MOTOR FUEL TAX ACT
Act 403 of 2000

AN ACT to prescribe a tax on the sale and use of certain types of fuel in motor vehicles on the public roads or highways of this state and on certain other types of gas; to prescribe the manner and the time of collection and payment of this tax and the duties of officials and others pertaining to the payment and collection of this tax; to provide for the licensing of persons involved in the sale, use, or transportation of motor fuel and the collection and payment of the tax imposed by this act; to prescribe fees; to prescribe certain other powers and duties of certain state agencies and other persons; to provide for exemptions and refunds and for the disposition of the proceeds of this tax; to provide for appropriations from the proceeds of this tax; to prescribe remedies and penalties for the violation of this act; and to repeal acts and parts of acts.

History: 2000, Act 403, Eff. Apr. 1, 2001.

The People of the State of Michigan enact:

207.1001 Short title.

Sec. 1. This act shall be known and may be cited as the “motor fuel tax act”.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1002 Definitions; A to E.

Sec. 2. As used in this act:

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

(b) “Blendstock” means and includes any petroleum product component of motor fuel, such as naphtha, reformate, or toluene; or any oxygenate that can be blended for use in a motor fuel.

(c) “Blended motor fuel” means a mixture of motor fuel and another liquid, other than a de minimis amount of a product including, but not limited to, carburetor detergent or oxidation inhibitor, that can be used as motor fuel in a motor vehicle.

(d) “Blender” means and includes any person who produces blended motor fuel outside of the bulk transfer/terminal system.

(e) “Blends” or “blending” means the mixing of 1 or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, an airplane, or a marine vessel. Blending does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil in the production of lubricating oils and greases.

(f) “Bulk end user” means a person who receives into the person's own storage facilities by transport truck or tank wagon motor fuel for the person's own consumption.

(g) “Bulk plant” means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be withdrawn by a tank wagon, a transport truck, or a marine vessel.

(h) “Bulk transfer” means a transfer of motor fuel from 1 location to another by pipeline tender or marine delivery within the bulk transfer/terminal system, including, but not limited to, all of the following transfers:

(*i*) A marine vessel movement of motor fuel from a refinery or terminal to a terminal.

(*ii*) Pipeline movements of motor fuel from a refinery or terminal to a terminal.

(*iii*) Book transfers of motor fuel within a terminal between licensed suppliers before completion of removal across the terminal rack.

(*iv*) Two-party exchanges between licensed suppliers.

(i) “Bulk transfer/terminal system” means the motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals. Motor fuel in a refinery, pipeline, terminal, or a marine vessel transporting motor fuel to a refinery or terminal is in the bulk transfer/terminal system. Motor fuel in a fuel storage facility including, but not limited to, a bulk plant that is not part of a refinery or terminal, in the fuel supply tank of any engine or motor vehicle, in a marine vessel transporting motor fuel to a fuel storage facility that is not in the bulk transfer/terminal system, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.

(j) “Carrier” means an operator of a pipeline or marine vessel engaged in the business of transporting motor fuel above the terminal rack.

(k) “Commercial motor vehicle” means a motor vehicle licensed under the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234.

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(*l*) “Dead storage” is the amount of motor fuel that cannot be pumped out of a motor fuel storage tank because the motor fuel is below the mouth of the tank's draw pipe. The amount of motor fuel in dead storage is 200 gallons for a tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more.

(m) “Denaturants” means and includes gasoline, natural gasoline, gasoline components, or toxic or noxious materials added to fuel grade ethanol to make it unsuitable for beverage use but not unsuitable for automotive use.

(n) “Department” means the bureau of revenue within the department of treasury or its designee.

(o) “Destination state” means the state, Canadian province or territory, or foreign country to which motor fuel is directed for export.

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

(q) “Dyed diesel fuel” means diesel fuel that is dyed in accordance with internal revenue service rules or pursuant to any other internal revenue service requirements, including any invisible marker requirements.

(r) “Eligible purchaser” means a person who has been authorized by the department under section 75 to make the election under section 74.

(s) “Excluded liquid” means that term as defined in 26 C.F.R. 48.4081-1.

(t) “Export” means to obtain motor fuel in this state for sale or other distribution outside of this state. Motor fuel delivered outside of this state by or for the seller constitutes an export by the seller and motor fuel delivered outside of this state by or for the purchaser constitutes an export by the purchaser.

(u) “Exporter” means a person who exports motor fuel.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1003 Definitions; F to I.

Sec. 3. As used in this act:

(a) "Fuel feedstock user" means a person who receives motor fuel for the person's own use in the manufacture or production of any substance other than motor fuel.

(b) "Fuel grade ethanol" means the American society for testing and materials standard in effect on the effective date of this act as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

(c) "Fuel transportation vehicle" means a vehicle designed or used to transport motor fuel on the public roads or highways. Fuel transportation vehicle includes, but is not limited to, a transport truck and a tank wagon. Fuel transportation vehicle does not include a vehicle transporting a nurse tank or limited volume auxiliary-mounted supply tank used for fueling an implement of husbandry.

(d) "Gallon" means a unit of liquid measure as customarily used in the United States containing 231 cubic inches, or 4 quarts, or its metric equivalent expressed in liters. Where the term gallon appears in this act, the term liters is interchangeable so long as the equivalence of a gallon and 3.785 liters is preserved. A quantity required to be furnished under this act may be specified in liters when authorized by the department.

(e) "Gasohol" means a blended motor fuel composed of gasoline and fuel grade ethanol.

(f) "Gasoline" means and includes gasoline, alcohol, gasohol, casing head or natural gasoline, benzol, benzine, naphtha, and any blendstock additive, or other product including methanol that is sold for blending with gasoline or for use on the road other than products typically sold in containers of less than 5 gallons. Gasoline also includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel, including a product obtained by blending together any 1 or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel. The blending of all of the above named products, regardless of their name or characteristics, shall conclusively be presumed to have been done to produce motor fuel, unless the product obtained by the blending is entirely incapable of use as motor fuel. Gasoline also includes transmix. Gasoline does not include diesel fuel or leaded racing fuel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for gasoline.

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(g) "Gross gallons" means the total measured product, exclusive of any temperature or pressure adjustments, considerations, or deductions, in gallons.

(h) "Heating oil" means a motor fuel including dyed diesel fuel that is burned in a boiler, furnace, or stove for heating, agricultural, or industrial processing purposes.

(i) "Implement of husbandry" means and includes a farm tractor, a vehicle designed to be drawn or pulled by a farm tractor or animal, a vehicle that directly harvests farm products, and a vehicle that directly applies fertilizer, spray, or seeds to a farm field. Implement of husbandry does not include a motor vehicle licensed for use on the public roads or highways of this state.

