

HOUSE BILL No. 4356

February 19, 1997, Introduced by Reps. Owen, Green, Gagliardi, Walberg, Nye, Lowe, Oxender, Baade, Cherry, Mans, Jaye, Martinez, Brater, Tesanovich, Jelinek, Goschka, Raczkowski, Kaza, Dobronski, Mathieu, Bogardus, McBryde, Bodem and Perricone and referred to the Committee on Transportation.

A bill to amend 1927 PA 150, entitled

"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,"

by amending section 12 (MCL 207.112), as amended by 1996 PA 56.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) The state government and the federal govern-
2 ment using gasoline in a state or federally owned motor vehicle,
3 and a political subdivision of the state using gasoline in a
4 vehicle owned by or leased and operated by the political

1 subdivision of the state, are exempt from the tax on gasoline
2 levied by this act.

3 (2) The purchaser of gasoline used for a purpose other than
4 the operation of a motor vehicle on the public roads, streets,
5 and highways of this state, a person operating a passenger vehi-
6 cle of a capacity of 5 or more under a municipal franchise,
7 license, permit, agreement, or grant, respectively, a person
8 operating a passenger vehicle for the transportation of school
9 students under a certificate of authority issued by the state
10 transportation department pursuant to section 5 of article II of
11 the motor carrier act, ~~Act No. 254 of the Public Acts of 1933,~~
12 ~~being section 476.5 of the Michigan Compiled Laws~~ 1933 PA 254,
13 MCL 476.5, and community action agencies as described in former
14 title II of the economic opportunity act of 1964, Public Law
15 88-452, which are not a part or division of a political subdivi-
16 sion of this state shall be entitled to a refund of the tax on
17 the gasoline. Community action agencies shall make the refund a
18 state-contributed non-federal share to grants received by such
19 community action agencies from the community services administra-
20 tion under former title II of the economic opportunity act of
21 1964, by filing a verified claim with the department upon forms
22 prescribed and to be furnished by it, within 1 year after the
23 date of purchase, as shown by the invoice. A claim mailed within
24 the 1-year period, as evidenced by the postmark, when received by
25 the department, shall be considered as filed within the required
26 time. An amount equal to the tax levied pursuant to section 2
27 shall be refunded to each person operating a passenger vehicle of

1 a capacity of 5 or more under a municipal franchise, license,
2 permit, agreement, or grant, respectively, and operated over reg-
3 ularly traveled routes expressly provided for in the municipal
4 licenses, permits, agreements, or grants and to each person oper-
5 ating a passenger vehicle for the transportation of school stu-
6 dents under a certificate of authority issued by the state trans-
7 portation department. The retail dealer shall furnish the pur-
8 chaser with an invoice, showing the amount of gasoline purchased,
9 the date of purchase, and the amount of tax on the purchase, and
10 the dealer shall at the request of the department immediately
11 supply the department with a copy of an invoice issued by the
12 dealer during a 1-year period preceding the request. A claim for
13 a refund shall have attached to the claim the original invoice
14 received by the purchaser and, when approved by the department,
15 shall be paid out of the Michigan transportation fund upon the
16 warrant of the state treasurer. A claim for a refund shall not
17 be assignable without the prior written consent of the
18 department. If the verified claim of the purchaser, in form and
19 content as prescribed by the department, shall show or it shall
20 otherwise appear that the amount of gasoline used by the pur-
21 chaser for purposes on which the taxes under the general sales
22 tax act, ~~Act No. 167 of the Public Acts of 1933, being sections~~
23 ~~205.51 to 205.78 of the Michigan Compiled Laws~~ 1933 PA 167, MCL
24 205.51 TO 205.78, are deductible pursuant to section 4a(f) of
25 ~~Act No. 167 of the Public Acts of 1933, being section 205.54a of~~
26 ~~the Michigan Compiled Laws~~ THE GENERAL SALES TAX ACT, 1933 PA
27 167, MCL 205.54A, is not the total amount included in the

