

**SUBSTITUTE FOR
HOUSE BILL NO. 4180**

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 6a and 6c (MCL 205.56a and 205.56c), section
6a as amended by 2015 PA 264 and section 6c as added by 2015 PA
262, and by adding sections 4gg and 4hh.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 4gg. (1) Notwithstanding section 4x, beginning October 1,**
2 **2025, the sale at retail of aviation fuel is exempt from the tax**
3 **under this act.**

4 **(2) As used in this section, "aviation fuel" means fuel as**
5 **that term is defined in section 4 of the aeronautics code of the**
6 **state of Michigan, 1945 PA 327, MCL 259.4.**

7 **Sec. 4hh. (1) Beginning October 1, 2025, the sale at retail of**

1 **eligible fuel is exempt from the tax under this act.**

2 **(2) As used in this section, "eligible fuel" means any fuel**
3 **subject to the tax levied under the motor fuel tax act, 2000 PA**
4 **403, MCL 207.1001 to 207.1170.**

5 Sec. 6a. (1) Through March 31, 2013, at the time of purchase
6 or shipment from a refiner, pipeline terminal operator, or marine
7 terminal operator, a purchaser or receiver of gasoline shall prepay
8 a portion of the tax imposed by this act at the rate provided in
9 this section to the refiner, pipeline terminal operator, or marine
10 terminal operator for the purchase or receipt of gasoline. If the
11 purchase or receipt of gasoline is made outside this state for
12 shipment into and subsequent sale within this state, the purchaser
13 or receiver, other than a refiner, pipeline terminal operator, or
14 marine terminal operator, shall make the prepayment required by
15 this section directly to the department. Prepayments for gasoline
16 ~~shall~~**must** be made at a cents-per-gallon rate determined by the
17 department and ~~shall~~**must** be based on 6% of the statewide average
18 retail price of a gallon of self-serve unleaded regular gasoline as
19 determined and certified by the department rounded up to the
20 nearest 1/10 of 1 cent. A person that makes prepayments directly to
21 the department shall make those prepayments according to the
22 schedule in subsection (6).

23 (2) Beginning April 1, 2013 through March 31, 2016, at the
24 time of purchase or shipment from a refiner, pipeline terminal
25 operator, or marine terminal operator, a purchaser or receiver of
26 fuel shall prepay a portion of the tax imposed by this act at the
27 rates provided in this section to the refiner, pipeline terminal
28 operator, or marine terminal operator for the purchase or receipt
29 of fuel. If the purchase or receipt of fuel is made outside this

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

17 (3) Beginning April 1, 2016 **through September 30, 2025**, at the
18 time of purchase or shipment in this state from a refiner, pipeline
19 terminal operator, or marine terminal operator, a purchaser or
20 receiver of fuel other than an exporter or supplier for immediate
21 export, as evidenced by the terminal's shipping papers or bill of
22 lading, shall prepay a portion of the tax imposed by this act at
23 the rates provided in this section to the refiner, pipeline
24 terminal operator, or marine terminal operator for the purchase or
25 receipt of fuel. If the purchase or receipt of fuel is made outside
26 this state for shipment into and subsequent sale within this state,
27 the purchaser or receiver, other than a refiner, pipeline terminal
28 operator, or marine terminal operator as part of a bulk transfer,
29 shall make the prepayment required by this section directly to the

department. Prepayments for gasoline ~~shall~~**must** be made at a cents-per-gallon rate determined by the department and ~~shall~~**must** be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent.

Prepayments for diesel fuel ~~shall~~**must** be made at a cents-per-gallon rate determined by the department and ~~shall~~**must** be based on 6% of the statewide average retail price of a gallon of undyed No. 2 ultra-low sulfur diesel fuel as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person that makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (6).

(4) ~~The~~**Through September 30, 2025, the department shall determine the** rates of prepayment ~~applied~~**applicable to gasoline and diesel fuel** pursuant to subsections (2) and (3) ~~shall be determined every month by the department. The department and~~ shall publish notice of ~~the~~**those** rates of prepayment ~~applicable to gasoline and diesel fuel pursuant to subsections (2) and (3)~~ not later than the tenth day of the month immediately preceding the month in which the rate is effective.

(5) A person subject to tax under this act that makes prepayment to another person as required by this section for gasoline may claim an estimated prepayment credit on its regular monthly return filed pursuant to section 6. The credit ~~shall~~**must** be for prepayments made during the month for which the return is required and ~~shall~~**must** be based upon the difference between prepayments made in the immediately preceding month and collections of prepaid tax received from sales or transfers during the month for which the return required under section 6 is made. A sale or

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

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

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

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

22 (7) A refiner, pipeline terminal operator, or marine terminal
 23 operator that fails to remit prepayments made by a purchaser or
 24 receiver of fuel is subject to the penalties provided by 1941 PA
 25 122, MCL 205.1 to 205.31.

