

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1205**

A bill to prescribe a tax on the sale and use of certain types of fuel in motor vehicles on the public roads or highways of this state and on certain other types of gas; to prescribe the manner and the time of collection and payment of this tax and the duties of officials and others pertaining to the payment and collection of this tax; to provide for the licensing of persons involved in the sale, use, or transportation of motor fuel and the collection and payment of the tax imposed by this act; to prescribe fees; to prescribe certain other powers and duties of certain state agencies and other persons; to provide for exemptions and refunds and for the disposition of the proceeds of this tax; to provide for appropriations from the proceeds of this tax; to prescribe remedies and penalties for the violation of this act; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "motor fuel tax act".

3 Sec. 2. As used in this act:

4 (a) "Alcohol" means fuel grade ethanol or methanol or a mix-
5 ture of fuel grade ethanol and methanol.

6 (b) "Blendstock" means and includes any petroleum product
7 component of motor fuel, such as naphtha, reformat, or toluene;
8 or any oxygenate that can be blended for use in a motor fuel.

9 (c) "Blended motor fuel" means a mixture of motor fuel and
10 another liquid, other than a de minimis amount of a product
11 including but not limited to carburetor detergent or oxidation
12 inhibitor, that can be used as motor fuel in a motor vehicle.

13 (d) "Blender" means and includes any person who produces
14 blended motor fuel outside of the bulk transfer/terminal system.

15 (e) "Blends" or "blending" means the mixing of 1 or more
16 petroleum products, with or without another product, regardless
17 of the original character of the product blended, if the product
18 obtained by the blending is capable of use in the generation of
19 power for the propulsion of a motor vehicle, an airplane, or a
20 marine vessel. Blending does not include mixing that occurs in
21 the process of refining by the original refiner of crude petro-
22 leum or the blending of products known as lubricating oil in the
23 production of lubricating oils and greases.

24 (f) "Bulk end user" means a person who receives into the
25 person's own storage facilities by transport truck or tank wagon
26 motor fuel for the person's own consumption.

1 (g) "Bulk plant" means a motor fuel storage and distribution
2 facility that is not a terminal and from which motor fuel may be
3 withdrawn by a tank wagon, a transport truck, or a marine
4 vessel.

5 (h) "Bulk transfer" means a transfer of motor fuel from 1
6 location to another by pipeline tender or marine delivery within
7 the bulk transfer/terminal system, including but not limited to
8 all of the following transfers:

9 (i) A marine vessel movement of motor fuel from a refinery
10 or terminal to a terminal.

11 (ii) Pipeline movements of motor fuel from a refinery or
12 terminal to a terminal.

13 (iii) Book transfers of motor fuel within a terminal between
14 licensed suppliers before completion of removal across the termi-
15 nal rack.

16 (iv) Two-party exchanges between licensed suppliers.

17 (i) "Bulk transfer/terminal system" means the motor fuel
18 distribution system consisting of refineries, pipelines, marine
19 vessels, and terminals. Motor fuel in a refinery, pipeline, ter-
20 minal, or a marine vessel transporting motor fuel to a refinery
21 or terminal is in the bulk transfer/terminal system. Motor fuel
22 in a fuel storage facility including, but not limited to, a bulk
23 plant that is not part of a refinery or terminal, in the fuel
24 supply tank of any engine or motor vehicle, in a marine vessel
25 transporting motor fuel to a fuel storage facility that is not in
26 the bulk transfer/terminal system, or in any tank car, rail car,

1 trailer, truck, or other equipment suitable for ground
2 transportation is not in the bulk transfer/terminal system.

3 (j) "Carrier" means an operator of a pipeline or marine
4 vessel engaged in the business of transporting motor fuel above
5 the terminal rack.

6 (k) "Commercial motor vehicle" means a motor vehicle
7 licensed under the motor carrier fuel tax act, 1980 PA 119,
8 MCL 207.211 to 207.234.

9 (l) "Dead storage" is the amount of motor fuel that cannot
10 be pumped out of a motor fuel storage tank because the motor fuel
11 is below the mouth of the tank's draw pipe. The amount of motor
12 fuel in dead storage is 200 gallons for a tank with a capacity of
13 less than 10,000 gallons and 400 gallons for a tank with a capac-
14 ity of 10,000 gallons or more.

15 (m) "Denaturants" means and includes gasoline, natural gaso-
16 line, gasoline components, or toxic or noxious materials added to
17 fuel grade ethanol to make it unsuitable for beverage use but not
18 unsuitable for automotive use.

19 (n) "Department" means the bureau of revenue within the
20 department of treasury or its designee.

21 (o) "Destination state" means the state, Canadian province
22 or territory, or foreign country to which motor fuel is directed
23 for export.

24 (p) "Diesel fuel" means any liquid other than gasoline that
25 is capable of use as a fuel or a component of a fuel in a motor
26 vehicle that is propelled by a diesel-powered engine or in a
27 diesel-powered train. Diesel fuel includes number 1 and number 2

1 fuel oils, kerosene, dyed diesel fuel, and mineral spirits.

2 Diesel fuel also includes any blendstock or additive that is sold
3 for blending with diesel fuel, any liquid prepared, advertised,
4 offered for sale, sold for use as, or used in the generation of
5 power for the propulsion of a diesel-powered engine, airplane, or
6 marine vessel. An additive or blendstock is presumed to be sold
7 for blending unless a certification is obtained for federal pur-
8 poses that the substance is for a use other than blending for
9 diesel fuel.

10 (q) "Dyed diesel fuel" means diesel fuel that is dyed in
11 accordance with internal revenue service rules or pursuant to any
12 other internal revenue service requirements, including any invis-
13 ible marker requirements.

14 (r) "Eligible purchaser" means a person who has been autho-
15 rized by the department under section 75 to make the election
16 under section 74.

17 (s) "Export" means to obtain motor fuel in this state for
18 sale or other distribution outside of this state. Motor fuel
19 delivered outside of this state by or for the seller constitutes
20 an export by the seller and motor fuel delivered outside of this
21 state by or for the purchaser constitutes an export by the
22 purchaser.

23 (t) "Exporter" means a person who exports motor fuel.

24 Sec. 3. As used in this act:

25 (a) "Fuel feedstock user" means a person who receives motor
26 fuel for the person's own use in the manufacture or production of
27 any substance other than motor fuel.

1 (b) "Fuel grade ethanol" means the American society for
2 testing and materials standard in effect on the effective date of
3 this act as the D-4806 specification for denatured fuel grade
4 ethanol for blending with gasoline.

5 (c) "Fuel transportation vehicle" means a vehicle designed
6 or used to transport motor fuel on the public roads or highways.
7 Fuel transportation vehicle includes, but is not limited to, a
8 transport truck and a tank wagon. Fuel transportation vehicle
9 does not include a vehicle transporting a nurse tank or limited
10 volume auxiliary-mounted supply tank used for fueling an imple-
11 ment of husbandry.

12 (d) "Fuel vendor" means a person who receives, stores, or
13 distributes gasoline or diesel fuel for resale within this
14 state.

15 (e) "Gallon" means a unit of liquid measure as customarily
16 used in the United States containing 231 cubic inches, or 4
17 quarts, or its metric equivalent expressed in liters. Where the
18 term gallon appears in this act, the term liters is interchange-
19 able so long as the equivalence of a gallon and 3.785 liters is
20 preserved. A quantity required to be furnished under this act
21 may be specified in liters when authorized by the department.

22 (f) "Gasohol" means a blended motor fuel composed of gaso-
23 line and fuel grade ethanol.

24 (g) "Gasoline" means and includes gasoline, alcohol, gaso-
25 hol, casing head or natural gasoline, benzol, benzine, naphtha,
26 and any blendstock or additive that is sold for blending with
27 gasoline other than products typically sold in containers of less

1 than 5 gallons. Gasoline also includes a liquid prepared,
2 advertised, offered for sale, sold for use as, or used in the
3 generation of power for the propulsion of a motor vehicle, air-
4 plane, or marine vessel, including a product obtained by blending
5 together any 1 or more products of petroleum, with or without
6 another product, and regardless of the original character of the
7 petroleum products blended, if the product obtained by the blend-
8 ing is capable of use in the generation of power for the propul-
9 sion of a motor vehicle, airplane, or marine vessel. The blend-
10 ing of all of the above named products, regardless of their name
11 or characteristics, shall conclusively be presumed to have been
12 done to produce motor fuel, unless the product obtained by the
13 blending is entirely incapable of use as motor fuel. Gasoline
14 also includes transmix. Gasoline does not include diesel fuel.
15 An additive or blendstock is presumed to be sold for blending
16 unless a certification is obtained for federal purposes that the
17 substance is for a use other than blending for gasoline.

18 (h) "Gross gallons" means the total measured product, exclu-
19 sive of any temperature or pressure adjustments, considerations,
20 or deductions, in gallons.

21 (i) "Heating oil" means a motor fuel including dyed diesel
22 fuel that is burned in a boiler, furnace, or stove for heating,
23 agricultural, or industrial processing purposes.

24 (j) "Implement of husbandry" means and includes a farm trac-
25 tor, a vehicle designed to be drawn or pulled by a farm tractor
26 or animal, a vehicle that directly harvests farm products, and a
27 vehicle that directly applies fertilizer, spray, or seeds to a

1 farm field. Implement of husbandry does not include a motor
2 vehicle licensed for use on the public roads or highways of this
3 state.

4 (k) "Import" means to bring motor fuel into this state by
5 motor vehicle, marine vessel, pipeline, or any other means.
6 However, import does not include bringing motor fuel into this
7 state in the fuel supply tank of a motor vehicle if the motor
8 fuel is used to power that motor vehicle. Motor fuel delivered
9 into this state from outside of this state by or for the seller
10 constitutes an import by the seller, and motor fuel delivered
11 into this state from out of this state by or for the purchaser
12 constitutes an import by the purchaser.

13 (l) "Importer" means a person who imports motor fuel into
14 this state.

15 (m) "Import verification number" means the number assigned
16 by the department to an individual delivery of motor fuel by a
17 transport truck, tank wagon, marine vessel, or rail car in
18 response to a request for a number from an importer or trans-
19 porter carrying motor fuel into this state for the account of an
20 importer.

21 (n) "In this state" means the area within the borders of
22 this state, including all territories within the borders owned
23 by, held in trust by, or added to the United States of America.

24 (o) "Industrial end user" means a person who incorporates
25 motor fuel into, or uses motor fuel incidental to, industrial
26 processing. Industrial end user includes a person who repackages
27 motor fuel into containers that hold not more than 55 gallons of

1 liquid if the motor fuel is sold or used for a tax-exempt
2 purpose.

3 (p) "Industrial process reseller" means a person licensed
4 under this act to engage in tax-exempt sales of motor fuel and
5 other products to an industrial end user for use in tax-exempt
6 industrial processing.

7 (q) "Industrial processing" means that term as defined in
8 section 4t of the general sales tax act, 1933 PA 167,
9 MCL 205.54t, and section 4o of the use tax act, 1937 PA 94,
10 MCL 205.94o.

11 (r) "Invoiced gallons" means the number of gallons actually
12 billed on an invoice.

13 Sec. 4. As used in this act:

14 (a) "Kerosene" means all grades of kerosene, including, but
15 not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K,
16 commonly known as K-1 kerosene and K-2 kerosene respectively,
17 described in American society for testing and materials specifi-
18 cations D-3699, in effect on January 1, 1999, and kerosene-type
19 jet fuel described in American society for testing and materials
20 specification D-1655 and military specifications MIL-T-5624r and
21 MIL-T-83133d (grades jp-5 and jp-8), and any successor internal
22 revenue service rules or regulations, as the specification for
23 kerosene and kerosene-type jet fuel.

24 (b) "Liquid" means any substance that is liquid in excess of
25 60 degrees Fahrenheit and a pressure of 14.7 pounds per square
26 inch absolute.

1 (c) "Motor fuel" means gasoline, diesel fuel, kerosene, a
2 mixture of gasoline, diesel fuel, or kerosene, or a mixture of
3 gasoline, diesel fuel, or kerosene and any other substance.

4 (d) "Motor vehicle" means a vehicle that is propelled by an
5 internal combustion engine or motor and is designed to permit the
6 vehicle's mobile use on the public roads or highways of this
7 state. Motor vehicle does not include any of the following:

8 (i) An implement of husbandry.

9 (ii) A train or other vehicle operated exclusively on
10 rails.

11 (iii) Machinery designed principally for off-road use and
12 not licensed for on-road use.

13 (iv) A stationary engine.

14 (e) "Net gallons" means the remaining product, after all
15 considerations and deductions have been made, measured in gal-
16 lons, corrected to a temperature of 60 degrees Fahrenheit, 13
17 degrees Celsius, and a pressure of 14.7 pounds per square inch,
18 the ultimate end amount.

19 (f) "Oxygenate" means an oxygen-containing, ashless, organic
20 compound, such as an alcohol or ether, which may be used as a
21 fuel or fuel supplement.

22 (g) "Permissive supplier" means a person who may not be
23 subject to the taxing jurisdiction of this state but who does
24 meet both of the following requirements:

25 (i) Is a position holder in a federally registered terminal
26 located outside of this state, or a person who acquires from a
27 position holder motor fuel in an out-of-state terminal in a

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1 transaction that otherwise qualifies as a two-party exchange
2 under this act.

3 (ii) Is registered under section 4101 of the internal reve-
4 nue code for transactions in motor fuel in the bulk
5 transfer/terminal system.

6 (h) "Person" means and includes an individual, cooperative,
7 partnership, firm, association, limited liability company,
8 limited liability partnership, joint stock company, syndicate,
9 and corporation, both private and municipal, and any receiver,
10 trustee, conservator, or any other officer having jurisdiction
11 and control of property by law or by appointment of a court other
12 than units of government.

13 (i) "Position holder" means a person who has a contract with
14 a terminal operator for the use of storage facilities and other
15 terminal services for motor fuel at the terminal, as reflected in
16 the records of the terminal operator. Position holder includes a
17 terminal operator who owns motor fuel in the terminal.

18 (j) "Public roads or highways" means a road, street, or
19 place maintained by this state or a political subdivision of this
20 state and generally open to use by the public as a matter of
21 right for the purpose of vehicular travel, notwithstanding that
22 they may be temporarily closed or travel is restricted for the
23 purpose of construction, maintenance, repair, or reconstruction.

24 Sec. 5. As used in this act:

25 (a) "Rack" means a mechanism for delivering motor fuel from
26 a refinery, a terminal, or a marine vessel into a railroad tank
27 car, a transport truck, a tank wagon, the fuel supply tank of a

1 marine vessel, or other means of transfer outside of the bulk
2 transfer/terminal system.

3 (b) "Refiner" means a person who owns, operates, or other-
4 wise controls a refinery within the United States.

5 (c) "Refinery" means a facility used to produce motor fuel
6 from crude oil, unfinished oils, natural gas liquids, or other
7 hydrocarbons and from which motor fuel may be removed by pipe-
8 line, by marine vessel, or at a rack.

9 (d) "Removal" or "removed" means a physical transfer other
10 than by evaporation, loss, or destruction of motor fuel from a
11 terminal, manufacturing plant, customs custody, pipeline, marine
12 vessel, or refinery that stores motor fuel.

13 (e) "Retail diesel dealer" means a person who sells or dis-
14 tributes diesel fuel to an end user in this state.

15 (f) "Source state" means the state, Canadian province or
16 territory, or foreign country from which motor fuel is imported.

17 (g) "Stationary engine" means a temporary or permanently
18 affixed engine designed and used to supply power primarily for
19 agricultural or construction work. Stationary engine includes,
20 but is not limited to, an engine powering irrigation equipment,
21 generators, or earth-moving equipment.

22 (h) "Supplier" means a person who meets all of the following
23 requirements:

24 (i) Is subject to the general taxing jurisdiction of this
25 state.

1 (ii) Is registered under section 4101 of the internal
2 revenue code for transactions in motor fuel in the bulk
3 transfer/terminal distribution system.

4 (iii) Is any 1 of the following:

5 (A) The position holder in a terminal or refinery in this
6 state.

7 (B) A person who imports fuel grade ethanol into this
8 state.

9 (C) A person who acquires motor fuel from a terminal or
10 refinery in this state from a position holder pursuant to a
11 2-party exchange.

12 (D) The position holder in a terminal or refinery outside
13 this state with respect to motor fuel which that person imports
14 into this state on its account.

