



# HOUSE BILL No. 5101

September 21, 1995, Introduced by Reps. Owen, Voorhees, Stallworth, Freeman, Porreca, Baird, Martinez and Berman and referred to the Committee on Tax Policy.

A bill to amend section 12 of Act No. 150 of the Public Acts of 1927, entitled as amended

"An act to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use, within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying this tax and the duties of officials and others respecting the payment and collection of this tax; to provide for the licensing of wholesale distributors, certain retail dealers, exporters, and suppliers as defined in this act; to fix a time when this tax and interest and penalties thereon become a lien upon the property of persons, firms, partnerships, associations, or corporations, subject to the payment of this tax; to provide for the enforcement of this lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of this tax; and to prescribe penalties for the violation of this act,"

as amended by Act No. 225 of the Public Acts of 1992, being section 207.112 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Section 12 of Act No. 150 of the Public Acts of 1927, as amended by Act No. 225 of the Public Acts of 1992, being

1 section 207.112 of the Michigan Compiled Laws, is amended to read  
2 as follows:

3       Sec. 12. (1) The state government and the federal govern-  
4 ment using gasoline in a state or federally owned motor vehicle,  
5 and a political subdivision of the state using gasoline in a  
6 vehicle owned by or leased and operated by the political subdivi-  
7 sion of the state, are exempt from the tax on gasoline levied by  
8 this act.

9       (2) The purchaser of gasoline used for a purpose other than  
10 the operation of a motor vehicle on the public roads, streets,  
11 and highways of this state, a person operating a passenger vehi-  
12 cle of a capacity of 5 or more under a municipal franchise,  
13 license, permit, agreement, or grant, respectively, a person  
14 operating a passenger vehicle for the transportation of school  
15 students under a certificate of authority issued by the state  
16 transportation department pursuant to section 5 of article ~~2~~ II  
17 of THE MOTOR CARRIER ACT, Act No. 254 of the Public Acts of  
18 1933, being section 476.5 of the Michigan Compiled Laws, and com-  
19 munity action agencies as described in ~~title 2 of the economic~~  
20 ~~opportunity act of 1964, 42 U.S.C. 2781 to 2837, which are not a~~  
21 ~~part or division of a political subdivision of this state~~  
22 SECTION 8 OF THE MICHIGAN ECONOMIC AND SOCIAL OPPORTUNITY ACT OF  
23 1981, ACT NO. 230 OF THE PUBLIC ACTS OF 1981, BEING SECTION  
24 400.1108 OF THE MICHIGAN COMPILED LAWS, shall be entitled to a  
25 refund of the tax on the gasoline. Community action agencies  
26 shall make the refund a state-contributed non-federal share to  
27 grants received by such community action agencies from the

1 community services administration under title 221 of the economic  
2 opportunity act of 1964, as amended, by filing a verified claim  
3 with the department upon forms prescribed and to be furnished by  
4 it, within 1 year after the date of purchase, as shown by the  
5 invoice. A claim mailed within the 1-year period, as evidenced  
6 by the postmark, when received by the department, shall be con-  
7 sidered as filed within the required time. An amount equal to  
8 the tax levied pursuant to section 2 shall be refunded to each  
9 person operating a passenger vehicle of a capacity of 5 or more  
10 under a municipal franchise, license, permit, agreement, or  
11 grant, respectively, and operated over regularly traveled routes  
12 expressly provided for in the municipal licenses, permits, agree-  
13 ments, or grants and to each person operating a passenger vehicle  
14 for the transportation of school students under a certificate of  
15 authority issued by the state transportation department. The  
16 retail dealer shall furnish the purchaser with an invoice, show-  
17 ing the amount of gasoline purchased, the date of purchase, and  
18 the amount of tax on the purchase, and the dealer shall at the  
19 request of the department immediately supply the department with  
20 a copy of an invoice issued by the dealer during a 1-year period  
21 preceding the request. A claim for a refund shall have attached  
22 to the claim the original invoice received by the purchaser and,  
23 when approved by the department, shall be paid out of the  
24 Michigan transportation fund upon the warrant of the state  
25 treasurer. A claim for a refund shall not be assignable without  
26 the prior written consent of the department. If the verified  
27 claim of the purchaser, in form and content as prescribed by the

