

**SUBSTITUTE FOR
HOUSE BILL NO. 4685**

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 April 1, 2013 **THROUGH MARCH 31, 2016**, at the
11 time of purchase or shipment from a refiner, pipeline terminal
12 operator, or marine terminal operator, a purchaser or receiver of
13 fuel shall prepay a portion of the tax imposed by this act at the
14 rates provided in this section to the refiner, pipeline terminal
15 operator, or marine terminal operator for the purchase or receipt
16 of fuel. If the purchase or receipt of fuel is made outside this
17 state for shipment into and subsequent sale within this state, the
18 purchaser or receiver, other than a refiner, pipeline terminal
19 operator, or marine terminal operator, shall make the prepayment
20 required by this section directly to the department. Prepayments
21 for gasoline shall be made at a cents-per-gallon rate determined by
22 the department and shall be based on 6% of the statewide average
23 retail price of a gallon of self-serve unleaded regular gasoline as
24 determined and certified by the department rounded up to the
25 nearest 1/10 of 1 cent. Prepayments for diesel fuel shall be made
26 at a cents-per-gallon rate determined by the department and shall
27 be based on 6% of the statewide average retail price of a gallon of

1 undyed No. 2 ultra-low sulfur diesel fuel as determined and
2 certified by the department rounded up to the nearest 1/10 of 1
3 cent. A person that makes prepayments directly to the department
4 shall make those prepayments according to the schedule in
5 subsection (6).

6 ~~(3) Through March 31, 2013, the rate of prepayment applied~~
7 ~~pursuant to subsection (1) shall be determined every 3 months by~~
8 ~~the department unless the department certifies that the change in~~
9 ~~the statewide average retail price of a gallon of self-serve~~
10 ~~unleaded regular gasoline has been less than 10% since the~~
11 ~~establishment of the rate of prepayment then in effect.~~**BEGINNING**
12 **APRIL 1, 2016, AT THE TIME OF PURCHASE OR SHIPMENT IN THIS STATE**
13 **FROM A REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL**
14 **OPERATOR, A PURCHASER OR RECEIVER OF FUEL OTHER THAN AN EXPORTER OR**
15 **SUPPLIER FOR IMMEDIATE EXPORT, AS EVIDENCED BY THE TERMINAL'S**
16 **SHIPPING PAPERS OR BILL OF LADING, SHALL PREPAY A PORTION OF THE**
17 **TAX IMPOSED BY THIS ACT AT THE RATES PROVIDED IN THIS SECTION TO**
18 **THE REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL**
19 **OPERATOR FOR THE PURCHASE OR RECEIPT OF FUEL. IF THE PURCHASE OR**
20 **RECEIPT OF FUEL IS MADE OUTSIDE THIS STATE FOR SHIPMENT INTO AND**
21 **SUBSEQUENT SALE WITHIN THIS STATE, THE PURCHASER OR RECEIVER, OTHER**
22 **THAN A REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL**
23 **OPERATOR AS PART OF A BULK TRANSFER, SHALL MAKE THE PREPAYMENT**
24 **REQUIRED BY THIS SECTION DIRECTLY TO THE DEPARTMENT. PREPAYMENTS**
25 **FOR GASOLINE SHALL BE MADE AT A CENTS-PER-GALLON RATE DETERMINED BY**
26 **THE DEPARTMENT AND SHALL BE BASED ON 6% OF THE STATEWIDE AVERAGE**
27 **RETAIL PRICE OF A GALLON OF SELF-SERVE UNLEADED REGULAR GASOLINE AS**

1 DETERMINED AND CERTIFIED BY THE DEPARTMENT ROUNDED UP TO THE
 2 NEAREST 1/10 OF 1 CENT. PREPAYMENTS FOR DIESEL FUEL SHALL BE MADE
 3 AT A CENTS-PER-GALLON RATE DETERMINED BY THE DEPARTMENT AND SHALL
 4 BE BASED ON 6% OF THE STATEWIDE AVERAGE RETAIL PRICE OF A GALLON OF
 5 UNDYED NO. 2 ULTRA-LOW SULFUR DIESEL FUEL AS DETERMINED AND
 6 CERTIFIED BY THE DEPARTMENT ROUNDED UP TO THE NEAREST 1/10 OF 1
 7 CENT. A PERSON THAT MAKES PREPAYMENTS DIRECTLY TO THE DEPARTMENT
 8 SHALL MAKE THOSE PREPAYMENTS ACCORDING TO THE SCHEDULE IN
 9 SUBSECTION (6).

