

HOUSE BILL No. 5298

January 26, 2012, Introduced by Rep. Olson and referred to the Committee on Transportation.

A bill to amend 2000 PA 403, entitled "Motor fuel tax act," by amending sections 2, 3, 4, 5, 6, 8, 10, 14, 30, 32, 34, 39, 48, 63, 94, 122, 130, 143, 151, 152, 161, and 163 (MCL 207.1002, 207.1003, 207.1004, 207.1005, 207.1006, 207.1008, 207.1010, 207.1014, 207.1030, 207.1032, 207.1034, 207.1039, 207.1048, 207.1063, 207.1094, 207.1122, 207.1130, 207.1143, 207.1151, 207.1152, 207.1161, and 207.1163), sections 2, 5, and 122 as amended by 2002 PA 668, sections 3, 4, and 39 as amended by 2006 PA 277, section 8 as amended by 2006 PA 268, and sections 30 and 94 as amended by 2008 PA 26; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Alcohol" means fuel grade ethanol or a mixture of fuel

1 grade ethanol and another product.

2 (B) "APPLICABLE PERCENTAGE" MEANS 10.1%.

3 (C) "AVERAGE WHOLESALE PRICE" MEANS THE STATEWIDE AVERAGE
4 WHOLESALE PRICE AS DETERMINED BY THE DEPARTMENT BASED UPON A 12-
5 MONTH ROLLING AVERAGE OF THE WHOLESALE PRICE. THE 12-MONTH ROLLING
6 AVERAGE PERIOD ENDS ON THE LAST DAY OF THE MONTH THAT IS 3 MONTHS
7 PRIOR TO THE MONTH IN WHICH THE RATE IS DETERMINED BY THE
8 DEPARTMENT UNDER SECTION 8(1)(D).

9 (D) ~~(b)~~—"Blendstock" means and includes any petroleum product
10 component of motor fuel, such as naphtha, reformate, or toluene; or
11 any oxygenate that can be blended for use in a motor fuel.

12 (E) ~~(e)~~—"Blended motor fuel" means a mixture of motor fuel and
13 another liquid, other than a de minimis amount of a product
14 including, but not limited to, carburetor detergent or oxidation
15 inhibitor, that can be used as motor fuel in a motor vehicle.

16 (F) ~~(d)~~—"Blender" means and includes any person who produces
17 blended motor fuel outside of the bulk transfer/terminal system.

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

27 (H) ~~(f)~~—"Bulk end user" means a person who receives into the

1 person's own storage facilities by transport truck or tank wagon
2 motor fuel for the person's own consumption.

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

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

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

13 (ii) Pipeline movements of motor fuel from a refinery or
14 terminal to a terminal.

15 (iii) Book transfers of motor fuel within a terminal between
16 licensed suppliers before completion of removal across the terminal
17 rack.

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

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

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

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

7 (M) "COMMERCIAL CORRIDOR FUND" MEANS THE FUND ESTABLISHED
8 UNDER 1951 PA 51, MCL 247.651 TO 247.675.

9 (N) ~~(k)~~-"Commercial motor vehicle" means a motor vehicle
10 licensed **AS A QUALIFIED COMMERCIAL MOTOR VEHICLE** under the motor
11 carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, **OR A**
12 **MOTOR VEHICLE LICENSED UNDER AN INTERNATIONAL FUEL TAX AGREEMENT**
13 **UNDER SECTION 2A OF THE MOTOR CARRIER FUEL TAX ACT, 1980 PA 119,**
14 **MCL 207.212A.**

15 (O) ~~(l)~~-"Dead storage" is the amount of motor fuel that cannot
16 be pumped out of a motor fuel storage tank because the motor fuel
17 is below the mouth of the tank's draw pipe. The amount of motor
18 fuel in dead storage is 200 gallons for a tank with a capacity of
19 less than 10,000 gallons and 400 gallons for a tank with a capacity
20 of 10,000 gallons or more.

21 (P) ~~(m)~~-"Denaturants" means ~~and includes~~ gasoline, natural
22 gasoline, gasoline components, or toxic or noxious materials added
23 to fuel grade ethanol to make it unsuitable for beverage use ~~but~~
24 not unsuitable for automotive use.

25 (Q) ~~(n)~~-"Department" means the ~~bureau of revenue within the~~
26 department of treasury or its designee.

27 (R) ~~(o)~~-"Destination state" means ~~the~~ **A** state, Canadian

1 province or territory, or foreign country to which motor fuel is
2 directed for export.

3 (S) ~~(p)~~—"Diesel fuel" means any liquid other than gasoline
4 that is capable of use as a fuel or a component of a fuel in a
5 motor vehicle that is propelled by a diesel-powered engine or in a
6 diesel-powered train. Diesel fuel includes number 1 and number 2
7 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel
8 fuel also includes any blendstock or additive that is sold for
9 blending with diesel fuel, any liquid prepared, advertised, offered
10 for sale, sold for use as, or used in the generation of power for
11 the propulsion of a diesel-powered engine, airplane, or marine
12 vessel. An additive or blendstock is presumed to be sold for
13 blending unless a certification is obtained for federal purposes
14 that the substance is for a use other than blending for diesel
15 fuel. Diesel fuel does not include an excluded liquid.

16 (T) ~~(q)~~—"Dyed diesel fuel" means diesel fuel that is dyed in
17 accordance with internal revenue service rules or pursuant to any
18 other internal revenue service requirements, including any
19 invisible marker requirements.

20 (U) ~~(r)~~—"Eligible purchaser" means a person who has been
21 authorized by the department under section 75 to make ~~the~~ **AN**
22 election under section 74.

23 (V) ~~(s)~~—"Excluded liquid" means that term as defined in 26
24 C.F.R.—**CFR** 48.4081-1.