15 Supplier also means a person who either produces alcohol or alco-
16 hol derivative substances in this state or produces alcohol or
17 alcohol derivative substances for import into a terminal in this
18 state, or who acquires immediately upon import by transport
19 truck, tank wagon, rail car, or marine vessel into a terminal or
20 refinery or other storage facility that is not part of a terminal
21 or refinery, alcohol or alcohol derivative substances. A termi-
22 nal operator is not considered a supplier merely because the ter-
23 minal operator handles motor fuel consigned to it within a
24 terminal. Supplier includes a permissive supplier unless other-
25 wise specifically provided in this act.

26 Sec. 6. As used in this act:

1 (a) "Tank wagon" means a straight truck having 1 or more
2 compartments other than the fuel supply tank designed or used to
3 carry motor fuel.

4 (b) "Tank wagon operator-importer" means a person who oper-
5 ates a tank wagon and imports motor fuel into this state from
6 another state.

7 (c) "Tax" means a tax, interest, or penalty levied under
8 this act.

9 (d) "Terminal" means a motor fuel storage and distribution
10 facility that meets all of the following requirements:

11 (i) Is registered as a qualified terminal by the internal
12 revenue service.

13 (ii) Is supplied by pipeline or marine vessel.

14 (iii) Has a rack from which motor fuel may be removed.

15 (e) "Terminal operator" means a person who owns, operates,
16 or otherwise controls a terminal.

17 (f) "Transmix" means the mixed product that results from the
18 buffer or interface of 2 different products in a pipeline ship-
19 ment, or a mixture of 2 different products within a refinery or
20 terminal that results in an off-grade mixture.

21 (g) "Transport truck" means a semitrailer combination rig
22 designed or used for the purpose of transporting motor fuel over
23 the public roads or highways.

24 (h) "Transporter" means an operator of a railroad or rail
25 car, tank wagon, transport truck, or other fuel transportation
26 vehicle engaged in the business of transporting motor fuel below
27 the terminal rack.

1 (i) "Two-party exchange" means a transaction in which motor
2 fuel is transferred from 1 licensed supplier or licensed permis-
3 sive supplier to another licensed supplier or licensed permissive
4 supplier where all of the following occur:

5 (i) The transaction includes a transfer from the person who
6 holds the original inventory position for motor fuel in the ter-
7 minal as reflected in the records of the terminal operator.

8 (ii) The exchange transaction is completed before removal
9 across the rack from the terminal by the receiving licensed sup-
10 plier or licensed permissive supplier.

11 (iii) The terminal operator in its books and records treats
12 the receiving exchange party as the supplier that removes the
13 product across a terminal rack for purposes of reporting the
14 transaction to the department.

15 (j) "Ultimate vendor" means the person who sells motor fuel
16 to the end user of the fuel.

17 (k) "Wholesaler" means a person who acquires motor fuel from
18 a supplier or from another wholesaler for subsequent sale and
19 distribution at wholesale by a fuel transportation vehicle, rail
20 car, or other motor vehicle.

21 Sec. 8. (1) Subject to the exemptions provided for in this
22 act, tax is imposed on motor fuel imported into or sold, deliv-
23 ered, or used in this state at the following rates:

24 (a) Nineteen cents per gallon on gasoline.

25 (b) Fifteen cents per gallon on diesel fuel.

26 (2) The tax on diesel fuel shall be collected or paid in the
27 following manner:

1 (a) Subject to subsection (3), 9 cents of tax per gallon
2 shall be collected by all of the following:

3 (i) A person who sells or delivers diesel fuel to a licensed
4 supplier, licensed importer, licensed fuel vendor, licensed
5 retail diesel dealer, or licensed marine retail dealer.

6 (ii) A person who delivers the fuel into the bulk storage
7 tank of a motor carrier licensed under the motor carrier fuel tax
8 act, 1980 PA 119, MCL 207.211 to 207.234, or into the fuel supply
9 tank of a qualified commercial motor vehicle issued a decal under
10 the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to
11 207.234.

12 (b) An additional 6 cents of tax per gallon shall be col-
13 lected and remitted to the department by any person who collected
14 or paid 9 cents per gallon of tax on diesel fuel under subdivi-
15 sion (a) and who does any of the following:

16 (i) Uses the diesel fuel in a motor vehicle that is not
17 issued a decal under the motor carrier fuel tax act.

18 (ii) Sells or delivers diesel fuel into the fuel supply tank
19 of a motor vehicle that is not licensed under the motor carrier
20 fuel tax act.

21 (iii) Delivers undyed diesel fuel into a storage tank of a
22 person who is neither licensed under the motor carrier fuel tax
23 act nor licensed under this act.

24 (c) Fifteen cents of tax per gallon shall be collected and
25 remitted by any person importing, selling, distributing, deliver-
26 ing, or using diesel fuel unless otherwise provided for in
27 subdivision (a) or (b).

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1 (3) Tax shall not be imposed under this section on motor
2 fuel that is in the bulk transfer/terminal system.

3 (4) The collection, payment, and remittance of the tax
4 imposed by this section shall be accomplished in the manner and
5 at the time provided for in this act.

6 (5) Tax is also imposed at the rate described in
7 subsection (1)(a) or (b) on net gallons of motor fuel, including
8 transmix, lost or unaccounted for, at each terminal in this
9 state. The tax shall be measured annually and shall apply to the
10 net gallons of motor fuel lost or unaccounted for that are in
11 excess of 1/2 of 1% of all net gallons of fuel removed from the
12 terminal across the rack or in bulk.

13 (6) It is the intent of this act:

14 (a) To require persons who operate a motor vehicle on the
15 public roads or highways of this state to pay for the privilege
16 of using those roads or highways.

17 (b) To impose on suppliers a requirement to collect and
18 remit the tax imposed by this act at the time of removal of motor
19 fuel unless otherwise specifically provided in this act.

20 (c) To allow persons who pay the tax imposed by this act and
21 who use the fuel for a nontaxable purpose to seek a refund or
22 claim a deduction as provided in this act.

23 (d) That the tax imposed by this act be collected and paid
24 at those times, in the manner, and by those persons specified in
25 this act.

1 Sec. 10. (1) If the tax rate imposed by section 8 is
2 increased, the increase in the tax rate shall also apply to both
3 of the following:

4 (a) Previously-taxed motor fuel in excess of 3,000 gallons
5 held in storage by an end user.

6 (b) Previously-taxed motor fuel held for sale that is in
7 excess of dead storage.

8 (2) The increased rate of tax applies to all nonexempt motor
9 fuel held by a person outside of the bulk transfer/terminal
10 system in this state in excess of 3,000 gallons, to the extent
11 the inventory was not previously subject to the tax rate imposed
12 before the effective date of this section. However, tax is not
13 payable on motor fuel that is either dyed diesel fuel or motor
14 fuel held by the federal or state government, or a political sub-
15 division of this state.

16 (3) A person in possession of motor fuel subject to
17 subsection (1) shall do all of the following:

18 (a) Take an inventory at the close of business on the last
19 day before the effective date of the tax increase to determine
20 the gallons of motor fuel in storage for purposes of determining
21 the tax due on the inventory.

22 (b) Deduct the number of gallons of motor fuel in dead
23 storage.

24 (c) Deduct the number of gallons of dyed diesel fuel.

25 (d) Report the gallons of motor fuel listed in subdivisions

26 (a) to (c) on a form or in a format provided by the department.

1 (4) The amount of the tax due under subsection (3) is equal
2 to the increase in the tax rate times the gallons of motor fuel
3 in storage as determined under subsection (1).

4 (5) The report shall be filed and the tax paid within 20
5 days after the last day of the month that the increase in the tax
6 rate took effect.

7 Sec. 12. (1) A tax equal to the tax imposed by section 8 is
8 imposed on a nonexempt end user upon delivery in this state of 1
9 or more of the following into the fuel supply tank of that end
10 user's motor vehicle:

11 (a) Dyed diesel fuel or any motor fuel that contains a dye.

12 (b) Motor fuel on which a claim for refund has been made.

13 (c) Any fuel or component of fuel that is taxable under this
14 act and on which tax has not previously been imposed by this
15 act.

16 (2) The ultimate vendor of motor fuel is jointly and sever-
17 ally liable with the end user for the tax imposed by this section
18 if the ultimate vendor knows or has reason to know that the motor
19 fuel, as to which the tax imposed by this act or the motor car-
20 rier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, has not
21 been paid, is or will be consumed by a nonexempt end user or in a
22 nonexempt use.

23 Sec. 14. (1) The department may require a supplier required
24 to remit tax under this act to remit the tax by an electronic
25 funds transfer acceptable to the department. The remittance
26 shall be made on or before the date the tax is due.

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1 (2) In computing the tax, a supplier may deduct 1.5% of the
2 quantity of gasoline removed by the supplier to allow for the
3 cost of remitting the tax. This deduction is not allowed for the
4 quantity of gasoline removed by the supplier and sold tax-free.
5 At the time of filing the report and paying the tax, the supplier
6 shall submit satisfactory evidence to the department that the
7 amount of tax represented by the deduction was paid or credited
8 to the supplier or wholesaler who purchased the gasoline from the
9 supplier or wholesaler. The amount of the deduction shall be
10 paid or credited by each supplier or wholesaler to the purchaser
11 at each subsequent sale to a wholesaler. When a wholesaler or
12 supplier sells gasoline to a retailer, the wholesaler or supplier
13 shall pay or credit to the retailer 1/3 of the deduction on quan-
14 tities sold to that retailer.

15 Sec. 16. (1) In computing the amount of tax due under this
16 act, a supplier is entitled to a credit against the tax payable
17 in the amount of tax paid by the supplier that has not been col-
18 lected from an eligible purchaser and remains uncollected for 90
19 days after the date the tax payment was due from the eligible
20 purchaser.

21 (2) The supplier shall provide written notice to the depart-
22 ment of a failure to collect tax within 10 days after the earli-
23 est date on which the supplier was allowed to collect the tax
24 from the eligible purchaser under section 74.

25 (3) The department may promulgate rules establishing the
26 evidence a supplier must provide to receive the credit.

1 (4) A supplier shall claim the credit on the first report
2 filed by the supplier following the expiration of the 90-day
3 period described in subsection (1) if the payment remains unpaid
4 as of the filing date of that report.

5 (5) The claim for the credit shall identify the defaulting
6 eligible purchaser and any tax liability that remains unpaid.

7 (6) If an eligible purchaser fails to make a timely payment
8 of the amount of tax due, the supplier's credit shall be limited
9 to the amount due from the purchaser, plus any tax that accrues
10 and remains unpaid from that purchaser for a period of 10 days
11 following the date of failure to pay.

12 (7) Additional credit is not allowed to a supplier under
13 this section until the department has authorized the purchaser to
14 make a new election under section 74.

15 (8) A supplier shall remit to the department any previously
16 uncollected taxes paid to the supplier by an eligible purchaser
17 on which the supplier claimed a credit or deduction under this
18 section. The supplier shall remit the taxes on the return filed
19 for the month that the taxes were paid to the supplier and shall
20 include a statement of the period for which the taxes were paid.

21 Sec. 20. (1) A person who blends motor fuel with untaxed
22 products or materials is subject to tax on the untaxed products
23 or materials.

24 (2) The applicable rate of tax on the untaxed products or
25 materials is the rate imposed on the motor fuel that is blended
26 with the untaxed product or materials.

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1 (3) A person subject to the tax payable under subsection (1)
2 shall remit the tax directly to the department on or before the
3 twentieth day of the month following the month the fuel is
4 blended.

5 Sec. 22. (1) The tax imposed on gasoline shall be in lieu
6 of all other taxes imposed or to be imposed upon the sale or use
7 of gasoline by the state or any political subdivision of this
8 state except for the taxes imposed by the general sales tax act,
9 1933 PA 167, MCL 205.51 to 205.78, and the use tax act, 1937
10 PA 94, MCL 205.91 to 205.111.

11 (2) The tax imposed on diesel fuel shall be imposed in lieu
12 of all other taxes imposed or to be imposed upon the sale or use
13 of diesel fuel by the state or a political subdivision of the
14 state, except the taxes imposed by the general sales tax act,
15 1933 PA 167, MCL 205.51 to 205.78, the use tax act, 1937 PA 94,
16 MCL 205.91 to 205.111, and the motor carrier fuel tax act, 1980
17 PA 119, MCL 207.211 to 207.234. The exception for taxes imposed
18 by 1933 PA 167 and 1937 PA 94 shall not apply to diesel fuel used
19 in passenger vehicles of a capacity of 10 or more operated for
20 hire under a certificate issued by the state transportation
21 department.

22 Sec. 24. (1) Except as otherwise provided in
23 subsection (2), a person shall not sell, deliver, possess, or
24 store in this state, or import for sale, use, delivery, posses-
25 sion, or storage in this state, motor fuel as to which the tax
26 imposed by section 8 has not been previously paid to or accrued
27 by either of the following:

1 (a) A licensed supplier at the time of removal from a
2 terminal.

3 (b) A licensed importer, if all of the conditions in
4 sections 76 and 104 concerning the lawful importation of motor
5 fuel by the importer have been met.

6 (2) The prohibition in subsection (1) does not apply to any
7 of the following:

8 (a) A supplier with respect to motor fuel held within the
9 bulk transfer/terminal system in this state which was refined in
10 this state or imported into this state in a bulk transfer.

11 (b) Motor fuel that is exempt under section 30.

12 (c) Motor fuel in the process of being exported by a
13 licensed exporter in accordance with the shipping paper require-
14 ment in section 101 as to which the destination state tax has
15 been paid or accrued to the supplier and a statement meeting the
16 requirements of section 103(1)(d) is shown on the shipping
17 paper.

18 (d) Motor fuel in the possession of an end user as to which
19 a refund has been issued.

20 (e) A licensed importer who has met the conditions of
21 sections 76 and 104.

22 (3) A person who violates this section is guilty of a
23 misdemeanor.

24 Sec. 26. (1) Except as otherwise provided in section 32,
25 there is an irrebuttable presumption that all motor fuel deliv-
26 ered in this state into the fuel supply tank of a motor vehicle
27 licensed or required to be licensed for use on the public roads

1 or highways of this state is to be used or consumed on the public
2 roads or highways in this state for producing or generating power
3 for propelling the motor vehicle. This presumption does not
4 apply to that portion of the motor fuel used or consumed by a
5 commercial motor vehicle outside of this state.

6 (2) There is a rebuttable presumption, subject to proof of
7 exemption under this act, that all motor fuel removed from a ter-
8 minal in this state, or imported into this state other than by a
9 bulk transfer within the bulk transfer/terminal system or deliv-
10 ered into an end user's storage tank, is to be used or consumed
11 on the public roads or highways in this state in producing or
12 generating power for propelling motor vehicles. This presumption
13 does not apply to that portion of the motor fuel used or consumed
14 by a licensed commercial motor vehicle outside of this state.

15 Sec. 28. (1) Except as otherwise provided in this section,
16 the tax imposed by this act on the sale or use of motor fuel
17 shall be measured by gross gallons of motor fuel:

18 (a) Removed by a licensed supplier from the bulk
19 transfer/terminal system or from a qualified terminal or refinery
20 within the United States.

21 (b) Removed by a licensed supplier from the bulk
22 transfer/terminal system or from a qualified terminal or refinery
23 outside the United States for delivery to a location in this
24 state, as represented on the shipping paper if the supplier
25 either imports the motor fuel for its own account or has made a
26 tax precollection election under section 74.

1 (c) Transferred within a qualified terminal or refinery in
2 this state to an unlicensed supplier.

3 (d) In the manner provided by the tax imposed by
4 section 4081 of the internal revenue code or rules promulgated
5 under that section.

6 (2) The tax imposed by this act on motor fuel that is
7 imported into this state from outside the United States by a
8 licensed importer, other than by a bulk transfer, arises at the
9 time the motor fuel is imported into the state. The tax shall be
10 measured by gross gallons received outside this state at a refin-
11 ery, terminal, or bulk plant for delivery to a destination in
12 this state, or as otherwise determined by the department.

13 (3) A supplier who removes motor fuel from a terminal sup-
14 plied by a refinery located not more than 5 miles from the termi-
15 nal may exercise a 1-time option to report, collect, and pay tax
16 under this act on all gallons of motor fuel sold by the supplier
17 through that terminal measured by net gallons. A supplier shall
18 exercise the option by notifying the department in writing not
19 less than 30 days before the date the option is exercised. A
20 supplier may rescind the option only upon a showing of good cause
21 and after approval of the department.

22 Sec. 30. (1) Motor fuel is exempt from the tax imposed by
23 section 8 and the tax shall not be collected by the supplier if
24 the motor fuel:

25 (a) Is dyed diesel fuel or dyed kerosene.

