

# SENATE BILL No. 1205

April 11, 2000, Introduced by Senators MC MANUS, GAST, NORTH, KOIVISTO, A. SMITH, GOUGEON, SIKKEMA, DINGELL and HAMMERSTROM and referred to the Committee on Finance.

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 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 to an individual delivery of motor fuel by a transport truck,  
17 tank wagon, marine vessel, or rail car by the department 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

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).



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.

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.

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 motor  
19 fuel used in passenger vehicles of a capacity of 10 or more oper-  
20 ated for hire under a certificate issued by the state transporta-  
21 tion 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) An end user with respect to motor fuel placed in the  
12 fuel supply tank of the end user's motor vehicle outside of this  
13 state but only if the fuel is retained within and consumed from  
14 that same fuel supply tank.

15 (c) Any person with respect to dyed diesel fuel.

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

22 (e) Motor fuel that is sold for use in airplanes and that  
23 has been taxed under the aeronautics code of the state of  
24 Michigan, 1945 PA 327, MCL 259.1 to 259.208.

25 (f) Motor fuel in the possession of an end user as to which  
26 a refund has been issued.

1 (g) Motor fuel in the possession of the federal or state  
2 government or a political subdivision of this state.

3 (h) A licensed importer who has met the conditions of  
4 sections 76 and 104.

5 (3) A person who violates this section is guilty of a  
6 misdemeanor.

7 Sec. 26. (1) Except as otherwise provided in section 45,  
8 there is an irrebuttable presumption that all motor fuel deliv-  
9 ered in this state into the fuel supply tank of a motor vehicle  
10 licensed for use on the public roads or highways of this state is  
11 to be used or consumed on the public roads or highways in this  
12 state for producing or generating power for propelling the motor  
13 vehicle. This presumption does not apply to that portion of the  
14 motor fuel used or consumed by a commercial motor vehicle outside  
15 of this state.

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

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



1 (a) Removed by a licensed supplier from the bulk  
2 transfer/terminal system or from a qualified terminal or refinery  
3 within the United States.

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

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

12 (d) In the manner provided by the tax imposed by  
13 section 4081 of the internal revenue code or rules promulgated  
14 under that section.

15 (2) The tax imposed by this act on motor fuel that is  
16 imported into this state from outside the United States by a  
17 licensed importer, other than by a bulk transfer, arises at the  
18 time the motor fuel is imported into the state. The tax shall be  
19 measured by gross gallons received outside this state at a refin-  
20 ery, terminal, or bulk plant for delivery to a destination in  
21 this state, or as otherwise determined by the department.

22 (3) A supplier who removes motor fuel from a terminal sup-  
23 plied by a refinery located not more than 5 miles from the termi-  
24 nal may exercise a 1-time option to report, collect, and pay tax  
25 under this act on all gallons of motor fuel sold by the supplier  
26 through that terminal measured by net gallons. A supplier shall  
27 exercise the option by notifying the department in writing not

1 less than 30 days before the date the option is exercised. A  
2 supplier may rescind the option only upon a showing of good cause  
3 and after approval of the department.

4       Sec. 30. (1) Motor fuel is exempt from the tax imposed by  
5 section 8 and the tax shall not be collected by a supplier if the  
6 motor fuel:

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

8       (b) Is gasoline or diesel fuel that is sold directly by the  
9 supplier to the federal government, the state government, or a  
10 political subdivision of the state for use in a motor vehicle  
11 owned and operated or leased and operated by the federal or state  
12 government or a political subdivision of the state.

13       (c) Is sold directly by the supplier to a nonprofit, pri-  
14 vate, parochial, or denominational school, college, or university  
15 and is used in a school bus owned and operated or leased and  
16 operated by the educational institution that is used in the  
17 transportation of students to and from the institution or to and  
18 from school functions authorized by the administration of the  
19 institution.

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

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

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

1       (iii) The motor fuel is sold by a supplier to another person  
2 for immediate export to a state for which the destination state  
3 fuel tax has been paid to the supplier who is licensed to remit  
4 tax to that destination state.

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

8       (f) Is sold by a supplier to a licensed industrial process  
9 reseller for resale to an industrial end user who uses the fuel  
10 for an exempt purpose or that is sold by a licensed industrial  
11 process reseller to an industrial end user who uses the fuel for  
12 an exempt purpose.

13       (g) Is motor fuel that is sold for use in aircraft but only  
14 if the supplier collects the tax imposed under the aeronautics  
15 code of the state of Michigan, 1945 PA 327, MCL 259.1 to  
16 259.208.

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

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

1        Sec. 32. If a person pays the tax imposed by this act and  
2 uses the motor fuel for a nontaxable purpose as described in  
3 sections 33 to 47, the person may seek a refund of the tax. To  
4 obtain a refund, the person shall comply with the requirements  
5 set forth in section 48.

6        Sec. 33. An end user may seek a refund for tax paid under  
7 this act on diesel fuel used by the person for nonhighway  
8 purposes. However, a person shall not seek and is not eligible  
9 for a refund for tax paid on diesel fuel used in a snowmobile,  
10 off-road vehicle, or vessel as defined in the natural resources  
11 and environmental protection act, 1994 PA 451, MCL 324.101 to  
12 324.90106.

13       Sec. 34. A person may seek a refund for tax paid under this  
14 act on gasoline or diesel fuel that is sold tax-free by the  
15 person seeking the refund to the federal government, the state  
16 government, or a political subdivision of the state for use in a  
17 motor vehicle owned and operated or leased and operated by the  
18 federal government, state government, or a political subdivision  
19 of the state. However, if the purchase of motor fuel is charged  
20 to a credit card issued to an eligible government entity, the  
21 issuer of the card shall bill the government entity without the  
22 tax and seek a refund.

23       Sec. 35. A person may seek a refund or claim a deduction  
24 for tax paid under this act on motor fuel that is sold tax-free  
25 by the person seeking the refund to a nonprofit, private, paro-  
26 chial, or denominational school, college, or university for use  
27 in a school bus owned and operated or leased and operated by the

1 educational institution that is used in the transportation of  
2 students to and from the institution or to and from school func-  
3 tions authorized by the administration of the institution.

4       Sec. 36. A licensed exporter may seek a refund for tax paid  
5 under this act on motor fuel acquired by the licensed exporter on  
6 which the tax imposed by this act has previously been paid or  
7 accrued and that was subsequently exported by transport truck by  
8 or on behalf of the licensed exporter in a diversion across state  
9 boundaries properly reported under section 108.

10       Sec. 37. A person may seek a refund for tax paid under this  
11 act on motor fuel that the person exported out of a bulk plant in  
12 this state in a tank wagon if proof of reporting of import to the  
13 destination state and proof of payment of the tax imposed by this  
14 act have been provided. The refund is subject to conditions  
15 established by the department.

16       Sec. 38. A licensed retail diesel dealer may claim a deduc-  
17 tion for tax paid under this act on sales of undyed diesel fuel  
18 in amounts of 100 gallons or less sold tax-free for a nontaxable  
19 purpose. If a sale of undyed diesel fuel for a nontaxable pur-  
20 pose exceeds 100 gallons, tax shall be charged and collected by  
21 the retail diesel dealer, and the end user may file a claim for a  
22 refund. A sale for a nontaxable purpose shall meet the invoicing  
23 requirement of the department.

24       Sec. 39. An end user may seek a refund for tax paid under  
25 this act on gasoline used in an implement of husbandry or other-  
26 wise used for a nonhighway purpose not otherwise expressly  
27 exempted under this act. However, a person shall not seek and is

1 not eligible for a refund for tax paid on gasoline used in a  
2 snowmobile, off-road vehicle, or vessel as defined in the natural  
3 resources and environmental protection act, 1994 PA 451, MCL  
4 324.101 to 324.90106.

