

Act No. 277
Public Acts of 2006
Approved by the Governor
July 7, 2006
Filed with the Secretary of State
July 7, 2006
EFFECTIVE DATE: January 1, 2004

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Rep. Schuitmaker

ENROLLED HOUSE BILL No. 5959

AN ACT to amend 2000 PA 403, entitled "An act 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," by amending sections 3, 4, and 39 (MCL 207.1003, 207.1004, and 207.1039), sections 3 and 4 as amended by 2002 PA 668.

The People of the State of Michigan enact:

Sec. 3. As used in this act:

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

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

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

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

(e) "Gasohol" means a blended motor fuel composed of gasoline and fuel grade ethanol.

(f) "Gasoline" means and includes gasoline, alcohol, gasohol, casing head or natural gasoline, benzol, benzene, naphtha, and any blendstock additive, or other product including methanol that is sold for blending with gasoline or for use on the road other than products typically sold in containers of less than 5 gallons. Gasoline also includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel, including a product obtained by blending together any 1 or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle,

airplane, or marine vessel. The blending of all of the above named products, regardless of their name or characteristics, shall conclusively be presumed to have been done to produce motor fuel, unless the product obtained by the blending is entirely incapable of use as motor fuel. Gasoline also includes transmix. Gasoline does not include diesel fuel or leaded racing fuel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for gasoline.

(g) "Gross gallons" means the total measured product, exclusive of any temperature or pressure adjustments, considerations, or deductions, in gallons.

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

(i) "Implement of husbandry" means and includes a farm tractor, a vehicle designed to be drawn or pulled by a farm tractor or animal, a vehicle that directly harvests farm products, and a vehicle that directly applies fertilizer, spray, or seeds to a farm field. Implement of husbandry does not include a motor vehicle licensed for use on the public roads or highways of this state.

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

(k) "Importer" means a person who imports motor fuel into this state.

(l) "Import verification number" means the number assigned by the department to an individual delivery of motor fuel by a transport truck, tank wagon, marine vessel, or rail car in response to a request for a number from an importer or transporter carrying motor fuel into this state for the account of an importer.

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

(n) "Invoiced gallons" means the number of gallons actually billed on an invoice.

Sec. 4. As used in this act:

(a) "Kerosene" means all grades of kerosene, including, but not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K, commonly known as K-1 kerosene and K-2 kerosene respectively, described in American society for testing and materials specifications D-3699, in effect on January 1, 1999, and kerosene-type jet fuel described in American society for testing and materials specification D-1655 and military specifications MIL-T-5624r and MIL-T-83133d (grades jp-5 and jp-8), and any successor internal revenue service rules or regulations, as the specification for kerosene and kerosene-type jet fuel. Kerosene does not include an excluded liquid.

(b) "Leaded racing fuel" is a fuel other than diesel fuel that is leaded and at least 100 octane and is used in vehicles on a racetrack.

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

(d) "Motor fuel" means gasoline, diesel fuel, kerosene, a mixture of gasoline, diesel fuel, or kerosene, or a mixture of gasoline, diesel fuel, or kerosene and any other substance. Motor fuel does not include leaded racing fuel.

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

(i) An implement of husbandry.

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

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

(iv) A stationary engine.

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

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

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

(i) Is a position holder in a federally registered terminal located outside of this state, or a person who acquires from a position holder motor fuel in an out-of-state terminal in a transaction that otherwise qualifies as a 2-party exchange under this act.

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

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

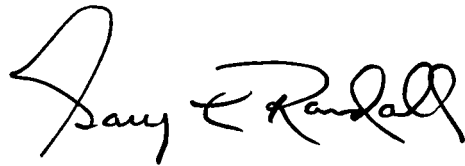
(j) "Position holder" means a person who has a contract with a terminal operator for the use of storage facilities and other terminal services for motor fuel at the terminal, as reflected in the records of the terminal operator. Position holder includes a terminal operator who owns motor fuel in the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

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

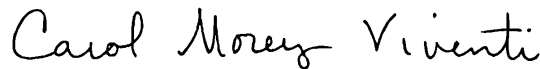
Sec. 39. An end user may seek a refund for tax paid under this act on motor fuel or leaded racing fuel used in an implement of husbandry or otherwise used for a nonhighway purpose not otherwise expressly exempted under this act. However, a person shall not seek and is not eligible for a refund for tax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

Enacting section 1. This amendatory act shall be retroactively applied to January 1, 2004 but shall not authorize refunds other than to an end user for taxes previously paid.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor