

**SUBSTITUTE FOR  
SENATE BILL NO. 178**

A bill 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 section 12 (MCL 207.112), as amended by 1996 PA 56.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 12. (1) The state government and the federal govern-  
2 ment using gasoline in a state or federally owned motor vehicle,  
3 and a political subdivision of the state using gasoline in a  
4 vehicle owned by or leased and operated by the political

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1 subdivision of the state, are exempt from the tax on gasoline  
2 levied by this act.

3       (2) The purchaser of gasoline used for a purpose other than  
4 the operation of a motor vehicle on the public roads, streets,  
5 and highways of this state, a person operating a passenger vehi-  
6 cle of a capacity of 5 or more under a municipal franchise,  
7 license, permit, agreement, or grant, respectively, a person  
8 operating a passenger vehicle for the transportation of school  
9 students under a certificate of authority issued by the state  
10 transportation department pursuant to section 5 of article II of  
11 the motor carrier act, ~~Act No. 254 of the Public Acts of 1933,~~  
12 ~~being section 476.5 of the Michigan Compiled Laws~~ 1933 PA 254,  
13 MCL 476.5, and community action agencies as described in former  
14 title II of the economic opportunity act of 1964, Public Law  
15 88-452, which are not a part or division of a political subdivi-  
16 sion of this state shall be entitled to a refund of the tax on  
17 the gasoline. Community action agencies shall make the refund a  
18 state-contributed non-federal share to grants received by such  
19 community action agencies from the community services administra-  
20 tion under former title II of the economic opportunity act of  
21 1964, by filing a verified claim with the department upon forms  
22 prescribed and to be furnished by it, within 1 year after the  
23 date of purchase, as shown by the invoice. A claim mailed within  
24 the 1-year period, as evidenced by the postmark, when received by  
25 the department, shall be considered as filed within the required  
26 time. An amount equal to the tax levied pursuant to section 2  
27 shall be refunded to each person operating a passenger vehicle of

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1 a capacity of 5 or more under a municipal franchise, license,  
2 permit, agreement, or grant, respectively, and operated over reg-  
3 ularly traveled routes expressly provided for in the municipal  
4 licenses, permits, agreements, or grants and to each person oper-  
5 ating a passenger vehicle for the transportation of school stu-  
6 dents under a certificate of authority issued by the state trans-  
7 portation department. The retail dealer shall furnish the pur-  
8 chaser with an invoice, showing the amount of gasoline purchased,  
9 the date of purchase, and the amount of tax on the purchase, and  
10 the dealer shall at the request of the department immediately  
11 supply the department with a copy of an invoice issued by the  
12 dealer during a 1-year period preceding the request. A claim for  
13 a refund shall have attached to the claim the original invoice  
14 received by the purchaser and, when approved by the department,  
15 shall be paid out of the Michigan transportation fund upon the  
16 warrant of the state treasurer. A claim for a refund shall not  
17 be assignable without the prior written consent of the  
18 department. If the verified claim of the purchaser, in form and  
19 content as prescribed by the department, shall show or it shall  
20 otherwise appear that the amount of gasoline used by the pur-  
21 chaser for purposes on which the taxes under the general sales  
22 tax act, ~~Act No. 167 of the Public Acts of 1933, being sections~~  
23 ~~205.51 to 205.78 of the Michigan Compiled Laws~~ 1933 PA 167,  
24 MCL 205.51 TO 205.78, are deductible pursuant to section 4a(f) of  
25 ~~Act No. 167 of the Public Acts of 1933, being section 205.54a of~~  
26 ~~the Michigan Compiled Laws~~ THE GENERAL SALES TAX ACT, 1933  
27 PA 167, MCL 205.54A, is not the total amount included in the