(j) "Import" means to bring motor fuel into this state by motor vehicle, marine vessel, pipeline, or any other means. However, import does not include bringing motor fuel into this state in the fuel supply tank of a motor vehicle if the motor fuel is used to power that motor vehicle. Motor fuel delivered into this state from outside of this state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out of this state by or for the purchaser constitutes an import by the purchaser.

(k) "Importer" means a person who imports motor fuel into this state.

(*l*) "Import verification number" means the number assigned by the department to an individual delivery of motor fuel by a transport truck, tank wagon, marine vessel, or rail car in response to a request for a number from an importer or transporter carrying motor fuel into this state for the account of an importer.

(m) "In this state" means the area within the borders of this state, including all territories within the borders owned by, held in trust by, or added to the United States of America.

(n) "Invoiced gallons" means the number of gallons actually billed on an invoice.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003;—Am. 2006, Act 277, Eff. Jan. 1, 2004.

Compiler's note: Enacting section 1 of Act 277 of 2006 provides:

"Enacting section 1. This amendatory act shall be retroactively applied to January 1, 2004 but shall not authorize refunds other than to an end user for taxes previously paid."

207.1004 Definitions; K to P.

Sec. 4. As used in this act:

(a) "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 specifications D-3699, in effect on January 1, 1999, and kerosene-type jet fuel described in American 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 rules or regulations, as the specification for kerosene and kerosene-type jet fuel. Kerosene does not include an excluded liquid.

(b) "Leaded racing fuel" is a fuel other than diesel fuel that is leaded and at least 100 octane and is used in vehicles on a racetrack.

(c) "Liquid" means any substance that is liquid in excess of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(d) "Motor fuel" means gasoline, diesel fuel, kerosene, a mixture of gasoline, diesel fuel, or kerosene, or a mixture of gasoline, diesel fuel, or kerosene and any other substance. Motor fuel does not include leaded racing fuel.

(e) "Motor vehicle" means a vehicle that is propelled by an internal combustion engine or motor and is designed to permit the vehicle's mobile use on the public roads or highways of this state. Motor vehicle does not include any of the following:

(*i*) An implement of husbandry.

(*ii*) A train or other vehicle operated exclusively on rails.

(*iii*) Machinery designed principally for off-road use and not licensed for on-road use.

(*iv*) A stationary engine.

(f) "Net gallons" means the remaining product, after all considerations and deductions have been made, measured in gallons, corrected to a temperature of 60 degrees Fahrenheit, 13 degrees Celsius, and a pressure of 14.7 pounds per square inch, the ultimate end amount.

(g) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement.

(h) "Permissive supplier" means a person who may not be subject to the taxing jurisdiction of this state but who does meet both of the following requirements:

(*i*) Is a position holder in a federally registered terminal located outside of this state, or a person who acquires from a position holder motor fuel in an out-of-state terminal in a transaction that otherwise qualifies as a 2-party exchange under this act.

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(*ii*) Is registered under section 4101 of the internal revenue code for transactions in motor fuel in the bulk transfer/terminal system.

(i) "Person" means and includes an individual, cooperative, partnership, firm, association, limited liability company, limited liability partnership, joint stock company, syndicate, and corporation, both private and municipal, and any receiver, trustee, conservator, or any other officer having jurisdiction and control of property by law or by appointment of a court other than units of government.

(j) "Position holder" means a person who has a contract with a terminal operator for the use of storage facilities and other terminal services for motor fuel at the terminal, as reflected in the records of the terminal operator. Position holder includes a terminal operator who owns motor fuel in the terminal.

(k) "Public roads or highways" means a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel is restricted for the purpose of construction, maintenance, repair, or reconstruction.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003;—Am. 2006, Act 277, Eff. Jan. 1, 2004.

Compiler's note: Enacting section 1 of Act 277 of 2006 provides:

"Enacting section 1. This amendatory act shall be retroactively applied to January 1, 2004 but shall not authorize refunds other than to an end user for taxes previously paid."

207.1005 Definitions; R to S.

Sec. 5. (1) As used in this act:

(a) “Rack” means a mechanism for delivering motor fuel from a refinery, a terminal, or a marine vessel into a railroad tank car, a transport truck, a tank wagon, the fuel supply tank of a marine vessel, or other means of transfer outside of the bulk transfer/terminal system.

(b) “Refiner” means a person who owns, operates, or otherwise controls a refinery within the United States.

(c) “Refinery” means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by marine vessel, or at a rack.

(d) “Removal” or “removed” means a physical transfer other than by evaporation, loss, or destruction of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, marine vessel, or refinery that stores motor fuel.

(e) “Retail diesel dealer” means a person who sells or distributes diesel fuel to an end user in this state.

(f) “Retail marine diesel dealer” means a person who sells or distributes diesel fuel to an end user in this state for use in boats or other marine vessels.

(g) “Source state” means the state, Canadian province or territory, or foreign country from which motor fuel is imported.

(h) “Stationary engine” means a temporary or permanently affixed engine designed and used to supply power primarily for agricultural or construction work. Stationary engine includes, but is not limited to, an engine powering irrigation equipment, generators, or earth-moving equipment.

(i) “Supplier”, in addition to subsection (2), means a person who meets all of the following requirements:

(*i*) Is subject to the general taxing jurisdiction of this state.

(*ii*) Is registered under section 4101 of the internal revenue code for transactions in motor fuel in the bulk transfer/terminal distribution system.

(*iii*) Is any 1 of the following:

(A) The position holder in a terminal or refinery in this state.

(B) A person who imports fuel grade ethanol into this state.

(C) A person who acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to a 2-party exchange.

(D) The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state on its account.

(2) Supplier also means a person who either produces alcohol or alcohol derivative substances in this state or produces alcohol or alcohol derivative substances for import into a terminal in this state, or who acquires immediately upon import by transport truck, tank wagon, rail car, or marine vessel into a terminal or refinery or other storage facility that is not part of a terminal or refinery, alcohol or alcohol derivative substances. A terminal operator is not considered a supplier merely because the terminal operator handles motor fuel consigned to it within a terminal. Supplier includes a permissive supplier unless otherwise specifically provided in this act.

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History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1006 Definitions; T to W.

Sec. 6. As used in this act:

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

(b) "Tank wagon operator-importer" means a person who operates a tank wagon and imports motor fuel into this state from another state.

(c) "Tax" means a tax, interest, or penalty levied under this act.

(d) "Terminal" means a motor fuel storage and distribution facility that meets all of the following requirements:

(*i*) Is registered as a qualified terminal by the internal revenue service.