26 (b) Is gasoline or diesel fuel that is sold directly by the
27 supplier to the federal government, the state government, or a

1 political subdivision of the state for use in a motor vehicle
2 owned and operated or leased and operated by the federal or state
3 government or a political subdivision of the state.

4 (c) Is sold directly by the supplier to a nonprofit, pri-
5 vate, parochial, or denominational school, college, or university
6 and is used in a school bus owned and operated or leased and
7 operated by the educational institution that is used in the
8 transportation of students to and from the institution or to and
9 from school functions authorized by the administration of the
10 institution.

11 (d) Is fuel for which proof of export is available in the
12 form of a terminal-issued destination state shipping paper under
13 any of the following circumstances:

14 (i) The motor fuel is exported by a supplier who is licensed
15 in the destination state.

16 (ii) Until December 31, 2000, the motor fuel is sold by a
17 supplier to a licensed exporter for immediate export.

18 (iii) The motor fuel is sold by a supplier to another person
19 for immediate export to a state for which the destination state
20 fuel tax has been paid to the supplier who is licensed to remit
21 tax to that destination state.

22 (e) Is gasoline removed from a pipeline or marine vessel by
23 a taxable fuel registrant with the internal revenue service as a
24 fuel feedstock user.

25 (f) Is sold by a supplier to a licensed industrial process
26 reseller for resale to an industrial end user who uses the fuel
27 for an exempt purpose or that is sold by a licensed industrial

1 process reseller to an industrial end user who uses the fuel for
2 an exempt purpose.

3 (g) Is motor fuel that is sold for use in aircraft but only
4 if the purchaser paid the tax imposed on that fuel under the
5 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1
6 to 259.208, and the purchaser is registered under section 94 if
7 required to be registered under that section.

8 (2) Motor fuel is exempt from the tax imposed by section 8
9 if it is acquired by an end user outside of this state and
10 brought into this state in the fuel supply tank of a motor vehi-
11 cle that is not a commercial motor vehicle, but only if the fuel
12 is retained within and consumed from that same fuel supply tank.

13 (3) A person who uses motor fuel for a taxable purpose where
14 the tax imposed by this act was not collected shall pay to the
15 department the tax imposed by section 8 and any applicable penal-
16 ties or interest. The payment shall be made on a form or in a
17 format prescribed by the department.

18 Sec. 32. If a person pays the tax imposed by this act and
19 uses the motor fuel for a nontaxable purpose as described in sec-
20 tions 33 to 47, the person may seek a refund of the tax. To
21 obtain a refund, the person shall comply with the requirements
22 set forth in section 48.

23 Sec. 33. An end user may seek a refund for tax paid under
24 this act on motor fuel used by the person for nonhighway
25 purposes. However, a person shall not seek and is not eligible
26 for a refund for tax paid on motor fuel used in a snowmobile,
27 off-road vehicle, or vessel as defined in the natural resources

1 and environmental protection act, 1994 PA 451, MCL 324.101 to
2 324.90106.

3 Sec. 34. A person may seek a refund or claim a deduction
4 for tax paid under this act on gasoline or diesel fuel that is
5 sold tax-free by the person seeking the refund or claiming the
6 deduction to the federal government, the state government, or a
7 political subdivision of the state for use in a motor vehicle
8 owned and operated or leased and operated by the federal govern-
9 ment, state government, or a political subdivision of the state.
10 However, if the purchase of motor fuel is charged to a credit
11 card issued to an eligible government entity, the issuer of the
12 card shall bill the government entity without the tax and seek a
13 refund.

14 Sec. 35. A person may seek a refund or claim a deduction
15 for tax paid under this act on motor fuel that is sold tax-free
16 by the person seeking the refund or claiming the deduction to a
17 nonprofit, private, parochial, or denominational school, college,
18 or university for use in a school bus owned and operated or
19 leased and operated by the educational institution that is used
20 in the transportation of students to and from the institution or
21 to and from school functions authorized by the administration of
22 the institution.

23 Sec. 36. A licensed exporter may seek a refund for tax paid
24 under this act on motor fuel acquired by the licensed exporter on
25 which the tax imposed by this act has previously been paid or
26 accrued and that was subsequently exported by transport truck by

1 or on behalf of the licensed exporter in a diversion across state
2 boundaries properly reported under section 108.

3 Sec. 37. (1) A person may seek a refund for tax paid under
4 this act on motor fuel that the person exported out of a bulk
5 plant in this state in a tank wagon if proof of reporting of
6 import to the destination state and proof of payment of the tax
7 imposed by this act have been provided. The refund is subject to
8 conditions established by the department.

9 (2) A person who is licensed under this act and registered
10 with the federal government under section 4101 of the internal
11 revenue code as an ultimate vendor may apply for a refund or
12 claim a deduction for tax paid under this act on K-1 kerosene
13 that is sold tax-free by that person through a blocked pump if he
14 or she meets the requirements described in section 6427 of the
15 internal revenue code and any regulations concerning a blocked
16 pump. The department may revoke a person's license under this
17 act if the person allows anyone to fuel a motor vehicle from a
18 blocked pump or allows anyone to purchase K-1 kerosene from a
19 blocked pump for a taxable purpose. As used in this subsection,
20 "blocked pump" means that term as defined in 65 F.R. 48.6427-10,
21 p. 17162 (March 31, 2000).

22 Sec. 38. A licensed retail diesel dealer may claim a deduc-
23 tion for tax paid under this act on sales of undyed diesel fuel
24 in amounts of 100 gallons or less sold tax-free for a nontaxable
25 purpose. If a sale of undyed diesel fuel for a nontaxable pur-
26 pose exceeds 100 gallons, tax shall be charged and collected by
27 the retail diesel dealer, and the end user may file a claim for a

1 refund. A sale for a nontaxable purpose shall meet the invoicing
2 requirement of the department.

3 Sec. 39. An end user may seek a refund for tax paid under
4 this act on motor fuel used in an implement of husbandry or oth-
5 erwise used for a nonhighway purpose not otherwise expressly
6 exempted under this act. However, a person shall not seek and is
7 not eligible for a refund for tax paid on gasoline used in a
8 snowmobile, off-road vehicle, or vessel as defined in the natural
9 resources and environmental protection act, 1994 PA 451,
10 MCL 324.101 to 324.90106.

11 Sec. 40. (1) A person may seek a refund for tax paid under
12 this act on motor fuel that is:

13 (a) Accidentally contaminated by dye or another contaminant,
14 including but not limited to gasoline that is mixed with diesel
15 fuel, if the resulting product cannot be used to operate a motor
16 vehicle on the public roads or highways without violating this
17 act or other state or federal law.

18 (b) Accidentally lost or destroyed as a direct result of a
19 sudden and unexpected casualty loss.

20 (2) This refund does not apply if the person has been reim-
21 bursed for the cost of the tax by an insurance company for the
22 loss or contamination.

23 Sec. 41. An end user may seek a refund for tax paid under
24 this act on gasoline used in a passenger vehicle of a capacity of
25 5 or more under a municipal franchise, license, permit, agree-
26 ment, or grant, respectively, a person operating a passenger
27 vehicle for the transportation of school students under a

1 certificate of authority issued by the state transportation
2 department pursuant to section 5 of article II of the motor car-
3 rier act, 1933 PA 254, MCL 476.5, and a community action agency
4 as described in former title II of the economic opportunity act
5 of 1964, Public Law 88-452, which are not a part or division of a
6 political subdivision of this state. A community action agency
7 shall make the refund a state-contributed nonfederal share to
8 grants received by the community action agency from the community
9 services administration under former title II of the economic
10 opportunity act of 1964.

11 Sec. 42. An end user may seek a refund for tax paid under
12 this act on diesel fuel used in a passenger vehicle of a capacity
13 of 10 or more under a certificate of authority issued by the
14 state transportation department, or under a municipal franchise,
15 license, permit, agreement, or grant, respectively, and operating
16 over regularly traveled routes expressly provided for in the cer-
17 tificate of convenience and necessity, or municipal franchise,
18 license, permit, agreement, or grant. A refund provided under
19 this section to a state certificated operator of an intercity
20 motor bus shall apply only to those gallons of diesel motor fuel
21 producing mileage traveled by each intercity motor bus over regu-
22 lar routes or on charter trips or portions of charter trips
23 within this state.

24 Sec. 43. A licensed exporter may claim a deduction for tax
25 paid under this act on motor fuel that was placed into storage in
26 this state and was subsequently exported by transport truck or

1 tank wagon by or on behalf of a licensed exporter if both of the
2 following requirements are met:

3 (a) Proof of export is available in the form of a destina-
4 tion state shipping paper that was acquired by a licensed
5 exporter.

6 (b) The motor fuel is fuel as to which the tax imposed by
7 this act had previously been paid or accrued.

8 Sec. 44. An end user may seek a refund for tax paid under
9 this act on motor fuel purchased by the end user for consumption
10 for an exempt use described under section 30 on which the tax
11 imposed by section 8 was previously paid and for which a refund
12 was not previously issued.

13 Sec. 45. (1) An end user operating a motor vehicle with a
14 common fuel supply tank from which motor fuel is used both to
15 propel the vehicle and to operate attached equipment may seek a
16 refund for tax paid under this act on diesel fuel consumed from
17 that fuel supply tank in the amount of 15% of the tax paid.

18 (2) Notwithstanding subsection (1), an end user operating a
19 motor vehicle with a common fuel supply tank from which diesel
20 fuel is used both to propel the vehicle and to operate attached
21 equipment may seek a refund for tax paid under this act on diesel
22 fuel consumed from that fuel supply tank in an amount that is
23 more than 15% of the tax paid if the operator provides evidence
24 to the department that a refund or deduction of more than 15% is
25 justified. The department shall determine the evidence that is
26 necessary under this section to justify a refund of more than 15%
27 of the tax paid.

1 (3) A refund provided under this section only applies to a
2 motor vehicle that is used by the end user exclusively for busi-
3 ness or other commercial purposes and does not apply to an auto-
4 mobile whether or not it is used by the end user for business or
5 other commercial purposes.

6 (4) If the department determined before the effective date
7 of this section that a class of motor vehicles with attached
8 equipment was eligible for a motor fuel refund in an amount dif-
9 ferent than 15% of the tax paid, that percentage shall apply to
10 those motor vehicles on and after the effective date of this sec-
11 tion unless, following notice and hearing, a later determination
12 under subsection (2) is made.

13 (5) As used in this section, "attached equipment" means
14 equipment used by the end user in the regular course of his or
15 her business that is powered by diesel fuel from the common fuel
16 supply tank. Attached equipment includes, but is not limited to,
17 certain pumping, spraying, seeding, spreading, shredding, lift-
18 ing, winching, dumping, cleaning, mixing, processing, and refrig-
19 eration equipment. Attached equipment does not include a heater,
20 air conditioner, radio, or any other equipment that is used in
21 the cab of the motor vehicle and does not include any other
22 equipment that the department reasonably determines does not meet
23 this definition.

24 Sec. 47. A person may otherwise seek a refund for tax paid
25 under this act on motor fuel pursuant to section 30 of 1941
26 PA 122, MCL 205.30. However, the claim for refund shall be filed
27 within 18 months after the date the motor fuel was purchased.

1 Sec. 48. (1) In order to make a refund claim under this
2 act, a person shall do all of the following:

3 (a) File the claim on a form or in a format prescribed by
4 the department.

5 (b) Provide the information required by the department
6 including, but not limited to, all of the following:

7 (i) The total amount of motor fuel purchased based on the
8 original invoice unless the department waives this requirement.

9 (ii) The total amount of tax paid.

10 (iii) A statement that the fuel was used for an exempt pur-
11 pose or by an exempt user.

12 (iv) A statement that the fuel was paid for in full.

13 (v) A statement printed on the form that the claim is made
14 under penalty of perjury.

15 (c) Comply with any specific requirement described in
16 sections 32 to 47.

17 (d) Sign the claim.

18 (e) File the claim not more than 18 months after the date
19 the motor fuel was purchased.

20 (2) For purposes of this section, the filing date of a claim
21 is the earlier of the date the claim was postmarked by the United
22 States postal service or the date the claim was received by the
23 department.

24 (3) The department may make any investigation it considers
25 necessary before refunding tax paid under this act to a person
26 but in any case may investigate a refund after the refund has

1 been issued and within 4 years from the date of issuance of
2 refund.

3 (4) In any case where a refund would be payable to a
4 licensee who files a report under this act, the licensee may
5 claim a deduction on the report filed under section 70 in lieu of
6 the refund. If a licensee claims a deduction on the report, the
7 licensee shall attach the claim for refund form to the report.

8 (5) The department shall pay interest on a refund claim in
9 accordance with the requirements of section 30 of 1941 PA 122,
10 MCL 205.30.

11 Sec. 51. (1) A person who makes a false statement in any
12 claim under this act, who submits an invoice in support of the
13 claim upon which alteration or changes exist in the date, name,
14 number of gallons, amount of tax paid, or other relevant informa-
15 tion, who knowingly presents any claim or invoice containing any
16 false statement, or who collects or attempts to collect a refund,
17 or causes to be paid to another person a refund, without being
18 entitled to it, shall forfeit the full amount of the claim.

19 (2) A person who violates a prohibition set forth in
20 subsection (1) is guilty of a misdemeanor punishable by a fine of
21 not more than \$1,000.00, or imprisonment for a term of not more
22 than 1 year, or both.

23 Sec. 53. (1) A person shall not engage in a business activ-
24 ity in this state where a license is required by this act unless
25 the person is licensed under this act.

1 (2) A person required to be licensed under this act shall
2 apply for a license on a form or in a format prescribed by the
3 department.

4 (3) An application for a license under this act may contain
5 any information the department may reasonably require to adminis-
6 ter this act including the applicant's federal identification
7 number.

8 (4) The following persons currently licensed on the effec-
9 tive date of this act are not required to obtain a new license
10 under this act and shall be considered licensed under this act:

11 (a) A person licensed in this state as a supplier on the
12 effective date of this act shall be considered licensed as a sup-
13 plier under this act but only if the person is a terminal opera-
14 tor or a position holder in a terminal on the effective date of
15 this act.

16 (b) A wholesale distributor who on the effective date of
17 this act possesses a valid exemption certificate issued under
18 former section 12 of 1927 PA 150 shall be considered licensed as
19 a fuel vendor under this act.

20 (c) A person licensed in this state as an exporter on the
21 effective date of this act shall be considered licensed as an
22 exporter under this act.

23 (d) A person licensed in this state as a liquid fuel hauler
24 on the effective date of this act shall be considered licensed as
25 a transporter under this act.

1 (e) A person licensed in this state as a retail dealer of
2 diesel motor fuel on the effective date of this act shall be
3 considered licensed as a retail diesel dealer under this act.

4 (5) A person considered licensed under subsection (4) is
5 subject to all of the provisions of this act except those requir-
6 ing an application for a new license.

7 (6) Except as otherwise provided in this act, a person who
8 is engaged in more than 1 business activity for which a license
9 is required under this act shall be licensed for each business
10 activity.

11 (7) A person who is licensed as a supplier is not required
12 to obtain a separate license for any other business activity for
13 which a license is required under this act except as a retail
14 diesel dealer or an LPG dealer under sections 151 to 155.

15 (8) A person licensed in this state as an LPG dealer on the
16 effective date of this act shall be considered licensed as an LPG
17 dealer under this act.

18 (9) A person who negligently violates this section is
19 subject to a civil penalty of \$1,000.00.

20 (10) A person who knowingly violates or knowingly aids and
21 abets another to violate this section is guilty of a felony.

22 Sec. 55. (1) The department shall investigate each person
23 who applies for a license under this act. The department shall
24 not issue a license if it determines that 1 or more of the fol-
25 lowing exist:

26 (a) The application was not filed in good faith.

1 (b) The applicant is not the real party in interest. As
2 used in this subdivision and subdivisions (c) and (d), "real
3 party in interest" means related party control as described in
4 section 267 of the internal revenue code and related
5 regulations.

6 (c) A license previously issued to the real party in inter-
7 est was revoked for cause.

8 (d) The applicant or real party in interest, or a person
9 controlled by the real party in interest, has had their license
10 under this act or former act 1927 PA 150 revoked or refused for
11 renewal in this state or another state or foreign jurisdiction.

12 (e) The applicant, or a corporate officer of the applicant,
13 has a prior state or federal felony or misdemeanor conviction in
14 this state or another state or foreign jurisdiction for motor
15 fuel tax evasion or other tax evasion, or for shipping paper
16 tampering, or for fuel tampering, or is currently charged or
17 under indictment for such an offense.