26 (8) The refiner, pipeline terminal operator, or marine
 27 terminal operator shall not receive a deduction under section 4 for
 28 receiving and remitting prepayments from a purchaser or receiver
 29 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~~**must**
9 be for prepayments made during the month for which the return is
10 required and ~~shall~~**must** be based upon the difference between the
11 prepayments made in the immediately preceding month and collections
12 of prepaid tax received from sales or transfers during the month
13 for which the return required under section 6 is made. A sale or
14 transfer for which collection of prepaid tax is due the taxpayer is
15 subject to a bad debt deduction under section 4i, whether or not
16 the sale or transfer is a sale at retail. The credit ~~shall~~**must** not
17 be reduced because of actual shrinkage. A taxpayer that does not,
18 in the ordinary course of business, sell diesel fuel in each month
19 of the year may, with the approval of the department, base the
20 initial prepayment deduction in each tax year on prepayments made
21 in a month other than the immediately preceding month. Estimated
22 prepayment credits claimed with the return due in April 2013 ~~shall~~
23 **must** be based on the taxpayer's retail sales of diesel fuel in
24 March 2013. The difference in actual prepayments ~~shall~~**must** be
25 reconciled on the annual return ~~in accordance with~~**pursuant to**
26 procedures prescribed by the department. Repayment of the credit
27 claimed on the return due in April 2013 ~~shall~~**must** be made by the
28 earlier of the date that the taxpayer stops selling diesel fuel or
29 October 15, 2013.

(11) As used in this section:

(a) "Alcohol" means fuel grade ethanol or a mixture of fuel grade ethanol and another product.

(b) "Blendstock" includes all of the following:

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

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

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

(d) "Bulk transfer" means a transfer of fuel from, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator to or from another refiner, pipeline terminal operator, or marine terminal operator through pipeline tender or marine delivery, including pipeline movements of fuel or marine vessel movements of fuel. Bulk transfer also includes a transaction involving the transfer by any transportation means to, or purchase for resale by, a refiner, pipeline terminal operator, or marine terminal operator of alcohol to be used exclusively for blending with gasoline. Notwithstanding anything to the contrary in this definition, fuel transferred to, or purchased for resale by, a refiner, pipeline terminal operator, or marine terminal operator must be delivered to, or otherwise remain within, the bulk transfer terminal system ~~prior to~~ **before** removal across the rack in order to constitute a bulk transfer.

(e) "Bulk transfer terminal system" means the fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals and includes fuel storage tanks and fuel

1 storage facilities that are part of a refinery, boat terminal
 2 transfer, or terminal owned, operated, or controlled by a refiner,
 3 marine terminal operator, or pipeline terminal operator.

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

17 (g) "Dyed diesel fuel" means diesel fuel that is dyed ~~in~~
 18 ~~accordance with internal revenue service~~ **pursuant to Internal**
 19 **Revenue Service** rules or pursuant to any other ~~internal revenue~~
 20 ~~service~~ **Internal Revenue Service** requirements, including any
 21 invisible marker requirements.

22 (h) "Dyed kerosene" means kerosene that is dyed ~~in accordance~~
 23 ~~with internal revenue service~~ **pursuant to Internal Revenue Service**
 24 rules or pursuant to any other ~~internal revenue service~~ **Internal**
 25 **Revenue Service** requirements, including invisible marker
 26 requirements.

27 (i) "Excluded liquid" means that term as defined in 26 CFR
 28 48.4081-1.

29 (j) "Export" means to purchase or receive fuel in this state

1 for immediate shipment and subsequent sale outside of this state.

2 (k) "Exporter" means a person that exports fuel and is
3 licensed under section 86 of the motor fuel tax act, 2000 PA 403,
4 MCL 207.1086.

5 (l) "Fuel" means gasoline and diesel fuel that is subject to
6 tax under this act, collectively, except when gasoline or diesel
7 fuel is referred to separately.

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

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

(o) "Marine terminal operator" means a person that stores fuel at a boat terminal transfer.

(p) "Pipeline terminal operator" means a person that stores fuel in tanks and equipment used in receiving and storing fuel from interstate and intrastate pipelines pending wholesale bulk reshipment.

(q) "Purchase", "receipt", or "shipment" does not include a two-party exchange, a bulk transfer, or a receipt of fuel as part of a bulk transfer.

(r) "Rack" means a mechanism for delivering fuel from a refiner, a pipeline terminal operator, or a marine terminal operator into a railroad tank car, a transport truck, a tank wagon, or the fuel supply tank of a marine vessel.