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1 statement of the transferee under section 4a(f) of ~~Act No. 167~~
2 ~~of the Public Acts of 1933~~ THE GENERAL SALES TAX ACT, 1933 PA
3 167, MCL 205.54A, the department shall deduct from the amount of
4 the refund authorized by this section the rate of sales tax as is
5 established in ~~Act No. 167 of the Public Acts of 1933~~ THE GEN-
6 ERAL SALES TAX ACT, 1933 PA 167, MCL 205.51 TO 205.78, applicable
7 to the retail sales price paid by the transferee on that portion
8 of the gasoline not used for purposes described in section 4a(f)
9 of ~~Act No. 167 of the Public Acts of 1933~~ THE GENERAL SALES TAX
10 ACT, 1933 PA 167, MCL 205.54A, and shall transfer the sales tax
11 so deducted to the sales tax account of the department. The pur-
12 chaser of gasoline used for the operation of a snowmobile as
13 defined and regulated by part 821 (snowmobiles) of the natural
14 resources and environmental protection act, ~~Act No. 451 of the~~
15 ~~Public Acts of 1994, being sections 324.82101 to 324.82159 of the~~
16 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.82101 TO 324.82159,
17 shall not be entitled to a refund under this section.

18 (3) The department shall issue to each wholesale distributor
19 who purchases gasoline or diesel motor fuel for an exempt purpose
20 an exemption certificate upon the wholesale distributor filing a
21 request for the certificate. The certificate shall be valid
22 until the end of the calendar year in which the request was
23 filed. On or before the twentieth day of the month following the
24 close of the reporting period, the wholesale distributor shall
25 file with the department on forms prescribed by the department, a
26 report showing the number of gallons of gasoline and diesel motor
27 fuel received from a supplier or purchased from a wholesale

1 distributor for a tax exempt purpose and the number of gallons of
2 gasoline and diesel motor fuel sold for a tax exempt purpose.
3 The wholesale distributor shall maintain records of purchases and
4 sales as prescribed by the department for a period of 4 years.
5 ~~Each~~ FOR GASOLINE, EACH wholesale distributor shall at time of
6 filing the report required under this subsection pay to the
7 department the amount of tax payable at the applicable rate per
8 gallon on all gallons received tax exempt but not sold for tax
9 exempt purposes during the reporting period. NOTWITHSTANDING
10 SECTION 3(1), FOR DIESEL MOTOR FUEL, EACH WHOLESALER DISTRIBUTOR
11 SHALL AT THE TIME OF FILING THE REPORT REQUIRED UNDER THIS SUB-
12 SECTION PAY TO THE DEPARTMENT THE AMOUNT OF TAX PAYABLE AT THE
13 APPLICABLE RATE PER GALLON ON ALL GALLONS RECEIVED TAX EXEMPT BUT
14 NOT SOLD FOR TAX EXEMPT PURPOSES DURING THE REPORTING PERIOD
15 EXCEPT FOR THOSE GALLONS RECEIVED TAX EXEMPT WHICH HAVE NOT BEEN
16 SOLD AND ARE HELD IN THE WHOLESALERS BULK PLANT AS DEFINED BY
17 THIS ACT. Any liability for tax on taxable gallons in excess of
18 15% of the amount of tax actually paid to a supplier shall be
19 treated as an underpayment of tax due as of the earliest date
20 during the 3-month period during which tax is due to the supplier
21 and shall be subject to the interest and penalties prescribed in
22 ~~Act No. 122 of the Public Acts of 1941, being sections 205.1 to~~
23 ~~205.31 of the Michigan Compiled Laws~~ 1941 PA 122, MCL 205.1 TO
24 205.31. At the time of the filing of the report required by this
25 section, the wholesale distributor may file a claim for refund
26 for taxes paid to a licensed supplier or the state on gasoline or

1 diesel motor fuel sold during reporting period for tax exempt
2 purposes.

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