18 (f) Other reasonable cause as determined by the department.

19 (2) If the person is applying for an occasional importer's
20 license or a bonded importer's license, the department shall not
21 issue a license if the applicant is not licensed in the identi-
22 fied source state.

23 Sec. 56. (1) The department may require a licensee or an
24 applicant for a license under this act, including a corporate
25 officer, partner, or other individual, to submit a copy of their
26 fingerprints to the department at the time of application.

1 (2) The following persons are exempt from the fingerprinting
2 requirement in subsection (1):

3 (a) An officer of a publicly held corporation or its
4 subsidiary.

5 (b) A person other than an applicant for an importer's
6 license who was licensed under this act continuously for 3 years
7 before the effective date of this section.

8 (3) The fingerprints shall be submitted on a form or in a
9 format prescribed by the department.

10 (4) The department shall forward fingerprints submitted by
11 an applicant to the federal bureau of investigation or any other
12 agency for processing.

13 (5) Subject to the confidentiality requirements set forth in
14 1941 PA 122, MCL 205.1 to 205.31, the department may maintain a
15 file of fingerprints submitted under this section.

16 Sec. 57. (1) The department may at any time require an
17 applicant or a licensee to furnish current, verified financial
18 statements.

19 (2) The department is not required to accept as accurate
20 financial statements which have not been certified or indepen-
21 dently audited and may independently inquire into the financial
22 condition of an applicant.

23 Sec. 58. (1) Except as otherwise provided in this section,
24 a person who applies for a license under this act is not required
25 to file with the department a surety bond or cash deposit.
26 However, the department may require a surety bond or cash deposit

1 if the department considers it necessary to ensure payment of the
2 tax liability of an applicant or licensee.

3 (2) If a surety bond or cash deposit is required, it shall
4 be in an amount determined by the department that is not less
5 than \$2,000.00 or not more than an applicant's 3-month tax
6 liability as estimated by the department.

7 (3) The department shall require a supplier, a terminal
8 operator, or a bonded importer to post an annual bond of not less
9 than \$2,000,000.00, except that if a person is a motor fuel reg-
10 istrant under section 4101 of the internal revenue code, the bond
11 may be reduced to not less than \$1,000,000.00. In either case,
12 an applicant subject to this subsection may show proof of finan-
13 cial responsibility in lieu of posting bond. Proof of a
14 \$5,000,000.00 net worth is presumptive evidence of financial
15 responsibility in the absence of circumstances indicating that
16 the department is otherwise at risk with respect to collection of
17 the tax due under this act from the applicant.

18 (4) The department may require an occasional importer to
19 post a bond in an amount determined by the department but not
20 more than \$2,000,000.00. An applicant subject to this subsection
21 may show proof of financial responsibility in lieu of posting
22 bond. Proof of a \$5,000,000.00 net worth is presumptive evidence
23 of financial responsibility in the absence of circumstances indi-
24 cating that the department is otherwise at risk with respect to
25 collection of the tax due under this act from the applicant.

26 (5) If an applicant files a bond, the bond must meet all of
27 the following requirements:

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1 (a) The bond shall be issued by a bonding company licensed
2 to do business in this state.

3 (b) The bond shall name the applicant as the principal and
4 the state as the obligee.

5 (c) The bond shall be on a form prescribed by the
6 department.

7 (d) The bond company's power of attorney is attached.

8 (e) The bond remains in effect until the end of the current
9 calendar year.

10 (6) A person who was licensed and not subject to a bond or
11 cash deposit under this act on the effective date of this section
12 is exempt from the requirement of subsection (1). However, the
13 department may at a later date require the person to post a bond
14 or cash deposit in an amount the department considers necessary
15 to ensure payment.

16 (7) The department may require a bond or cash deposit in an
17 amount the department considers necessary to ensure payment if a
18 person who is licensed under this act on the effective date of
19 this section forms a new business or joint business and applies
20 under this act for a license for the new or joint business.

21 Sec. 59. (1) If the department reasonably determines that
22 the amount of an existing bond or cash deposit is insufficient to
23 ensure payment to the state of the tax and any penalty and inter-
24 est for which the licensee is or may become liable, the licensee
25 shall, upon written demand of the department, file a new bond or
26 increase the amount of the bond or cash deposit. The department

1 shall allow the licensee at least 30 days to secure the increased
2 bond or cash deposit.

3 (2) The new bond or increased bond or cash deposit shall
4 meet the requirements set forth in this act.

5 Sec. 60. (1) The department may require a licensee to file
6 a new bond with a satisfactory surety in the same form and amount
7 under either of the following circumstances:

8 (a) Liability upon the previous bond is discharged or
9 reduced by the judgment rendered, payment made, or otherwise dis-
10 posed of.

11 (b) The department determines that a surety on the previous
12 bond has become unsatisfactory.

13 (2) If the department determines that the form and amount of
14 the new bond is satisfactory, the department shall in writing
15 release the surety on the previous bond from any liability accru-
16 ing after the effective date of the new bond.

17 (3) If a licensee has placed a cash deposit with the depart-
18 ment and the cash deposit is reduced by a judgment rendered, pay-
19 ment made, or otherwise disposed of, the department may require
20 the licensee to make a new deposit that is, at a minimum, equal
21 to the amount of the reduction, or may require a new bond in an
22 amount the department considers necessary.

23 Sec. 61. (1) If the surety of a bond provides the depart-
24 ment with a written request for a release from the bond, the
25 surety is released from any liability to the state accruing on
26 the bond more than 60 days after the date of the request. The
27 release does not affect any liability accruing before the

1 expiration of the 60-day period. After receiving a written
2 request for release, the department shall promptly notify the
3 licensee furnishing the bond that a release has been requested.
4 If the licensee does not obtain a new bond that meets the
5 requirements of this act and does not file the new bond with the
6 department within the 60-day period, the department may revoke
7 the licensee's license.

8 (2) Sixty days after a licensee makes a written request to
9 the department for release of a cash deposit, the cash deposit is
10 canceled as security for any obligation accruing after the expi-
11 ration of the 60-day period. However, the department may retain
12 all or part of the cash deposit for up to 4 years and 1 day as
13 security for any obligations accruing before the effective date
14 of the cancellation. Any part of the deposit that is not
15 retained by the department shall be released to the licensee.
16 Before the expiration of the 60-day period, the licensee may be
17 required to provide the department with a bond that satisfies the
18 requirements of this act. The department may cancel the license
19 if the licensee does not provide the bond required by this
20 subsection.

21 (3) A licensee who filed a bond or other security under this
22 act may request that the department return, refund, or release
23 the bond or security if the department determines that the
24 licensee has continuously complied with the provisions of this
25 act for the previous 4 years. However, if the department deter-
26 mines that the revenues of the state would be jeopardized by a
27 return, refund, or release of the bond or security, the

1 department may retain the bond or security, or having released
2 it, may reimpose a requirement for bond or security to protect
3 the revenues of this state. If requested by a licensee, the
4 department's determination may be reviewed in accordance with
5 1941 PA 122, MCL 205.1 to 205.31.

6 Sec. 62. (1) Upon denial of an application for a license,
7 the department shall provide the applicant with notice of and
8 reasons for the denial and a statement of the applicant's right
9 to appeal under section 22 of 1941 PA 122, MCL 205.22.

10 (2) Before denying an application, the department shall pro-
11 vide an applicant with a reasonable opportunity to cure any
12 defect in the application.

13 (3) An applicant may appeal the department's denial pursuant
14 to section 22 of 1941 PA 122, MCL 205.22. If the applicant does
15 not file a timely appeal, the denial is final.

16 Sec. 63. (1) If an application and the accompanying bond or
17 cash deposit, if any, are approved, the department shall issue a
18 license to the applicant.

19 (2) A licensee shall retain a copy of its license at each of
20 its business locations unless the department waives this
21 requirement.

22 (3) A licensee is not required to renew a license and a
23 license is valid unless and until it is suspended, canceled, or
24 revoked for cause by the department, or discontinued by the
25 licensee. However, the department may require a licensee to
26 update the information required under section 53.

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1 (4) The department shall maintain a list containing the name
2 and address of each person licensed under this act. The
3 department may post the list on the department's website. The
4 department shall regularly update the list in order to reflect
5 the current status of a licensee.

6 Sec. 64. (1) A licensee shall not transfer a license issued
7 under this act to another person. If a licensee transfers or
8 attempts to transfer a license, the license is automatically
9 revoked on that date.

10 (2) If a licensee transfers a majority interest in a busi-
11 ness association other than a publicly-held association, includ-
12 ing a corporation, partnership, trust, joint venture, limited
13 liability company, limited liability partnership, or any other
14 business association, the license is revoked on the date of the
15 transfer.

16 (3) A licensee who transfers 20% or more of beneficial
17 ownership of a business association shall report the change to
18 the department within 30 days after the date of the change in
19 ownership. The department may also require that a new license be
20 obtained.

21 Sec. 65. (1) If a licensee discontinues, sells, or trans-
22 fers its business, the licensee shall notify the department in
23 writing of the discontinuance, sale, or transfer.

24 (2) The notice shall be provided on or within 3 business
25 days after the date of discontinuance, sale, or transfer.

1 (3) The notice shall provide the date of discontinuance,
2 sale, or transfer and, if the business is sold or transferred,
3 the name and address of the purchaser or transferee.

4 (4) A licensee is liable for all taxes, interest, and penal-
5 ties that accrue or may be owing before the date the notice
6 required by subsection (1) is received by the department.

7 (5) A licensee is subject to criminal liability for misuse
8 of the license that occurs before the date the notice required by
9 subsection (1) is received by the department.

10 Sec. 66. Within 15 days after the discontinuance, sale, or
11 transfer of a business licensed under this act, or within 15 days
12 after the cancellation, revocation, or termination by law of a
13 license issued under this act, a licensee shall provide the
14 department with a final report and shall include with the report
15 a payment for all motor fuel taxes, penalties, and interest that
16 are due.

17 Sec. 67. The department may suspend or revoke a license for
18 failure to comply with the provisions of this act after at least
19 10 days' notice to the licensee and a conference, if a conference
20 is requested. If the license suspension or revocation is upheld
21 at the conference, the licensee may appeal the determination pur-
22 suant to section 22 of 1941 PA 122, MCL 205.22.

23 Sec. 68. (1) Except as otherwise provided in this act:

24 (a) A report or statement required by this act shall be
25 signed by the licensee or an officer or other responsible party
26 of the licensee.

1 (b) A report or statement required by this act shall be
2 filed on or before the twentieth day of the month following the
3 close of the reporting period for sales, purchases, or other
4 transactions in motor fuel that occurred during the preceding
5 reporting period regardless of whether tax is owed.

6 (2) For purposes of reporting and determining tax liability
7 under this act, each licensee shall maintain records as required
8 by this act and 1941 PA 122, MCL 205.1 to 205.31.

9 (3) If the date a report or payment is due under this act
10 falls on a weekend or on a state or banking holiday, the report
11 or payment is due the next business day.

12 (4) The department may require a report due to the depart-
13 ment under this act to be submitted in electronic format after
14 timely notice by the department.

15 Sec. 69. The department shall develop the forms required
16 under this act after consultation with representatives of licens-
17 ees and other persons who are required to file a report under
18 this act. In developing the forms, the department shall consider
19 similar federal forms in order to lessen the regulatory burden on
20 licensees and others who file reports under this act.

21 Sec. 70. (1) A person shall not operate as a supplier in
22 this state unless licensed as a supplier under this act. The fee
23 for a supplier's license is \$2,000.00.

24 (2) A supplier shall file with the department on forms or in
25 a format prescribed by the department a monthly report containing
26 the following information:

1 (a) The number of gallons of motor fuel for which Michigan
2 is the destination state.

3 (b) The number of gallons of motor fuel removed by the sup-
4 plier from the bulk transfer/terminal system in this state on
5 which the tax imposed by this act has been accrued by the
6 supplier.

7 (c) A statement as to whether the billed gallons are gross
8 gallons or net gallons under the option provided for in section
9 28(3).

10 (d) Any other information that the department determines is
11 reasonably required to determine tax liability under this act.

12 (3) A person who knowingly violates or knowingly aids or
13 abets another to violate this section is guilty of a
14 misdemeanor.

15 Sec. 71. (1) Except as otherwise provided by this act, the
16 tax imposed by this act shall be remitted to the state by the
17 supplier who removes the motor fuel, as shown by the terminal
18 operator's records.

19 (2) A supplier shall list the amount of tax as a separate
20 line item on all invoices or billings.

21 (3) A supplier shall pay the amount of tax due on gallons of
22 motor fuel removed during a calendar month on or before the twen-
23 tieth day of the following month.

24 (4) A supplier shall not claim a deduction from taxable gal-
25 lons for gallons actually purchased by a customer notwithstanding
26 that the supplier has issued a correction, credit, or rebilling
27 to a customer adjusting tax liability.

1 (5) In addition to the tax due under this act, a supplier is
2 subject to a civil penalty equal to the amount of the tax if the
3 supplier makes sales for export to a person who is not a licensed
4 exporter and the supplier has not collected the destination state
5 tax on motor fuel other than dyed diesel fuel.

6 Sec. 72. (1) A licensed supplier or licensed permissive
7 supplier shall treat all removals from all of its terminals
8 within the United States with a destination in this state as
9 shown on the terminal-issued shipping paper as if the motor fuel
10 were removed across the rack by the supplier from a terminal in
11 this state for all purposes.

12 (2) A licensed supplier or licensed permissive supplier may
13 elect to treat all removals from all of its terminals located
14 outside of the United States with a destination in this state as
15 shown on the terminal-issued shipping paper as if the motor fuel
16 were removed across the rack by the supplier from a terminal in
17 this state for all purposes.

18 (3) The election provided under subsection (2) shall be made
19 by filing with the department a notice of election.

20 (4) The department shall release a list of electing suppli-
21 ers under subsection (2) upon request by any person.

22 (5) The absence of an election by a supplier under
23 subsection (2) does not relieve the supplier of responsibility
24 for remitting the tax imposed by this act upon the removal of
25 motor fuel from a terminal located outside of this state for
26 import into this state by the supplier.

1 (6) A supplier who makes the election provided for in
2 subsection (2) shall from the date the election is filed with the
3 department precollect the tax imposed by this act on all removals
4 from a terminal on its account either as a position holder or as
5 a person receiving fuel from a position holder pursuant to a
6 2-party exchange agreement. The supplier shall precollect the
7 tax without regard to any of the following:

8 (a) The license status of the person acquiring the fuel from
9 the supplier.

10 (b) The point or terms of sale.

11 (c) The character of delivery.

12 (7) A supplier who elects to precollect tax under
13 subsection (2) waives any defense that the state lacks jurisdic-
14 tion to require collection on all sales made outside of this
15 state by the supplier on which the supplier had knowledge that
16 the shipments were destined for this state. This state imposes
17 this requirement under its general police powers to regulate the
18 movement of motor fuel.

19 Sec. 73. (1) A person shall not operate as a permissive
20 supplier unless licensed under this act as a permissive
21 supplier.

22 (2) A person who desires to collect the tax imposed by this
23 act as a supplier and who otherwise qualifies as a permissive
24 supplier shall apply for a permissive supplier's license pursuant
25 to section 53.

26 (3) The fee for a permissive supplier's license is \$50.00.

1 (4) Application for or possession of a permissive supplier's
2 license does not itself subject the applicant or licensee to the
3 jurisdiction of this state for any other purpose than administra-
4 tion and enforcement of this act.

5 Sec. 74. (1) A supplier who sells motor fuel shall collect
6 from the purchaser the tax imposed on that fuel by section 8.

7 (2) At the election of an eligible purchaser, a supplier
8 shall not require the eligible purchaser to pay the tax to the
9 supplier sooner than 1 business day before the date the tax is
10 required to be remitted to the department under section 71.

11 (3) Notice of an election shall be evidenced by a written
12 statement from the department that the purchaser is an eligible
13 purchaser under section 75.

14 (4) An election under this section is subject to the condi-
15 tion that the eligible purchaser's remittances of all tax due to
16 the supplier shall be paid by electronic funds transfer on or
17 before 1 business day before the date of the remittance by the
18 supplier to the department.

19 (5) An election under this section may be terminated by the
20 supplier if the eligible purchaser does not make timely payments
21 to the supplier as required by this section.

22 Sec. 75. (1) A purchaser who desires to make an election
23 under section 74 shall provide to the department evidence that
24 the purchaser meets the financial responsibility or bonding
25 requirements imposed by subsection (2) and this act.