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

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

(e) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(f) "Transmix" means the mixed product that results from the buffer or interface of 2 different products in a pipeline shipment, or a mixture of 2 different products within a refinery or terminal that results in an off-grade mixture.

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

(h) "Transporter" means an operator of a railroad or rail car, tank wagon, transport truck, or other fuel transportation vehicle engaged in the business of transporting motor fuel below the terminal rack.

(i) "Two-party exchange" means a transaction in which motor fuel is transferred from 1 licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier where all of the following occur:

(*i*) The transaction includes a transfer from the person who holds the original inventory position for motor fuel in the terminal as reflected in the records of the terminal operator.

(*ii*) The exchange transaction is completed before removal across the rack from the terminal by the receiving licensed supplier or licensed permissive supplier.

(*iii*) The terminal operator in its books and records treats the receiving exchange party as the supplier that removes the product across a terminal rack for purposes of reporting the transaction to the department.

(j) "Ultimate vendor" means the person who sells motor fuel to the end user of the fuel.

(k) "Wholesaler" means a person who acquires motor fuel from a supplier or from another wholesaler for subsequent sale and distribution at wholesale by a fuel transportation vehicle, rail car, or other motor vehicle.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1008 Tax on motor fuel; rates; collection or payment; exception; manner and time; imposition of rate on net gallons; legislative intent; bills of lading and invoices; identification of blended product and correct fuel product code; terminal operator license; requirements; refund request; annual appropriation; "biodiesel" and "ethanol" defined.

Sec. 8. (1) Subject to the exemptions provided for in this act, tax is imposed on motor fuel imported into or sold, delivered, or used in this state at the following rates:

(a) Except as otherwise provided in subdivision (c), 19 cents per gallon on gasoline.

(b) Except as otherwise provided in subdivision (d), 15 cents per gallon on diesel fuel.

(c) Subject to subsections (10) and (11), 12 cents per gallon on gasoline that is at least 70% ethanol. Under this subdivision, blenders of ethanol and gasoline outside of the bulk transfer terminal system shall obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends ethanol and gasoline shall also obtain a blender's license.

(d) Subject to subsections (10) and (11), 12 cents per gallon on diesel fuel that contains at least 5% biodiesel. Under this subdivision, blenders of biodiesel and diesel fuel outside of the bulk transfer terminal system are required to obtain a blender's license and are subject to the blender reporting requirements under this act. A licensed supplier who blends biodiesel and diesel fuel shall also obtain a blender's license.

(2) Tax shall not be imposed under this section on motor fuel that is in the bulk transfer/terminal system.

(3) The collection, payment, and remittance of the tax imposed by this section shall be accomplished in the manner and at the time provided for in this act.

(4) Tax is also imposed at the rate described in subsection (1) on net gallons of motor fuel, including transmix, lost or unaccounted for, at each terminal in this state. The tax shall be measured annually and shall apply to the net gallons of motor fuel lost or unaccounted for that are in excess of 1/2 of 1% of all net gallons

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of fuel removed from the terminal across the rack or in bulk.

(5) It is the intent of this act:

(a) To require persons who operate a motor vehicle on the public roads or highways of this state to pay for the privilege of using those roads or highways.

(b) To impose on suppliers a requirement to collect and remit the tax imposed by this act at the time of removal of motor fuel unless otherwise specifically provided in this act.

(c) To allow persons who pay the tax imposed by this act and who use the fuel for a nontaxable purpose to seek a refund or claim a deduction as provided in this act.

(d) That the tax imposed by this act be collected and paid at those times, in the manner, and by those persons specified in this act.

(6) Bills of lading and invoices shall identify the blended product and the correct fuel product code. The motor fuel tax rate for each product shall be listed separately on each invoice. Licensees shall report the correct fuel product code for the blended product as required by the department. When fuel is blended below the terminal rack, new bills of lading and invoices shall be generated and submitted to the department upon request. All bills of lading and invoices shall meet the requirements provided under this act.

(7) Notwithstanding any other provision of this act, all facilities in this state that produce motor fuel and distribute the fuel from a rack for purposes of this act are a terminal and shall obtain a terminal operator license and shall comply with all terminal operator reporting requirements under this act. All position holders in these facilities shall be licensed as a supplier and shall comply with all supplier requirements under this act.

(8) If the tax on gasoline that contains at least 70% ethanol or diesel fuel that contains at least 5% biodiesel held in storage outside of the bulk transfer/terminal system on the effective date of the amendatory act that added this subsection has previously been paid at the rates imposed by subsection (1)(a) and (b), the person who paid the tax may claim a refund for the difference between the rates imposed by subsection (1)(a) and (b) and the rates imposed by subsection (1)(c) and (d). All of the following shall apply to a refund claimed under this subsection:

(a) The refund shall be claimed on a form prescribed by the department.

(b) The refund shall apply only to:

(*i*) Previously taxed gasoline containing at least 70% ethanol or diesel fuel containing at least 5% biodiesel in excess of 3,000 gallons held in storage by an end user.

(*ii*) Previously taxed gasoline containing at least 70% ethanol or diesel fuel containing at least 5% biodiesel held for sale that is in excess of dead storage.

(9) A refund request shall be filed within 60 days after the last day of the month in which the amendatory act that added this subsection took effect. A taxpayer shall provide documentation that the department requires in order to verify the request for refund. A person who may claim a refund under subsection (8) shall do all of the following to claim the refund:

(a) Not later than 12 a.m. on the effective date of the amendatory act that added this subsection, take an inventory of gasoline containing at least 70% ethanol or undyed diesel fuel containing at least 5% biodiesel.

(b) Deduct 3,000 gallons if the person claiming the refund is an end user.

(c) Deduct the number of gallons in dead storage if the gasoline containing at least 70% ethanol or the undyed diesel fuel containing at least 5% biodiesel is held for subsequent sale.

(10) Beginning on the effective date of the amendatory act that added this subsection, the state treasurer shall annually determine, for the 12-month period ending May 1 and for any additional times that the treasurer may determine, the difference between the amount of motor fuel tax collected and the amount of motor fuel tax that would have been collected but for the differential rates on gasoline pursuant to subsection (1)(c) and biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d) is no longer effective the earlier of 10 years after the effective date of the amendatory act that added this subsection or the first day of the first month that is not less than 90 days after the state treasurer certifies that the total cumulative rate differential from the effective date of this amendatory act is greater than $2,500,000.00.

(11) The legislature shall annually appropriate to the Michigan transportation fund created in 1951 PA 51, MCL 247.651 to 247.675, the amount determined as the rate differential certified by the state treasurer for the 12-month period ending on May 1 of the calendar year in which the fiscal year begins. Subsection (1)(c) and (d) shall not be effective beginning January of any fiscal year for which the appropriation required under this subsection has not been made by the first day of the fiscal year.

