

Act No. 83
Public Acts of 1997
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Rep. Harder

ENROLLED HOUSE BILL No. 4872

AN ACT to amend 1927 PA 150, entitled "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," by amending sections 2, 3b, 8, 18b, 34, and 86 (MCL 207.102, 207.103b, 207.108, 207.118b, 207.134, and 207.186), sections 2, 3b, and 8 as amended by 1992 PA 225 and sections 18b, 34, and 86 as amended by 1982 PA 437.

The People of the State of Michigan enact:

Sec. 2. (1) A specific tax at a rate of cents per gallon determined under subsection (2) is imposed on all gasoline and diesel motor fuel sold or used in producing or generating power for propelling motor vehicles used upon the public roads and highways in this state. The tax shall be paid at those times, in the manner, and by those persons specified in this act. It is the intent of this act to impose a tax upon the owners and drivers of motor vehicles using an internal combustion type of engine upon the public roads and highways of this state by requiring them to pay for the privilege of using the public roads and highways of this state, in addition to the motor vehicle license tax.

(2) The tax rate imposed under subsection (1) is as follows:

(a) For the tax imposed on gasoline and diesel motor fuel before August 1, 1997, 15 cents.

(b) For the tax imposed on gasoline after July 31, 1997, 19 cents.

(c) For the tax imposed on diesel motor fuel after July 31, 1997, 15 cents.

(3) The state commissioner of revenue shall notify each supplier, wholesale distributor, and each retail dealer of gasoline in this state of the tax rate imposed under subsection (1) immediately after the tax rate is determined.

Sec. 3b. A person with a total storage capacity of 3,000 gallons or more who has on hand or in possession gasoline or diesel motor fuel upon which a tax at the rate imposed before August 1, 1997 under section 2 is due or has been paid, shall file on a form furnished or prescribed by the department, within 20 days after July 31, 1997, a complete inventory of the gasoline or diesel motor fuel, or both. When the inventory is filed, a person with a total storage capacity of 3,000 gallons or more shall pay to the department the tax on the gasoline or diesel motor fuel at the rate of cents per gallon equal to the difference between the rate in effect before August 1, 1997 and the rate in effect after July 31, 1997.

Sec. 8. (1) For the purpose of determining the amount of the specific tax imposed by this act, every supplier shall, on or before the twentieth day of each month, except when the twentieth day of any month falls on a Saturday, Sunday, or legal holiday, then on the next regular business day, file with the department of treasury, on forms prescribed and furnished by the department, a verified statement, showing the number of gallons of gasoline or diesel motor fuel received, as shown by the terminal operator issued shipping paper or the customs declaration if entered into the United States, by the supplier in this state, or for export to this state, during the preceding calendar month; the date of purchase; the name of the manufacturer or person from whom purchased by the supplier; the date of receipt of the shipment of gasoline or diesel motor fuel; the terminal of origin; the state of destination of each shipment as represented to the supplier by the purchaser or the purchaser's agent, or if shipped on account of the supplier as shown in the supplier's records conforming with shipping papers in such form as the department may provide; the quantity of each of the purchases or shipments; the name and federal employer identification number of the carrier; the number of the car in which the purchases or shipments were shipped, if shipped by rail, or the name and owner of the boat, ship, barge, or vessel, if shipped by water; the owner of the automobile or truck used in transporting the gasoline or diesel motor fuel within this state, when the gasoline or diesel motor fuel was purchased from the manufacturer; the quantity of gasoline or diesel motor fuel received by the supplier and sold tax exempt to each wholesale distributor and each other purchaser; and the exemption certificate number of each wholesale distributor to which the supplier sold tax exempt gasoline or diesel motor fuel. If the supplier manufactures or produces within this state the gasoline or diesel motor fuel in his, her, or its possession in the state, the report required shall in lieu of the foregoing information set forth the following: All gasoline or diesel motor fuel manufactured, stored, used, distributed, and sold within this state during the preceding calendar month, and date of each sale, use, or distribution; the quantity of each sale; the name and address of each purchaser; the name of the carrier; the number of the car in which the purchases or shipments were shipped, if shipped by rail; or the name and owner of the boat, ship, barge, or vessel, if shipped by water; the owner and license number of the automobile or truck used in transporting the gasoline or diesel motor fuel; the name and address of the owner of the means of transportation employed in the delivery of the gasoline or diesel motor fuel so sold or distributed within this state, and any other information pertaining to receipts, manufacture, use, distribution, or sales of gasoline or diesel motor fuel as the department requires. Each supplier, at the time of filing a report, shall compute the amount of tax payable on gallons received by that supplier during the reporting period at the applicable rate of tax per gallon, and shall pay to the department at the time of filing the report the full amount of the tax. A supplier shall not claim a deduction from taxable gallons for gallons actually purchased by the customer notwithstanding that the supplier has issued a correction, credit, or rebilling to a customer adjusting tax liability. In computing the number of taxable gallons, each licensed supplier shall be entitled to a deduction equal to the number of gallons of taxable gasoline and diesel motor fuel sold other than gasoline sold to a retailer by the supplier as to which the amount of tax paid by the supplier has become uncollectible from a wholesale distributor, a retail dealer, or an end consumer with whom the supplier has a sales or other contractual relationship. The department shall establish the evidence which a supplier must provide in support of the uncollectible account deduction. Such regulations shall not require that the supplier specifically identify each sale giving rise to the deduction for uncollectible accounts. However, such regulations shall provide that the deduction is supported by statistical evidence and is consistent with the tax treatment for bad debts under section 166 of the internal revenue code. However, in the case of diesel motor fuel the amount of tax payable shall be reduced by the amount of discount allowed under section 22 for each gallon sold by the supplier. A supplier who uses or sells combustible gas used in the generation of power for the propulsion of a motor vehicle, airplane, or motorboat shall file the monthly return required by this section.