26 (2) The department may require a purchaser who pays to a
27 supplier the tax imposed by this act to file with the department

1 a surety bond payable to the state, upon which the purchaser is
2 the obligor, or a cash deposit, in an amount the department
3 believes is reasonable but not to exceed 3 times the amount due
4 to a supplier each month. If a purchaser makes an election with
5 more than 1 supplier, the bond amount shall be based on the tax
6 due to all suppliers with whom the elections were made. The
7 department may require, but is not limited to requiring, that the
8 bond be reasonably sufficient to indemnify the department against
9 uncollectible tax credits claimed by the supplier under section
10 16.

11 (3) The department may, after a properly noticed hearing
12 before the department administrator responsible for implementing
13 and enforcing this act or his or her designee, and after a show-
14 ing of good cause, revoke a purchaser's election under section
15 74. For purposes of this section, good cause includes, but is
16 not limited to, a showing that the purchaser failed to make a
17 timely tax payment to a supplier as required by section 74.

18 (4) As an alternative to termination of the purchaser's
19 election, the department may require further assurance of the
20 purchaser's financial responsibility, or may increase the bond
21 requirement for that purchaser, or may take any other action that
22 the department may reasonably require to ensure remittance of the
23 tax.

24 (5) A purchaser may appeal the department's decision under
25 this section pursuant to section 22 of 1941 PA 122, MCL 205.22.

26 Sec. 76. (1) A person who desires to import motor fuel into
27 this state from another country by transport truck, tank wagon,

1 pipeline, or marine vessel into a storage facility other than a
2 qualified terminal shall be licensed as either of the following:

3 (a) An occasional importer.

4 (b) A bonded importer.

5 (2) An applicant for a license under subsection (1) may
6 choose which license the person shall operate under. The fee for
7 either license is \$1,000.00.

8 (3) A bonded importer or occasional importer who sells motor
9 fuel shall collect from the purchaser the tax imposed by section
10 8 on that motor fuel.

11 (4) In addition to the license application information
12 required by section 53, an applicant for an occasional importer's
13 license or a bonded importer's license shall provide a copy of
14 the applicant's license to purchase or handle motor fuel
15 tax-exempt in the specified province, country, or other source
16 jurisdiction for which the license is to be issued.

17 (5) This section does not apply to a person who imports
18 motor fuel if both of the following conditions are met:

19 (a) All of the motor fuel is subject to 1 or more tax pre-
20 collection agreements with a supplier as provided in section 72.

21 (b) All of the motor fuel is expressly evidenced on the
22 terminal-issued shipping paper as provided in section 101.

23 (6) A person who desires to import motor fuel into a desti-
24 nation in this state from outside the United States, and who has
25 not entered into an agreement to prepay to the supplier or per-
26 missive supplier this state's motor fuel tax with respect to the
27 motor fuel, shall obtain an occasional importer's license or a

1 bonded importer's license subject to the special bonding
2 requirements of section 58(2).

3 (7) A person who obtains a license to import motor fuel pur-
4 suant to subsection (5) shall do all of the following:

5 (a) Obtain an import verification number from the department
6 within 24 hours before entering the state for each separate
7 import into the state but not later than actual entry into this
8 state.

9 (b) Display the import verification number on the
10 terminal-issued shipping paper required under section 104.

11 (c) Comply with the payment requirements under section 78 or
12 80, whichever is applicable.

13 (8) An occasional importer's license or a bonded importer's
14 license issued under subsection (5) shall be specific to each
15 foreign country or other jurisdiction outside the United States.

16 (9) If the foreign country or other jurisdiction outside the
17 United States has adopted reciprocal legislation or entered into
18 a compact with this state providing for collection of destination
19 jurisdiction tax by the terminal supplier in accordance with
20 terminal-issued shipping papers designating the intended state or
21 country of destination, then the importer is ineligible for a
22 license to import motor fuel outside of the bulk transfer termi-
23 nal system from the other country, and a license to so import is
24 canceled.

25 (10) The department shall not issue an occasional importer's
26 license or a bonded importer's license if the applicant is not

1 licensed in the foreign country or other jurisdiction outside the
2 United States.

3 Sec. 77. (1) Except as otherwise provided in subsection
4 (2), a licensed occasional importer shall file with the depart-
5 ment on forms or in a format prescribed by the department a
6 report containing the following information:

7 (a) The number of gallons of motor fuel where the tax
8 imposed by this act has been prepaid to a supplier upon removal
9 from a terminal outside the United States.

10 (b) The number of gallons of motor fuel subject to the 3-day
11 payment rule in section 80 sorted by foreign jurisdiction outside
12 the United States, by supplier, and by terminal or bulk plant
13 location.

14 (c) Any other information concerning the source state,
15 volume, or method of transportation of motor fuel as the depart-
16 ment may require.

17 (d) Any other information the department considers reason-
18 ably necessary.

19 (2) The department may waive any or all of the reporting
20 requirements in subsection (1) if it determines that jurisdic-
21 tions outside the United States have adopted and implemented
22 reciprocal terminal reporting requirements adequate to assure the
23 department that it receives complete information concerning motor
24 fuel removed by or on behalf of a supplier from a terminal in a
25 jurisdiction outside the United States which is destined for this
26 state.

1 (3) Except as otherwise provided in subsection (4), a
2 licensed bonded importer shall file with the department on forms
3 or in a format prescribed by the department a report of its oper-
4 ations within this state. The report shall include all of the
5 following information:

6 (a) The number of gallons of motor fuel where the tax
7 imposed by this act has been prepaid to a supplier upon removal
8 from a terminal outside the United States.

9 (b) The number of gallons of motor fuel subject to tax
10 remittance by the bonded importer under section 78 sorted by
11 source state by supplier and by terminal or bulk plant.

12 (c) Any other information concerning the source state,
13 volume, or method of transportation of motor fuel as the depart-
14 ment may require.

15 (4) The department may waive any or all of the reporting
16 requirements in subsection (3) if it determines that a jurisdic-
17 tion outside this state has adopted and implemented reciprocal
18 terminal reporting requirements adequate to assure the department
19 that it receives complete information concerning motor fuel
20 removed by and on behalf of a supplier from a terminal outside
21 this state which is destined for this state.

22 (5) A person who knowingly violates or knowingly aids and
23 abets another to violate this section is guilty of a
24 misdemeanor.

25 Sec. 78. (1) Except as otherwise provided in this act, the
26 tax imposed by section 8 on motor fuel imported from another
27 country shall be paid by the licensed bonded importer who

1 imported the motor fuel other than dyed diesel fuel on or before
2 the twentieth day of the month following the month in which the
3 motor fuel was imported. An importer shall report the total
4 number of gallons of motor fuel imported but shall take a deduc-
5 tion from total gallons for dyed diesel fuel before calculating
6 the tax.

7 (2) If a licensed supplier or licensed permissive supplier
8 precollects tax under section 72(5), that supplier is jointly and
9 severally liable with the licensed bonded importer for the tax
10 and shall remit the tax to the department on behalf of the
11 importer under the same terms as a supplier payment under section
12 71. In this case, an import verification number is not
13 required.

14 (3) A bonded importer who sells motor fuel shall collect
15 from the purchaser the tax imposed on that fuel by section 8.

16 (4) A bonded importer required to remit tax under this act
17 may remit the tax by an electronic funds transfer acceptable to
18 the department. The electronic funds transfer shall be made on
19 or before the date the tax is due.

20 Sec. 79. (1) Unless otherwise provided in section 81, a
21 licensed importer shall report and pay tax on diversions into
22 this state of imported motor fuel under section 78 or 80 in
23 accordance with the requirements of this act applicable to any
24 importer.

25 (2) For purposes of this section, a licensed importer who
26 has purchased motor fuel from a licensed supplier may enter into
27 an agreement with the supplier to permit the supplier to assume

1 the importer's liability and adjust the importer's taxes payable
2 to the supplier. The supplier shall submit documentation reason-
3 ably required by the department with the report filed under
4 section 70.

5 Sec. 80. (1) Except as otherwise provided in this act, the
6 tax imposed by section 8 on motor fuel imported from another
7 country shall be paid by the licensed occasional importer who
8 imported motor fuel other than dyed diesel fuel within 3 business
9 days after the earlier of the following:

10 (a) The date that the motor fuel other than dyed diesel fuel
11 was delivered into the state.

12 (b) The date that a valid import verification number
13 required under sections 76 and 104 was assigned by the
14 department.

15 (2) If the licensed supplier or licensed permissive supplier
16 precollects tax under section 72, that supplier is jointly and
17 severally liable with the importer for the tax and shall remit
18 the tax to the department on behalf of the importer under the
19 same terms as a supplier payment under section 71. In such case,
20 an import verification number is not required.

21 (3) An importer is subject to a civil penalty of \$10,000.00
22 for each incidence where the importer knowingly imports undyed
23 motor fuel without possessing both of the following:

24 (a) Either an importer's license or a supplier's license.

25 (b) Either an import verification number or a shipping paper
26 showing on its face that this state's motor fuel tax is not due

1 or that the tax imposed by this act has been precollected by a
2 licensed supplier.

3 Sec. 81. (1) If an importer who is not licensed under
4 section 76 or 82 diverts motor fuel from a destination outside
5 this state to a destination inside this state after having
6 removed the fuel from a terminal or a bulk plant outside this
7 state, the importer shall notify and pay to the department the
8 tax imposed by section 8.

9 (2) An importer required to pay tax under this section shall
10 provide notice and pay the tax upon the same terms and conditions
11 as if the importer were an occasional importer licensed under
12 section 80 without deduction for the allowances provided by sec-
13 tion 14.

14 (3) For purposes of this section, an unlicensed importer who
15 has purchased motor fuel from a licensed supplier may enter into
16 an agreement with the supplier to permit the supplier to assume
17 the importer's liability and adjust the importer's taxes that are
18 payable to the supplier. The supplier shall provide a copy of
19 the agreement to the department at the time the supplier files
20 its monthly report under this act. The agreement shall include
21 at a minimum the following information:

22 (a) The names of the parties to the agreement.

23 (b) The date the agreement was entered into.

24 (c) The type of motor fuel involved.

25 (d) The number of gallons of motor fuel involved.

26 Sec. 82. (1) A person shall not import into this state
27 motor fuel acquired from a bulk plant in another state by a tank

1 wagon unless licensed as a tank wagon operator-importer under
2 this act.

3 (2) Licensure as a tank wagon operator-importer under this
4 act is not authorization to acquire nonexempt motor fuel free of
5 the tax imposed by this act at a terminal either within this
6 state or outside of this state for direct delivery to a location
7 within this state.

8 (3) A person who is licensed as an importer under section 76
9 may operate as a tank wagon operator-importer without the license
10 required by this section if the person also operates 1 or more
11 bulk plants outside of this state.

12 (4) The fee for a tank wagon operator-importer license is
13 \$50.00.

14 (5) A tank wagon operator-importer shall file with the
15 department a quarterly report of operations within this state and
16 any other information concerning the source state and the method
17 of transportation of motor fuel as the department may require on
18 forms or in a format prescribed by the department. A person who
19 knowingly violates or knowingly aids and abets another to violate
20 this subsection is guilty of a misdemeanor.

21 (6) A tank wagon operator-importer shall report the total
22 number of gallons of motor fuel imported but shall take a deduc-
23 tion against motor fuel shown on its quarterly report for the
24 number of gallons of dyed diesel fuel that were removed from a
25 terminal or refinery destined for delivery to a point in this
26 state as shown on the shipping paper.

1 (7) A tank wagon operator-importer who is liable for the tax
2 imposed by this act on nonexempt motor fuel imported by a tank
3 wagon on which tax has not previously been paid to a supplier,
4 shall remit the tax for a particular quarter's import activities
5 with its quarterly report of activities on or before the twentieth
6 day of the month following the close of the reporting
7 period.

8 (8) A licensed tank wagon operator-importer may retain the
9 collection administration allowance provided for in section 14.

10 Sec. 83. (1) A person shall not engage in business in this
11 state as a terminal operator unless licensed as a terminal opera-
12 tor or supplier.

13 (2) The fee for a terminal operator's license is \$2,000.00.

14 (3) A licensed terminal operator or licensed supplier oper-
15 ating a terminal in this state shall file with the department on
16 forms or in a format prescribed by the department a monthly
17 report of operations for each terminal it operates within the
18 state. The report shall include any information the department
19 considers reasonably necessary to determine the terminal
20 operator's liability under this act.

21 (4) In addition to the report required by subsection (3), a
22 person operating a terminal in this state shall file with the
23 department on forms or in a format prescribed by the department
24 an annual report of operations for each terminal it operates
25 within the state. The report shall be filed for each calendar
26 year on or before February 25 of the following year and shall
27 include the following information:

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1 (a) The net amount of monthly temperature adjusted gains or
2 losses of motor fuel in net gallons.

3 (b) The total number of net gallons of motor fuel removed
4 from the terminal in bulk and across the terminal rack during the
5 calendar year.

6 (c) The amount of tax due as calculated under section 8.

7 (d) The amount of tax collected during the calendar year.

8 (e) Any other information the department considers reason-
9 ably necessary to determine the tax liability of the terminal
10 operator under this act.

11 (5) The department may waive the filing requirement in sub-
12 section (3) or (4) if the information required is available in a
13 written or electronic format from the federal government.

14 Sec. 84. (1) The terminal operator of a terminal in this
15 state is jointly and severally liable with the supplier for the
16 tax imposed under section 8 and shall remit payment to this state
17 within 30 days after discovering either of the following
18 conditions:

19 (a) The owner of the motor fuel is a person other than the
20 terminal operator and is not a licensed supplier.

21 (b) In connection with the removal of diesel fuel that is
22 not dyed diesel fuel, the terminal operator provides any person
23 with a bill of lading, shipping paper, or similar document indi-
24 cating that the diesel fuel is dyed diesel fuel.

25 (2) A terminal operator shall be relieved of liability under
26 subsection (1)(a) if it establishes all of the following:

1 (a) The terminal operator has a valid terminal operator's
2 license.

3 (b) The terminal operator has a copy of the Michigan sup-
4 plier license from the supplier as required by this act.

5 (c) The terminal operator has no reason to believe that any
6 information on the Michigan supplier license is false.

7 (3) A terminal operator is liable for the tax imposed by
8 this act which is not allocable to any licensed supplier, includ-
9 ing, but not limited to, motor fuel that is lost or unaccounted
10 for. However, the terminal operator is not liable for the tax if
11 it can establish by substantial evidence that the motor fuel lost
12 was dyed diesel fuel that was dyed before receipt by the terminal
13 operator.

14 (4) A collection allowance or a deduction shall not be
15 allowed with respect to payment of the tax under this section.

16 (5) If the number of gallons of motor fuel lost or unac-
17 counted for exceeds 5% of the total gallons removed from that
18 terminal across the rack, the terminal operator shall, in addi-
19 tion to paying the tax that is due, pay a penalty of 100% of the
20 tax otherwise due with the annual report under section 83.

21 (6) The terminal operator shall remit the tax and any penal-
22 ties or interest that is due with the annual report required
23 under section 83.

24 (7) A terminal operator who fails to meet the shipping paper
25 requirements set forth in this act is subject to a civil penalty
26 of \$1,000.00 for the first occurrence. For each subsequent

1 violation, the terminal operator is subject to a civil penalty of
2 \$5,000.00.

3 Sec. 85. (1) A person shall not export motor fuel from this
4 state unless either of the following applies:

5 (a) The person is licensed as an exporter or supplier under
6 this act.

7 (b) The person has paid the applicable destination state tax
8 to the supplier, can demonstrate proof of export in the form of a
9 destination state shipping paper, and can demonstrate that the
10 destination state fuel tax has been paid.

11 (2) A person who negligently violates this section is
12 subject to a \$500.00 civil penalty.

13 (3) A person who knowingly violates or knowingly aids or
14 abets another to violate this section is guilty of a felony.

15 (4) An end user who exports fuel in the fuel supply tank of
16 a licensed motor vehicle where the fuel is used only to power the
17 vehicle is exempt from this section.

18 Sec. 86. (1) A person who desires to export motor fuel
19 shall obtain an exporter's license.

20 (2) The fee for an exporter's license is \$1,000.00.

21 (3) A person licensed as an exporter shall file a quarterly
22 report with the department on forms or in a format prescribed by
23 the department. The report shall contain information reasonably
24 necessary to determine the exporter's tax liability under this
25 act.

1 (4) The department may waive in writing the reporting
2 requirement of this section if it determines that the report is
3 not needed to administer this act.