1 department, shall show or it shall otherwise appear that the  
 2 amount of gasoline used by the purchaser for purposes on which  
 3 the taxes under the general sales tax act, Act No. 167 of the  
 4 Public Acts of 1933, ~~as amended,~~ being sections 205.51 to  
 5 205.78 of the Michigan Compiled Laws, are deductible pursuant to  
 6 section 4a(f) of Act No. 167 of the Public Acts of 1933, ~~as~~  
 7 ~~amended,~~ being section 205.54a of the Michigan Compiled Laws, is  
 8 not the total amount included in the statement of the transferee  
 9 under section 4a(f) of Act No. 167 of the Public Acts of 1933,  
 10 ~~as amended,~~ the department shall deduct from the amount of the  
 11 refund authorized by this section the rate of sales tax as is  
 12 established in Act No. 167 of the Public Acts of 1933, ~~as~~  
 13 ~~amended,~~ applicable to the retail sales price paid by the trans-  
 14 feree on that portion of the gasoline not used for purposes  
 15 described in section 4a(f) of Act No. 167 of the Public Acts of  
 16 1933, ~~as amended,~~ and shall transfer the sales tax so deducted  
 17 to the sales tax account of the department. The purchaser of  
 18 gasoline used for the operation of a snowmobile as defined and  
 19 regulated by PART 821 (SNOWMOBILES) OF Act No. ~~74~~ 451 of the  
 20 Public Acts of ~~+1968~~ 1994, ~~as amended,~~ being sections  
 21 ~~-257.1501-~~ 324.82101 to ~~-257.1518-~~ 324.82159 of the Michigan  
 22 Compiled Laws, shall not be entitled to a refund under this  
 23 section.

24 (3) The department shall issue to each wholesale distributor  
 25 who purchases gasoline or diesel motor fuel for an exempt purpose  
 26 an exemption certificate upon the wholesale distributor filing a  
 27 request for the certificate. The certificate shall be valid

1 until the end of the calendar year in which the request was  
2 filed. On or before the twentieth day of the month following the  
3 close of the reporting period, the wholesale distributor shall  
4 file with the department on forms prescribed by the department, a  
5 report showing the number of gallons of gasoline and diesel motor  
6 fuel received from a supplier or purchased from a wholesale dis-  
7 tributor for a tax exempt purpose and the number of gallons of  
8 gasoline and diesel motor fuel sold for a tax exempt purpose.  
9 The wholesale distributor shall maintain records of purchases and  
10 sales as prescribed by the department for a period of 4 years.  
11 ~~Each~~ FOR GASOLINE, EACH wholesale distributor shall at time of  
12 filing the report required under this subsection pay to the  
13 department the amount of tax payable at the applicable rate per  
14 gallon on all gallons received tax exempt but not sold for tax  
15 exempt purposes during the reporting period. NOTWITHSTANDING  
16 SECTION 3(1), FOR DIESEL MOTOR FUEL, EACH WHOLESALE DISTRIBUTOR  
17 SHALL AT THE TIME OF FILING THE REPORT REQUIRED UNDER THIS SUB-  
18 SECTION PAY TO THE DEPARTMENT THE AMOUNT OF TAX PAYABLE AT THE  
19 APPLICABLE RATE PER GALLON ON ALL GALLONS RECEIVED TAX EXEMPT BUT  
20 NOT SOLD FOR TAX EXEMPT PURPOSES DURING THE REPORTING PERIOD  
21 EXCEPT FOR THOSE GALLONS RECEIVED TAX EXEMPT WHICH HAVE NOT BEEN  
22 SOLD AND ARE HELD IN THE WHOLESALERS BULK PLANT AS DEFINED BY  
23 THIS ACT. Any liability for tax on taxable gallons in excess of  
24 15% of the amount of tax actually paid to a supplier shall be  
25 treated as an underpayment of tax due as of the earliest date  
26 during the 3-month period during which tax is due to the supplier  
27 and shall be subject to the interest and penalties prescribed in

1 Act No. 122 of the Public Acts of 1941, being sections 205.1 to  
2 205.31 of the Michigan Compiled Laws. At the time of the filing  
3 of the report required by this section, the wholesale distributor  
4 may file a claim for refund for taxes paid to a licensed supplier  
5 or the state on gasoline or diesel motor fuel sold during report-  
6 ing period for tax exempt purposes.

7 (4) For purposes of this section, reporting periods shall be  
8 January 1 through March 31, April 1 through June 30, July 1  
9 through September 30, and October 1 through December 31.