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1 statement of the transferee under section 4a(f) of ~~Act No. 167~~  
2 ~~of the Public Acts of 1933~~ THE GENERAL SALES TAX ACT, 1933  
3 PA 167, MCL 205.54A, the department shall deduct from the amount  
4 of the refund authorized by this section the rate of sales tax as  
5 is established in ~~Act No. 167 of the Public Acts of 1933~~ THE  
6 GENERAL SALES TAX ACT, 1933 PA 167, MCL 205.51 TO 205.78, appli-  
7 cable to the retail sales price paid by the transferee on that  
8 portion of the gasoline not used for purposes described in sec-  
9 tion 4a(f) of ~~Act No. 167 of the Public Acts of 1933~~ THE GEN-  
10 ERAL SALES TAX ACT, 1933 PA 167, MCL 205.54A, and shall transfer  
11 the sales tax so deducted to the sales tax account of the  
12 department. The purchaser of gasoline used for the operation of  
13 a snowmobile as defined and regulated by part 821 ~~(snowmobiles)~~  
14 of the natural resources and environmental protection act, ~~Act~~  
15 ~~No. 451 of the Public Acts of 1994, being sections 324.82101 to~~  
16 ~~324.82159 of the Michigan Compiled Laws~~ 1994 PA 451,  
17 MCL 324.82101 TO 324.82160, shall not be entitled to a refund  
18 under this section.

19 (3) The department shall issue to each wholesale distributor  
20 who purchases gasoline or diesel motor fuel for an exempt purpose  
21 an exemption certificate upon the wholesale distributor filing a  
22 request for the certificate. The certificate shall be valid  
23 until the end of the calendar year in which the request was  
24 filed. On or before the twentieth day of the month following the  
25 close of the reporting period, the wholesale distributor shall  
26 file with the department on forms prescribed by the department, a  
27 report showing the number of gallons of gasoline and diesel motor

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1 fuel received from a supplier or purchased from a wholesale  
2 distributor for a tax exempt purpose and the number of gallons of  
3 gasoline and diesel motor fuel sold for a tax exempt purpose.  
4 The wholesale distributor shall maintain records of purchases and  
5 sales as prescribed by the department for a period of 4 years.  
6 ~~Each~~ FOR GASOLINE, EACH wholesale distributor shall at time of  
7 filing the report required under this subsection pay to the  
8 department the amount of tax payable at the applicable rate per  
9 gallon on all gallons received tax exempt but not sold for tax  
10 exempt purposes during the reporting period. NOTWITHSTANDING  
11 SECTION 3(1), UNTIL JANUARY 1, 2002 OR UNTIL LEGISLATION IS  
12 ENACTED INTO LAW TO ESTABLISH A DYED DISTILLATE PROGRAM IN THIS  
13 STATE, WHICHEVER IS EARLIER, THE TAX IMPOSED BY THIS ACT IS NOT  
14 DUE AND PAYABLE ON THOSE GALLONS OF K-1 KEROSENE OR DYED DISTIL-  
15 LATES THAT A WHOLESALE DISTRIBUTOR PURCHASED TAX EXEMPT THAT HAVE  
16 NOT BEEN SOLD AND ARE HELD IN BULK STORAGE AT THE END OF A  
17 REPORTING PERIOD. Any liability for tax on taxable gallons in  
18 excess of 15% of the amount of tax actually paid to a supplier  
19 shall be treated as an underpayment of tax due as of the earliest  
20 date during the 3-month period during which tax is due to the  
21 supplier and shall be subject to the interest and penalties pre-  
22 scribed in ~~Act No. 122 of the Public Acts of 1941, being sec-~~  
23 ~~tions 205.1 to 205.31 of the Michigan Compiled Laws 1941 PA 122,~~  
24 MCL 205.1 TO 205.31. At the time of the filing of the report  
25 required by this section, the wholesale distributor may file a  
26 claim for refund for taxes paid to a licensed supplier or the

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1 state on gasoline or diesel motor fuel sold during reporting  
2 period for tax exempt purposes.

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

6       (5) WHEN NECESSARY TO ENSURE AGAINST FRAUD, THE COMMISSIONER  
7 OF REVENUE MAY REQUIRE A MONTHLY FILING OF RETURNS AND PAYMENT OF  
8 THE TAX.