

SENATE BILL No. 1080

September 23, 2014, Introduced by Senator ROBERTSON and referred to the Committee on Finance.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 6a (MCL 205.56a), as amended by 2013 PA 1.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6a. (1) Through March 31, 2013, at the time of purchase
2 or shipment from a refiner, pipeline terminal operator, or marine
3 terminal operator, a purchaser or receiver of gasoline shall prepay
4 a portion of the tax imposed by this act at the rate provided in
5 this section to the refiner, pipeline terminal operator, or marine
6 terminal operator for the purchase or receipt of gasoline. If the
7 purchase or receipt of gasoline is made outside this state for
8 shipment into and subsequent sale within this state, the purchaser
9 or receiver, other than a refiner, pipeline terminal operator, or

1 marine terminal operator, shall make the prepayment required by
2 this section directly to the department. Prepayments for gasoline
3 shall be made at a cents-per-gallon rate determined by the
4 department and shall be based on 6% of the statewide average retail
5 price of a gallon of self-serve unleaded regular gasoline as
6 determined and certified by the department rounded up to the
7 nearest 1/10 of 1 cent. A person that makes prepayments directly to
8 the department shall make those prepayments according to the
9 schedule in subsection (6).

10 (2) ~~Beginning~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**
11 **BEGINNING** April 1, 2013, at the time of purchase or shipment from a
12 refiner, pipeline terminal operator, or marine terminal operator, a
13 purchaser or receiver of fuel shall prepay a portion of the tax
14 imposed by this act at the rates provided in this section to the
15 refiner, pipeline terminal operator, or marine terminal operator
16 for the purchase or receipt of fuel. **IF THE PURCHASE OR RECEIPT OF**
17 **FUEL IS MADE WITHIN A BULK TRANSFER/TERMINAL SYSTEM, THE PREPAYMENT**
18 **OF SALES TAX IS NOT REQUIRED. IF THE PURCHASE OR RECEIPT OF FUEL IS**
19 **MADE WITHIN THIS STATE FOR SHIPMENT AND SUBSEQUENT SALE WITHIN THIS**
20 **STATE AND BOTH THE SELLER AND PURCHASER OR RECEIVER ARE REFINERS,**
21 **PIPELINE TERMINAL OPERATORS, OR MARINE TERMINAL OPERATORS, THE**
22 **PREPAYMENT OF SALES TAX IS NOT REQUIRED. IF THE PURCHASE OR RECEIPT**
23 **OF FUEL IS MADE WITHIN THIS STATE FOR SHIPMENT AND SUBSEQUENT SALE**
24 **OUTSIDE THIS STATE, THE PREPAYMENT OF SALES TAX IS NOT REQUIRED.** If
25 the purchase or receipt of fuel is made outside this state for
26 shipment into and subsequent sale within this state, the purchaser
27 or receiver, other than a refiner, pipeline terminal operator, or

1 marine terminal operator, shall make the prepayment required by
2 this section directly to the department. Prepayments for gasoline
3 shall be made at a cents-per-gallon rate determined by the
4 department and shall be based on 6% of the statewide average retail
5 price of a gallon of self-serve unleaded regular gasoline as
6 determined and certified by the department rounded up to the
7 nearest 1/10 of 1 cent. Prepayments for diesel fuel shall be made
8 at a cents-per-gallon rate determined by the department and shall
9 be based on 6% of the statewide average retail price of a gallon of
10 undyed No. 2 ultra-low sulfur diesel fuel as determined and
11 certified by the department rounded up to the nearest 1/10 of 1
12 cent. A person that makes prepayments directly to the department
13 shall make those prepayments according to the schedule in
14 subsection (6).

15 (3) Through March 31, 2013, the rate of prepayment applied
16 pursuant to subsection (1) shall be determined every 3 months by
17 the department unless the department certifies that the change in
18 the statewide average retail price of a gallon of self-serve
19 unleaded regular gasoline has been less than 10% since the
20 establishment of the rate of prepayment then in effect.

21 (4) Beginning April 1, 2013, the rates of prepayment applied
22 pursuant to subsection (2) shall be determined every month by the
23 department. Notwithstanding subsection (3), the department shall
24 publish notice of the rates of prepayment applicable to gasoline
25 and diesel fuel pursuant to subsection (2) not later than the tenth
26 day of the month immediately preceding the month in which the rate
27 is effective.

1 (5) A person subject to tax under this act that makes
2 prepayment to another person as required by this section for
3 gasoline may claim an estimated prepayment credit on its regular
4 monthly return filed pursuant to section 6. The credit shall be for
5 prepayments made during the month for which the return is required
6 and shall be based upon the difference between prepayments made in
7 the immediately preceding month and collections of prepaid tax
8 received from sales or transfers during the month for which the
9 return required under section 6 is made. A sale or transfer for
10 which collection of prepaid tax is due the taxpayer is subject to a
11 bad debt deduction under section 4i, whether or not the sale or
12 transfer is a sale at retail. The credit shall not be reduced
13 because of actual shrinkage. A taxpayer that does not, in the
14 ordinary course of business, sell gasoline in each month of the
15 year may, with the approval of the department, base the initial
16 prepayment deduction in each tax year on prepayments made in a
17 month other than the immediately preceding month. The difference in
18 actual prepayments shall be reconciled on the annual return in
19 accordance with procedures prescribed by the department.