25 (W) ~~(t)~~—"Export" means to obtain motor fuel in this state for
26 sale or other distribution outside of this state. Motor fuel
27 delivered outside of this state by or for the seller constitutes an

1 export by the seller and motor fuel delivered outside of this state
2 by or for the purchaser constitutes an export by the purchaser.

3 (X) ~~(u)~~—"Exporter" means a person who exports motor fuel.

4 Sec. 3. As used in this act:

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

8 (b) "Fuel grade ethanol" means the American society for
9 testing and materials standard in effect on ~~the effective date of~~
10 ~~this act~~ **APRIL 1, 2001** as the D-4806 specification for denatured
11 fuel grade ethanol for blending with gasoline.

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

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

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

1 (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,
2 casing head or natural gasoline, benzol, benzine, naphtha, and any
3 blendstock additive, or other product including methanol that is
4 sold for blending with gasoline or for use on the road other than
5 products typically sold in containers of less than 5 gallons.
6 Gasoline also includes a liquid prepared, advertised, offered for
7 sale, sold for use as, or used in the generation of power for the
8 propulsion of a motor vehicle, airplane, or marine vessel,
9 including a product obtained by blending together any 1 or more
10 products of petroleum, with or without another product, and
11 regardless of the original character of the petroleum products
12 blended, if the product obtained by the blending is capable of use
13 in the generation of power for the propulsion of a motor vehicle,
14 airplane, or marine vessel. The blending of all of the above named
15 products, regardless of their name or characteristics, shall
16 conclusively be presumed to have been done to produce motor fuel,
17 unless the product obtained by the blending is entirely incapable
18 of use as motor fuel. Gasoline also includes transmix. Gasoline
19 does not include diesel fuel. ~~or leaded racing fuel.~~ An additive or
20 blendstock is presumed to be sold for blending unless a
21 certification is obtained for federal purposes that the substance
22 is for a use other than blending for gasoline.

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

26 (h) "Heating oil" means a motor fuel including dyed diesel
27 fuel that is burned in a boiler, furnace, or stove for heating,

1 agricultural, or industrial processing purposes.

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

8 (j) "Import" means to bring motor fuel into this state by
9 motor vehicle, marine vessel, pipeline, or any other means.

10 ~~However, import~~ **IMPORT** does not include bringing motor fuel into
11 this state in the fuel supply tank of a motor vehicle if the motor
12 fuel is used to power that motor vehicle. Motor fuel delivered into
13 this state from outside of this state by or for the seller
14 constitutes an import by the seller, and motor fuel delivered into
15 this state from out of this state by or for the purchaser
16 constitutes an import by the purchaser.

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

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

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

27 (n) "Invoiced gallons" means the number of gallons actually

1 billed on an invoice.

2 Sec. 4. As used in this act:

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

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

17 (B) ~~(e)~~ "Liquid" means any substance that is liquid in excess
 18 of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square
 19 inch absolute.

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

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

1 (i) An implement of husbandry.

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

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

5 (iv) A stationary engine.

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

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

14 (G) ~~(h)~~—"Permissive supplier" means a person who ~~may~~ **IS** not be
15 subject to the taxing jurisdiction of this state ~~but who does meet~~
16 **AND MEETS** both of the following requirements:

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

22 (ii) Is registered under section 4101 of the internal revenue
23 code, **26 USC 4101**, for transactions in motor fuel in the bulk
24 transfer/terminal system.

25 (H) ~~(i)~~—"Person" means ~~and includes~~ an individual,
26 cooperative, partnership, firm, association, limited liability
27 company, limited liability partnership, joint stock company,

1 syndicate, and corporation, both private and municipal, and any
2 receiver, trustee, conservator, or any other officer having
3 jurisdiction and control of property by law or by appointment of a
4 court other than units of government.

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

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

16 Sec. 5. (1) As used in this act:

17 (a) "Rack" means a mechanism for delivering motor fuel from a
18 refinery, a terminal, or a marine vessel into a railroad tank car,
19 a transport truck, a tank wagon, the fuel supply tank of a marine
20 vessel, or other means of transfer outside of the bulk
21 transfer/terminal system.

22 (B) "RATE CEILING" MEANS A CENTS PER GALLON UPPER LIMIT ON THE
23 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON MOTOR FUEL
24 UNDER SECTION 8(1)(D). BEGINNING ON THE FIRST DAY OF THE SECOND
25 CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT
26 THAT ADDED THIS SUBDIVISION, RATE CEILING MEANS 40 CENTS.

27 (C) "RATE FLOOR" MEANS A CENTS PER GALLON LOWER LIMIT ON THE

1 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON MOTOR FUEL
2 UNDER SECTION 8(1)(D). BEGINNING ON THE FIRST DAY OF THE SECOND
3 CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT
4 THAT ADDED THIS SUBDIVISION, RATE FLOOR MEANS 28.3 CENTS.

5 (D) ~~(b)~~—"Refiner" means a person who owns, operates, or
6 otherwise controls a refinery within the United States.

7 (E) ~~(c)~~—"Refinery" means a facility used to produce motor fuel
8 from crude oil, unfinished oils, natural gas liquids, or other
9 hydrocarbons and from which motor fuel may be removed by pipeline,
10 by marine vessel, or at a rack.

11 (F) ~~(d)~~—"Removal" or "removed" means a physical transfer **OF**
12 **MOTOR FUEL** other than by evaporation, loss, or destruction ~~of motor~~
13 ~~fuel~~ from a terminal, manufacturing plant, customs custody,
14 pipeline, marine vessel, or refinery that stores motor fuel.

15 (G) ~~(e)~~—"Retail diesel dealer" means a person who sells or
16 distributes diesel fuel to an end user in this state.