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

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

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

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

17       Sec. 41. An end user may seek a refund for tax paid under  
18 this act on gasoline used in a passenger vehicle of a capacity of  
19 5 or more under a municipal franchise, license, permit, agree-  
20 ment, or grant, respectively, a person operating a passenger  
21 vehicle for the transportation of school students under a certif-  
22 icate of authority issued by the state transportation department  
23 pursuant to section 5 of article II of the motor carrier act,  
24 1933 PA 254, MCL 476.5, and a community action agency as  
25 described in former title II of the economic opportunity act of  
26 1964, Public Law 88-452, which are not a part or division of a  
27 political subdivision of this state. A community action agency

1 shall make the refund a state-contributed nonfederal share to  
2 grants received by the community action agency from the community  
3 services administration under former title II of the economic  
4 opportunity act of 1964.

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

18       Sec. 43. A licensed exporter may claim a deduction for tax  
19 paid under this act on motor fuel that was placed into storage in  
20 this state and was subsequently exported by transport truck or  
21 tank wagon by or on behalf of a licensed exporter if both of the  
22 following requirements are met:

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

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

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

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

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

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

26       (4) If the department determined before the effective date  
27 of this section that a class of motor vehicles with attached



1 equipment was eligible for a diesel fuel refund in an amount  
2 different than 15% of the tax paid, that percentage shall apply  
3 to those motor vehicles on and after the effective date of this  
4 section unless a later determination under subsection (2) is  
5 made.

6       (5) As used in this section, "attached equipment" means  
7 equipment used by the end user in the regular course of his or  
8 her business that is powered by diesel fuel from the common fuel  
9 supply tank. Attached equipment includes, but is not limited to,  
10 certain pumping, spraying, seeding, spreading, shredding, lift-  
11 ing, winching, dumping, cleaning, and refrigeration equipment.  
12 Attached equipment does not include a heater, air conditioner,  
13 radio, or any other equipment that is used in the cab of the  
14 motor vehicle and does not include any other equipment that the  
15 department reasonably determines does not meet this definition.

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

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

22       (a) File the claim on a form or in a format prescribed by  
23 the department.

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

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

- 1       (ii) The total amount of tax paid.
- 2       (iii) A statement that the fuel was used for an exempt pur-  
3 pose or by an exempt user.
- 4       (iv) A statement that the fuel was paid for in full.
- 5       (v) A statement printed on the form that the claim is made  
6 under penalty of perjury.
- 7       (c) Comply with any specific requirement described in  
8 sections 32 to 47.
- 9       (d) Sign the claim.
- 10       (e) File the claim not more than 18 months after the date  
11 the motor fuel was purchased.
- 12       (2) For purposes of this section, the filing date of a claim  
13 is the earlier of the date the claim was postmarked by the United  
14 States postal service or the date the claim was received by the  
15 department.
- 16       (3) The department may make any investigation it considers  
17 necessary before refunding tax paid under this act to a person  
18 but in any case may investigate a refund after the refund has  
19 been issued and within 4 years from the date of issuance of  
20 refund.
- 21       (4) In any case where a refund would be payable to a  
22 licensee who files a report under this act, the licensee may  
23 claim a deduction on the report filed under section 70 in lieu of  
24 the refund. If a licensee claims a deduction on the report, the  
25 licensee shall attach the claim for refund form to the report.

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

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

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

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

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

22       (3) An application for a license under this act may contain  
23 any information the department may reasonably require to adminis-  
24 ter this act including the applicant's federal identification  
25 number.

26       (4) The following persons currently licensed on the  
27 effective date of this act are not required to obtain a new

1 license under this act and shall be considered licensed under  
2 this act:

3       (a) A person licensed in this state as a supplier on the  
4 effective date of this act shall be considered licensed as a sup-  
5 plier under this act but only if the person is a terminal opera-  
6 tor or a position holder in a terminal on the effective date of  
7 this act.

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

12       (c) A person licensed in this state as an exporter on the  
13 effective date of this act shall be considered licensed as an  
14 exporter under this act.

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

18       (e) A person licensed in this state as a retail dealer of  
19 diesel motor fuel on the effective date of this act shall be con-  
20 sidered licensed as a retail diesel dealer under this act.

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

24       (6) Except as otherwise provided in this act, a person who  
25 is engaged in more than 1 business activity for which a license  
26 is required under this act shall be licensed for each business  
27 activity.

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

6       (8) A person who negligently violates this section is  
7 subject to a civil penalty of \$1,000.00.

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

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

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

15       (b) The applicant is not the real party in interest. As  
16 used in this subdivision and subdivisions (c) and (d), "real  
17 party in interest" means related party control as described in  
18 section 267 of the internal revenue code and related  
19 regulations.

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

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

26       (e) The applicant, or a corporate officer of the applicant,  
27 has a prior state or federal felony or misdemeanor conviction in

1 this state or another state or foreign jurisdiction for motor  
2 fuel tax evasion or other tax evasion, or for shipping paper  
3 tampering, or for fuel tampering, or is currently charged or  
4 under indictment for such an offense.

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

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

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

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

16 (a) An officer of a publicly held corporation or its  
17 subsidiary.

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

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

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

1       (5) Subject to the confidentiality requirements set forth in  
2 1941 PA 122, MCL 205.1 to 205.31, the department may maintain a  
3 file of fingerprints submitted under this section.

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

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

11       Sec. 58. (1) Except as otherwise provided in this section,  
12 a person who applies for a license under this act is not required  
13 to file with the department a surety bond or cash deposit.  
14 However, the department may require a surety bond or cash deposit  
15 if the department considers it necessary to ensure payment of the  
16 tax liability of an applicant or licensee.

17       (2) If a surety bond or cash deposit is required, it shall  
18 meet both of the following requirements:

19       (a) The bond is in an amount determined by the department  
20 that is not less than \$2,000.00 or not more than an applicant's  
21 3-month tax liability as estimated by the department.

22       (b) The bond is conditioned upon the keeping of records and  
23 the making of full and complete reports and payments as required  
24 by this act.

25       (3) The department shall require a supplier, a terminal  
26 operator, or a bonded importer to post an annual bond of not less  
27 than \$2,000,000.00, except that if a person is a motor fuel

1 registrant under section 4101 of the internal revenue code, the  
2 bond may be reduced to not less than \$1,000,000.00. In either  
3 case, an applicant subject to this subsection may show proof of  
4 financial responsibility in lieu of posting bond. Proof of a  
5 \$5,000,000.00 net worth is presumptive evidence of financial  
6 responsibility in the absence of circumstances indicating that  
7 the department is otherwise at risk with respect to collection of  
8 the tax due under this act from the applicant.

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

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

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

21       (b) The bond shall name the applicant as the principal and  
22 the state as the obligee.

23       (c) The bond shall be on a form prescribed by the  
24 department.

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

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



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

7       (7) The department may require a bond or cash deposit if a  
8 person who is licensed under this act on the effective date of  
9 this section forms a new business or joint business and applies  
10 under this act for a license for the new or joint business. To  
11 qualify for this discretionary bond or cash deposit provision,  
12 the applicant shall meet the related party control provisions  
13 described in section 267 of the internal revenue code and related  
14 regulations. If necessary, the department may require a bond or  
15 cash deposit in an amount the department considers necessary to  
16 ensure payment.

17       Sec. 59. (1) If the department reasonably determines that  
18 the amount of an existing bond or cash deposit is insufficient to  
19 ensure payment to the state of the tax and any penalty and inter-  
20 est for which the licensee is or may become liable, the licensee  
21 shall, upon written demand of the department, file a new bond or  
22 increase the amount of the bond or cash deposit. The department  
23 shall allow the licensee at least 30 days to secure the increased  
24 bond or cash deposit.

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

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

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

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

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

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

19       Sec. 61. (1) If the surety of a bond provides the depart-  
20 ment with a written request for a release from the bond, the  
21 surety is released from any liability to the state accruing on  
22 the bond more than 60 days after the date of the request. The  
23 release does not affect any liability accruing before the expira-  
24 tion of the 60-day period. After receiving a written request for  
25 release, the department shall promptly notify the licensee fur-  
26 nishing the bond that a release has been requested. If the  
27 licensee does not obtain a new bond that meets the requirements

1 of this act and does not file the new bond with the department  
2 within the 60-day period, the department shall revoke the  
3 licensee's license.

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

17       (3) A licensee who filed a bond or other security under this  
18 act may request that the department return, refund, or release  
19 the bond or security if the department determines that the  
20 licensee has continuously complied with the provisions of this  
21 act for the previous 4 years. However, if the department deter-  
22 mines that the revenues of the state would be jeopardized by a  
23 return, refund, or release of the bond or security, the depart-  
24 ment may retain the bond or security, or having released it, may  
25 reimpose a requirement for bond or security to protect the reve-  
26 nues of this state. If requested by a licensee, the department's

1 determination may be reviewed in accordance with 1941 PA 122,  
2 MCL 205.1 to 205.31.

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

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

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

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

16       (2) A licensee shall retain a copy of its license at each of  
17 its business locations unless the department waives this  
18 requirement.

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

24       (4) The department shall maintain a list containing the name  
25 and address of each person licensed under this act. The depart-  
26 ment may post the list on the department's website. The

1 department shall regularly update the list in order to reflect  
2 the current status of a licensee.

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

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

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

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

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

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

1       (4) A licensee is liable for all taxes, interest, and  
2 penalties that accrue or may be owing before the date the notice  
3 required by subsection (1) is received by the department.

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

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

14       Sec. 67. The department may suspend or revoke a license for  
15 failure to comply with the provisions of this act after at least  
16 10 days' notice to the licensee and a conference, if a conference  
17 is requested. If the license suspension or revocation is upheld  
18 at the conference, the licensee may appeal the determination pur-  
19 suant to section 22 of 1941 PA 122, MCL 205.22.

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

21       (a) A report or statement required by this act shall be  
22 signed by the licensee or an officer or other responsible party  
23 of the licensee.

24       (b) A report or statement required by this act shall be  
25 filed on or before the twentieth day of the month following the  
26 close of the reporting period for sales, purchases, or other

1 transactions in motor fuel that occurred during the preceding  
2 reporting period regardless of whether tax is owed.

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

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

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

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

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

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

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

26       (b) The number of gallons of motor fuel removed by the  
27 supplier from the bulk transfer/terminal system in this state on

1 which the tax imposed by this act has been accrued by the  
2 supplier.

3 (c) A statement as to whether the billed gallons are gross  
4 gallons or net gallons under the election provided for in section  
5 7.

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

8 (3) A person who knowingly violates or knowingly aids or  
9 abets another to violate this section is guilty of a  
10 misdemeanor.

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

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

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

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

24 (5) In addition to the tax due under this act, a supplier is  
25 subject to a civil penalty equal to the amount of the tax if the  
26 supplier makes sales for export to a person who is not a licensed



1 exporter and the supplier has not collected the destination state  
2 tax on motor fuel other than dyed diesel fuel.

3       Sec. 72. (1) A licensed supplier or licensed permissive  
4 supplier may elect to treat all removals from all of its termi-  
5 nals located outside of this state with a destination in this  
6 state as shown on the terminal-issued shipping paper as if the  
7 motor fuel were removed across the rack by the supplier from a  
8 terminal in this state for all purposes.

9       (2) The election shall be made by filing with the department  
10 a notice of election.

11       (3) The department shall release a list of electing suppli-  
12 ers under this section upon request by any person.

13       (4) The absence of an election by a supplier under this sec-  
14 tion does not relieve the supplier of responsibility for remit-  
15 ting the tax imposed by this act upon the removal of motor fuel  
16 from a terminal located outside of this state for import into  
17 this state by the supplier.

18       (5) A supplier who makes the election provided for in this  
19 section shall from the date the election is filed with the  
20 department precollect the tax imposed by this act on all removals  
21 from a terminal on its account either as a position holder or as  
22 a person receiving fuel from a position holder pursuant to a  
23 2-party exchange agreement. The supplier shall precollect the  
24 tax without regard to any of the following:

25       (a) The license status of the person acquiring the fuel from  
26 the supplier.

1 (b) The point or terms of sale.

2 (c) The character of delivery.

3 (6) A supplier who elects to precollect tax under this sec-  
4 tion waives any defense that the state lacks jurisdiction to  
5 require collection on all sales made outside of this state by the  
6 supplier on which the supplier had knowledge that the shipments  
7 were destined for this state. This state imposes this require-  
8 ment under its general police powers to regulate the movement of  
9 motor fuel.

10 Sec. 73. (1) A person shall not operate as a permissive  
11 supplier unless licensed under this act as a permissive  
12 supplier.

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

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

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

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

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

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

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

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

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

16       (2) The department may require a purchaser who pays to a  
17 supplier the tax imposed by this act to file with the department  
18 a surety bond payable to the state, upon which the purchaser is  
19 the obligor, or a cash deposit, in an amount the department  
20 believes is reasonable but not to exceed 3 times the amount due  
21 to a supplier each month. If a purchaser makes an election with  
22 more than 1 supplier, the bond amount shall be based on the tax  
23 due to all suppliers with whom the elections were made. The  
24 department may require, but is not limited to requiring, that the  
25 bond be reasonably sufficient to indemnify the department against  
26 uncollectible tax credits claimed by the supplier under section  
27 16.

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

8       (4) As an alternative to termination of the purchaser's  
9 election, the department may require further assurance of the  
10 purchaser's financial responsibility, or may increase the bond  
11 requirement for that purchaser, or may take any other action that  
12 the department may reasonably require to ensure remittance of the  
13 tax.

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

16       Sec. 76. (1) A person who desires to import motor fuel into  
17 this state from another country by transport truck, tank wagon,  
18 pipeline, or marine vessel into a storage facility other than a  
19 qualified terminal shall be licensed as either of the following:

20       (a) An occasional importer.

21       (b) A bonded importer.

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

25       (3) A bonded importer or occasional importer who sells motor  
26 fuel shall collect from the purchaser the tax imposed by section  
27 8 on that motor fuel.

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

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

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

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

13       (6) A person who desires to import motor fuel into a desti-  
14 nation in this state from outside the United States, and who has  
15 not entered into an agreement to prepay to the supplier or per-  
16 missive supplier this state's motor fuel tax with respect to the  
17 motor fuel, shall obtain an occasional importer's license or a  
18 bonded importer's license subject to the special bonding require-  
19 ments of section 58(2).

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

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

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

1 (c) Comply with the payment requirements under section 78 or  
2 80, whichever is applicable.

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

6 (9) If the foreign country or other jurisdiction outside the  
7 United States has adopted reciprocal legislation or entered into  
8 a compact with this state providing for collection of destination  
9 jurisdiction tax by the terminal supplier in accordance with  
10 terminal-issued shipping papers designating the intended state or  
11 country of destination, then the importer is ineligible for a  
12 license to import motor fuel outside of the bulk transfer termi-  
13 nal system from the other country, and a license to so import is  
14 canceled.

