,
6 when received by the department, shall be considered as filed
7 within the required time. An amount equal to the tax levied pur-
8 suant to section 2 shall be refunded to each person operating a
9 passenger vehicle of a capacity of 5 or more under a municipal
10 franchise, license, permit, agreement, or grant, respectively,
11 and operated over regularly traveled routes expressly provided
12 for in the municipal licenses, permits, agreements, or grants and
13 to each person operating a passenger vehicle for the transporta-
14 tion of school students under a certificate of authority issued
15 by the state transportation department. The retail dealer shall
16 furnish the purchaser with an invoice, showing the amount of gas-
17 oline purchased, the date of purchase, and the amount of tax on
18 the purchase, and the dealer shall at the request of the depart-
19 ment immediately supply the department with a copy of an invoice
20 issued by the dealer during a 1-year period preceding the
21 request. A claim for a refund shall have attached to the claim
22 the original invoice received by the purchaser and, when approved
23 by the department, shall be paid out of the Michigan transporta-
24 tion fund upon the warrant of the state treasurer. A claim for a
25 refund shall not be assignable without the prior written consent
26 of the department. If the verified claim of the purchaser, in
27 form and content as prescribed by the department, shall show or

1 it shall otherwise appear that the amount of gasoline used by the
2 purchaser for purposes on which the taxes under the general sales
3 tax act, Act No. 167 of the Public Acts of 1933, ~~as amended,~~
4 being sections 205.51 to 205.78 of the Michigan Compiled Laws,
5 are deductible pursuant to section 4a(f) of Act No. 167 of the
6 Public Acts of 1933, ~~as amended,~~ being section 205.54a of the
7 Michigan Compiled Laws, is not the total amount included in the
8 statement of the transferee under section 4a(f) of Act No. 167
9 of the Public Acts of 1933, ~~as amended,~~ the department shall
10 deduct from the amount of the refund authorized by this section
11 the rate of sales tax as is established in Act No. 167 of the
12 Public Acts of 1933, ~~as amended,~~ applicable to the retail sales
13 price paid by the transferee on that portion of the gasoline not
14 used for purposes described in section 4a(f) of Act No. 167 of
15 the Public Acts of 1933, ~~as amended,~~ and shall transfer the
16 sales tax so deducted to the sales tax account of the
17 department. The purchaser of gasoline used for the operation of
18 a snowmobile as defined and regulated by THE MICHIGAN SNOWMOBILE
19 ACT, Act No. 74 of the Public Acts of 1968, ~~as amended,~~ being
20 sections 257.1501 to ~~257.1518~~ 257.1543 of the Michigan Compiled
21 Laws, shall not be entitled to a refund under this section.

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

1 close of the reporting period, the wholesale distributor shall
2 file with the department on forms prescribed by the department, a
3 report showing the number of gallons of gasoline and diesel motor
4 fuel received from a supplier or purchased from a wholesale dis-
5 tributor for a tax exempt purpose and the number of gallons of
6 gasoline and diesel motor fuel sold for a tax exempt purpose.
7 The wholesale distributor shall maintain records of purchases and
8 sales as prescribed by the department for a period of 4 years.
9 ~~Each~~ FOR GASOLINE, EACH wholesale distributor shall at time of
10 filing the report required under this subsection pay to the
11 department the amount of tax payable at the applicable rate per
12 gallon on all gallons received tax exempt but not sold for tax
13 exempt purposes during the reporting period. NOTWITHSTANDING
14 SECTION 3(1), FOR DIESEL MOTOR FUEL, EACH WHOLESALE DISTRIBUTOR
15 SHALL AT THE TIME OF FILING THE REPORT REQUIRED UNDER THIS SUB-
16 SECTION PAY TO THE DEPARTMENT THE AMOUNT OF TAX PAYABLE AT THE
17 APPLICABLE RATE PER GALLON ON ALL GALLONS RECEIVED TAX EXEMPT BUT
18 NOT SOLD FOR TAX EXEMPT PURPOSES DURING THE REPORTING PERIOD
19 EXCEPT FOR THOSE GALLONS RECEIVED TAX EXEMPT WHICH HAVE NOT BEEN
20 SOLD AND ARE HELD IN THE WHOLESALERS BULK PLANT AS DEFINED BY
21 THIS ACT. Any liability for tax on taxable gallons in excess of
22 15% of the amount of tax actually paid to a supplier shall be
23 treated as an underpayment of tax due as of the earliest date
24 during the 3-month period during which tax is due to the supplier
25 and shall be subject to the interest and penalties prescribed in
26 Act No. 122 of the Public Acts of 1941, being sections 205.1 to
27 205.31 of the Michigan Compiled Laws. At the time of the filing

1 of the report required by this section, the wholesale distributor
2 may file a claim for refund for taxes paid to a licensed supplier
3 or the state on gasoline or diesel motor fuel sold during THE
4 reporting period for tax exempt purposes.

5 (4) A PERSON ENGAGED IN FARMING OPERATIONS IS NOT REQUIRED
6 TO SEPARATE TAXABLE AND NONTAXABLE DIESEL MOTOR FUEL INTO SEPA-
7 RATE FUEL STORAGE TANKS UNTIL JANUARY 1, 1996.

8 (5) ~~-(4)-~~ For purposes of this section, reporting periods
9 ~~shall be~~ ARE January 1 through March 31, April 1 through
10 June 30, July 1 through September 30, and October 1 through
11 December 31.