17 (H) ~~(f)~~—"Retail marine diesel dealer" means a person who sells
18 or distributes diesel fuel to an end user in this state for use in
19 boats or other marine vessels.

20 (I) ~~(g)~~—"Source state" means the state, Canadian province or
21 territory, or foreign country from which motor fuel is imported.

22 (J) ~~(h)~~—"Stationary engine" means a ~~temporary~~ **TEMPORARILY** or
23 permanently affixed engine designed and used to supply power
24 primarily for agricultural or construction work. Stationary engine
25 includes, but is not limited to, an engine powering irrigation
26 equipment, generators, or earth-moving equipment.

27 (K) ~~(i)~~—"Supplier", in addition to subsection (2), means a

1 person who meets all of the following requirements:

2 (i) Is subject to the general taxing jurisdiction of this
3 state.

4 (ii) Is registered under section 4101 of the internal revenue
5 code, **26 USC 4101**, for transactions in motor fuel in the bulk
6 transfer/terminal distribution system.

7 (iii) Is ~~any~~ 1 of the following:

8 (A) The position holder in a terminal or refinery in this
9 state.

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

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

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

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

1 Sec. 6. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

1 terminal rack.

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

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

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

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

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

18 (K) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF UNLEADED
19 REGULAR GASOLINE CHARGED BY A LICENSED SUPPLIER TO A PURCHASER AT
20 THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE RACK, AS DETERMINED
21 BY THE DEPARTMENT. WHOLESALE PRICE DOES NOT INCLUDE THE TAX IMPOSED
22 BY THIS ACT, PREPAID SALES TAX UNDER SECTION 6A OF THE GENERAL
23 SALES TAX ACT, 1933 PA 167, MCL 205.56A, FEDERAL EXCISE TAX UNDER
24 SECTION 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER
25 FEDERAL TAX UPON MOTOR FUEL, OR AN ENVIRONMENTAL PROTECTION
26 REGULATORY FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES
27 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

1 (1) ~~(k)~~ "Wholesaler" means a person who acquires motor fuel
 2 from a supplier or from another wholesaler for subsequent sale and
 3 distribution at wholesale by a fuel transportation vehicle, rail
 4 car, or other motor vehicle.

5 Sec. 8. (1) ~~Subject~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT**
 6 **AND SUBJECT** to the exemptions provided ~~for~~ in this act, tax is
 7 imposed on motor fuel imported into or sold, delivered, or used in
 8 this state at the following rates:

9 (a) Except as otherwise provided in ~~subdivision~~ **SUBDIVISIONS**
 10 (c) **TO (E)**, 19 cents per gallon on gasoline.

11 (b) Except as otherwise provided in ~~subdivision (d)~~,
 12 **SUBDIVISIONS (C) TO (E)**, 15 cents per gallon on diesel fuel.

13 ~~—— (c) Subject to subsections (10) and (11), 12 cents per gallon~~
 14 ~~on gasoline that is at least 70% ethanol. Under this subdivision,~~
 15 ~~blenders of ethanol and gasoline outside of the bulk transfer~~
 16 ~~terminal system shall obtain a blender's license and are subject to~~
 17 ~~the blender reporting requirements under this act. A licensed~~
 18 ~~supplier who blends ethanol and gasoline shall also obtain a~~
 19 ~~blender's license.~~

20 ~~—— (d) Subject to subsections (10) and (11), 12 cents per gallon~~
 21 ~~on diesel fuel that contains at least 5% biodiesel. Under this~~
 22 ~~subdivision, blenders of biodiesel and diesel fuel outside of the~~
 23 ~~bulk transfer terminal system are required to obtain a blender's~~
 24 ~~license and are subject to the blender reporting requirements under~~
 25 ~~this act. A licensed supplier who blends biodiesel and diesel fuel~~
 26 ~~shall also obtain a blender's license.~~

27 **(C) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**

1 ADDED THIS SUBDIVISION, 28.3 CENTS PER GALLON ON MOTOR FUEL.

2 (D) SUBJECT TO SUBDIVISION (E), BEGINNING THE FIRST DAY OF THE
3 SECOND CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE
4 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, THE RATE PER GALLON ON
5 MOTOR FUEL SHALL BE DETERMINED BY THE DEPARTMENT ON A QUARTERLY
6 BASIS. THE RATE SHALL BE EQUAL TO THE PRODUCT OF THE AVERAGE
7 WHOLESALE PRICE AND THE APPLICABLE PERCENTAGE, ROUNDED UP TO THE
8 NEAREST 1/10 OF 1 CENT.

9 (E) THE RATE DETERMINED BY THE DEPARTMENT UNDER SUBDIVISION
10 (D) SHALL NOT AT ANY TIME EXCEED THE RATE CEILING OR BE BELOW THE
11 RATE FLOOR AND SHALL BE FURTHER LIMITED AS FOLLOWS:

12 (i) DURING THE PERIOD BEGINNING ON THE FIRST DAY OF THE FIRST
13 CALENDAR QUARTER IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE
14 AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH AND ENDING 12 MONTHS
15 THEREAFTER, FOR THE CALENDAR QUARTER DURING WHICH A RATE IS IN
16 EFFECT, THE RATE SHALL NOT BE MORE THAN 1 CENT GREATER OR 1 CENT
17 LOWER THAN THE RATE THAT IS IN EFFECT FOR THE CALENDAR QUARTER
18 IMMEDIATELY PRECEDING THE CALENDAR QUARTER DURING WHICH THAT RATE
19 IS IN EFFECT.