4 Sec. 87. (1) If an exporter diverts motor fuel removed from
5 a terminal in this state from an intended destination outside
6 this state as shown on the terminal-issued shipping papers to a
7 destination within this state, the exporter shall obtain a fuel
8 diversion number and pay to the department the tax imposed on
9 that motor fuel by section 8.

10 (2) An exporter required to pay tax under this section shall
11 provide notice and pay the tax upon the same terms and conditions
12 as if the exporter were an occasional importer licensed under
13 section 76 without deduction for the allowances provided by sec-
14 tion 14.

15 (3) For purposes of this section, an exporter who has pur-
16 chased motor fuel from a licensed supplier may enter into an
17 agreement with the supplier to permit the supplier to assume the
18 exporter's liability and adjust the exporter's taxes that are
19 payable to the supplier. The supplier shall provide a copy of
20 the agreement to the department at the time the supplier files
21 its monthly report. The agreement shall include at a minimum the
22 following information:

23 (a) The names of the parties to the agreement.

24 (b) The date the agreement was entered into.

25 (c) The type of motor fuel involved.

26 (d) The number of gallons of motor fuel involved.

1 (4) If an exporter withdraws and exports from a bulk plant
2 in this state motor fuel as to which the tax imposed by this act
3 has previously been paid or accrued, the exporter may apply for
4 and the state shall issue a refund of the tax upon a showing of
5 proof of export and payment of the tax satisfactory to the
6 department.

7 (5) If a diversion from a destination in this state to
8 another state does not violate state or federal law, the diver-
9 sion relief provisions set forth in section 108 shall apply and
10 an unlicensed exporter diverting the product may apply for a
11 refund from the department as provided in this act. The allow-
12 ance provided for in section 14 shall be deducted from the refund
13 allowed under this subsection.

14 (6) A licensee required to file a report under this act may
15 take a credit for diversions directed by that licensee for its
16 own account.

17 Sec. 88. A person who fails to file a report or remit tax
18 due under this act, or who files a report or remits tax due after
19 the due dates set forth in this act, shall remit to the depart-
20 ment all of the tax for the reporting period and any additional
21 penalties and interest.

22 Sec. 89. (1) A person who transports motor fuel into this
23 state or out of this state for another person shall obtain a
24 transporter's license. A person licensed as a supplier, an
25 exporter, or an importer under section 76 or 82 who transports
26 motor fuel into this state or out of this state for their own
27 account only is not required to obtain a transporter's license.

1 (2) The fee for a transporter's license is \$50.00.

2 (3) A person licensed as a transporter in this state shall
3 file a quarterly report with the department by the twentieth day
4 following the end of the quarter on forms or in a format pre-
5 scribed by the department concerning the amount of motor fuel
6 transported across the borders of this state.

7 (4) If a transporter fails to submit the report required by
8 this section, the department may require the transporter to pay a
9 civil penalty of \$1,000.00 for each violation.

10 (5) If substantially similar information is readily avail-
11 able to this state from the federal government including a fed-
12 eral terminal report, or if the department determines that the
13 report is not needed to properly administer this act, the depart-
14 ment may waive the requirement that a transporter file the report
15 described in subsection (3).

16 (6) A transporter is subject to a civil penalty of
17 \$10,000.00 for each incidence where the transporter knowingly
18 imports undyed motor fuel in a transport truck without possessing
19 either an import verification number or a shipping paper showing
20 on its face that this state's motor fuel tax is not due or that
21 the tax imposed by this act has been precollected by a licensed
22 supplier.

23 Sec. 90. (1) A person who desires to purchase tax-free from
24 a supplier motor fuel for resale to an industrial end user for
25 use in a tax-exempt industrial process shall be licensed as an
26 industrial process reseller under this act.

1 (2) The fee for an industrial process reseller's license is
2 \$1,000.00.

3 (3) A person licensed as an industrial process reseller is
4 not required to file a report unless the department requires
5 one. If the department requires a report, the information
6 required and the frequency of filing the report shall be as rea-
7 sonably necessary for the department to implement this act.

8 Sec. 91. (1) Except as otherwise provided in subsection
9 (4), a person shall not sell or distribute motor fuel at whole-
10 sale or diesel fuel at retail within this state unless licensed
11 under this act as a fuel vendor.

12 (2) The fee for a fuel vendor's license is \$50.00.

13 (3) A fuel vendor's license is valid for all locations con-
14 trolled or operated by the licensee in this state or in any other
15 state from which the fuel vendor removes fuel for delivery and
16 use in this state.

17 (4) If a person is licensed as a supplier, terminal opera-
18 tor, carrier, importer, exporter, tank wagon operator-importer,
19 or a retail diesel dealer, or if the department otherwise deter-
20 mines that a license is not necessary, the department may waive
21 the license required in subsection (1).

22 (5) Except as otherwise provided in this subsection, a
23 licensed fuel vendor shall file a quarterly report by the twenti-
24 eth day of the month following the close of each calendar quarter
25 listing its total purchases and sales of gasoline and diesel fuel
26 during that calendar quarter. A licensed fuel vendor shall not
27 be required to report the amount of dyed diesel fuel purchased or

1 sold until 2 years after the effective date of this act. The
2 department may waive the requirements in this subsection if the
3 report is not needed to administer this act.

4 (6) The department may require a fuel vendor to file an
5 annual report if the report is needed to administer this act. If
6 an annual report is required to be filed, the report shall be
7 filed on or before January 20 of each year for the preceding cal-
8 endar year. Except as otherwise provided in this subsection, the
9 report shall describe the total number of gallons of gasoline and
10 diesel fuel sold at retail by the fuel vendor. A licensed fuel
11 vendor shall not be required to report the amount of dyed diesel
12 fuel purchased or sold until 2 years after the effective date of
13 this act. The department may waive the requirements in this sub-
14 section if the report is not needed to administer this act.

15 (7) A person who is required to separately identify and
16 schedule sales and transfers of motor fuel in a report otherwise
17 required by this act is exempt from the requirements in subsec-
18 tions (5) and (6).

19 (8) A fuel vendor shall maintain detailed records of all
20 purchases and sales of motor fuel for a period of not less than 4
21 years and shall maintain its records in accordance with the
22 requirements of 1941 PA 122, MCL 205.1 to 205.31. A sales or
23 purchase invoice shall clearly describe the amount of tax imposed
24 under this act as a separate line item. This line item shall be
25 entitled, "Michigan motor fuel tax". If a fuel vendor is unable
26 to provide an invoice upon request by the department or provides
27 an invoice without the amount of the tax as a separate line item,

1 the fuel vendor shall be jointly and severally liable with the
2 seller of the motor fuel for the tax imposed by this act and the
3 department may proceed against the fuel vendor to collect the tax
4 as provided in this act and 1941 PA 122, MCL 205.1 to 205.31.

5 Sec. 92. (1) A person shall not deliver diesel fuel into
6 the fuel supply tank of an end user's motor vehicle or make a
7 bulk delivery of diesel fuel to an unlicensed end user unless
8 licensed as a retail diesel dealer under this act.

9 (2) The fee for a retail diesel dealer license is \$50.00.

10 (3) A retail diesel dealer shall list the amount of tax and
11 any applicable tax discounts for motor carriers on diesel fuel as
12 separate line items on all invoices or billings to end users.

13 (4) A retail diesel dealer shall file with the department on
14 forms or in a format prescribed by the department a quarterly
15 report containing the information the department requires as rea-
16 sonably necessary for the department to determine the amount of
17 diesel fuel tax due. A licensed retail diesel dealer shall not
18 be required to report the amount of dyed diesel fuel purchased or
19 sold until 2 years after the effective date of this act. The
20 department may waive the requirements in this subsection if the
21 report is not needed to administer this act.

22 (5) The report shall be filed and the tax paid to the
23 department on or before the twentieth day of the month following
24 the close of the reporting period.

25 (6) The department may waive the requirement for filing a
26 report under this section.

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1 Sec. 93. (1) In order to operate as a blender in this
2 state, a person shall obtain a blender's license.

3 (2) The fee for a blender's license is \$100.00.

4 (3) A blender shall file with the department on forms or in
5 a format prescribed by the department a monthly report containing
6 the information the department requires as reasonably necessary
7 for the department to determine the amount of tax due.

8 (4) The department may waive the licensing or reporting
9 requirements described in this section if it determines that
10 either or both are not needed to administer this act.

11 Sec. 94. (1) A person shall not purchase for resale motor
12 fuel identified on a shipping paper or invoice as aviation fuel
13 unless the person is registered with the department on a form or
14 in a format prescribed by the department.

15 (2) Motor fuel upon which the tax imposed under section 203
16 of the aeronautics code of the state of Michigan, 1945 PA 327,
17 MCL 259.203, has been paid shall be identified on the shipping
18 paper or invoice as aviation fuel and shall be sold only for avi-
19 ation purposes. A seller shall obtain from the purchaser a
20 statement that the fuel will only be sold or used as aviation
21 fuel.

22 (3) A person shall not sell, use, or label motor fuel that
23 is exempt from tax under section 30(1)(g) or that has been iden-
24 tified on a shipping paper or invoice as aviation fuel for use
25 other than as aviation fuel.

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1 (4) A person shall not sell, use, or label for aviation
2 purposes motor fuel identified on a shipping paper or invoice as
3 diesel fuel.

4 (5) A person who knowingly violates this section is guilty
5 of a felony.

6 Sec. 98. A carrier shall file with the department on forms
7 or in a format prescribed by the department a monthly report of
8 all motor fuel delivered by the person during the month and any
9 other information that the department requires as reasonably nec-
10 essary for the department to determine the liability of a carrier
11 or any other person transporting gasoline or diesel fuel in a
12 pipeline or by marine vessel under this act.

13 Sec. 99. If the second state or country involved in a
14 cross-border movement of motor fuel has entered into a compact
15 with this state, the person diverting the fuel shall pay the tax
16 or seek a refund only upon the difference in the amount of tax
17 due in the 2 jurisdictions. The person shall provide notice of
18 the payment made or refund sought to both jurisdictions upon
19 proof of payment to the destination state. The department shall
20 periodically determine procedures for making the adjustment
21 described in this subsection and shall keep and make available a
22 list of those states, provinces, or countries which are members
23 of the compact.

24 Sec. 101. (1) Except as otherwise provided in this section,
25 the operator of a refinery, terminal, or bulk plant in this state
26 shall prepare and provide to the driver of a fuel transportation
27 vehicle or operator of a train pulling a rail car receiving motor

1 fuel at the refinery, terminal, or bulk plant into the vehicle's
2 fuel storage tank an automated, machine-generated shipping paper
3 setting out on its face all of the following information:

4 (a) Identification by address and terminal number of the
5 refinery or terminal from which the motor fuel was removed or by
6 address of the bulk plant from which the motor fuel was
7 withdrawn.

8 (b) The date the motor fuel was removed.

9 (c) The amount of motor fuel removed, in both gross gallons
10 and net gallons.

11 (d) The destination state as represented to the refinery,
12 terminal, or bulk plant by the transporter, the shipper, or the
13 shipper's agent.

14 (e) The appropriate notice described in section 112 or 113
15 if the notice is required by either of those sections.

16 (f) Any other information reasonably required by the depart-
17 ment for the enforcement of this act.

18 (2) In the event of an extraordinary unforeseen circum-
19 stance, including an act of God, which temporarily interferes
20 with the ability to issue an automated machine-generated shipping
21 paper, a manually prepared shipping paper that contains all of
22 the information required by subsection (1) may be substituted for
23 the machine-generated shipping paper. Before issuing the manu-
24 ally prepared shipping paper, the operator of the refinery, ter-
25 minal, or bulk plant shall do the following:

26 (a) Contact the department by telephone and obtain a service
27 interruption authorization number.

1 (b) Add the service interruption authorization number to the
2 manually prepared shipping paper before the motor fuel is removed
3 from the terminal or withdrawn from the bulk plant.

4 (3) A service interruption authorization number is valid for
5 a period not to exceed 24 hours. If the interruption has not
6 been cured within the 24-hour period, an additional interruption
7 authorization number may be requested. The department shall
8 issue an additional interruption authorization number if the
9 explanation for the interruption or delay is satisfactory to the
10 department.

11 (4) If an operator of a bulk plant who delivers motor fuel
12 into a transport truck is unable to provide the truck driver with
13 a machine-generated shipping paper, the operator shall provide
14 the driver with a manually-prepared shipping paper that contains
15 the information required in subsection (1) and that complies with
16 the requirements of subsection (2).

17 (5) An operator of a bulk plant who delivers motor fuel into
18 a tank wagon is exempt from the requirements of this section.

19 (6) A terminal operator may load into a single fuel trans-
20 portation vehicle motor fuel, a portion of which is to be deliv-
21 ered to a location in this state and a portion of which is to be
22 delivered to a location outside of this state. However, the ter-
23 minal operator shall document the removal of the motor fuel by
24 issuing a separate shipping paper for each destination state.

25 (7) The operator of a terminal or refinery shall post a con-
26 spicuous notice in the area of the terminal or refinery where a
27 fuel transportation vehicle driver receives the shipping paper.

1 The notice shall describe in clear and concise terms the duties
2 of a fuel transportation vehicle operator and driver and the
3 duties of a retail dealer under this act. The notice shall
4 include the telephone number that shall be called if motor fuel
5 is diverted pursuant to this act. The department may establish
6 the language, type, style, and format of the notice.

7 (8) A person who knowingly violates or knowingly aids and
8 abets another to violate this section is guilty of a felony.

9 Sec. 102. (1) The driver of a fuel transportation vehicle
10 or operator of a train pulling a rail car shall obtain a shipping
11 paper pursuant to section 101 and shall also do all of the
12 following:

13 (a) Carry the shipping paper on board the fuel transporta-
14 tion vehicle or rail car.

15 (b) Upon the request of a person conducting an inspection
16 under section 131(1), produce a copy of the shipping paper when
17 transporting, holding, or delivering the motor fuel described in
18 the shipping paper.

19 (c) Deliver the motor fuel described in the shipping paper
20 to the location shown on the face of the shipping paper unless
21 the driver or operator does all of the following:

22 (i) Notifies the department that the motor fuel is being
23 delivered to a different destination state before the date the
24 fuel is exported from the state in which the shipment
25 originated.

26 (ii) Requests and receives from the department a
27 verification number authorizing the diversion.

1 (iii) Writes on the shipping paper the change in destination
2 state and the verification number for the diversion.

3 (d) Provide a copy of the shipping paper to the person that
4 the motor fuel is delivered to.

5 (e) Comply with any other conditions that the department may
6 reasonably require for the enforcement of this act.

7 (2) The owner or operator of a fuel transportation vehicle
8 or train pulling a rail car shall require the vehicle driver or
9 train operator to comply with the shipping paper requirements in
10 this act.

11 (3) A person who knowingly violates this section is guilty
12 of a felony.

13 Sec. 103. (1) Except as otherwise provided in subsections
14 (2) and (3), a shipping paper issued under section 101 shall bear
15 1 of the following notices:

16 (a) Concerning dyed diesel fuel, the statement: "DYED
17 DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for
18 the shipment or the appropriate portion of the shipment.

19 (b) Concerning undyed motor fuel that is removed tax-free
20 from the supplier at the rack under section 30, the statement:
21 "NOT FOR HIGHWAY USE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE
22 USE".

23 (c) Concerning aviation, jet fuel, or other fuel used in
24 aircraft, the statement: "NOT FOR HIGHWAY USE, PENALTY FOR
25 HIGHWAY USE".

26 (d) Concerning any other motor fuel, a statement that
27 "[supplier name] responsible for [state name] motor fuel tax" or

1 any other annotation acceptable to the department that provides
2 notice that the tax imposed by this act or by the destination
3 state on the entire shipment or the appropriate portion of the
4 shipment has been paid or accrued to the supplier.

5 (2) Except as otherwise provided in subsection (3), a
6 licensed bonded importer or occasional importer or a transporter
7 acting for the licensed importer is exempt from the notice
8 requirement in subsection (1)(b) if the requirements of section
9 76 are met.

10 (3) The department may develop an advance notification pro-
11 cedure to address documentation for imported motor fuel concern-
12 ing which the importer is unable to obtain a shipping paper that
13 complies with this section.

14 (4) A person who violates this section is guilty of a misde-
15 meanor for the first offense and guilty of a felony for a second
16 or subsequent violation of this section.

17 Sec. 104. (1) If a licensed bonded importer or occasional
18 importer acquires from a terminal located outside the United
19 States motor fuel destined for this state which has not been dyed
20 in accordance with this act, and which has not had the tax paid
21 or accrued to the supplier at the time of removal from the termi-
22 nal, an importer or transporter operating on the importer's
23 behalf shall comply with all of the following conditions before
24 entering or transporting the motor fuel by rail car or by trans-
25 port truck on the public roads or highways of this state:

1 (a) The importer or transporter shall obtain an import
2 verification number from the department before entering this
3 state, but not sooner than 24 hours before entering this state.