(12) As used in this section:

(a) "Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and, in accordance with standards specified by the American society for testing and materials, designated B100 and meeting the requirements of D-6751, as approved by the department of agriculture.

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(b) "Ethanol" means denatured fuel ethanol that is suitable for use in a spark-ignition engine when mixed with gasoline so long as the mixture meets the American society for testing and materials D-5798 specifications.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003;—Am. 2006, Act 268, Eff. Sept. 1, 2006.

207.1010 Increase in tax rate; report.

Sec. 10. (1) If the tax rate imposed by section 8 is increased, the increase in the tax rate shall also apply to both of the following:

(a) Previously-taxed motor fuel in excess of 3,000 gallons held in storage by an end user.

(b) Previously-taxed motor fuel held for sale that is in excess of dead storage.

(2) The increased rate of tax applies to all nonexempt motor fuel held by a person outside of the bulk transfer/terminal system in this state in excess of 3,000 gallons, to the extent the inventory was not previously subject to the tax rate imposed before the effective date of this section. However, tax is not payable on motor fuel that is either dyed diesel fuel or motor fuel held by the federal or state government, or a political subdivision of this state.

(3) A person in possession of motor fuel subject to subsection (1) shall do all of the following:

(a) Take an inventory at the close of business on the last day before the effective date of the tax increase to determine the gallons of motor fuel in storage for purposes of determining the tax due on the inventory.

(b) Deduct the number of gallons of motor fuel in dead storage.

(c) Deduct the number of gallons of dyed diesel fuel.

(d) Report the gallons of motor fuel listed in subdivisions (a) to (c) on a form or in a format provided by the department.

(4) The amount of the tax due under subsection (3) is equal to the increase in the tax rate times the gallons of motor fuel in storage as determined under subsection (1).

(5) The report shall be filed and the tax paid within 20 days after the last day of the month that the increase in the tax rate took effect.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1012 Imposition on nonexempt end user; joint and several liability.

Sec. 12. (1) A tax equal to the tax imposed by section 8 is imposed on a nonexempt end user upon delivery in this state of 1 or more of the following into the fuel supply tank of that end user's motor vehicle:

(a) Dyed diesel fuel or any motor fuel that contains a dye.

(b) Motor fuel on which a claim for refund has been made.

(c) Any fuel or component of fuel that is taxable under this act and on which tax has not previously been imposed by this act.

(2) The ultimate vendor of motor fuel is jointly and severally liable with the end user for the tax imposed by this section if the ultimate vendor knows or has reason to know that the motor fuel, as to which the tax imposed by this act or the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, has not been paid, is or will be consumed by a nonexempt end user or in a nonexempt use.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1014 Tax remittance by electronic funds transfer; deduction for quantity of gas removed by supplier; payment or credit.

Sec. 14. (1) The department may require a supplier required to remit tax under this act to remit the tax by an electronic funds transfer acceptable to the department. The remittance shall be made on or before the date the tax is due.

(2) In computing the tax, a supplier may deduct 1.5% of the quantity of gasoline removed by the supplier to allow for the cost of remitting the tax. This deduction is not allowed for the quantity of gasoline removed by the supplier and sold tax-free. At the time of filing the report and paying the tax, the supplier shall submit satisfactory evidence to the department that the amount of tax represented by the deduction was paid or credited to the supplier or wholesaler who purchased the gasoline from the supplier or wholesaler. The amount of the deduction shall be paid or credited by each supplier or wholesaler to the purchaser at each subsequent sale to a wholesaler. When a wholesaler or supplier sells gasoline to a retailer, the wholesaler or supplier shall pay or credit to the retailer 1/3 of the deduction on quantities sold to that retailer.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1016 Tax credit by supplier in amount uncollected from purchaser; notice; rules; report; identification; limitation; additional credit; remittance.

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Sec. 16. (1) In computing the amount of tax due under this act, a supplier is entitled to a credit against the tax payable in the amount of tax paid by the supplier that has not been collected from an eligible purchaser and remains uncollected for 90 days after the date the tax payment was due from the eligible purchaser.

(2) The supplier shall provide written notice to the department of a failure to collect tax within 10 days after the earliest date on which the supplier was allowed to collect the tax from the eligible purchaser under section 74.

(3) The department may promulgate rules establishing the evidence a supplier must provide to receive the credit.

(4) A supplier shall claim the credit on the first report filed by the supplier following the expiration of the 90-day period described in subsection (1) if the payment remains unpaid as of the filing date of that report.

(5) The claim for the credit shall identify the defaulting eligible purchaser and any tax liability that remains unpaid.

(6) If an eligible purchaser fails to make a timely payment of the amount of tax due, the supplier's credit shall be limited to the amount due from the purchaser, plus any tax that accrues and remains unpaid from that purchaser for a period of 10 days following the date of failure to pay.

(7) Additional credit is not allowed to a supplier under this section until the department has authorized the purchaser to make a new election under section 74.

(8) A supplier shall remit to the department any previously uncollected taxes paid to the supplier by an eligible purchaser on which the supplier claimed a credit or deduction under this section. The supplier shall remit the taxes on the return filed for the month that the taxes were paid to the supplier and shall include a statement of the period for which the taxes were paid.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1020 Motor fuel blended with untaxed products or materials; tax; applicable rate; remittance.

Sec. 20. (1) A person who blends motor fuel with untaxed products or materials is subject to tax on the untaxed products or materials.

(2) The applicable rate of tax on the untaxed products or materials is the rate imposed on the motor fuel that is blended with the untaxed product or materials.

(3) A person subject to the tax payable under subsection (1) shall remit the tax directly to the department on or before the twentieth day of the month following the month the fuel is blended.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1022 Tax on gasoline and diesel fuel in lieu of other taxes.

Sec. 22. (1) The tax imposed on gasoline shall be in lieu of all other taxes imposed or to be imposed upon the sale or use of gasoline by the state or any political subdivision of this state except for the taxes imposed by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, and the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(2) The tax imposed on diesel fuel shall be imposed in lieu of all other taxes imposed or to be imposed upon the sale or use of diesel fuel by the state or a political subdivision of the state, except the taxes imposed by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234. The exception for taxes imposed by 1933 PA 167 and 1937 PA 94 shall not apply to diesel fuel used in passenger vehicles of a capacity of 10 or more operated for hire under a certificate issued by the state transportation department.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1024 Sale, delivery, use, possession, or storage of motor fuel; prohibition; exceptions; violation as misdemeanor.