20 (ii) BEGINNING ON THE FIRST DAY OF THE CALENDAR QUARTER
21 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE 12-MONTH PERIOD
22 DESCRIBED IN SUBPARAGRAPH (i) AND FOR EACH CALENDAR QUARTER
23 THEREAFTER, FOR THE CALENDAR QUARTER DURING WHICH A RATE IS IN
24 EFFECT, THE RATE SHALL NOT BE MORE THAN 1 CENT GREATER OR 1 CENT
25 LOWER THAN THE RATE THAT IS IN EFFECT FOR THE CALENDAR QUARTER
26 BEGINNING 12 MONTHS PRIOR TO THE CALENDAR QUARTER DURING WHICH THAT
27 RATE IS IN EFFECT.

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

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

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

13 (5) 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 of
16 using those roads or highways.

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

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

26 (6) Bills of lading and invoices shall identify the blended
27 product and the correct fuel product code. The motor fuel tax rate

for each product shall be listed separately on each invoice. Licensees shall report the correct fuel product code for the blended product as required by the department. When fuel is blended below the terminal rack, new bills of lading and invoices shall be generated and submitted to the department upon request. All bills of lading and invoices shall meet the requirements ~~provided under~~ this act.

(7) Notwithstanding any other provision of this act, ~~all facilities~~ **A FACILITY** in this state that ~~produce~~ **PRODUCES** motor fuel and ~~distribute~~ **DISTRIBUTES** the fuel from a rack for purposes of this act ~~are~~ **IS** a terminal, ~~and~~ shall obtain a terminal operator license, and shall comply with all terminal operator reporting requirements under this act. ~~All~~ **A** position holders **HOLDER** in ~~these facilities~~ **A FACILITY** shall be licensed as a supplier and shall comply with all supplier requirements under this act.

~~—— (8) If the tax on gasoline that contains at least 70% ethanol or diesel fuel that contains at least 5% biodiesel held in storage outside of the bulk transfer/terminal system on the effective date of the amendatory act that added this subsection has previously been paid at the rates imposed by subsection (1)(a) and (b), the person who paid the tax may claim a refund for the difference between the rates imposed by subsection (1)(a) and (b) and the rates imposed by subsection (1)(c) and (d). All of the following shall apply to a refund claimed under this subsection:~~

~~—— (a) The refund shall be claimed on a form prescribed by the department.~~

~~—— (b) The refund shall apply only to:~~

1 ~~—— (i) Previously taxed gasoline containing at least 70% ethanol~~
2 ~~or diesel fuel containing at least 5% biodiesel in excess of 3,000~~
3 ~~gallons held in storage by an end user.~~

4 ~~—— (ii) Previously taxed gasoline containing at least 70% ethanol~~
5 ~~or diesel fuel containing at least 5% biodiesel held for sale that~~
6 ~~is in excess of dead storage.~~

7 ~~—— (9) A refund request shall be filed within 60 days after the~~
8 ~~last day of the month in which the amendatory act that added this~~
9 ~~subsection took effect. A taxpayer shall provide documentation that~~
10 ~~the department requires in order to verify the request for refund.~~
11 ~~A person who may claim a refund under subsection (8) shall do all~~
12 ~~of the following to claim the refund:~~

13 ~~—— (a) Not later than 12 a.m. on the effective date of the~~
14 ~~amendatory act that added this subsection, take an inventory of~~
15 ~~gasoline containing at least 70% ethanol or undyed diesel fuel~~
16 ~~containing at least 5% biodiesel.~~

17 ~~—— (b) Deduct 3,000 gallons if the person claiming the refund is~~
18 ~~an end user.~~

19 ~~—— (c) Deduct the number of gallons in dead storage if the~~
20 ~~gasoline containing at least 70% ethanol or the undyed diesel fuel~~
21 ~~containing at least 5% biodiesel is held for subsequent sale.~~

22 ~~—— (10) Beginning on the effective date of the amendatory act~~
23 ~~that added this subsection, the state treasurer shall annually~~
24 ~~determine, for the 12-month period ending May 1 and for any~~
25 ~~additional times that the treasurer may determine, the difference~~
26 ~~between the amount of motor fuel tax collected and the amount of~~
27 ~~motor fuel tax that would have been collected but for the~~

~~1 differential rates on gasoline pursuant to subsection (1)(c) and
2 biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d)
3 is no longer effective the earlier of 10 years after the effective
4 date of the amendatory act that added this subsection or the first
5 day of the first month that is not less than 90 days after the
6 state treasurer certifies that the total cumulative rate
7 differential from the effective date of this amendatory act is
8 greater than \$2,500,000.00.~~

~~9 ——— (11) The legislature shall annually appropriate to the
10 Michigan transportation fund created in 1951 PA 51, MCL 247.651 to
11 247.675, the amount determined as the rate differential certified
12 by the state treasurer for the 12 month period ending on May 1 of
13 the calendar year in which the fiscal year begins. Subsection
14 (1)(c) and (d) shall not be effective beginning January of any
15 fiscal year for which the appropriation required under this
16 subsection has not been made by the first day of the fiscal year.~~

~~17 ——— (12) As used in this section:~~

~~18 ——— (a) "Biodiesel" means a fuel composed of mono-alkyl esters of
19 long chain fatty acids derived from vegetable oils or animal fats
20 and, in accordance with standards specified by the American society
21 for testing and materials, designated B100 and meeting the
22 requirements of D-6751, as approved by the department of
23 agriculture.~~

~~24 ——— (b) "Ethanol" means denatured fuel ethanol that is suitable
25 for use in a spark ignition engine when mixed with gasoline so long
26 as the mixture meets the American society for testing and materials
27 D-5798 specifications.~~

1 (8) THE DEPARTMENT SHALL PUBLISH NOTICE OF THE APPLICABLE TAX
2 RATE CALCULATED UNDER SUBSECTION (1) (D) NOT LATER THAN 30 DAYS
3 BEFORE THE EFFECTIVE DATE OF THE RATE.