20 (6) Notwithstanding the other provisions for the payment and
21 remitting of tax due under this act, a refiner, pipeline terminal
22 operator, or marine terminal operator shall account for and remit
23 to the department the prepayments received pursuant to this section
24 in accordance with the following schedule:

25 (a) On or before the twenty-fifth of each month, prepayments
26 received after the end of the preceding month and before the
27 sixteenth of the month in which the prepayments are made.

1 (b) On or before the tenth of each month, payments received
2 after the fifteenth and before the end of the preceding month.

3 (7) A refiner, pipeline terminal operator, or marine terminal
4 operator that fails to remit prepayments made by a purchaser or
5 receiver of fuel is subject to the penalties provided by 1941 PA
6 122, MCL 205.1 to 205.31.

7 (8) The refiner, pipeline terminal operator, or marine
8 terminal operator shall not receive a deduction under section 4 for
9 receiving and remitting prepayments from a purchaser or receiver
10 pursuant to this section.

11 (9) The purchaser or receiver of fuel that makes prepayments
12 is not subject to further liability for the amount of the
13 prepayment if the refiner, pipeline terminal operator, or marine
14 terminal operator fails to remit the prepayment.

15 (10) A person subject to tax under this act that makes
16 prepayment to another person as required by this section for diesel
17 fuel may claim an estimated prepayment credit on its regular
18 monthly return filed pursuant to section 6. The credit shall be for
19 prepayments made during the month for which the return is required
20 and shall be based upon the difference between the prepayments made
21 in the immediately preceding month and collections of prepaid tax
22 received from sales or transfers during the month for which the
23 return required under section 6 is made. A sale or transfer for
24 which collection of prepaid tax is due the taxpayer is subject to a
25 bad debt deduction under section 4i, whether or not the sale or
26 transfer is a sale at retail. The credit shall not be reduced
27 because of actual shrinkage. A taxpayer that does not, in the

1 ordinary course of business, sell diesel fuel in each month of the
2 year may, with the approval of the department, base the initial
3 prepayment deduction in each tax year on prepayments made in a
4 month other than the immediately preceding month. Estimated
5 prepayment credits claimed with the return due in April 2013 shall
6 be based on the taxpayer's retail sales of diesel fuel in March
7 2013. The difference in actual prepayments shall be reconciled on
8 the annual return in accordance with procedures prescribed by the
9 department. Repayment of the credit claimed on the return due in
10 April 2013 shall be made by the earlier of the date that the
11 taxpayer stops selling diesel fuel or October 15, 2013.

12 (11) As used in this section:

13 (a) "Blendstock" includes all of the following:

14 (i) Any petroleum product component of fuel, such as naphtha,
15 reformate, or toluene.

16 (ii) Any oxygenate that can be blended for use in a motor fuel.

17 (b) "Boat terminal transfer" means a dock, a tank, or
18 equipment contiguous to a dock or a tank, including equipment used
19 in the unloading of fuel from a ship and in transferring the fuel
20 to a tank pending wholesale bulk reshipment.

21 (C) "BULK PLANT" MEANS A MOTOR FUEL STORAGE AND DISTRIBUTION
22 FACILITY THAT IS NOT A TERMINAL AND FROM WHICH MOTOR FUEL MAY BE
23 WITHDRAWN BY A TANK WAGON, A TRANSPORT TRUCK, OR A MARINE VESSEL.

24 (D) "BULK TRANSFER" MEANS A TRANSFER OF MOTOR FUEL FROM 1
25 LOCATION TO ANOTHER BY PIPELINE TENDER OR MARINE DELIVERY WITHIN A
26 BULK TRANSFER/TERMINAL SYSTEM, INCLUDING, BUT NOT LIMITED TO, ALL
27 OF THE FOLLOWING TRANSFERS:

1 (i) A MARINE VESSEL MOVEMENT OF MOTOR FUEL FROM A REFINERY OR
2 TERMINAL TO A TERMINAL.

3 (ii) PIPELINE MOVEMENTS OF MOTOR FUEL FROM A REFINERY OR
4 TERMINAL TO A TERMINAL.

5 (iii) BOOK TRANSFERS OF MOTOR FUEL WITHIN A TERMINAL BETWEEN
6 LICENSED SUPPLIERS BEFORE COMPLETION OF REMOVAL ACROSS THE TERMINAL
7 RACK.

8 (iv) TWO-PARTY EXCHANGES BETWEEN LICENSED SUPPLIERS.