Sec. 24. (1) Except as otherwise provided in subsection (2), a person shall not sell, deliver, possess, or store in this state, or import for sale, use, delivery, possession, or storage in this state, motor fuel as to which the tax imposed by section 8 has not been previously paid to or accrued by either of the following:

(a) A licensed supplier at the time of removal from a terminal.

(b) A licensed importer, if all of the conditions in sections 76 and 104 concerning the lawful importation of motor fuel by the importer have been met.

(2) The prohibition in subsection (1) does not apply to any of the following:

(a) A supplier with respect to motor fuel held within the bulk transfer/terminal system in this state which was refined in this state or imported into this state in a bulk transfer.

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(b) Motor fuel that is exempt under section 30.

(c) Motor fuel in the process of being exported by a licensed exporter in accordance with the shipping paper requirement in section 101 as to which the destination state tax has been paid or accrued to the supplier and a statement meeting the requirements of section 103(1)(d) is shown on the shipping paper.

(d) Motor fuel in the possession of an end user as to which a refund has been issued.

(e) A licensed importer who has met the conditions of sections 76 and 104.

(3) A person who violates this section is guilty of a misdemeanor.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1026 Presumption as to use or consumption of motor fuel on public roads or highways.

Sec. 26. (1) Except as otherwise provided in section 32, there is an irrebuttable presumption that all motor fuel delivered in this state into the fuel supply tank of a motor vehicle licensed or required to be licensed for use on the public roads or highways of this state is to be used or consumed on the public roads or highways in this state for producing or generating power for propelling the motor vehicle. This presumption does not apply to that portion of the motor fuel used or consumed by a commercial motor vehicle outside of this state.

(2) There is a rebuttable presumption, subject to proof of exemption under this act, that all motor fuel removed from a terminal in this state, or imported into this state other than by a bulk transfer within the bulk transfer/terminal system or delivered into an end user's storage tank, is to be used or consumed on the public roads or highways in this state in producing or generating power for propelling motor vehicles. This presumption does not apply to that portion of the motor fuel used or consumed by a licensed commercial motor vehicle outside of this state.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1028 Tax on sale or use of motor fuel; measurement by gross gallons; time; measurement on net gallons sold by supplier through terminal as 1-time option.

Sec. 28. (1) Except as otherwise provided in this section, the tax imposed by this act on the sale or use of motor fuel shall be measured by gross gallons of motor fuel:

(a) Removed by a licensed supplier from the bulk transfer/terminal system or from a qualified terminal or refinery within the United States.

(b) Removed by a licensed supplier from the bulk transfer/terminal system or from a qualified terminal or refinery outside the United States for delivery to a location in this state, as represented on the shipping paper if the supplier either imports the motor fuel for its own account or has made a tax precollection election under section 74.

(c) Transferred within a qualified terminal or refinery in this state to an unlicensed supplier.

(d) In the manner provided by the tax imposed by section 4081 of the internal revenue code or rules promulgated under that section.

(2) The tax imposed by this act on motor fuel that is imported into this state from outside the United States by a licensed importer, other than by a bulk transfer, arises at the time the motor fuel is imported into the state. The tax shall be measured by gross gallons received outside this state at a refinery, terminal, or bulk plant for delivery to a destination in this state, or as otherwise determined by the department.

(3) A supplier who removes motor fuel from a terminal supplied by a refinery located not more than 5 miles from the terminal may exercise a 1-time option to report, collect, and pay tax under this act on all gallons of motor fuel sold by the supplier through that terminal measured by net gallons. A supplier shall exercise the option by notifying the department in writing not less than 30 days before the date the option is exercised. A supplier may rescind the option only upon a showing of good cause and after approval of the department.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1030 Tax exemption.

Sec. 30. (1) Motor fuel is exempt from the tax imposed by section 8 and the tax shall not be collected by the supplier if the motor fuel:

(a) Is dyed diesel fuel or dyed kerosene.

(b) Is gasoline or diesel fuel that is sold directly by the supplier to the federal government, the state government, or a political subdivision of the state for use in a motor vehicle owned and operated or leased and operated by the federal or state government or a political subdivision of the state.

(c) Is sold directly by the supplier to a nonprofit, private, parochial, or denominational school, college, or university and is used in a school bus owned and operated or leased and operated by the educational institution that is used in the transportation of students to and from the institution or to and from school

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functions authorized by the administration of the institution.

(d) Is fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper under any of the following circumstances:

(*i*) The motor fuel is exported by a supplier who is licensed in the destination state.

(*ii*) Until December 31, 2000, the motor fuel is sold by a supplier to a licensed exporter for immediate export.

(*iii*) The motor fuel is sold by a supplier to another person for immediate export to a state for which the destination state fuel tax has been paid to the supplier who is licensed to remit tax to that destination state.

(e) Is gasoline removed from a pipeline or marine vessel by a taxable fuel registrant with the internal revenue service as a fuel feedstock user.

(f) Is motor fuel that is sold for use in aircraft but only if the purchaser paid the tax imposed on that fuel under the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208, and the purchaser is registered under section 94 if required to be registered under that section.

(2) Motor fuel is exempt from the tax imposed by section 8 if it is acquired by an end user outside of this state and brought into this state in the fuel supply tank of a motor vehicle that is not a commercial motor vehicle, but only if the fuel is retained within and consumed from that same fuel supply tank.

(3) A person who uses motor fuel for a taxable purpose where the tax imposed by this act was not collected shall pay to the department the tax imposed by section 8 and any applicable penalties or interest. The payment shall be made on a form or in a format prescribed by the department.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1032 Use of motor fuel for nontaxable purpose; refund.

Sec. 32. If a person pays the tax imposed by this act and uses the motor fuel for a nontaxable purpose as described in sections 33 to 47, the person may seek a refund of the tax. To obtain a refund, the person shall comply with the requirements set forth in section 48.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1033 Use of motor fuel for nonhighway purposes; refund not applicable for snowmobile, off-road vehicle, or certain vessel.

Sec. 33. An end user may seek a refund for tax paid under this act on motor fuel used by the person for nonhighway purposes. However, a person shall not seek and is not eligible for a refund for tax paid on motor fuel used in a snowmobile, off-road vehicle, or vessel as defined in the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1034 Government owned, leased, or operated vehicle; refund or deduction on gasoline or diesel fuel sold tax-free.

Sec. 34. A person may seek a refund or claim a deduction for tax paid under this act on gasoline or diesel fuel that is sold tax-free by the person seeking the refund or claiming the deduction to the federal government, the state government, or a political subdivision of the state for use in a motor vehicle owned and operated or leased and operated by the federal government, state government, or a political subdivision of the state. However, if the purchase of motor fuel is charged to a credit card issued to an eligible government entity, the issuer of the card shall bill the government entity without the tax and seek a refund.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1035 School bus owned, operated, or leased by educational institution; refund or deduction on gasoline or diesel fuel sold tax-free.