4 (b) The importer or transporter shall carry on board the
5 transport truck or train pulling the rail car a shipping paper
6 containing all of the following:

7 (i) The import verification number set out prominently and
8 indelibly on the face of each copy of the shipping paper.

9 (ii) The terminal origin and the importer's name and address
10 set out prominently on the face of each copy of the shipping
11 paper.

12 (iii) All of the information otherwise required by this act
13 to be included on the shipping paper.

14 (c) All tax imposed by this act concerning previously
15 requested import verification number activity on the account of
16 the importer or the transporter has been timely remitted.

17 (2) A person, including the driver of the fuel transporta-
18 tion vehicle or the operator of the train transporting the motor
19 fuel, who knowingly violates or knowingly aids and abets another
20 to violate this section is guilty of a felony.

21 Sec. 105. (1) The driver of a fuel transportation vehicle
22 or operator of a train pulling a rail car shall provide a copy of
23 the shipping paper to the person to whom the fuel is delivered,
24 or place the shipping paper in a secure receptacle at the facil-
25 ity where the fuel is delivered.

1 (2) A person who knowingly violates or knowingly aids and
2 abets another to violate this section is guilty of a
3 misdemeanor.

4 Sec. 106. (1) A retailer, bulk plant operator, bulk end
5 user, or bulk storage facility shall receive, examine, and retain
6 for a period of 30 days at the delivery location the
7 terminal-issued shipping paper received from the transporter for
8 each shipment of motor fuel that is delivered to that location.

9 (2) The retailer, bulk plant operator, bulk end user, or
10 bulk storage facility shall retain the shipping paper for not
11 less than 4 years either at the delivery location or at another
12 location.

13 (3) A person who knowingly violates or knowingly aids and
14 abets another to violate this section is guilty of a
15 misdemeanor.

16 Sec. 107. (1) A retailer, bulk plant operator, bulk end
17 user, or the operator of any other bulk storage facility shall
18 not knowingly accept delivery of motor fuel into a bulk storage
19 facility in this state if the delivery is not accompanied by a
20 shipping paper issued by the terminal operator or bulk plant
21 operator that clearly indicates that Michigan is the destination
22 state of the motor fuel or provides a diversion verification
23 number pursuant to section 108, and any other information
24 required under sections 101 to 104.

25 (2) A person who knowingly violates or knowingly aids and
26 abets another to violate this section is guilty of a
27 misdemeanor.

1 Sec. 108. (1) The department shall provide for relief where
2 a shipment of motor fuel is legitimately diverted from the repre-
3 sented destination state after the shipping paper has been issued
4 by the terminal operator or where the terminal operator failed to
5 cause proper information to be printed on the shipping paper.

6 (2) The relief is subject to all of the following
7 requirements:

8 (a) That the shipper, the transporter, or an agent of either
9 provides notification before the diversion or correction to the
10 department if an intended diversion or correction is to occur.

11 (b) That a verification number be assigned and manually
12 added to the face of the shipping paper.

13 (c) That the relief provisions are consistent with the
14 refund provisions of this act.

15 (3) If a person alleged to be in violation of sections 101
16 to 107 establishes to the department's satisfaction that the vio-
17 lation was the result of honest error made in the context of a
18 good-faith and reasonable effort to properly account for and
19 report motor fuel shipments and tax, the person shall not be
20 subject to the civil penalties set forth in this act for violat-
21 ing those provisions.

22 (4) The department may coordinate with other states,
23 Canadian provinces, and the federation of tax administrators for
24 the operation of a common telephonic diversion verification
25 number assignment system.

26 Sec. 109. (1) A person who issues a shipping paper,
27 including but not limited to a supplier, a terminal operator, or

1 a bulk plant operator may rely on the following representations
2 of a transporter, shipper, or the shipper's agent:

3 (a) A statement identifying the transporter's or shipper's
4 intended destination state for the motor fuel.

5 (b) A statement that the motor fuel shall be used for a
6 tax-exempt purpose.

7 (2) An importer, transporter, shipper, and the shipper's
8 agent, and any purchaser, not the supplier or terminal operator,
9 are jointly and severally liable for any tax otherwise due to the
10 state as a result of a diversion of the motor fuel from the rep-
11 resented destination state.

12 (3) A terminal operator may rely on the representation of a
13 licensed supplier concerning the supplier's obligation to collect
14 tax.

15 Sec. 110. (1) A terminal operator shall not imprint, and a
16 supplier shall not knowingly permit a terminal operator to
17 imprint on the supplier's behalf, a false or misleading statement
18 on a shipping paper.

19 (2) A terminal operator who negligently imprints a statement
20 that violates subsection (1) is subject to a civil penalty of
21 \$50.00 for each violation.

22 (3) In addition to any other tax, fines, penalties, or sanc-
23 tions that may be imposed, a terminal operator or supplier who
24 knowingly violates subsection (1) is guilty of a felony.

25 Sec. 111. (1) A terminal operator or a supplier shall cause
26 a shipping paper to meet the tamper-resistant standards
27 prescribed by department rule, including the inclusion of

1 messages that identify whether a shipping paper has been
2 photocopied, numbering systems, or nonreproducible coding.

3 (2) Rules promulgated by the department establishing
4 tamper-resistant standards for shipping paper shall not take
5 effect until 12 months after the date the rules are promulgated.

6 Sec. 112. (1) A notice stating: "DYED DIESEL FUEL,
7 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be provided
8 as follows:

9 (a) By the terminal operator to any person who receives dyed
10 diesel fuel at a terminal rack of that terminal operator.

11 (b) By any seller of dyed diesel fuel to its buyer if the
12 dyed diesel fuel is located outside the bulk transfer/terminal
13 system and is not sold from a retail pump posted in accordance
14 with the requirements of subdivision (c).

15 (c) By a seller on any retail pump where it sells dyed
16 diesel fuel.

17 (2) The notice required by subsection (1) shall be provided
18 on or before the date of removal or sale and shall appear on
19 shipping papers and bills of lading accompanying the sale or
20 removal of the dyed diesel fuel.

21 Sec. 113. (1) A notice stating: "DYED KEROSENE, NONTAXABLE
22 USE ONLY, PENALTY FOR TAXABLE USE" shall be provided as follows:

23 (a) By the terminal operator to any person who receives dyed
24 kerosene at a terminal rack of that terminal operator.

25 (b) By any seller of dyed kerosene to its buyer if the dyed
26 kerosene is located outside the bulk transfer/terminal system and

1 is not sold from a retail pump posted in accordance with the
2 requirements of subdivision (c).

3 (c) By a seller on any retail pump where it sells dyed
4 kerosene.

5 (2) The notice required by subsection (1) shall be provided
6 on or before the date of removal or sale and shall appear on
7 shipping papers and bills of lading accompanying the sale or
8 removal of the dyed kerosene.

9 Sec. 114. (1) A representative or agent of the department
10 may examine the shipping paper of a fuel transportation vehicle
11 in order to determine whether that fuel transportation vehicle is
12 located outside a reasonably direct route from the supply source
13 to the destination state on the shipping paper. If the vehicle
14 is more than 5 miles from a reasonably direct route, there is a
15 rebuttable presumption that the operator or driver of the vehicle
16 intends to divert the motor fuel from the destination on the
17 shipping paper. If the vehicle is 5 miles or less from a reason-
18 ably direct route, there is a rebuttable presumption that the
19 operator or driver of the vehicle does not intend to divert the
20 motor fuel from the destination on the shipping paper.

21 (2) The operator or driver of a fuel transportation vehicle
22 that is located outside a reasonably direct route from the supply
23 source to the destination state on the shipping paper is subject
24 to the penalties set forth in section 129.

25 Sec. 115. (1) A supplier operating a fuel transportation
26 vehicle on the public roads or highways of this state shall
27 display on the vehicle, in colors that distinctly contrast with

1 the color of the vehicle and in letters and figures not less than
2 3 inches high, the supplier's name and the license number identi-
3 fied as Mich. Supplier No. ____.

4 (2) A person other than a supplier operating a fuel trans-
5 portation vehicle on the public roads or highways of this state
6 shall display on the vehicle, in colors that distinctly contrast
7 with the color of the vehicle and in letters and figures not less
8 than 3 inches high, the person's name and the license number
9 identified as Mich. MFTA No. ____.

10 Sec. 116. A person who transports motor fuel without a
11 shipping paper that meets the requirements set forth in
12 sections 101 to 104, including but not limited to the owner,
13 operator, or driver of a fuel transportation vehicle or train, is
14 subject to a civil penalty of \$1,000.00 for the person's first
15 occurrence. Each subsequent violation of sections 101 to 104 is
16 subject to a civil penalty of \$5,000.00.

17 Sec. 121. A person shall not sell or use or hold for sale
18 or use dyed diesel fuel or other exempt fuel, including but not
19 limited to motor fuel used in industrial processing, undyed
20 diesel fuel that is repackaged into a container that holds 55
21 gallons or less, or aviation, aircraft, or jet fuel, for any use
22 that the person knows or has reason to know is a taxable use of
23 the diesel fuel under this act or the motor carrier fuel tax act,
24 1980 PA 119, MCL 207.211 to 207.234.

25 Sec. 122. (1) A person shall not operate or maintain a
26 motor vehicle on the public roads or highways of this state with
27 dyed diesel fuel in the vehicle's fuel supply tank.

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1 (2) This section does not apply to dyed diesel fuel used in
2 any of the following:

3 (a) A motor vehicle owned and operated or leased and oper-
4 ated by the federal or state government or a political subdivi-
5 sion of this state.

6 (b) A motor vehicle used exclusively by the American red
7 cross.

8 (c) An implement of husbandry.

9 (3) An owner, operator, or driver of a vehicle who uses dyed
10 diesel fuel on the public roads or highways of this state is
11 subject to a civil penalty of \$200.00 for each of the first 2
12 violations within a 12-month period. For a third violation
13 within a 12-month period, and for each subsequent violation
14 thereafter, the person is subject to a civil penalty of
15 \$5,000.00. An owner, operator, or driver of a motor vehicle who
16 knowingly violates the prohibition against the sale or use of
17 dyed diesel fuel upon the public roads or highways of this state
18 is subject to a civil penalty equal to that imposed by
19 section 6714 of the internal revenue code.

20 Sec. 123. (1) A person shall not with intent to evade tax
21 alter or attempt to alter the strength or composition of any dye
22 or marker in any dyed diesel fuel.

23 (2) A person shall not with intent to evade tax possess,
24 sell, or purchase dye removal equipment.

25 (3) A person who violates this section is guilty of a felony
26 punishable by a fine of not more than \$50,000.00 or imprisonment
27 for not more than 5 years, or both.

1 Sec. 124. (1) Except as otherwise provided by the
2 department, a person shall not sell or knowingly purchase any
3 motor fuel or other product for use in the fuel supply tank of a
4 motor vehicle for use on the public roads or highways of this
5 state that does not meet ASTM standards for motor fuel or other
6 products as published in the annual book of standards and its
7 supplements.

8 (2) It is the responsibility of a transporter or a
9 transporter's agent to dispose of any motor fuel or other product
10 that violates the standards described in subsection (1). The
11 transporter or the transporter's agent shall dispose of the motor
12 fuel or other product in accordance with federal and state law.

13 (3) A person who knowingly violates or knowingly aids and
14 abets another to violate this section is guilty of a felony.

15 Sec. 125. (1) A person who operates motor fuel dispenser
16 equipment accessible by the general public shall provide a meter-
17 ing gallonage totalizer for each dispenser and shall maintain
18 records sufficient to enable the department to determine with
19 reasonable accuracy the amount of motor fuel dispensed by the
20 equipment.

21 (2) A person shall not exchange, replace, roll back, or oth-
22 erwise tamper with metering equipment, including a metering gal-
23 lonage totalizer, without following procedures provided by the
24 department for legitimate maintenance, repair, and replacement of
25 the equipment. However, the prohibition against exchanging or
26 replacing metering equipment shall not take effect until the
27 department has issued a written policy that sets forth the

1 maintenance, repair, and replacement procedures. In developing
2 the policy, the department shall consider other state or federal
3 laws and regulations that govern metering equipment.

4 (3) A person who violates this section is guilty of a
5 felony.

6 Sec. 126. (1) A supplier, permissive supplier, or importer
7 who knowingly fails to collect or timely remit tax otherwise
8 required to be paid to the department under section 71, 72, or 80
9 or pursuant to a tax precollection agreement under section 72 is
10 liable for the uncollected tax plus a 100% penalty.

11 (2) A person who fails or refuses to pay to the department
12 the tax on motor fuel at the time required in this act or who
13 fraudulently withholds or appropriates or otherwise uses the
14 money or any portion of the money belonging to the state is
15 guilty of a felony.

16 Sec. 127. If a person liable for the tax imposed by this
17 act files a false or fraudulent return, the department shall add
18 to the tax owed an amount equal to the amount of tax the person
19 evaded or attempted to evade.

20 Sec. 128. A person, including an officer, employee, or
21 agent of a corporation who willfully participates in any act that
22 violates section 101 is jointly and severally liable with the
23 corporation for the penalty which shall be the same as imposed
24 under federal law.

25 Sec. 129. (1) If a person drives or otherwise operates a
26 motor vehicle in violation of the shipping paper requirements in
27 this act, the vehicle, motor fuel being transported by the

1 vehicle, and any other cargo is subject to impoundment, seizure,
2 and subsequent sale and forfeiture.

3 (2) The failure of a driver of a motor vehicle to have on
4 board when loaded a shipping paper that complies with the
5 requirements of this act is presumptive evidence of a violation
6 sufficient to subject the driver, owner, or operator to the pen-
7 alties provided by this section.

8 (3) If a person is discovered in violation of the meter
9 tampering provisions in section 125, the motor fuel, meters,
10 pumps, and any other property used in transporting, storing, dis-
11 pensing, or otherwise distributing motor fuel and related pro-
12 ducts are subject to impoundment, seizure, and subsequent sale
13 and forfeiture.

14 (4) The impoundment, seizure, and subsequent sale and for-
15 feiture shall be accomplished pursuant to this section and
16 section 130.

17 (5) At the time a motor vehicle or its cargo is seized under
18 this section, the department may request the driver of the vehi-
19 cle to drive the vehicle to an impound lot. If the driver
20 refuses the department's request, the owner, operator, or driver
21 of the vehicle and the owner or transporter of the fuel are
22 subject to a civil penalty or to license revocation.

23 Sec. 130. (1) As soon as possible, but not more than 5
24 business days after seizure of a motor vehicle and its cargo
25 under section 129, the person making the seizure shall deliver
26 personally or by registered mail to the last known address of the
27 person from whom the seizure was made, if known, an inventory

1 statement of the motor vehicle, motor fuel, or other property
2 seized. A copy of the inventory statement shall also be filed
3 with the department.

4 (2) In addition to notice of the property seized, the inven-
5 tory statement shall contain a notice that unless demand for a
6 hearing as provided in this section is made within 10 business
7 days after the date the inventory statement was delivered, the
8 property is forfeited to the state.

9 (3) If the person from whom the seizure was made is not
10 known, the person making the seizure shall cause a copy of the
11 inventory statement, together with the notice provided for in
12 this section, to be published not less than 3 times in a newspa-
13 per of general circulation in the county where the seizure was
14 made.

15 (4) Within 10 business days after the date of service of the
16 inventory statement or, in the case of publication, within 10
17 business days after the date of last publication, the person from
18 whom the property was seized or any person claiming an interest
19 in the property may by registered mail, facsimile transmission,
20 or personal service file with the department a demand for a hear-
21 ing before the commissioner for a determination as to whether the
22 property was lawfully subject to seizure and forfeiture. The
23 person shall verify a request for hearing filed by facsimile
24 transmission by also providing a copy of the original request for
25 hearing by registered mail or personal service.

1 (5) The person or persons are entitled to appear at a
2 hearing before the department, to be represented by counsel, and
3 to present testimony and argument.

4 (6) Upon receipt of a request for hearing, the department
5 shall hold the hearing within 15 business days. The hearing is
6 not a contested case proceeding and is not subject to the admin-
7 istrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 (7) After the hearing, the department shall render its deci-
10 sion in writing within 10 business days after the hearing and, by
11 order, shall either declare the seized property subject to sei-
12 zure and forfeiture, or declare the property returnable in whole
13 or in part to the person entitled to possession.