15 (10) The department shall not issue an occasional importer's  
16 license or a bonded importer's license if the applicant is not  
17 licensed in the foreign country or other jurisdiction outside the  
18 United States.

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

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

26 (b) The number of gallons of motor fuel subject to the 3-day  
27 payment rule in section 80 sorted by foreign jurisdiction outside

1 the United States, by supplier, and by terminal or bulk plant  
2 location.

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

6 (d) Any other information the department considers reason-  
7 ably necessary.

8 (2) The department may waive any or all of the reporting  
9 requirements in subsection (1) if it determines that jurisdic-  
10 tions outside the United States have adopted and implemented  
11 reciprocal terminal reporting requirements adequate to assure the  
12 department that it receives complete information concerning motor  
13 fuel removed by or on behalf of a supplier from a terminal in a  
14 jurisdiction outside the United States which is destined for this  
15 state.

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

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

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

1 (c) Any other information concerning the source state,  
2 volume, or method of transportation of motor fuel as the  
3 department may require.

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

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

14 Sec. 78. (1) Except as otherwise provided in this act, the  
15 tax imposed by section 8 on motor fuel imported from another  
16 country shall be paid by the licensed bonded importer who  
17 imported the motor fuel other than dyed diesel fuel on or before  
18 the twentieth day of the month following the month in which the  
19 motor fuel was imported. An importer shall report the total  
20 number of gallons of motor fuel imported but shall take a deduc-  
21 tion from total gallons for dyed diesel fuel before calculating  
22 the tax.

23 (2) If a licensed supplier or licensed permissive supplier  
24 precollects tax under section 72(5), that supplier is jointly and  
25 severally liable with the licensed bonded importer for the tax  
26 and shall remit the tax to the department on behalf of the  
27 importer under the same terms as a supplier payment under section



1 71. In this case, an import verification number is not  
2 required.

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

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

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

14 (2) For purposes of this section, a licensed 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 payable  
18 to the supplier. The supplier shall submit documentation reason-  
19 ably required by the department with the report filed under  
20 section 70.

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

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

1 (b) The date that a valid import verification number  
2 required under sections 76 and 104 was assigned by the  
3 department.

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

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

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

14 (b) Either an import verification number or a shipping paper  
15 showing on its face that this state's motor fuel tax is not due  
16 or that the tax imposed by this act has been precollected by a  
17 licensed supplier.

18 Sec. 81. (1) If an importer who is not licensed under  
19 section 76 or 82 diverts motor fuel from a destination outside  
20 this state to a destination inside this state after having  
21 removed the fuel from a terminal outside this state, the importer  
22 shall notify and pay to the department the tax imposed by section  
23 8.

24 (2) An importer required to pay tax under this section shall  
25 provide notice and pay the tax upon the same terms and conditions  
26 as if the importer were an occasional importer licensed under

1 section 80 without deduction for the allowances provided by  
2 section 14.

3       (3) For purposes of this section, an unlicensed importer who  
4 has purchased motor fuel from a licensed supplier may enter into  
5 an agreement with the supplier to permit the supplier to assume  
6 the importer's liability and adjust the importer's taxes that are  
7 payable to the supplier. The supplier shall provide a copy of  
8 the agreement to the department at the time the supplier files  
9 its monthly report under this act. The agreement shall include  
10 at a minimum the following information:

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

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

13       (c) The type of motor fuel involved.

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

15       Sec. 82. (1) A person shall not import into this state  
16 motor fuel acquired from a bulk plant in another state by a tank  
17 wagon unless licensed as a tank wagon operator-importer under  
18 this act.

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

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

1       (4) The fee for a tank wagon operator-importer license is  
2 \$50.00.

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

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

16       (7) A tank wagon operator-importer who is liable for the tax  
17 imposed by this act on nonexempt motor fuel imported by a tank  
18 wagon on which tax has not previously been paid to a supplier,  
19 shall remit the tax for a particular quarter's import activities  
20 with its quarterly report of activities on or before the twenti-  
21 eth day of the month following the close of the reporting  
22 period.

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

25       Sec. 83. (1) A person shall not engage in business in this  
26 state as a terminal operator unless licensed as a terminal  
27 operator or supplier.

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

2       (3) A licensed terminal operator or licensed supplier oper-  
3 ating a terminal in this state shall file with the department on  
4 forms or in a format prescribed by the department a monthly  
5 report of operations for each terminal it operates within the  
6 state. The report shall include any information the department  
7 considers reasonably necessary to determine the terminal  
8 operator's liability under this act.

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

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

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

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

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

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

1       (5) The department may waive the filing requirement in  
2 subsection (3) or (4) if the information required is available in  
3 a written or electronic format from the federal government.

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

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

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

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

17       (a) The terminal operator has a valid terminal operator's  
18 license.

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

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

23       (3) A terminal operator is liable for the tax imposed by  
24 this act which is not allocable to any licensed supplier, includ-  
25 ing, but not limited to, motor fuel that is lost or unaccounted  
26 for. However, the terminal operator is not liable for the tax if  
27 it can establish by substantial evidence that the motor fuel lost

1 was dyed diesel fuel that was dyed before receipt by the terminal  
2 operator.

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

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

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

13 (7) A terminal operator who fails to meet the shipping paper  
14 requirements set forth in this act is subject to a civil penalty  
15 of \$1,000.00 for the first occurrence. For each subsequent vio-  
16 lation, the terminal operator is subject to a civil penalty of  
17 \$5,000.00.

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

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

22 (b) The person has paid the applicable destination state tax  
23 to the supplier, can demonstrate proof of export in the form of a  
24 destination state shipping paper, and can demonstrate that the  
25 destination state fuel tax has been paid.

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

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

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

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

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

9       (3) A person licensed as an exporter shall file a quarterly  
10 report with the department on forms or in a format prescribed by  
11 the department. The report shall contain information reasonably  
12 necessary to determine the exporter's tax liability under this  
13 act.

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

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

23       (2) An exporter required to pay tax under this section shall  
24 provide notice and pay the tax upon the same terms and conditions  
25 as if the exporter were an occasional importer licensed under  
26 section 76 without deduction for the allowances provided by  
27 section 14.



1       (3) For purposes of this section, an exporter who has  
2 purchased motor fuel from a licensed supplier may enter into an  
3 agreement with the supplier to permit the supplier to assume the  
4 exporter's liability and adjust the exporter's taxes that are  
5 payable to the supplier. The supplier shall provide a copy of  
6 the agreement to the department at the time the supplier files  
7 its monthly report. The agreement shall include at a minimum the  
8 following information:

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

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

11       (c) The type of motor fuel involved.

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

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

19       (5) If a diversion from a destination in this state to  
20 another state does not violate state or federal law, the diver-  
21 sion relief provisions set forth in section 108 shall apply and  
22 an unlicensed exporter diverting the product may apply for a  
23 refund from the department as provided in this act. The allow-  
24 ance provided for in section 14 shall be deducted from the refund  
25 allowed under this subsection.

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

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

9       Sec. 89. (1) A person who transports motor fuel into this  
10 state or out of this state for another person shall obtain a  
11 transporter's license. A person licensed as a supplier, an  
12 exporter, or an importer under section 76 or 82 who transports  
13 motor fuel into this state or out of this state for their own  
14 account only is not required to obtain a transporter's license.