Sec. 35. A person may seek a refund or claim a deduction for tax paid under this act on motor fuel that is sold tax-free by the person seeking the refund or claiming the deduction to a nonprofit, private, parochial, or denominational school, college, or university for use in a school bus owned and operated or leased and operated by the educational institution that is used in the transportation of students to and from the institution or to and from school functions authorized by the administration of the institution.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1036 Tax refund on motor fuel acquired by licensed exporter.

Sec. 36. A licensed exporter may seek a refund for tax paid under this act on motor fuel acquired by the licensed exporter on which the tax imposed by this act has previously been paid or accrued and that was subsequently exported by transport truck by or on behalf of the licensed exporter in a diversion across state

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boundaries properly reported under section 108.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1037 Tax refund on motor fuel exported out of bulk plant in tank wagon; tax refund or deduction on tax-free K-1 kerosene sold through blocked pump.

Sec. 37. (1) A person may seek a refund for tax paid under this act on motor fuel that the person exported out of a bulk plant in this state in a tank wagon if proof of reporting of import to the destination state and proof of payment of the tax imposed by this act have been provided. The refund is subject to conditions established by the department.

(2) A person who is registered with the federal government under section 4101 of the internal revenue code as an ultimate vendor may apply for a refund or claim a deduction for tax paid under this act on K-1 kerosene that is sold tax-free by that person through a blocked pump if he or she meets the requirements described in section 6427 of the internal revenue code and any regulations concerning a blocked pump. The department may revoke a person's license under this act if the person allows anyone to fuel a motor vehicle from a blocked pump or allows anyone to purchase K-1 kerosene from a blocked pump for a taxable purpose. As used in this subsection, “blocked pump” means that term as defined in 65 F.R. 48.6427-10, p. 17162 (March 31, 2000).

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1038 Sale of tax-free undyed diesel fuel; deduction.

Sec. 38. A retail diesel dealer may claim a refund for tax paid under this act on sales of undyed diesel fuel in amounts of 100 gallons or less sold tax-free for a nontaxable purpose. If a sale of undyed diesel fuel for a nontaxable purpose exceeds 100 gallons, tax shall be charged and collected by the retail diesel dealer, and the end user may file a claim for a refund. A sale for a nontaxable purpose shall meet the invoicing requirement of the department.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1039 Tax refund on motor fuel or leaded racing fuel used in husbandry implement or other nonhighway purpose.

Sec. 39. An end user may seek a refund for tax paid under this act on motor fuel or leaded racing fuel used in an implement of husbandry or otherwise used for a nonhighway purpose not otherwise expressly exempted under this act. However, a person shall not seek and is not eligible for a refund for tax paid on gasoline or leaded racing fuel used in a snowmobile, off-road vehicle, or vessel as defined in the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2006, Act 277, Eff. Jan. 1, 2004.

Compiler's note: Enacting section 1 of Act 277 of 2006 provides:

"Enacting section 1. This amendatory act shall be retroactively applied to January 1, 2004 but shall not authorize refunds other than to an end user for taxes previously paid."

207.1040 Tax refund on contaminated, lost, or destroyed motor fuel; exception.

Sec. 40. (1) A person may seek a refund for tax paid under this act on motor fuel that is:

(a) Accidentally contaminated by dye or another contaminant, including but not limited to gasoline that is mixed with diesel fuel, if the resulting product cannot be used to operate a motor vehicle on the public roads or highways without violating this act or other state or federal law.

(b) Accidentally lost or destroyed as a direct result of a sudden and unexpected casualty loss.

(2) This refund does not apply if the person has been reimbursed for the cost of the tax by an insurance company for the loss or contamination.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1041 Tax refund on gasoline used in community action agency vehicle.

Sec. 41. An end user may seek a refund for tax paid under this act on gasoline used in a passenger vehicle of a capacity of 5 or more under a municipal franchise, license, permit, agreement, or grant, respectively, a person operating a passenger vehicle for the transportation of school students under a certificate of authority issued by the state transportation department pursuant to section 5 of article II of the motor carrier act, 1933 PA 254, MCL 476.5, and a community action agency as described in former title II of the economic opportunity act of 1964, Public Law 88-452, which are not a part or division of a political subdivision of this state. A community action agency shall make the refund a state-contributed nonfederal share to grants received by the community action agency from the community services administration under former title II of

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the economic opportunity act of 1964.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1042 Tax refund on gasoline used for motor bus.

Sec. 42. An end user may seek a refund for tax paid under this act on diesel fuel used in a passenger vehicle of a capacity of 10 or more under a certificate of authority issued by the state transportation department, or under a municipal franchise, license, permit, agreement, or grant, respectively, and operating over regularly traveled routes expressly provided for in the certificate of convenience and necessity, or municipal franchise, license, permit, agreement, or grant. A refund provided under this section to a state certificated operator of an intercity motor bus shall apply only to those gallons of diesel motor fuel producing mileage traveled by each intercity motor bus over regular routes or on charter trips or portions of charter trips within this state.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1043 Tax deduction for stored motor fuel exported by transport truck.

Sec. 43. A licensed exporter may claim a deduction for tax paid under this act on motor fuel that was placed into storage in this state and was subsequently exported by transport truck or tank wagon by or on behalf of a licensed exporter if both of the following requirements are met:

(a) Proof of export is available in the form of a destination state shipping paper that was acquired by a licensed exporter.

(b) The motor fuel is fuel as to which the tax imposed by this act had previously been paid or accrued.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1044 Tax refund on motor fuel consumed for exempt use.

Sec. 44. An end user may seek a refund for tax paid under this act on motor fuel purchased by the end user for consumption for an exempt use described under section 30 on which the tax imposed by section 8 was previously paid and for which a refund was not previously issued.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1045 Tax refund for common fuel supply tank propelling vehicle and operating attached equipment.

Sec. 45. (1) An end user operating a motor vehicle with a common fuel supply tank from which motor fuel is used both to propel the vehicle and to operate attached equipment may seek a refund for tax paid under this act on diesel fuel consumed from that fuel supply tank in the amount of 15% of the tax paid.

(2) Notwithstanding subsection (1), an end user operating a motor vehicle with a common fuel supply tank from which diesel fuel is used both to propel the vehicle and to operate attached equipment may seek a refund for tax paid under this act on diesel fuel consumed from that fuel supply tank in an amount that is more than 15% of the tax paid if the operator provides evidence to the department that a refund or deduction of more than 15% is justified. The department shall determine the evidence that is necessary under this section to justify a refund of more than 15% of the tax paid.