10 (4) ~~Beginning April 1, 2013, the~~ THE rates of prepayment
 11 applied pursuant to ~~subsection (2)~~ SUBSECTIONS (2) AND (3) shall be
 12 determined every month by the department. ~~Notwithstanding~~
 13 ~~subsection (3), the~~ THE department shall publish notice of the
 14 rates of prepayment applicable to gasoline and diesel fuel pursuant
 15 to ~~subsection (2)~~ SUBSECTIONS (2) AND (3) not later than the tenth
 16 day of the month immediately preceding the month in which the rate
 17 is effective.

18 (5) A person subject to tax under this act that makes
 19 prepayment to another person as required by this section for
 20 gasoline may claim an estimated prepayment credit on its regular
 21 monthly return filed pursuant to section 6. The credit shall be for
 22 prepayments made during the month for which the return is required
 23 and shall be based upon the difference between prepayments made in
 24 the immediately preceding month and collections of prepaid tax
 25 received from sales or transfers during the month for which the
 26 return required under section 6 is made. A sale or transfer for
 27 which collection of prepaid tax is due the taxpayer is subject to a

1 bad debt deduction under section 4i, whether or not the sale or
2 transfer is a sale at retail. The credit shall not be reduced
3 because of actual shrinkage. A taxpayer that does not, in the
4 ordinary course of business, sell gasoline in each month of the
5 year may, with the approval of the department, base the initial
6 prepayment deduction in each tax year on prepayments made in a
7 month other than the immediately preceding month. The difference in
8 actual prepayments shall be reconciled on the annual return in
9 accordance with procedures prescribed by the department.

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

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

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

20 (7) A refiner, pipeline terminal operator, or marine terminal
21 operator that fails to remit prepayments made by a purchaser or
22 receiver of fuel is subject to the penalties provided by 1941 PA
23 122, MCL 205.1 to 205.31.

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

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

5 (10) A person subject to tax under this act that makes
6 prepayment to another person as required by this section for diesel
7 fuel may claim an estimated prepayment credit on its regular
8 monthly return filed pursuant to section 6. The credit shall be for
9 prepayments made during the month for which the return is required
10 and shall be based upon the difference between the prepayments made
11 in the immediately preceding month and collections of prepaid tax
12 received from sales or transfers during the month for which the
13 return required under section 6 is made. A sale or transfer for
14 which collection of prepaid tax is due the taxpayer is subject to a
15 bad debt deduction under section 4i, whether or not the sale or
16 transfer is a sale at retail. The credit shall not be reduced
17 because of actual shrinkage. A taxpayer that does not, in the
18 ordinary course of business, sell diesel fuel in each month of the
19 year may, with the approval of the department, base the initial
20 prepayment deduction in each tax year on prepayments made in a
21 month other than the immediately preceding month. Estimated
22 prepayment credits claimed with the return due in April 2013 shall
23 be based on the taxpayer's retail sales of diesel fuel in March
24 2013. The difference in actual prepayments shall be reconciled on
25 the annual return in accordance with procedures prescribed by the
26 department. Repayment of the credit claimed on the return due in
27 April 2013 shall be made by the earlier of the date that the

1 taxpayer stops selling diesel fuel on October 15, 2013.

2 (11) As used in this section:

3 (A) "ALCOHOL" MEANS FUEL GRADE ETHANOL OR A MIXTURE OF FUEL
4 GRADE ETHANOL AND ANOTHER PRODUCT.

5 (B) ~~(a)~~—"Blendstock" includes all of the following:

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

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

10 (C) ~~(b)~~—"Boat terminal transfer" means a dock, a tank, or
11 equipment contiguous to a dock or a tank, including equipment used
12 in the unloading of fuel from a ship and in transferring the fuel
13 to a tank pending wholesale bulk reshipment.

14 (D) "BULK TRANSFER" MEANS A TRANSFER OF FUEL FROM, OR PURCHASE
15 FOR RESALE BY, A REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE
16 TERMINAL OPERATOR TO OR FROM ANOTHER REFINER, PIPELINE TERMINAL
17 OPERATOR, OR MARINE TERMINAL OPERATOR THROUGH PIPELINE TENDER OR
18 MARINE DELIVERY, INCLUDING PIPELINE MOVEMENTS OF FUEL OR MARINE
19 VESSEL MOVEMENTS OF FUEL. BULK TRANSFER ALSO INCLUDES A TRANSACTION
20 INVOLVING THE TRANSFER BY ANY TRANSPORTATION MEANS TO, OR PURCHASE
21 FOR RESALE BY, A REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE
22 TERMINAL OPERATOR OF ALCOHOL TO BE USED EXCLUSIVELY FOR BLENDING
23 WITH GASOLINE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS
24 DEFINITION, FUEL TRANSFERRED TO, OR PURCHASED FOR RESALE BY, A
25 REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL OPERATOR
26 MUST BE DELIVERED TO, OR OTHERWISE REMAIN WITHIN, THE BULK TRANSFER
27 TERMINAL SYSTEM PRIOR TO REMOVAL ACROSS THE RACK IN ORDER TO