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

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

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

24       (5) If substantially similar information is readily avail-  
25 able to this state from the federal government including a fed-  
26 eral terminal report, or if the department determines that the  
27 report is not needed to properly administer this act, the

1 department may waive the requirement that a transporter file the  
2 report described in subsection (3).

3       (6) A transporter is subject to a civil penalty of  
4 \$10,000.00 for each incidence where the transporter knowingly  
5 imports undyed motor fuel in a transport truck without possessing  
6 either an import verification number or a shipping paper showing  
7 on its face that this state's motor fuel tax is not due or that  
8 the tax imposed by this act has been precollected by a licensed  
9 supplier.

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

14       (2) The fee for an industrial process reseller's license is  
15 \$1,000.00.

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

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

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

26       (3) A fuel vendor's license is valid for all locations  
27 controlled or operated by the licensee in this state or in any

1 other state from which the fuel vendor removes fuel for delivery  
2 and use in this state.

3       (4) If a person is licensed as a supplier, terminal opera-  
4 tor, carrier, importer, exporter, tank wagon operator, or a  
5 retail diesel dealer, or if the department otherwise determines  
6 that a license is not necessary, the department may waive the  
7 license required in subsection (1).

8       (5) Except as otherwise provided in this subsection, a  
9 licensed fuel vendor shall file a quarterly report by the twenti-  
10 eth day of the month following the close of each calendar quarter  
11 listing its total purchases and sales of gasoline and diesel fuel  
12 during that calendar quarter. A licensed fuel vendor shall not  
13 be required to report the amount of dyed diesel fuel purchased or  
14 sold until 2 years after the effective date of this act. The  
15 department may waive the requirements in this subsection if the  
16 report is not needed to administer this act.

17       (6) The department may require a fuel vendor to file an  
18 annual report if the report is needed to administer this act. If  
19 an annual report is required to be filed, the report shall be  
20 filed on or before January 20 of each year for the preceding cal-  
21 endar year. Except as otherwise provided in this subsection, the  
22 report shall describe the total number of gallons of gasoline and  
23 diesel fuel sold at retail by the fuel vendor. A licensed fuel  
24 vendor shall not be required to report the amount of dyed diesel  
25 fuel purchased or sold until 2 years after the effective date of  
26 this act.

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

5       (8) A fuel vendor shall maintain detailed records of all  
6 purchases and sales of motor fuel for a period of not less than 4  
7 years and shall maintain its records in accordance with the  
8 requirements of 1941 PA 122, MCL 205.1 to 205.31. A sales or  
9 purchase invoice shall clearly describe the amount of tax imposed  
10 under this act as a separate line item. This line item shall be  
11 entitled, "Michigan motor fuel tax". If a fuel vendor is unable  
12 to provide an invoice upon request by the department or provides  
13 an invoice without the amount of the tax as a separate line item,  
14 the fuel vendor shall be jointly and severally liable with the  
15 seller of the motor fuel for the tax imposed by this act and the  
16 department may proceed against the fuel vendor to collect the tax  
17 as provided in this act and 1941 PA 122, MCL 205.1 to 205.31.

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

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

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

26       (4) A retail diesel dealer shall file with the department on  
27 forms or in a format prescribed by the department a quarterly

1 report containing the information the department requires as  
2 reasonably necessary for the department to determine the amount  
3 of diesel fuel tax due. A licensed retail diesel dealer shall  
4 not be required to report the amount of dyed diesel fuel pur-  
5 chased or sold until 2 years after the effective date of this  
6 act.

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

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

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

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

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

19 Sec. 98. A carrier shall file with the department on forms  
20 or in a format prescribed by the department a monthly report of  
21 all motor fuel delivered by the person during the month and any  
22 other information that the department requires as reasonably nec-  
23 essary for the department to determine the liability of a carrier  
24 under this act.

25 Sec. 99. If the second state or country involved in a  
26 cross-border movement of motor fuel has entered into a compact  
27 with this state, the person diverting the fuel shall pay the tax

1 or seek a refund only upon the difference in the amount of tax  
2 due in the 2 jurisdictions. The person shall provide notice of  
3 the payment made or refund sought to both jurisdictions upon  
4 proof of payment to the destination state. The department shall  
5 periodically determine procedures for making the adjustment  
6 described in this subsection and shall keep and make available a  
7 list of those states, provinces, or countries which are members  
8 of the compact.

9       Sec. 101. (1) Except as otherwise provided in this section,  
10 the operator of a refinery, terminal, or bulk plant in this state  
11 shall prepare and provide to the driver of a fuel transportation  
12 vehicle or operator of a train pulling a rail car receiving motor  
13 fuel at the refinery, terminal, or bulk plant into the vehicle's  
14 fuel storage tank an automated, machine-generated shipping paper  
15 setting out on its face all of the following information:

16       (a) Identification by address and terminal number of the  
17 refinery or terminal from which the motor fuel was removed or by  
18 address of the bulk plant from which the motor fuel was removed.

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

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

22       (d) The destination state as represented to the refinery,  
23 terminal, or bulk plant by the transporter, the shipper, or the  
24 shipper's agent.

25       (e) The appropriate notice described in section 46a if the  
26 notice is required by that section.

1 (f) Any other information reasonably required by the  
2 department for the enforcement of this act.

3 (2) In the event of an extraordinary unforeseen circum-  
4 stance, including an act of God, which temporarily interferes  
5 with the ability to issue an automated machine-generated shipping  
6 paper, a manually prepared shipping paper that contains all of  
7 the information required by subsection (1) may be substituted for  
8 the machine-generated shipping paper. Before issuing the manu-  
9 ally prepared shipping paper, the operator of the refinery, ter-  
10 minal, or bulk plant shall do the following:

11 (a) Contact the department by telephone and obtain a service  
12 interruption authorization number.

13 (b) Add the service interruption authorization number to the  
14 manually prepared shipping paper before the motor fuel is removed  
15 from the terminal.

16 (3) A service interruption authorization number is valid for  
17 a period not to exceed 24 hours. If the interruption has not  
18 been cured within the 24-hour period, an additional interruption  
19 authorization number may be requested. The department shall  
20 issue an additional interruption authorization number if the  
21 explanation for the interruption or delay is satisfactory to the  
22 department.

23 (4) If an operator of a bulk plant who delivers motor fuel  
24 into a transport truck is unable to provide the truck driver with  
25 a machine-generated shipping paper, the operator shall provide  
26 the driver with a manually-prepared shipping paper that contains



1 the information required in subsection (1) and that complies with  
2 the requirements of subsection (2).

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

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

11 (7) The operator of a terminal or refinery shall post a con-  
12 spicuous notice in the area of the terminal or refinery where a  
13 fuel transportation vehicle driver receives the shipping paper.  
14 The notice shall describe in clear and concise terms the duties  
15 of a fuel transportation vehicle operator and driver and the  
16 duties of a retail dealer under this act. The notice shall  
17 include the telephone number that shall be called if motor fuel  
18 is diverted pursuant to this act. The department may establish  
19 the language, type, style, and format of the notice.

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

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

26 (a) Carry the shipping paper on board the fuel  
27 transportation vehicle or rail car.

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

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

8       (i) Notifies the department that the motor fuel is being  
9 delivered to a different destination state before the date the  
10 fuel is exported from the state in which the shipment  
11 originated.

12       (ii) Requests and receives from the department a verifica-  
13 tion number authorizing the diversion.

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

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

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

20       (2) The owner or operator of a fuel transportation vehicle  
21 or train pulling a rail car shall require the vehicle driver or  
22 train operator to comply with the shipping paper requirements in  
23 this act.

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

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

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

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

11       (c) Concerning aviation, jet fuel, or other fuel used in  
12 aircraft, the statement: "NOT FOR HIGHWAY USE, PENALTY FOR  
13 HIGHWAY USE".