(3) A refund provided under this section only applies to a motor vehicle that is used by the end user exclusively for business or other commercial purposes and does not apply to an automobile whether or not it is used by the end user for business or other commercial purposes.

(4) If the department determined before the effective date of this section that a class of motor vehicles with attached equipment was eligible for a motor fuel refund in an amount different than 15% of the tax paid, that percentage shall apply to those motor vehicles on and after the effective date of this section unless, following notice and hearing, a later determination under subsection (2) is made.

(5) As used in this section, “attached equipment” means equipment used by the end user in the regular course of his or her business that is powered by diesel fuel from the common fuel supply tank. Attached equipment includes, but is not limited to, certain pumping, spraying, seeding, spreading, shredding, lifting, winching, dumping, cleaning, mixing, processing, and refrigeration equipment. Attached equipment does not include a heater, air conditioner, radio, or any other equipment that is used in the cab of the motor vehicle and does not include any other equipment that the department reasonably determines does not meet this definition.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1047 Tax refund; time of filing.

Sec. 47. A person may otherwise seek a refund for tax paid under this act on motor fuel pursuant to section 30 of 1941 PA 122, MCL 205.30. However, the claim for refund shall be filed within 18 months after the date the motor fuel was purchased.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1048 Refund claim; requirements; filing date; investigation; deduction in lieu of refund; interest.

Sec. 48. (1) In order to make a refund claim under this act, a person shall do all of the following:

(a) File the claim on a form or in a format prescribed by the department.

(b) Provide the information required by the department including, but not limited to, all of the following:

(*i*) The total amount of motor fuel purchased based on the original invoice unless the department waives this requirement.

(*ii*) The total amount of tax paid.

(*iii*) A statement that the fuel was used for an exempt purpose or by an exempt user.

(*iv*) A statement that the fuel was paid for in full.

(*v*) A statement printed on the form that the claim is made under penalty of perjury.

(c) Comply with any specific requirement described in sections 32 to 47.

(d) Sign the claim.

(e) File the claim not more than 18 months after the date the motor fuel was purchased.

(2) For purposes of this section, the filing date of a claim is the earlier of the date the claim was postmarked by the United States postal service or the date the claim was received by the department.

(3) The department may make any investigation it considers necessary before refunding tax paid under this act to a person but in any case may investigate a refund after the refund has been issued and within 4 years from the date of issuance of refund.

(4) In any case where a refund would be payable to a licensee who files a report under this act, the licensee may claim a deduction on the report filed under section 70 in lieu of the refund. If a licensee claims a deduction on the report, the licensee shall attach the claim for refund form to the report.

(5) The department shall pay interest on a refund claim in accordance with the requirements of section 30 of 1941 PA 122, MCL 205.30.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1051 False statement; violation as misdemeanor; penalty.

Sec. 51. (1) A person who makes a false statement in any claim under this act, who submits an invoice in support of the claim upon which alteration or changes exist in the date, name, number of gallons, amount of tax paid, or other relevant information, who knowingly presents any claim or invoice containing any false statement, or who collects or attempts to collect a refund, or causes to be paid to another person a refund, without being entitled to it, shall forfeit the full amount of the claim.

(2) A person who violates a prohibition set forth in subsection (1) is guilty of a misdemeanor punishable by a fine of not more than $1,000.00, or imprisonment for a term of not more than 1 year, or both.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1053 License required; application; form; information; current licenses; license for more than 1 business activity; separate license; LPG dealer; violation; penalty.

Sec. 53. (1) A person shall not engage in a business activity in this state where a license is required by this act unless the person is licensed under this act.

(2) A person required to be licensed under this act shall apply for a license on a form or in a format prescribed by the department.

(3) An application for a license under this act may contain any information the department may reasonably require to administer this act including the applicant's federal identification number.

(4) The following persons currently licensed on the effective date of this act are not required to obtain a new license under this act and shall be considered licensed under this act:

(a) A person licensed in this state as a supplier on the effective date of this act shall be considered licensed as a supplier under this act but only if the person is a terminal operator or a position holder in a terminal on the effective date of this act.

(b) A wholesale distributor who on the effective date of this act possesses a valid exemption certificate issued under former section 12 of 1927 PA 150 shall be considered licensed as a fuel vendor under this act.

(c) A person licensed in this state as an exporter on the effective date of this act shall be considered licensed as an exporter under this act.

(d) A person licensed in this state as a liquid fuel hauler on the effective date of this act shall be considered licensed as a transporter under this act.

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(e) A person licensed in this state as a retail dealer of diesel motor fuel on the effective date of this act shall be considered licensed as a retail diesel dealer under this act.

(5) A person considered licensed under subsection (4) is subject to all of the provisions of this act except those requiring an application for a new license.

(6) Except as otherwise provided in this act, a person who is engaged in more than 1 business activity for which a license is required under this act shall be licensed for each business activity.

(7) A person who is licensed as a supplier is not required to obtain a separate license for any other business activity for which a license is required under this act except as a retail diesel dealer or an LPG dealer under sections 151 to 155.

(8) A person licensed in this state as an LPG dealer on the effective date of this act shall be considered licensed as an LPG dealer under this act.

(9) A person who negligently violates this section is subject to a civil penalty of $1,000.00.

(10) A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1055 License application; investigation; occasional importer's license or bonded importer's license.

Sec. 55. (1) The department shall investigate each person who applies for a license under this act. The department shall not issue a license if it determines that 1 or more of the following exist:

(a) The application was not filed in good faith.

(b) The applicant is not the real party in interest. As used in this subdivision and subdivisions (c) and (d), “real party in interest” means related party control as described in section 267 of the internal revenue code and related regulations.

(c) A license previously issued to the real party in interest was revoked for cause.

(d) The applicant or real party in interest, or a person controlled by the real party in interest, has had their license under this act or former act 1927 PA 150 revoked or refused for renewal in this state or another state or foreign jurisdiction.

(e) The applicant, or a corporate officer of the applicant, has a prior state or federal felony or misdemeanor conviction in this state or another state or foreign jurisdiction for motor fuel tax evasion or other tax evasion, or for shipping paper tampering, or for fuel tampering, or is currently charged or under indictment for such an offense.

(f) Other reasonable cause as determined by the department.

(2) If the person is applying for an occasional importer's license or a bonded importer's license, the department shall not issue a license if the applicant is not licensed in the identified source state.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1056 Fingerprints.

Sec. 56. (1) The department may require a licensee or an applicant for a license under this act, including a corporate officer, partner, or other individual, to submit a copy of their fingerprints to the department at the time of application.

(2) The following persons are exempt from the fingerprinting requirement in subsection (1):

(a) An officer of a publicly held corporation or its subsidiary.