1 CONSTITUTE A BULK TRANSFER.

2 (E) "BULK TRANSFER TERMINAL SYSTEM" MEANS THE FUEL
3 DISTRIBUTION SYSTEM CONSISTING OF REFINERIES, PIPELINES, MARINE
4 VESSELS, AND TERMINALS AND INCLUDES FUEL STORAGE TANKS AND FUEL
5 STORAGE FACILITIES THAT ARE PART OF A REFINERY, BOAT TERMINAL
6 TRANSFER, OR TERMINAL OWNED, OPERATED, OR CONTROLLED BY A REFINER,
7 MARINE TERMINAL OPERATOR, OR PIPELINE TERMINAL OPERATOR.

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

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

25 (H) "DYED KEROSENE" MEANS KEROSENE THAT IS DYED IN ACCORDANCE
26 WITH INTERNAL REVENUE SERVICE RULES OR PURSUANT TO ANY OTHER
27 INTERNAL REVENUE SERVICE REQUIREMENTS, INCLUDING INVISIBLE MARKER

1 **REQUIREMENTS.**

2 **(I)** ~~(e)~~—"Excluded liquid" means that term as defined in 26 CFR
3 48.4081-1.

4 **(J)** "EXPORT" MEANS TO PURCHASE OR RECEIVE FUEL IN THIS STATE
5 FOR IMMEDIATE SHIPMENT AND SUBSEQUENT SALE OUTSIDE OF THIS STATE.

6 **(K)** "EXPORTER" MEANS A PERSON THAT EXPORTS FUEL AND IS
7 LICENSED UNDER SECTION 86 OF THE MOTOR FUEL TAX ACT, 2000 PA 403,
8 MCL 207.1086.

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

12 **(M)** ~~(g)~~—"Gasoline" means and includes gasoline, alcohol,
13 gasohol, casing head or natural gasoline, benzol, benzine, naphtha,
14 methanol, **TRANSMIX**, any blendstock additive, or other product that
15 is sold for blending with gasoline or for use on the road, other
16 than products typically sold in containers of less than 5 gallons.
17 Gasoline also includes a liquid prepared, advertised, offered for
18 sale, sold for use as, or used in the generation of power for the
19 propulsion of a motor vehicle, airplane, or marine vessel,
20 including a product obtained by blending together any 1 or more
21 products of petroleum, with or without another product, and
22 regardless of the original character of the petroleum products
23 blended, if the product obtained by the blending is capable of use
24 in the generation of power for the propulsion of a motor vehicle,
25 airplane, or marine vessel. The blending of all of the above-named
26 products, regardless of their name or characteristics, shall
27 conclusively be presumed to have been done to produce fuel, unless

1 the product obtained by the blending is entirely incapable of use
2 as fuel. An additive or blendstock is presumed to be sold for
3 blending unless a certification is obtained for federal purposes
4 that the substance is for a use other than blending for gasoline.
5 Gasoline does not include diesel fuel, dyed diesel fuel, **DYED**
6 kerosene, or an excluded liquid.

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

18 (O) ~~(i)~~ "Marine terminal operator" means a person that stores
19 fuel at a boat terminal transfer.

20 (P) ~~(j)~~ "Pipeline terminal operator" means a person that
21 stores fuel in tanks and equipment used in receiving and storing
22 fuel from interstate and intrastate pipelines pending wholesale
23 bulk reshipment.

24 (Q) ~~(k)~~ "Purchase", "**RECEIPT**", or "shipment" does not include
25 ~~an exchange of fuel or an exchange transaction between refiners,~~
26 ~~pipeline terminal operators, or marine terminal operators. A TWO-~~
27 **PARTY EXCHANGE, A BULK TRANSFER, OR A RECEIPT OF FUEL AS PART OF A**

1 BULK TRANSFER.

2 (R) "RACK" MEANS A MECHANISM FOR DELIVERING FUEL FROM A
3 REFINER, A PIPELINE TERMINAL OPERATOR, OR A MARINE TERMINAL
4 OPERATOR INTO A RAILROAD TANK CAR, A TRANSPORT TRUCK, A TANK WAGON,
5 OR THE FUEL SUPPLY TANK OF A MARINE VESSEL.