4 (9) A DETERMINATION OF THE APPLICABLE PERCENTAGE, THE AVERAGE
5 WHOLESALE PRICE, THE WHOLESALE PRICE, OR THE RATE UNDER SUBSECTION
6 (1) (D) BY THE DEPARTMENT IS PRESUMED TO BE CORRECT AND WILL NOT BE
7 SET ASIDE UNLESS AN ADMINISTRATIVE TRIBUNAL OR A COURT OF COMPETENT
8 JURISDICTION FINDS THE DEPARTMENT'S DETERMINATION TO BE CLEARLY
9 ERRONEOUS.

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

13 ~~—— (a) Previously taxed motor fuel in excess of 3,000 gallons~~
14 ~~held in storage by an end user.~~

15 ~~—— (b) Previously taxed motor fuel held for sale that is in~~
16 ~~excess of dead storage.~~

17 ~~—— (2) The increased rate of tax applies to all nonexempt motor~~
18 ~~fuel held by a person outside of the bulk transfer/terminal system~~
19 ~~in this state in excess of 3,000 gallons, to the extent the~~
20 ~~inventory was not previously subject to the tax rate imposed before~~
21 ~~the effective date of this section. However, tax is not payable on~~
22 ~~motor fuel that is either dyed diesel fuel or motor fuel held by~~
23 ~~the federal or state government, or a political subdivision of this~~
24 ~~state.~~

25 ~~—— (3) A person in possession of motor fuel subject to subsection~~
26 ~~(1) shall do all of the following:~~

27 ~~—— (a) Take an inventory at the close of business on the last day~~

~~1 before the effective date of the tax increase to determine the~~
~~2 gallons of motor fuel in storage for purposes of determining the~~
~~3 tax due on the inventory.~~

~~4 (b) Deduct the number of gallons of motor fuel in dead~~
~~5 storage.~~

~~6 (c) Deduct the number of gallons of dyed diesel fuel.~~

~~7 (d) Report the gallons of motor fuel listed in subdivisions~~
~~8 (a) to (c) on a form or in a format provided by the department.~~

~~9 (4) The amount of the tax due under subsection (3) is equal to~~
~~10 the increase in the tax rate times the gallons of motor fuel in~~
~~11 storage as determined under subsection (1).~~

~~12 (5) The report shall be filed and the tax paid within 20 days~~
~~13 after the last day of the month that the increase in the tax rate~~
~~14 took effect.~~

15 (1) BEGINNING ON THE FIRST DAY OF THE SECOND CALENDAR QUARTER
16 FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
17 SUBSECTION, IN ADDITION TO ANY OTHER TAX IMPOSED ON MOTOR FUEL
18 UNDER THIS ACT, A SUPPLEMENTAL EXCISE TAX ON MOTOR FUEL IS IMPOSED.

19 (2) THE SUPPLEMENTAL EXCISE TAX IMPOSED UNDER SUBSECTION (1)
20 SHALL ONLY BE IMPOSED AND COLLECTED BY THE DEPARTMENT IF THE TAX
21 IMPOSED BY THE FEDERAL GOVERNMENT PURSUANT TO SECTION 4081 OF THE
22 INTERNAL REVENUE CODE, 26 USC 4081, IS REDUCED OR DISCONTINUED IN
23 WHOLE OR IN PART. THE RATE OF THE TAX IMPOSED UNDER SUBSECTION (1)
24 IS EQUAL TO THE RATE OF TAX BY WHICH THE FEDERAL TAX IMPOSED ON
25 GASOLINE IS REDUCED IN WHOLE OR IN PART. IF THE FEDERAL TAX IMPOSED
26 ON GASOLINE IS DISCONTINUED, THE TAX IMPOSED UNDER SUBSECTION (1)
27 IS LIMITED TO THE MOST RECENT RATE OF FEDERAL TAX IMPOSED UPON

1 GASOLINE PRIOR TO DISCONTINUANCE OF THE FEDERAL TAX.

2 (3) THE SUPPLEMENTAL EXCISE TAX IMPOSED UNDER SUBSECTION (1)
3 SHALL BE IMPOSED NO LATER THAN THE EFFECTIVE DATE OF THE RATE
4 DETERMINED UNDER SECTION 8(1)(D) THAT IMMEDIATELY FOLLOWS THE
5 REDUCTION OR DISCONTINUANCE OF THE FEDERAL TAX, AND SHALL CONFORM
6 TO THE NOTICE REQUIREMENTS IN SECTION 8(8).

7 (4) THE SUPPLEMENTAL EXCISE TAX IMPOSED UNDER SUBSECTION (1)
8 IS SUBJECT TO ANY APPLICABLE EXEMPTIONS UNDER THIS ACT AND SHALL BE
9 COLLECTED IN THE SAME MANNER AND METHOD AND AT THE SAME TIME AS THE
10 TAX IMPOSED UNDER SECTION 8.