(2) The tax imposed by this act which is measured by gallons received by a supplier at the time of withdrawal from a terminal or imported from without the United States shall operate in the same manner as the tax imposed by section 4081 of the internal revenue code. In computing the tax all gasoline or diesel motor fuel while in process of transfer from tank steamers at boat terminal transfers and while held in storage, pending wholesale bulk distribution by land transportation, or in tanks and equipment used in receiving and storing gasoline or diesel motor fuel from interstate pipelines pending wholesale bulk reshipment, shall be exempt from the payment of the tax.

(3) In computing the tax, a deduction of 2% of the quantity of gasoline received by the supplier before October 1, 1997 and 1.5% received by the supplier after September 31, 1997, shall be deducted by the supplier to allow for the cost of remitting the tax. At the time of filing the report and paying the tax, the supplier shall submit satisfactory evidence to the department with respect to sales to wholesale distributors that the amount of tax represented by the deduction was paid or credited to the wholesale distributor that purchased the gasoline from the supplier. The amount of the deduction shall be paid or credited by each wholesale distributor to the purchaser at each subsequent sale to a wholesale distributor. When a wholesale distributor or supplier sells gasoline to a retail dealer, the wholesale distributor or supplier shall pay or credit to the retail dealer the 1/3 of the deduction on quantities sold to that retail dealer.

(4) The supplier and the terminal operator shall be entitled to rely for all purposes of this act on the representation by the exporter or the exporter's agent as to the exporter's intended state of destination, and the exporter and his or her agent, not the supplier or terminal operator, shall be exclusively liable for any tax otherwise due to the state as a result of a diversion of the cargo from the represented destination state.

(5) The commissioner may require a taxpayer to remit taxes by electronic funds transfer if the taxpayer is subject to tax under this act.

Sec. 18b. All sums of money received and collected under this chapter, except the license fees provided for in this act and after the payment of the necessary expenses incurred in the enforcement of this act, are appropriated to and shall be deposited in the state treasury to the credit of the Michigan transportation fund.

Sec. 34. All sums of money received and collected under this chapter, except the license fees provided for in this act and after the payment of necessary expenses incurred in the enforcement of this act, are appropriated to and shall be deposited in the state treasury to the credit of the Michigan transportation fund.

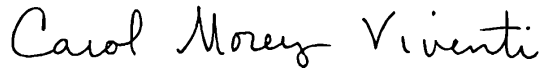
Sec. 86. All sums of money received or collected under this chapter, except the license fees provided for in this act and after the payment of the necessary expenses incurred in the enforcement of this act, are appropriated and shall be deposited in the state treasury to the credit of the Michigan transportation fund.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 303 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.