14       (d) Concerning any other motor fuel, a statement that  
15 "[supplier name] responsible for [state name] motor fuel tax" or  
16 any other annotation acceptable to the department that provides  
17 notice that the tax imposed by this act or by the destination  
18 state on the entire shipment or the appropriate portion of the  
19 shipment has been paid or accrued to the supplier.

20       (2) Except as otherwise provided in subsection (3), a  
21 licensed bonded importer or occasional importer or a transporter  
22 acting for the licensed importer is exempt from the notice  
23 requirement in subsection (1)(b) if the requirements of section  
24 76 are met.

25       (3) The department may develop an advance notification pro-  
26 cedure to address documentation for imported motor fuel

1 concerning which the importer is unable to obtain a shipping  
2 paper that complies with this section.

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

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

15 (a) The importer or transporter shall obtain an import veri-  
16 fication number from the department before entering this state,  
17 but not sooner than 24 hours before entering this state.

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

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

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

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

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

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

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

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

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

21 (2) The retailer, bulk plant operator, bulk end user, or  
22 bulk storage facility shall retain the shipping paper for not  
23 less than 4 years either at the delivery location or at another  
24 location.

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

1       Sec. 107. (1) A retailer, bulk plant operator, bulk end  
2 user, or the operator of any other bulk storage facility shall  
3 not knowingly accept delivery of motor fuel into a bulk storage  
4 facility in this state if the delivery is not accompanied by a  
5 shipping paper issued by the terminal operator or bulk plant  
6 operator that clearly indicates that Michigan is the destination  
7 state of the motor fuel or provides a diversion verification  
8 number pursuant to section 108, and any other information  
9 required under sections 101 to 104.

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

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

18       (2) The relief is subject to all of the following  
19 requirements:

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

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

25       (c) That the relief provisions are consistent with the  
26 refund provisions of this act.

1       (3) If a person alleged to be in violation of sections 101  
2 to 107 establishes to the department's satisfaction that the  
3 violation was the result of honest error made in the context of a  
4 good-faith and reasonable effort to properly account for and  
5 report motor fuel shipments and tax, the person shall not be  
6 subject to the civil penalties set forth in this act for violat-  
7 ing those provisions.

8       (4) The department may coordinate with other states,  
9 Canadian provinces, and the federation of tax administrators for  
10 the operation of a common telephonic diversion verification  
11 number assignment system.

12       Sec. 109. (1) A person who issues a shipping paper, includ-  
13 ing but not limited to a supplier, a terminal operator, or a bulk  
14 plant operator may rely on the following representations of a  
15 transporter, shipper, or the shipper's agent:

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

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

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

25       (3) A terminal operator may rely on the representation of a  
26 licensed supplier concerning the supplier's obligation to collect  
27 tax.

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

5       (2) A terminal operator who negligently imprints a statement  
6 that violates subsection (1) is subject to a civil penalty of  
7 \$50.00 for each violation.

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

11       Sec. 111. (1) A terminal operator or a supplier shall cause  
12 a shipping paper to meet the tamper-resistant standards pre-  
13 scribed by department rule, including the inclusion of messages  
14 that identify whether a shipping paper has been photocopied, num-  
15 bering systems, or nonreproducible coding.

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

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

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

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



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

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

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

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

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

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

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 kerosene.

21 Sec. 114. (1) A representative or agent of the department  
22 may examine the shipping paper of a fuel transportation vehicle  
23 in order to determine whether that fuel transportation vehicle is  
24 located outside a reasonably direct route from the supply source  
25 to the destination state on the shipping paper. If the vehicle  
26 is more than 5 miles from a reasonably direct route, there is a  
27 rebuttable presumption that the operator or driver of the vehicle

1 intends to divert the motor fuel from the destination on the  
2 shipping paper. If the vehicle is 5 miles or less from a reason-  
3 ably direct route, there is a rebuttable presumption that the  
4 operator or driver of the vehicle does not intend to divert the  
5 motor fuel from the destination on the shipping paper.

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

10 Sec. 115. (1) A supplier operating a fuel transportation  
11 vehicle on the public roads or highways of this state shall dis-  
12 play on the vehicle, in colors that distinctly contrast with the  
13 color of the vehicle and in letters and figures not less than 3  
14 inches high, the supplier's name and the license number identi-  
15 fied as Mich. Supplier No. \_\_\_\_.

16 (2) A person other than a supplier operating a fuel trans-  
17 portation vehicle on the public roads or highways of this state  
18 shall display on the vehicle, in colors that distinctly contrast  
19 with the color of the vehicle and in letters and figures not less  
20 than 3 inches high, the person's name and the license number  
21 identified as Mich. MFTA No. \_\_\_\_.

22 Sec. 116. A person who transports motor fuel without a  
23 shipping paper that meets the requirements set forth in  
24 sections 101 to 104, including but not limited to the owner,  
25 operator, or driver of a fuel transportation vehicle or train, is  
26 subject to a civil penalty of \$1,000.00 for the person's first

1 occurrence. Each subsequent violation of sections 101 to 104 is  
2 subject to a civil penalty of \$5,000.00.

3       Sec. 121. A person shall not sell or use or hold for sale  
4 or use dyed diesel fuel or other exempt fuel, including but not  
5 limited to motor fuel used in industrial processing, undyed  
6 diesel fuel that is repackaged into a container that holds 55  
7 gallons or less, or aviation, aircraft, or jet fuel, for any use  
8 that the person knows or has reason to know is a taxable use of  
9 the diesel fuel under this act or the motor carrier fuel tax act,  
10 1980 PA 119, MCL 207.211 to 207.234.

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

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

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

19       (b) A motor vehicle used exclusively by the American red  
20 cross.

21       (c) An implement of husbandry.

22       (3) An owner, operator, or driver of a vehicle who uses dyed  
23 diesel fuel on the public roads or highways of this state is  
24 subject to a civil penalty of \$200.00 for each of the first 2  
25 violations within a 12-month period. For a third violation  
26 within a 12-month period, and for each subsequent violation  
27 thereafter, the person is subject to a civil penalty of

1 \$5,000.00. An owner, operator, or driver of a motor vehicle who  
2 knowingly violates the prohibition against the sale or use of  
3 dyed diesel fuel upon the public roads or highways of this state  
4 is subject to a civil penalty equal to that imposed by  
5 section 6714 of the internal revenue code.

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

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

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

14       Sec. 124. (1) Except as otherwise provided by the depart-  
15 ment, a person shall not sell or knowingly purchase any motor  
16 fuel or other product for use in the fuel supply tank of a motor  
17 vehicle for use on the public roads or highways of this state  
18 that does not meet ASTM standards for motor fuel or other pro-  
19 ducts as published in the annual book of standards and its  
20 supplements.

21       (2) It is the responsibility of a transporter or a  
22 transporter's agent to dispose of any motor fuel or other product  
23 that violates the standards described in subsection (1). The  
24 transporter or the transporter's agent shall dispose of the motor  
25 fuel or other product in accordance with federal and state law.

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

1       Sec. 125. (1) A person who operates motor fuel dispenser  
2 equipment accessible by the general public shall provide a meter-  
3 ing gallonage totalizer for each dispenser and shall maintain  
4 records sufficient to enable the department to determine with  
5 reasonable accuracy the amount of motor fuel dispensed by the  
6 equipment.