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

15 ~~—— (2) In computing the tax, a supplier may deduct 1.5% of the~~
16 ~~quantity of gasoline removed by the supplier to allow for the cost~~
17 ~~of remitting the tax. This deduction is not allowed for the~~
18 ~~quantity of gasoline removed by the supplier and sold tax free. At~~
19 ~~the time of filing the report and paying the tax, the supplier~~
20 ~~shall submit satisfactory evidence to the department that the~~
21 ~~amount of tax represented by the deduction was paid or credited to~~
22 ~~the supplier or wholesaler who purchased the gasoline from the~~
23 ~~supplier or wholesaler. The amount of the deduction shall be paid~~
24 ~~or credited by each supplier or wholesaler to the purchaser at each~~
25 ~~subsequent sale to a wholesaler. When a wholesaler or supplier~~
26 ~~sells gasoline to a retailer, the wholesaler or supplier shall pay~~
27 ~~or credit to the retailer 1/3 of the deduction on quantities sold~~

1 ~~to that retailer.~~

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

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

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

11 ~~—— (c) Is sold directly by the supplier to a nonprofit, private,~~
12 ~~parochial, or denominational school, college, or university and is~~
13 ~~used in a school bus owned and operated or leased and operated by~~
14 ~~the educational institution that is used in the transportation of~~
15 ~~students to and from the institution or to and from school~~
16 ~~functions authorized by the administration of the institution.~~

17 (C) ~~(d)~~ Is **MOTOR** fuel for which proof of export is available
18 in the form of a terminal-issued destination state shipping paper
19 under any of the following circumstances:

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

22 ~~—— (ii) Until December 31, 2000, the motor fuel is sold by a~~
23 ~~supplier to a licensed exporter for immediate export.~~

24 (ii) ~~(iii)~~ The motor fuel is sold by a supplier to another person
25 for immediate export to a state for which the destination state
26 fuel tax has been paid to the supplier who is licensed to remit tax
27 to that destination state.

1 (D) ~~(e)~~—Is gasoline removed from a pipeline or marine vessel
2 by a taxable fuel registrant with the internal revenue service as a
3 fuel feedstock user.

4 (E) ~~(f)~~—Is motor fuel that is sold for use in aircraft but
5 only if the purchaser paid the tax imposed on that fuel under the
6 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1
7 to 259.208, and the purchaser is registered under section 94 if
8 ~~required to be registered under that section~~ **REGISTRATION IS**
9 **REQUIRED.**

10 ~~—— (g) Is aviation fuel upon which tax is not due under section~~
11 ~~203 of the aeronautics code of the state of Michigan, 1945 PA 327,~~
12 ~~MCL 259.203, and the purchaser has certified in writing to the~~
13 ~~seller that the aviation fuel is being purchased solely for the~~
14 ~~purpose of formulating leaded racing fuel as that term is defined~~
15 ~~in section 4. Aviation fuel qualifying under this subsection shall~~
16 ~~be identified on shipping papers and invoices as "aviation fuel~~
17 ~~exempt for LRF".~~

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

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

1 Sec. 32. If a person pays the tax imposed by this act and uses
 2 the motor fuel for a nontaxable purpose as described in ~~sections 33~~
 3 ~~to 47~~ **SECTION 34, 36, 37, 39, 40, 43, OR 44**, the person may seek a
 4 refund of the tax. To obtain a refund, the person shall comply with
 5 the requirements ~~set forth~~ in section 48.

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

17 Sec. 39. (1) ~~An end user~~ **A PERSON** may seek a refund for tax
 18 paid under this act on motor fuel ~~or leaded racing fuel~~ **THAT THE**
 19 **PERSON** used **OR CONSUMED** in an implement of husbandry or ~~otherwise~~
 20 used **OR CONSUMED** for a nonhighway purpose, ~~not otherwise expressly~~
 21 ~~exempted under this act.~~ **EXCEPT FOR USE OR CONSUMPTION IN A MOTOR**
 22 **VEHICLE LICENSED OR REQUIRED TO BE LICENSED FOR USE ON THE PUBLIC**
 23 **ROADS OR HIGHWAYS OF THIS STATE. THE DEPARTMENT MAY REQUEST**
 24 **INFORMATION FROM THE PERSON SEEKING A REFUND UNDER THIS SECTION AS**
 25 **REASONABLY NECESSARY TO ADMINISTER THIS SECTION.** However, a person
 26 shall not seek and is not eligible for a refund for tax paid on
 27 ~~gasoline or leaded racing fuel~~ **MOTOR FUEL** used in a snowmobile,

1 off-road vehicle, or vessel. ~~as defined in the natural resources~~
2 ~~and environmental protection act, 1994 PA 451, MCL 324.101 to~~
3 ~~324.90106.~~

4 (2) AS USED IN THIS SECTION:

5 (A) "OFF-ROAD VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION
6 71101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
7 1994 PA 451, MCL 324.71101.

8 (B) "SNOWMOBILE" MEANS THAT TERM AS DEFINED IN SECTION 82101
9 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
10 451, MCL 324.82101.

11 (C) "VESSEL" MEANS THAT TERM AS DEFINED IN SECTION 80104 OF
12 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
13 451, MCL 324.80104.

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

16 (a) File the claim on a form or in a format prescribed by the
17 department.

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

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

22 (ii) The total amount of tax paid.

23 (iii) A statement that the fuel was used for an exempt OR
24 **NONTAXABLE** purpose or by an exempt user.

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

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

(c) Comply with any specific requirement described in ~~sections 32 to 47~~ **SECTION 34, 36, 37, 39, 40, 43, OR 44.**

(d) Sign the claim.

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

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

(3) The department may make any investigation it considers necessary before refunding tax paid under this act to a person. ~~but in any case~~ **THE DEPARTMENT** may **ALSO** investigate a refund after the refund has been issued, ~~and within~~ **UP TO** 4 years ~~from~~ **AFTER** the date of issuance of ~~THE~~ refund **WAS ISSUED.**

(4) ~~In any case where a refund would be payable to a~~ **A** licensee ~~who files a report~~ **ENTITLED TO A REFUND** under this act ~~the licensee may~~ claim a deduction on the report filed under section 70 in lieu of the refund. If a licensee claims a deduction on the report, the licensee shall attach the claim for refund form to the report.

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

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

(2) A licensee shall retain a copy of its license at each of

1 its business locations unless the department waives this
2 requirement.