(s) "Refiner" means a person that meets all of the following requirements:

(i) Manufactures or produces fuel at a refinery by any process involving substantially more than the blending of fuel.

1 (ii) Is a taxable fuel registrant that is a refiner for
2 purposes of 26 CFR 48.4081-1.

3 (t) "Refinery" means a facility used by a refiner to produce
4 fuel from crude oil, unfinished oils, natural gas liquids, or other
5 hydrocarbons and from which fuel may be removed by pipeline or
6 marine vessel or at a rack.

7 (u) "Removal" or "removed" means a physical transfer other
8 than by evaporation, loss, or destruction of fuel from a refiner,
9 pipeline terminal operator, or marine terminal operator.

10 (v) "Supplier" means a supplier or permissive supplier
11 licensed under section 70 or 73 of the motor fuel tax act, 2000 PA
12 403, MCL 207.1070 and 207.1073.

13 (w) "Tank wagon" means a straight truck having 1 or more
14 compartments other than the fuel supply tank designed or used to
15 carry fuel.

16 (x) "Terminal" means a fuel storage and distribution facility
17 that meets all of the following requirements:

18 (i) Is registered as a qualified terminal by the ~~internal~~
19 ~~revenue service.~~ **Internal Revenue Service.**

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

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

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

25 (z) "Transmix" means the mixed product that results from the
26 buffer or interface of 2 different products in a pipeline shipment,
27 or a mixture of 2 different products within a terminal operated by
28 a pipeline terminal operator, within a boat terminal transfer
29 operated by a marine terminal operator, or at a refinery that

1 results in an off-grade mixture.

2 (aa) "Two-party exchange" means a transaction, including a
3 book transfer, in which fuel is transferred from 1 supplier to
4 another supplier where all of the following occur:

5 (i) The transaction includes a transfer of fuel from the person
6 who holds the original inventory position for the fuel in fuel
7 storage tanks as reflected in the records of the refiner, pipeline
8 terminal operator, or marine terminal operator.

9 (ii) The exchange transaction is completed before removal
10 across the rack by the receiving supplier.

11 (iii) The refiner, pipeline terminal operator, or marine
12 terminal operator in its books and records treats the receiving
13 exchange party as the supplier that removes the fuel across a rack
14 for purposes of reporting the transaction to the department under
15 the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170.

16 Sec. 6c. (1) Beginning April 1, 2016 and each calendar quarter
17 thereafter **through September 30, 2025**, each taxpayer making sales
18 at retail of aviation fuel shall, on or before the last day of the
19 month in the month that immediately follows the end of a calendar
20 quarter, file an informational report with the department on a form
21 prescribed by the department showing all of the following for the
22 immediately preceding calendar quarter:

23 (a) The entire amount of the taxpayer's taxable sales at
24 retail of aviation fuel.

25 (b) The gross proceeds of the taxpayer's business from taxable
26 sales at retail of aviation fuel.

27 (c) The amount of tax for which the taxpayer is liable from
28 sales at retail of aviation fuel.

29 (d) The number of taxable gallons of aviation fuel sold by the

1 taxpayer at each airport and the gross proceeds from the sales of
2 those gallons of aviation fuel.

3 (e) Any other information the department considers necessary
4 for the proper administration of this act.

5 (2) The report required under this section ~~shall~~**must** not
6 include any remittance for tax, and does not constitute a return or
7 otherwise alleviate the taxpayer's obligations under section 6.

8 (3) A taxpayer required to file the informational report under
9 this section that fails or refuses to file the informational report
10 within the time and in the manner specified in this section ~~shall~~
11 ~~be~~**is** liable for a penalty of \$10.00 per day for each day for each
12 separate failure or refusal up to, but not exceeding, a maximum
13 penalty of \$500.00 for each separate violation. The department may
14 waive the penalty if the taxpayer demonstrates to the satisfaction
15 of the department that the failure to file was due to reasonable
16 cause.

17 (4) As used in this section, "aviation fuel" means fuel as
18 that term is defined in section 4 of the aeronautics code of the
19 state of Michigan, 1945 PA 327, MCL 259.4.

20 Enacting section 1. This amendatory act does not take effect
21 unless all of the following bills of the 103rd Legislature are
22 enacted into law:

23 (a) House Bill No. 4181.

24 (b) House Bill No. 4182.

25 (c) House Bill No. 4183.

26 (d) House Bill No. 4184.

27 (e) House Bill No. 4185.

28 (f) House Bill No. 4186.

29 (g) House Bill No. 4187.

1 (h) House Bill No. 4230.