7       (2) A person shall not exchange, replace, roll back, or oth-  
8 erwise tamper with metering equipment, including a metering gal-  
9 lonage totalizer, without following procedures provided by the  
10 department for legitimate maintenance, repair, and replacement of  
11 the equipment. However, the prohibition against exchanging or  
12 replacing metering equipment shall not take effect until the  
13 department has issued a written policy that sets forth the main-  
14 tenance, repair, and replacement procedures. In developing the  
15 policy, the department shall consider other state or federal laws  
16 and regulations that govern metering equipment.

17       (3) A person who violates this section is guilty of a  
18 felony.

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

24       (2) A person who fails or refuses to pay to the department  
25 the tax on motor fuel at the time required in this act or who  
26 fraudulently withholds or appropriates or otherwise uses the

1 money or any portion of the money belonging to the state is  
2 guilty of a felony.

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

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

12       Sec. 129. (1) If a person drives or otherwise operates a  
13 motor vehicle in violation of the shipping paper requirements in  
14 this act, the vehicle, motor fuel being transported by the vehi-  
15 cle, and any other cargo is subject to impoundment, seizure, and  
16 subsequent sale and forfeiture.

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

22       (3) If a person is discovered in violation of the meter  
23 tampering provisions in section 125, the motor fuel, meters,  
24 pumps, and any other property used in transporting, storing, dis-  
25 pensing, or otherwise distributing motor fuel and related pro-  
26 ducts are subject to impoundment, seizure, and subsequent sale  
27 and forfeiture.

1       (4) The impoundment, seizure, and subsequent sale and  
2 forfeiture shall be accomplished pursuant to this section and  
3 section 130.

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

10       Sec. 130. (1) As soon as possible, but not more than 5  
11 business days after seizure of a motor vehicle and its cargo  
12 under section 129, the person making the seizure shall deliver  
13 personally or by registered mail to the last known address of the  
14 person from whom the seizure was made, if known, an inventory  
15 statement of the motor vehicle, motor fuel, or other property  
16 seized. A copy of the inventory statement shall also be filed  
17 with the department.

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

23       (3) If the person from whom the seizure was made is not  
24 known, the person making the seizure shall cause a copy of the  
25 inventory statement, together with the notice provided for in  
26 this section, to be published not less than 3 times in a

1 newspaper of general circulation in the county where the seizure  
2 was made.

3       (4) Within 10 business days after the date of service of the  
4 inventory statement or, in the case of publication, within 10  
5 business days after the date of last publication, the person from  
6 whom the property was seized or any person claiming an interest  
7 in the property may by registered mail, facsimile transmission,  
8 or personal service file with the department a demand for a hear-  
9 ing before the commissioner for a determination as to whether the  
10 property was lawfully subject to seizure and forfeiture. The  
11 person shall verify a request for hearing filed by facsimile  
12 transmission by also providing a copy of the original request for  
13 hearing by registered mail or personal service.

14       (5) The person or persons are entitled to appear at a hear-  
15 ing before the department, to be represented by counsel, and to  
16 present testimony and argument.

17       (6) Upon receipt of a request for hearing, the department  
18 shall hold the hearing within 15 business days. The hearing is  
19 not a contested case proceeding and is not subject to the admin-  
20 istrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
21 24.328.

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



1       (8) If, within 10 business days after the date of service of  
2 the inventory statement, the person from whom the property was  
3 seized or any person claiming an interest in the property does  
4 not file with the department a demand for a hearing before the  
5 department, the property seized shall be considered forfeited to  
6 the state by operation of law and may be disposed of by the  
7 department as provided in this section.

8       (9) If, after a hearing, the department determines that the  
9 property is lawfully subject to seizure and forfeiture and the  
10 person from whom the property was seized or any persons claiming  
11 an interest in the property do not take an appeal to the circuit  
12 court of the county in which the seizure was made within the time  
13 prescribed in this section, the property seized shall be consid-  
14 ered forfeited to the state by operation of law and may be dis-  
15 posed of by the department as provided in this section.

16       (10) If a person is aggrieved by the decision of the depart-  
17 ment, that person may appeal to the circuit court of the county  
18 where the seizure was made to obtain a judicial determination of  
19 the lawfulness of the seizure and forfeiture. The action shall  
20 be commenced within 20 days after notice of the department's  
21 determination is sent to the person or persons claiming an inter-  
22 est in the seized property. The court shall hear the action and  
23 determine the issues of fact and law involved in accordance with  
24 rules of practice and procedure as in other in rem proceedings.  
25 If a judicial determination of the lawfulness of the seizure and  
26 forfeiture cannot be made before deterioration of any of the  
27 property seized, the court shall order the sale of the property

1 with public notice as determined by the court and require the  
2 proceeds to be deposited with the court until the lawfulness of  
3 the seizure and forfeiture is finally adjudicated.

4       (11) During the pendency of any filing for appeal, hearing,  
5 or rendering of decision, the aggrieved person and the department  
6 may by mutual consent agree to sale of the fuel in order to  
7 facilitate release of the vehicle containing the fuel. The pro-  
8 ceeds from the sale shall be held in escrow by the department  
9 pending the department's decision and an appeal, if any, from the  
10 department's decision.

11       (12) The department may sell fuel forfeited under this act  
12 at public sale. Public notice of the sale shall be given at  
13 least 5 days before the date of sale. The department may pay an  
14 amount not to exceed 25% of the proceeds of the sale to the local  
15 governmental unit whose law enforcement agency performed the  
16 seizure. The balance of the proceeds derived from the sale by  
17 the department shall be credited to the Michigan transportation  
18 fund.

19       Sec. 131. (1) An inspection to determine a shipping paper  
20 violation under this act may be conducted by the department, the  
21 department of state police, the department of agriculture, agents  
22 of those departments, motor carrier inspectors, and any other law  
23 enforcement officers designated by the department through proce-  
24 dures established by the department including federal government  
25 employees or persons operating under a contract with the state.

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

1 (a) Conduct inspections and remove samples of motor fuel in  
2 order to:

3 (i) Determine whether diesel fuel is dyed and the nature and  
4 type of the dye or markers including the concentration of the  
5 dye.

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

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

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

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

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

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

24 (a) A terminal.

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

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

1 (d) On the public roads or highways.

2 (e) Highway rest stops.

3 (f) A marina.

4 (g) A designated inspection site. As used in this subdivi-  
5 sion, "designated inspection site" includes any state highway or  
6 waterway inspection station, weigh station, agricultural inspec-  
7 tion station, mobile station, or other location designated by the  
8 department, whether fixed or mobile.

9 (7) A uniformed inspector may reasonably detain a person, a  
10 motor vehicle, or other equipment transporting fuel in this state  
11 in order to determine whether the person is operating in compli-  
12 ance with this act. Detainment may continue for the time neces-  
13 sary to determine whether the person, motor vehicle, or other  
14 equipment is in compliance with this act.

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

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

26 Sec. 133. (1) The department may audit and examine the  
27 records, books, papers, and equipment of any person, including,

1 but not limited to, terminal operators, suppliers, importers,  
2 wholesalers, jobbers, retail dealers, bulk end users, fuel ven-  
3 dors, and all private and common carriers of motor fuel to verify  
4 the completeness, truth, and accuracy of any statement or report  
5 and to ascertain whether the tax imposed by this act has been  
6 paid.

7       (2) The department may also exercise the general authority  
8 described in subsection (1) in performing sampling inspections of  
9 a person described in subsection (1). The department may perform  
10 sampling inspections without providing prior notice.

11       (3) Any person described in subsection (1) shall make avail-  
12 able to the department necessary records, books, or papers with  
13 respect to transactions that the department is attempting to  
14 verify during normal business hours at the person's physical  
15 location in this state, or at the department's office if the  
16 person's location at which the records are located is outside of  
17 this state, within 3 business days after the request is made.