14 (8) If, within 10 business days after the date of service of
15 the inventory statement, the person from whom the property was
16 seized or any person claiming an interest in the property does
17 not file with the department a demand for a hearing before the
18 department, the property seized shall be considered forfeited to
19 the state by operation of law and may be disposed of by the
20 department as provided in this section.

21 (9) If, after a hearing, the department determines that the
22 property is lawfully subject to seizure and forfeiture and the
23 person from whom the property was seized or any persons claiming
24 an interest in the property do not take an appeal to the circuit
25 court of the county in which the seizure was made within the time
26 prescribed in this section, the property seized shall be

1 considered forfeited to the state by operation of law and may be
2 disposed of by the department as provided in this section.

3 (10) If a person is aggrieved by the decision of the depart-
4 ment, that person may appeal to the circuit court of the county
5 where the seizure was made to obtain a judicial determination of
6 the lawfulness of the seizure and forfeiture. The action shall
7 be commenced within 20 days after notice of the department's
8 determination is sent to the person or persons claiming an inter-
9 est in the seized property. The court shall hear the action and
10 determine the issues of fact and law involved in accordance with
11 rules of practice and procedure as in other in rem proceedings.
12 If a judicial determination of the lawfulness of the seizure and
13 forfeiture cannot be made before deterioration of any of the
14 property seized, the court shall order the sale of the property
15 with public notice as determined by the court and require the
16 proceeds to be deposited with the court until the lawfulness of
17 the seizure and forfeiture is finally adjudicated.

18 (11) During the pendency of any filing for appeal, hearing,
19 or rendering of decision, the aggrieved person and the department
20 may by mutual consent agree to sale of the fuel in order to
21 facilitate release of the vehicle containing the fuel. The pro-
22 ceeds from the sale shall be held in escrow by the department
23 pending the department's decision and an appeal, if any, from the
24 department's decision.

25 (12) The department may sell fuel forfeited under this act
26 at public sale. Public notice of the sale shall be given at
27 least 5 days before the date of sale. The department may pay an

1 amount not to exceed 25% of the proceeds of the sale to the local
2 governmental unit whose law enforcement agency performed the
3 seizure. The balance of the proceeds derived from the sale by
4 the department shall be credited to the Michigan transportation
5 fund.

6 Sec. 131. (1) An inspection to determine a shipping paper
7 violation under this act may be conducted by the department, the
8 department of state police, the department of agriculture, agents
9 of those departments, motor carrier inspectors, and any other law
10 enforcement officers designated by the department through proce-
11 dures established by the department including federal government
12 employees or persons operating under a contract with the state.

13 (2) Upon presenting appropriate credentials, a person
14 described in subsection (1) may do any of the following:

15 (a) Conduct inspections and remove samples of motor fuel in
16 order to:

17 (i) Determine whether diesel fuel is dyed and the nature and
18 type of the dye or markers including the concentration of the
19 dye.

20 (ii) Test motor fuel in order to determine whether the fuel
21 meets American society for testing materials standards as pub-
22 lished in the annual book of standards and its supplements.

23 (b) Conduct inspections to identify a shipping paper viola-
24 tion at any place where motor fuel is or may be produced, stored,
25 or loaded into transport vehicles.

1 (3) An inspection shall be performed in a reasonable manner
2 consistent with the circumstances, but prior notice is not
3 required.

4 (4) An inspector may physically inspect, examine, or other-
5 wise search any equipment, tank, reservoir, or other container
6 that may be used for, or in connection with, the production,
7 storage, or transportation of motor fuel.

8 (5) An inspector may demand a person to produce for immedi-
9 ate inspection the shipping papers, documents, and records
10 required by this act to be kept by the person.

11 (6) An inspection may be performed at locations including,
12 but not limited to, any of the following:

13 (a) A terminal.

14 (b) A fuel storage facility that is not a terminal.

15 (c) A retailer's place of business.

16 (d) On the public roads or highways.

17 (e) Highway rest stops.

18 (f) A marina.

19 (g) A designated inspection site. As used in this subdivi-
20 sion, "designated inspection site" includes any state highway or
21 waterway inspection station, weigh station, agricultural inspec-
22 tion station, mobile station, or other location designated by the
23 department, whether fixed or mobile.

24 (7) A uniformed inspector may reasonably detain a person, a
25 motor vehicle, or other equipment transporting fuel in this state
26 in order to determine whether the person is operating in
27 compliance with this act. Detainment may continue for the time

1 necessary to determine whether the person, motor vehicle, or
2 other equipment is in compliance with this act.

3 (8) The department shall use only uniformed inspectors when
4 making an inspection at a highway rest stop or on the public
5 roads or highways.

6 Sec. 132. The department may assign qualified persons
7 including persons who are not state police officers to supervise
8 or operate permanent or portable weigh stations or other inspec-
9 tion points. A person assigned under this section may stop,
10 inspect, and issue citations to operators of a commercial
11 straight truck, a truck and trailer with a declared gross weight
12 of 11,000 pounds or more, a marine vessel, or a bus, at a per-
13 manent or portable weigh station or other inspection point.

14 Sec. 133. (1) The department may audit and examine the
15 records, books, papers, and equipment of any person, including,
16 but not limited to, terminal operators, suppliers, importers,
17 wholesalers, jobbers, retail dealers, bulk end users, fuel ven-
18 dors, and all private and common carriers of motor fuel to verify
19 the completeness, truth, and accuracy of any statement or report
20 and to ascertain whether the tax imposed by this act has been
21 paid.

22 (2) The department may also exercise the general authority
23 described in subsection (1) in performing sampling inspections of
24 a person described in subsection (1). The department may perform
25 sampling inspections without providing prior notice.

26 (3) Any person described in subsection (1) shall make
27 available to the department necessary records, books, or papers

1 with respect to transactions that the department is attempting to
2 verify during normal business hours at the person's physical
3 location in this state, or at the department's office if the
4 person's location at which the records are located is outside of
5 this state, within 3 business days after the request is made.

6 Sec. 134. (1) A person who refuses to permit any inspection
7 or audit authorized by this act is subject to a civil penalty of
8 \$5,000.00, in addition to any other penalty imposed by this act.

9 (2) A person who, for the purpose of evading tax, refuses to
10 allow an inspection authorized by this act is guilty of a felony,
11 in addition to any other penalty imposed by this act.

12 Sec. 136. A person who violates this act is guilty of a
13 misdemeanor unless a specific penalty is provided in this act.

14 Sec. 141. The tax imposed by this act belongs to the
15 state. The tax shall be held in trust for the state and for pay-
16 ment to the department as provided in this act. A person who
17 fails or refuses to pay over to the department the tax collected
18 on motor fuel at the time required in this act, or a person who
19 with intent to defraud withholds or appropriates any portion of
20 the tax belonging to the state, is guilty of embezzlement, and
21 shall be punished as provided in section 174 of the Michigan
22 penal code, 1931 PA 328, MCL 750.174.

23 Sec. 142. (1) The motor fuel tax evasion prevention fund is
24 created in the department.

25 (2) Money deposited into the fund shall only be used for the
26 following purposes:

1 (a) To fund the development of an efficient and effective
2 diesel fuel enforcement program that shall include, but not be
3 limited to:

4 (i) Oversight of the public roads and highways of this state
5 to ensure that dyed diesel fuel and other untaxed fuel is not
6 being used in violation of Michigan law.

7 (ii) Developing auditing techniques to aid the department in
8 exposing tax evasion schemes and incidents.

9 (b) To fund the inspection, testing, and sampling provisions
10 in this act, including the funding of additional inspectors
11 engaged in random on-road inspections.

12 (c) To fund the additional administrative costs associated
13 with the implementation of this act.

14 Sec. 143. Except as otherwise provided in section 142, all
15 sums of money received and collected under this act, except for
16 license fees, and after the payment of the necessary expenses
17 incurred in the enforcement of this act, are appropriated to and
18 shall be deposited in the state treasury to the credit of the
19 Michigan transportation fund.

20 Sec. 144. In order to administer this act and prevent and
21 detect motor fuel tax evasion, the department may, consistent
22 with this act and 1941 PA 122, MCL 205.1 to 205.31, enter into a
23 cooperative agreement with other states, Canadian provinces, the
24 federal government, or other countries for the exchange of infor-
25 mation in hard copy or electronic format.

26 Sec. 145. The taxes under this act shall be administered
27 pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this act. In

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1 case of conflict between 1941 PA 122 and this act, this act shall
2 prevail.

3 Sec. 146. The filing date of a claim, application, or any
4 other document filed with the department is the date the claim,
5 application, or other document was postmarked by the United
6 States postal service or the date actually received by the
7 department, whichever is earlier.

8 Sec. 147. Eighteen months after the effective date of this
9 act, the department shall submit a report to the legislature on
10 dyed diesel fuel reporting under this act. The report shall
11 include recommendations as to whether reporting of dyed diesel
12 fuel purchases and sales is needed, whether the lack of reporting
13 has resulted in tax evasion, and any other information considered
14 relevant by the department.

15 Sec. 148. The department may promulgate rules under this
16 act pursuant to the administrative procedures act of 1969, 1969
17 PA 306, MCL 24.201 to 24.328.

18 Sec. 149. Except as provided in section 16, a licensee
19 under this act or any other person is not entitled to a credit
20 against the tax imposed by this act for tax the licensee or
21 person has paid but that has not been collected from a purchaser
22 of the motor fuel.

23 Sec. 151. As used in this section and sections 152 to 155:

24 (a) "Liquefied petroleum gas" means gases derived from
25 petroleum or natural gases which are in the gaseous state at
26 normal atmospheric temperature and pressure, but which may be
27 maintained in the liquid state at normal atmospheric temperature

1 by suitable pressure. Liquefied petroleum gas includes those
2 products predominately composed of propane, propylene, butylene,
3 butane, and similar products.

4 (b) "LPG dealer" means a person who is licensed under this
5 chapter to use liquefied petroleum gas.

6 (c) "Use", "used", or "uses" means any of the following:

7 (i) Selling or delivering liquefied petroleum gas not other-
8 wise subject to tax under this act, either by placing it into a
9 permanently attached fuel supply tank of a motor vehicle, or
10 exchanging or replacing of the fuel supply tank of a motor
11 vehicle.

12 (ii) Delivery of liquefied petroleum gas into storage,
13 devoted exclusively to the storage of liquefied petroleum gas to
14 be consumed in motor vehicles on the public roads or highways.

15 (iii) Withdrawing liquefied petroleum gas from the cargo
16 tank of a truck, trailer or semi-trailer for the operation of a
17 motor vehicle upon the public roads and highways of this state,
18 whether used in vapor or liquid form.

19 Sec. 152. A tax at a rate of 15 cents per gallon is imposed
20 upon all liquefied petroleum gas used in this state. The tax
21 shall be paid at the times and in the manner specified in this
22 section. The tax on liquefied petroleum gas fuel sold or deliv-
23 ered either by placing into a permanently attached fuel supply
24 tank on a motor vehicle, or exchanging or replacing the fuel
25 supply tank of a motor vehicle, shall be collected by the LPG
26 dealer from the purchaser and paid over quarterly to the
27 department as provided in this act. Liquefied petroleum gas fuel

1 delivered in this state into the storage facility of any person
2 when the exclusive purpose of the storage facility is for resale
3 or use in a motor vehicle on the public roads or highways of this
4 state, shall, upon delivery to storage facility, be subject to
5 tax. An LPG dealer shall, upon delivery of the liquefied petro-
6 leum gas, collect and remit the tax to the department as provided
7 in this act. A person shall not operate a motor vehicle on the
8 public roads or highways of this state from the cargo containers
9 of a truck, trailer, or semitrailer with liquefied petroleum gas
10 in vapor or liquid form, except when the fuel in the liquid or
11 vapor phase is withdrawn from the cargo container for use in
12 motor vehicles through a permanently installed and approved
13 metering device. The tax on liquefied petroleum gas withdrawn
14 from a cargo container through a permanently installed and
15 approved metering device shall apply in accordance with measured
16 gallons as reflected by meter reading, and shall be paid quar-
17 terly by the LPG dealer to the department as provided in this
18 act.

19 Sec. 153. (1) A person shall not act as an LPG dealer
20 unless the person is licensed under this act.

21 (2) To obtain a license an applicant shall file with the
22 department an application upon a form or in a format prescribed
23 by the department. The application shall include the name and
24 address of the applicant and of each place of business to be
25 operated by the applicant at which liquefied petroleum gas will
26 be used and other information the department may reasonably
27 require.

1 (3) At the time of applying for the license, an applicant
2 shall pay to the department a license fee of \$50.00.

3 (4) An applicant for an LPG dealer license is subject to the
4 general licensing and bonding requirements of this act.

5 (5) A person licensed in this state as an LPG dealer on the
6 effective date of this act shall be considered licensed as an LPG
7 dealer under this act.

8 Sec. 154. For the purpose of determining the amount of tax
9 payable to the department, an LPG dealer shall, on or before the
10 twentieth day of each calendar month following the close of the
11 reporting calendar quarter, file with the department on a form or
12 in a format prescribed by the department a report which shall
13 include the number of gallons of liquefied petroleum gas used by
14 the LPG dealer during the preceding calendar quarter, together
15 with any other information the department may require. An LPG
16 dealer at the time of filing the report shall pay to the depart-
17 ment at the time of filing the report the full amount of the tax
18 owed.

19 Sec. 155. (1) Each of the following persons is entitled to
20 a refund of the tax on liquefied petroleum gas imposed by this
21 act:

22 (a) A person consuming liquefied petroleum gas for any pur-
23 pose other than the operation of a motor vehicle on the public
24 roads or highways of this state.

25 (b) The federal government, state government, or a political
26 subdivision of this state consuming liquefied petroleum gas in a
27 motor vehicle owned and operated or leased and operated by the

1 federal government, state government, or political subdivision of
2 this state.

3 (c) A person consuming liquefied petroleum gas in the opera-
4 tion of a passenger vehicle of a capacity of 5 or more under a
5 municipal franchise, license, permit, agreement, or grant, upon
6 which gas the tax imposed by this section has been paid.

7 (2) To obtain a refund, a person shall file a claim with the
8 department within 18 months after the date of purchase, as shown
9 on the invoice and shall comply with the requirements set forth
10 in section 48.

11 (3) A claim for refund shall be on a form or in a format
12 prescribed by the department and shall have attached the original
13 invoice that was provided to the purchaser.

14 (4) A person who sells liquefied petroleum gas shall provide
15 the purchaser with an invoice showing the amount of gas pur-
16 chased, the date of purchase, and the amount of tax paid.

17 Sec. 161. In January of each year, there is appropriated
18 from the proceeds of the tax levied by this act up to
19 \$3,500,000.00, that shall be used to pay the principal, interest,
20 and incidental costs for the outstanding bonds, previously issued
21 by the Mackinac bridge authority. The unexpended amount shall
22 lapse to the Michigan transportation fund at the end of each
23 fiscal year. Upon retirement of all outstanding bonds and any
24 refunding bonds hereafter issued, this appropriation shall
25 cease.

26 Sec. 162. It is the intent of the legislature that the
27 authority responsible for setting tolls for the Mackinac bridge

1 will use the appropriation provided in section 161 to reduce the
2 tolls to as near as possible to \$1.50 per passenger car and
3 pickup and a proportional reduction for all other classes of
4 vehicles.

5 Sec. 163. The appropriations made in section 161 shall be
6 considered as advances in aid of reducing the bonded indebtedness
7 of the Mackinac bridge. At such time as all principal and inter-
8 est for all outstanding bonds, previously issued by the Mackinac
9 bridge authority and, if the bonds are refunded in accordance
10 with 1966 PA 13, MCL 254.361 to 254.372, all principal and inter-
11 est on the refunding bonds has been paid, the authority responsi-
12 ble for setting tolls for the Mackinac bridge shall continue to
13 charge tolls as are considered necessary by the authority to
14 reimburse the Michigan transportation fund for all advances made
15 pursuant to this act. At such time as reimbursement has been
16 made for the sums advanced under this act and those sums advanced
17 pursuant to section 7 of 1952 PA 214, MCL 254.317, the Mackinac
18 bridge shall thereafter be maintained and operated as a free
19 bridge.

20 Sec. 164. Upon the designation by the federal government of
21 an east-west interstate route in the Upper Peninsula, the legis-
22 lature intends to extend the necessary funds to match federal
23 funds available for such purposes.

24 Sec. 169. 1927 PA 150, MCL 207.101 to 207.202, is
25 repealed.

26 Sec. 170. This act takes effect April 1, 2001.