3 (3) A licensee is not required to renew a license and a
4 license is valid unless and until it is suspended, canceled, or
5 revoked for cause by the department, or discontinued by the
6 licensee. However, the department may require a licensee to update
7 the information required under section 53 **AT ANY TIME**.

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

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

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

23 (3) A person shall not sell, use, or label motor fuel that is
24 exempt from tax under section 30(1)(f) or that has been identified
25 on a shipping paper or invoice as aviation fuel for use other than
26 as aviation fuel. ~~, except that a person may sell or use motor fuel~~
27 ~~identified on a shipping paper or invoice as "aviation fuel exempt~~

~~for LRF" under this act for the sole purpose of producing leaded racing fuel as that term is defined in section 4.~~

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

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

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

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

(a) A motor vehicle owned and operated or leased and operated by the federal ~~or state government. or a political subdivision of this state.~~

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

(c) An implement of husbandry.

~~—— (d) A passenger vehicle that has a capacity of 10 or more and that operates over regularly traveled routes expressly provided for in 1 or more of the following that applies to the passenger vehicle:~~

~~—— (i) A certificate of authority issued by the state transportation department.~~

~~—— (ii) A municipal franchise.~~

~~—— (iii) A municipal license.~~

~~—— (iv) A municipal permit.~~

1 ~~—— (v) A municipal agreement.~~

2 ~~—— (vi) A municipal grant.~~

3 (3) An owner, operator, or driver of a vehicle who uses dyed
4 diesel fuel on the public roads or highways of this state is
5 subject to a civil penalty of \$200.00 for each of the first 2
6 violations within a ~~THE SAME~~ 12-month period. For a third violation
7 within a ~~THE SAME~~ 12-month period, ~~and for each subsequent~~
8 ~~violation thereafter,~~ the person is subject to a civil penalty of
9 \$5,000.00. An owner, operator, or driver of a motor vehicle who
10 knowingly violates the prohibition against the sale or use of dyed
11 diesel fuel upon the public roads or highways of this state is
12 subject to a civil penalty equal to that imposed by section ~~6714~~
13 **6715** of the internal revenue code, **26 USC 6715**.

14 Sec. 130. (1) As soon as possible, but not more than 5
15 business days after seizure of a motor vehicle and its cargo under
16 section 129, the person making the seizure shall deliver **AN**
17 **INVENTORY STATEMENT OF THE MOTOR VEHICLE, MOTOR FUEL, OR OTHER**
18 **PROPERTY SEIZED** personally or by registered mail to the last known
19 address of the person from whom the seizure was made, if known. ~~7~~
20 ~~an inventory statement of the motor vehicle, motor fuel, or other~~
21 ~~property seized.~~ A copy of the inventory statement shall also be
22 filed with the department.

23 (2) In addition to notice of the property seized, the
24 inventory statement shall contain a notice that unless demand for a
25 hearing ~~as provided in~~ **UNDER** this section is made within 10
26 business days after the date the inventory statement was delivered,
27 the property is forfeited to the state.

1 (3) If the person from whom the seizure was made is not known,
2 the person making the seizure shall cause a copy of the inventory
3 statement ~~, together with~~ **AND** the notice provided for in this
4 section ~~, to be published not less than 3 times in a newspaper of~~
5 general circulation in the county where the seizure was made.

6 (4) Within 10 business days after the date of service of the
7 inventory statement or, in the case of publication, within 10
8 business days after the date of last publication, the person from
9 whom the property was seized or any person claiming an interest in
10 the property may ~~by registered mail, facsimile transmission, or~~
11 ~~personal service~~ file with the department **BY REGISTERED MAIL,**
12 **FACSIMILE TRANSMISSION, OR PERSONAL SERVICE** a demand for a hearing
13 before the commissioner for a determination ~~as to~~ **OF** whether the
14 property was lawfully subject to seizure and forfeiture. The person
15 shall verify a request for hearing filed by facsimile transmission
16 by also providing a copy of the original request for hearing **TO THE**
17 **DEPARTMENT** by registered mail or personal service.

18 (5) The person ~~or persons are~~ **FILING A DEMAND FOR HEARING**
19 **UNDER SUBSECTION (4) IS** entitled to appear at a hearing before the
20 department, to be represented by counsel, and to present testimony
21 and argument.

22 (6) Upon receipt of a request for hearing, the department
23 shall hold the hearing within 15 business days. The hearing is not
24 a contested case proceeding and is not subject to the
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
26 24.328.

27 (7) After the hearing, the department shall render its

1 decision in writing within 10 business days after the hearing and,
2 by order, shall either declare the seized property subject to
3 seizure and forfeiture, or declare the property returnable in whole
4 or in part to the person entitled to possession.

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

12 (9) If, after a hearing, the department determines that the
13 property is lawfully subject to seizure and forfeiture and the
14 person from whom the property was seized or any persons claiming an
15 interest in the property do not ~~take an appeal~~ to the circuit court
16 of the county in which the seizure was made within the time
17 prescribed in this section, the property seized ~~shall be considered~~
18 **IS** forfeited to the state by operation of law and may be disposed
19 of by the department as provided in this section.

20 (10) If a person is aggrieved by the decision of the
21 department, that person may appeal to the circuit court of the
22 county where the seizure was made to obtain a judicial
23 determination of the lawfulness of the seizure and forfeiture. The
24 action shall be commenced within 20 days after notice of the
25 department's determination is sent to the person or persons
26 claiming an interest in the seized property. The court shall hear
27 the action and determine the issues of fact and law involved in

1 accordance with rules of practice and procedure as in other in rem
2 proceedings. If a judicial determination of the lawfulness of the
3 seizure and forfeiture cannot be made before deterioration of any
4 of the property seized, the court shall order the sale of the
5 property with public notice as determined by the court and require
6 the proceeds to be deposited with the court until the lawfulness of
7 the seizure and forfeiture is finally adjudicated.