18       Sec. 134. (1) A person who refuses to permit any inspection  
19 or audit authorized by this act is subject to a civil penalty of  
20 \$5,000.00, in addition to any other penalty imposed by this act.

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

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

26       Sec. 141. The tax imposed by this act belongs to the  
27 state. The tax shall be held in trust for the state and for

1 payment to the department as provided in this act. A person who  
2 fails or refuses to pay over to the department the tax collected  
3 on motor fuel at the time required in this act, or a person who  
4 with intent to defraud withholds or appropriates any portion of  
5 the tax belonging to the state, is guilty of embezzlement, and  
6 shall be punished as provided in section 174 of the Michigan  
7 penal code, 1931 PA 328, MCL 750.174.

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

10       (2) One-tenth of 1% of the tax revenue collected under this  
11 act shall be deposited into the fund for use as set forth in  
12 subsection (3).

13       (3) Money deposited into the fund shall only be used for the  
14 following purposes:

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

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

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

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

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

1       Sec. 143. Except as otherwise provided in section 142, all  
2 sums of money received and collected under this act, except for  
3 license fees, and after the payment of the necessary expenses  
4 incurred in the enforcement of this act, are appropriated to and  
5 shall be deposited in the state treasury to the credit of the  
6 Michigan transportation fund.

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

13       Sec. 145. The taxes under this act shall be administered  
14 pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this act. In  
15 case of conflict between 1941 PA 122 and this act, this act shall  
16 prevail.

17       Sec. 146. The filing date of a claim, application, or any  
18 other document filed with the department is the date the claim,  
19 application, or other document was postmarked by the United  
20 States postal service or the date actually received by the  
21 department, whichever is earlier.

22       Sec. 147. Eighteen months after the effective date of this  
23 act, the department shall submit a report to the legislature on  
24 dyed diesel fuel reporting under this act. The report shall  
25 include recommendations as to whether reporting of dyed diesel  
26 fuel purchases and sales is needed, whether the lack of reporting

1 has resulted in tax evasion, and any other information considered  
2 relevant by the department.

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

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

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

12       (a) "Liquefied petroleum gas" means gases derived from  
13 petroleum or natural gases which are in the gaseous state at  
14 normal atmospheric temperature and pressure, but which may be  
15 maintained in the liquid state at normal atmospheric temperature  
16 by suitable pressure. Liquefied petroleum gas includes those  
17 products predominately composed of propane, propylene, butylene,  
18 butane, and similar products.

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

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

22       (i) Selling or delivering liquefied petroleum gas not other-  
23 wise subject to tax under this act, either by placing it into a  
24 permanently attached fuel supply tank of a motor vehicle, or  
25 exchanging or replacing of the fuel supply tank of a motor  
26 vehicle.



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

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

8       Sec. 152. A tax at a rate of 15 cents per gallon is imposed  
9 upon all liquefied petroleum gas used in this state. The tax  
10 shall be paid at the times and in the manner specified in this  
11 section. The tax on liquefied petroleum gas fuel sold or deliv-  
12 ered either by placing into a permanently attached fuel supply  
13 tank on a motor vehicle, or exchanging or replacing the fuel  
14 supply tank of a motor vehicle, shall be collected by the LPG  
15 dealer from the purchaser and paid over quarterly to the depart-  
16 ment as provided in this act. Liquefied petroleum gas fuel  
17 delivered in this state into the storage facility of any person  
18 when the exclusive purpose of the storage facility is for resale  
19 or use in a motor vehicle on the public roads or highways of this  
20 state, shall, upon delivery to storage facility, be subject to  
21 tax. An LPG dealer shall, upon delivery of the liquefied petro-  
22 leum gas, collect and remit the tax to the department as provided  
23 in this act. A person shall not operate a motor vehicle on the  
24 public roads or highways of this state from the cargo containers  
25 of a truck, trailer, or semitrailer with liquefied petroleum gas  
26 in vapor or liquid form, except when the fuel in the liquid or  
27 vapor phase is withdrawn from the cargo container for use in

1 motor vehicles through a permanently installed and approved  
2 metering device. The tax on liquefied petroleum gas withdrawn  
3 from a cargo container through a permanently installed and  
4 approved metering device shall apply in accordance with measured  
5 gallons as reflected by meter reading, and shall be paid quar-  
6 terly by the LPG dealer to the department as provided in this  
7 act.

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

10       (2) To obtain a license an applicant shall file with the  
11 department an application upon a form or in a format prescribed  
12 by the department. The application shall include the name and  
13 address of the applicant and of each place of business to be  
14 operated by the applicant at which liquefied petroleum gas will  
15 be used and other information the department may reasonably  
16 require.

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

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

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

24       Sec. 154. For the purpose of determining the amount of tax  
25 payable to the department, an LPG dealer shall, on or before the  
26 twentieth day of each calendar month following the close of the  
27 reporting calendar quarter, file with the department on a form or

1 in a format prescribed by the department a report which shall  
2 include the number of gallons of liquefied petroleum gas used by  
3 the LPG dealer during the preceding calendar quarter, together  
4 with any other information the department may require. An LPG  
5 dealer at the time of filing the report shall pay to the depart-  
6 ment at the time of filing the report the full amount of the tax  
7 owed.

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

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

14       (b) The federal government, state government, or a political  
15 subdivision of this state consuming liquefied petroleum gas in a  
16 motor vehicle owned and operated or leased and operated by the  
17 federal government, state government, or political subdivision of  
18 this state.

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

23       (2) To obtain a refund, a person shall file a claim with the  
24 department within 18 months after the date of purchase, as shown  
25 on the invoice.

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

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

7 Sec. 161. In January of each year, there is appropriated  
8 from the proceeds of the tax levied by this act up to  
9 \$3,500,000.00, that shall be used to pay the principal, interest,  
10 and incidental costs for the outstanding bonds, previously issued  
11 by the Mackinac bridge authority. The unexpended amount shall  
12 lapse to the Michigan transportation fund at the end of each  
13 fiscal year. Upon retirement of all outstanding bonds and any  
14 refunding bonds hereafter issued, this appropriation shall  
15 cease.

16 Sec. 162. It is the intent of the legislature that the  
17 authority responsible for setting tolls for the Mackinac bridge  
18 will use the appropriation provided in section 161 to reduce the  
19 tolls to as near as possible to \$1.50 per passenger car and  
20 pickup and a proportional reduction for all other classes of  
21 vehicles.

22 Sec. 163. The appropriations made in section 161 shall be  
23 considered as advances in aid of reducing the bonded indebtedness  
24 of the Mackinac bridge. At such time as all principal and inter-  
25 est for all outstanding bonds, previously issued by the Mackinac  
26 bridge authority and, if the bonds are refunded in accordance  
27 with 1966 PA 13, MCL 254.361 to 254.372, all principal and

1 interest on the refunding bonds has been paid, the authority  
2 responsible for setting tolls for the Mackinac bridge shall con-  
3 tinue to charge tolls as are considered necessary by the author-  
4 ity to reimburse the Michigan transportation fund for all  
5 advances made pursuant to this act. At such time as reimburse-  
6 ment has been made for the sums advanced under this act and those  
7 sums advanced pursuant to section 7 of 1952 PA 214, MCL 254.317,  
8 the Mackinac bridge shall thereafter be maintained and operated  
9 as a free bridge.

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

14       Sec. 169. 1927 PA 150, MCL 207.101 to 207.202, is  
15 repealed.

16       Sec. 170. This act takes effect October 1, 2000.