9 (E) "BULK TRANSFER/TERMINAL SYSTEM" MEANS A MOTOR FUEL
10 DISTRIBUTION SYSTEM CONSISTING OF REFINERIES, PIPELINES, MARINE
11 VESSELS, AND TERMINALS. MOTOR FUEL IN A REFINERY, PIPELINE,
12 TERMINAL, OR MARINE VESSEL TRANSPORTING MOTOR FUEL TO A REFINERY OR
13 TERMINAL IS IN A BULK TRANSFER/TERMINAL SYSTEM. MOTOR FUEL IN A
14 FUEL STORAGE FACILITY INCLUDING, BUT NOT LIMITED TO, A BULK PLANT
15 THAT IS NOT PART OF A REFINERY OR TERMINAL, IN THE FUEL SUPPLY TANK
16 OF ANY ENGINE OR MOTOR VEHICLE, IN A MARINE VESSEL TRANSPORTING
17 MOTOR FUEL TO A FUEL STORAGE FACILITY THAT IS NOT IN A BULK
18 TRANSFER/TERMINAL SYSTEM, OR IN ANY TANK CAR, RAIL CAR, TRAILER,
19 TRUCK, OR OTHER EQUIPMENT SUITABLE FOR GROUND TRANSPORTATION IS NOT
20 IN A BULK TRANSFER/TERMINAL SYSTEM.

21 (F) ~~(e)~~—"Diesel fuel" means any liquid other than gasoline
22 that is capable of use as a fuel or a component of a fuel in a
23 motor vehicle that is propelled by a diesel-powered engine or in a
24 diesel-powered train. Diesel fuel includes number 1 and number 2
25 fuel oils and mineral spirits. Diesel fuel also includes any
26 blendstock or additive that is sold for blending with diesel fuel
27 and any liquid prepared, advertised, offered for sale, sold for use

1 as, or used in the generation of power for the propulsion of a
2 diesel-powered engine, airplane, or marine vessel. An additive or
3 blendstock is presumed to be sold for blending unless a
4 certification is obtained for federal purposes that the substance
5 is for a use other than blending for diesel fuel. Diesel fuel does
6 not include dyed diesel fuel, kerosene, or an excluded liquid.

7 (G) ~~(d)~~—"Dyed diesel fuel" means diesel fuel that is dyed in
8 accordance with internal revenue service rules or pursuant to any
9 other internal revenue service requirements, including any
10 invisible marker requirements.

11 (H) ~~(e)~~—"Excluded liquid" means that term as defined in 26 CFR
12 48.4081-1.

13 (I) ~~(f)~~—"Fuel" means gasoline and diesel fuel that is subject
14 to tax under this act, collectively, except when gasoline or diesel
15 fuel is referred to separately.

16 (J) ~~(g)~~—"Gasoline" means and includes gasoline, alcohol,
17 gasohol, casing head or natural gasoline, benzol, benzine, naphtha,
18 methanol, **TRANSMIX**, any blendstock additive, or other product that
19 is sold for blending with gasoline or for use on the road, other
20 than products typically sold in containers of less than 5 gallons.
21 Gasoline also includes a liquid prepared, advertised, offered for
22 sale, sold for use as, or used in the generation of power for the
23 propulsion of a motor vehicle, airplane, or marine vessel,
24 including a product obtained by blending together any 1 or more
25 products of petroleum, with or without another product, and
26 regardless of the original character of the petroleum products
27 blended, if the product obtained by the blending is capable of use

1 in the generation of power for the propulsion of a motor vehicle,
2 airplane, or marine vessel. The blending of all of the above-named
3 products, regardless of their name or characteristics, shall
4 conclusively be presumed to have been done to produce fuel, unless
5 the product obtained by the blending is entirely incapable of use
6 as fuel. An additive or blendstock is presumed to be sold for
7 blending unless a certification is obtained for federal purposes
8 that the substance is for a use other than blending for gasoline.
9 Gasoline does not include diesel fuel, dyed diesel fuel, kerosene,
10 or an excluded liquid.

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

22 (I) ~~(i)~~—"Marine terminal operator" means a person that stores
23 fuel at a boat terminal transfer.

24 (M) ~~(j)~~—"Pipeline terminal operator" means a person that
25 stores fuel in tanks and equipment used in receiving and storing
26 fuel from interstate and intrastate pipelines pending wholesale
27 bulk reshipment.

1 (N) ~~(K)~~ "Purchase" or "shipment" does not include an exchange
2 of fuel or an exchange transaction between refiners, pipeline
3 terminal operators, or marine terminal operators.

4 (O) ~~(H)~~ "Refiner" means a person that manufactures or produces
5 fuel by any process involving substantially more than the blending
6 of fuel.

7 (P) "TERMINAL" MEANS A MOTOR FUEL STORAGE AND DISTRIBUTION
8 FACILITY THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

9 (i) IS REGISTERED AS A QUALIFIED TERMINAL BY THE INTERNAL
10 REVENUE SERVICE.

11 (ii) IS SUPPLIED BY PIPELINE OR MARINE VESSEL.

12 (iii) HAS A RACK FROM WHICH MOTOR FUEL MAY BE REMOVED.