6 (S) ~~(I)~~—"Refiner" means a person that manufactures—MEETS ALL
7 OF THE FOLLOWING REQUIREMENTS:

8 (i) MANUFACTURES or produces fuel AT A REFINERY by any process
9 involving substantially more than the blending of fuel.

10 (ii) IS A TAXABLE FUEL REGISTRANT THAT IS A REFINER FOR
11 PURPOSES OF 26 CFR 48.4081-1.

12 (T) "REFINERY" MEANS A FACILITY USED BY A REFINER TO PRODUCE
13 FUEL FROM CRUDE OIL, UNFINISHED OILS, NATURAL GAS LIQUIDS, OR OTHER
14 HYDROCARBONS AND FROM WHICH FUEL MAY BE REMOVED BY PIPELINE OR
15 MARINE VESSEL OR AT A RACK.

16 (U) "REMOVAL" OR "REMOVED" MEANS A PHYSICAL TRANSFER OTHER
17 THAN BY EVAPORATION, LOSS, OR DESTRUCTION OF FUEL FROM A REFINER,
18 PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL OPERATOR.

19 (V) "SUPPLIER" MEANS A SUPPLIER OR PERMISSIVE SUPPLIER
20 LICENSED UNDER SECTION 70 OR 73 OF THE MOTOR FUEL TAX ACT, 2000 PA
21 403, MCL 207.1070 AND 207.1073.

22 (W) "TANK WAGON" MEANS A STRAIGHT TRUCK HAVING 1 OR MORE
23 COMPARTMENTS OTHER THAN THE FUEL SUPPLY TANK DESIGNED OR USED TO
24 CARRY FUEL.

25 (X) "TERMINAL" MEANS A FUEL STORAGE AND DISTRIBUTION FACILITY
26 THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

27 (i) IS REGISTERED AS A QUALIFIED TERMINAL BY THE INTERNAL

1 REVENUE SERVICE.

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

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

4 (Y) "TRANSPORT TRUCK" MEANS A SEMITRAILER COMBINATION RIG
5 DESIGNED OR USED FOR THE PURPOSE OF TRANSPORTING FUEL OVER THE
6 PUBLIC ROADS OR HIGHWAYS.

7 (Z) "TRANSMIX" MEANS THE MIXED PRODUCT THAT RESULTS FROM THE
8 BUFFER OR INTERFACE OF 2 DIFFERENT PRODUCTS IN A PIPELINE SHIPMENT,
9 OR A MIXTURE OF 2 DIFFERENT PRODUCTS WITHIN A TERMINAL OPERATED BY
10 A PIPELINE TERMINAL OPERATOR, WITHIN A BOAT TERMINAL TRANSFER
11 OPERATED BY A MARINE TERMINAL OPERATOR, OR AT A REFINERY THAT
12 RESULTS IN AN OFF-GRADE MIXTURE.

13 (AA) "TWO-PARTY EXCHANGE" MEANS A TRANSACTION, INCLUDING A
14 BOOK TRANSFER, IN WHICH FUEL IS TRANSFERRED FROM 1 SUPPLIER TO
15 ANOTHER SUPPLIER WHERE ALL OF THE FOLLOWING OCCUR:

16 (i) THE TRANSACTION INCLUDES A TRANSFER OF FUEL FROM THE
17 PERSON WHO HOLDS THE ORIGINAL INVENTORY POSITION FOR THE FUEL IN
18 FUEL STORAGE TANKS AS REFLECTED IN THE RECORDS OF THE REFINER,
19 PIPELINE TERMINAL OPERATOR, OR MARINE TERMINAL OPERATOR.

20 (ii) THE EXCHANGE TRANSACTION IS COMPLETED BEFORE REMOVAL
21 ACROSS THE RACK BY THE RECEIVING SUPPLIER.

22 (iii) THE REFINER, PIPELINE TERMINAL OPERATOR, OR MARINE
23 TERMINAL OPERATOR IN ITS BOOKS AND RECORDS TREATS THE RECEIVING
24 EXCHANGE PARTY AS THE SUPPLIER THAT REMOVES THE FUEL ACROSS A RACK
25 FOR PURPOSES OF REPORTING THE TRANSACTION TO THE DEPARTMENT UNDER
26 THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1001 TO 207.1170.

27 Enacting section 1. This amendatory act takes effect April 1,

1 2016.