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

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

23 Sec. 143. Except as otherwise provided in section 142, all
24 sums of money received and collected under this act, except for
25 license fees, and after the payment of the necessary expenses
26 incurred in the enforcement of this act, are appropriated to and
27 shall be deposited in the state treasury to the credit of the

1 ~~Michigan transportation fund mobility~~ **COMMERCIAL CORRIDOR** fund.

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

3 (a) "Liquefied petroleum gas" means gases derived from
4 petroleum or natural gases ~~which~~ **THAT** are in the gaseous state at
5 normal atmospheric temperature and pressure, but ~~which~~ **THAT** may be
6 maintained in the liquid state at normal atmospheric temperature by
7 suitable pressure. Liquefied petroleum gas includes those products
8 predominately composed of propane, propylene, butylene, butane, and
9 similar products.

10 (b) "LPG dealer" means a person who is licensed under this
11 ~~chapter~~ **ACT** to use liquefied petroleum gas.

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

13 (i) Selling or delivering liquefied petroleum gas not otherwise
14 subject to tax under this act, either by placing it into a
15 permanently attached fuel supply tank of a motor vehicle, or **BY**
16 exchanging or replacing ~~of~~ the fuel supply tank of a motor vehicle.

17 (ii) Delivery of liquefied petroleum gas into storage ~~—~~devoted
18 exclusively to the storage of liquefied petroleum gas to be
19 consumed in motor vehicles on the public roads or highways.

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

24 Sec. 152. (1) ~~A~~ **EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (4),**
25 tax at a rate of 15 cents per gallon is imposed upon all liquefied
26 petroleum gas used in this state. The tax shall be paid at the
27 times and in the manner specified in this section. The tax on

1 liquefied petroleum gas fuel sold or delivered either by placing
2 into a permanently attached fuel supply tank on a motor vehicle, or
3 exchanging or replacing the fuel supply tank of a motor vehicle,
4 shall be collected by the LPG dealer from the purchaser and paid
5 ~~ever quarterly~~ to the department **QUARTERLY** as provided in this act.
6 Liquefied petroleum gas fuel delivered in this state into the
7 storage facility of any person when the exclusive purpose of the
8 storage facility is for resale or use in a motor vehicle on the
9 public roads or highways of this state, shall, upon delivery to
10 storage facility, be subject to tax. An LPG dealer shall, upon
11 delivery of the liquefied petroleum gas, collect and remit the tax
12 to the department as provided in this act.

13 (2) A person shall not operate a motor vehicle on the public
14 roads or highways of this state from the cargo containers of a
15 truck, trailer, or semitrailer with liquefied petroleum gas in
16 vapor or liquid form, except when the fuel in the liquid or vapor
17 phase is withdrawn from the cargo container for use in motor
18 vehicles through a permanently installed and approved metering
19 device. The tax on liquefied petroleum gas withdrawn from a cargo
20 container through a permanently installed and approved metering
21 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons
22 as reflected by meter reading, and shall be paid quarterly by the
23 LPG dealer to the department as provided in this act.

24 (3) **SUBJECT TO SUBSECTION (4), BEGINNING ON THE FIRST DAY OF**
25 **THE FIRST CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE**
26 **AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE TAX DESCRIBED IN**
27 **SUBSECTIONS (1) AND (2) SHALL BE IMPOSED AT A RATE EQUAL TO THE**

1 RATE PER GALLON FOR MOTOR FUEL UNDER SECTION 8(1)(C).

2 (4) BEGINNING ON THE FIRST DAY OF THE SECOND CALENDAR QUARTER
3 FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
4 SUBSECTION, THE TAX DESCRIBED IN SUBSECTIONS (1) AND (2) SHALL BE
5 IMPOSED AT A RATE EQUAL TO THE RATE PER GALLON FOR MOTOR FUEL
6 ESTABLISHED UNDER SECTION 8(1)(D) AND SUBJECT TO THE APPLICABLE
7 RATE CAP AND RATE FLOOR.

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

16 Sec. 163. The appropriations made in section 161 ~~shall be~~
17 ~~considered as~~ **ARE** advances in aid of reducing the bonded
18 indebtedness of the Mackinac bridge. ~~At such time as~~ **WHEN** all
19 principal and interest for all outstanding bonds ~~—~~previously
20 issued by the Mackinac bridge authority and, if the bonds are
21 refunded in accordance with 1966 PA 13, MCL 254.361 to 254.372, all
22 principal and interest on the refunding bonds has been paid, the
23 authority responsible for setting tolls for the Mackinac bridge
24 shall continue to charge tolls as ~~are~~ considered necessary by the
25 authority to reimburse the ~~Michigan transportation~~ **COMMERCIAL**
26 **CORRIDOR** fund for all advances made pursuant to this act. ~~At such~~
27 ~~time as~~ **WHEN** reimbursement has been made for the sums advanced

1 under this act and ~~these~~ sums advanced pursuant to section 7 of
2 1952 PA 214, MCL 254.317, the Mackinac bridge shall ~~thereafter be~~
3 maintained and operated as a free bridge.

4 Enacting section 1. Sections 33, 35, 38, 41, 42, 45, 47, and
5 147 of the motor fuel tax act, 2000 PA 403, MCL 207.1033, 207.1035,
6 207.1038, 207.1041, 207.1042, 207.1045, 207.1047, and 207.1147, are
7 repealed.

8 Enacting section 2. This amendatory act takes effect on the
9 first day of the first calendar quarter following the date of its
10 enactment.