(b) A person other than an applicant for an importer's license who was licensed under this act continuously for 3 years before the effective date of this section.

(3) The fingerprints shall be submitted on a form or in a format prescribed by the department.

(4) The department shall forward fingerprints submitted by an applicant to the federal bureau of investigation or any other agency for processing.

(5) Subject to the confidentiality requirements set forth in 1941 PA 122, MCL 205.1 to 205.31, the department may maintain a file of fingerprints submitted under this section.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1057 Financial statements.

Sec. 57. (1) The department may at any time require an applicant or a licensee to furnish current, verified financial statements.

(2) The department is not required to accept as accurate financial statements which have not been certified or independently audited and may independently inquire into the financial condition of an applicant.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1058 Surety bond or cash deposit.

Sec. 58. (1) Except as otherwise provided in this section, a person who applies for a license under this act is not required to file with the department a surety bond or cash deposit. However, the department may require a surety bond or cash deposit if the department considers it necessary to ensure payment of the tax liability of an applicant or licensee.

(2) If a surety bond or cash deposit is required, it shall be in an amount determined by the department that is not less than $2,000.00 or not more than an applicant's 3-month tax liability as estimated by the department.

(3) The department shall require a supplier, a terminal operator, or a bonded importer to post an annual bond of not less than $2,000,000.00, except that if a person is a motor fuel registrant under section 4101 of the internal revenue code, the bond may be reduced to not less than $1,000,000.00. In either case, an applicant subject to this subsection may show proof of financial responsibility in lieu of posting bond. Proof of a $5,000,000.00 net worth is presumptive evidence of financial responsibility in the absence of circumstances indicating that the department is otherwise at risk with respect to collection of the tax due under this act from the applicant.

(4) The department may require an occasional importer to post a bond in an amount determined by the department but not more than $2,000,000.00. An applicant subject to this subsection may show proof of financial responsibility in lieu of posting bond. Proof of a $5,000,000.00 net worth is presumptive evidence of financial responsibility in the absence of circumstances indicating that the department is otherwise at risk with respect to collection of the tax due under this act from the applicant.

(5) If an applicant files a bond, the bond must meet all of the following requirements:

(a) The bond shall be issued by a bonding company licensed to do business in this state.

(b) The bond shall name the applicant as the principal and the state as the obligee.

(c) The bond shall be on a form prescribed by the department.

(d) The bond company's power of attorney is attached.

(e) The bond remains in effect until the end of the current calendar year.

(6) A person who was licensed and not subject to a bond or cash deposit under this act on the effective date of this section is exempt from the requirement of subsection (1). However, the department may at a later date require the person to post a bond or cash deposit in an amount the department considers necessary to ensure payment.

(7) The department may require a bond or cash deposit in an amount the department considers necessary to ensure payment if a person who is licensed under this act on the effective date of this section forms a new business or joint business and applies under this act for a license for the new or joint business.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1059 New or increased amount of bond or cash deposit.

Sec. 59. (1) If the department reasonably determines that the amount of an existing bond or cash deposit is insufficient to ensure payment to the state of the tax and any penalty and interest for which the licensee is or may become liable, the licensee shall, upon written demand of the department, file a new bond or increase the amount of the bond or cash deposit. The department shall allow the licensee at least 30 days to secure the increased bond or cash deposit.

(2) The new bond or increased bond or cash deposit shall meet the requirements set forth in this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1060 Filing new bond; circumstances; release of previous bond; reduced or disposed cash deposit.

Sec. 60. (1) The department may require a licensee to file a new bond with a satisfactory surety in the same form and amount under either of the following circumstances:

(a) Liability upon the previous bond is discharged or reduced by the judgment rendered, payment made, or otherwise disposed of.

(b) The department determines that a surety on the previous bond has become unsatisfactory.

(2) If the department determines that the form and amount of the new bond is satisfactory, the department shall in writing release the surety on the previous bond from any liability accruing after the effective date of the new bond.

(3) If a licensee has placed a cash deposit with the department and the cash deposit is reduced by a judgment rendered, payment made, or otherwise disposed of, the department may require the licensee to make

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a new deposit that is, at a minimum, equal to the amount of the reduction, or may require a new bond in an amount the department considers necessary.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1061 Release from bond or cash deposit.

Sec. 61. (1) If the surety of a bond provides the department with a written request for a release from the bond, the surety is released from any liability to the state accruing on the bond more than 60 days after the date of the request. The release does not affect any liability accruing before the expiration of the 60-day period. After receiving a written request for release, the department shall promptly notify the licensee furnishing the bond that a release has been requested. If the licensee does not obtain a new bond that meets the requirements of this act and does not file the new bond with the department within the 60-day period, the department may revoke the licensee's license.

(2) Sixty days after a licensee makes a written request to the department for release of a cash deposit, the cash deposit is canceled as security for any obligation accruing after the expiration of the 60-day period. However, the department may retain all or part of the cash deposit for up to 4 years and 1 day as security for any obligations accruing before the effective date of the cancellation. Any part of the deposit that is not retained by the department shall be released to the licensee. Before the expiration of the 60-day period, the licensee may be required to provide the department with a bond that satisfies the requirements of this act. The department may cancel the license if the licensee does not provide the bond required by this subsection.

(3) A licensee who filed a bond or other security under this act may request that the department return, refund, or release the bond or security if the department determines that the licensee has continuously complied with the provisions of this act for the previous 4 years. However, if the department determines that the revenues of the state would be jeopardized by a return, refund, or release of the bond or security, the department may retain the bond or security, or having released it, may reimpose a requirement for bond or security to protect the revenues of this state. If requested by a licensee, the department's determination may be reviewed in accordance with 1941 PA 122, MCL 205.1 to 205.31.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1062 Denial of license application.

Sec. 62. (1) Upon denial of an application for a license, the department shall provide the applicant with notice of and reasons for the denial and a statement of the applicant's right to appeal under section 22 of 1941 PA 122, MCL 205.22.

(2) Before denying an application, the department shall provide an applicant with a reasonable opportunity to cure any defect in the application.

(3) An applicant may appeal the department's denial pursuant to section 22 of 1941 PA 122, MCL 205.22. If the applicant does not file a timely appeal, the denial is final.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1063 Issuance of license.

Sec. 63. (1) If an application and the accompanying bond or cash deposit, if any, are approved, the department shall issue a license to the applicant.

(2) A licensee shall retain a copy of its license at each of its business locations unless the department waives this requirement.

(3) A licensee is not required to renew a license and a license is valid unless and until it is suspended, canceled, or revoked for cause by the department, or discontinued by the licensee. However, the department may require a licensee to update the information required under section 53.

(4) The department shall maintain a list containing the name and address of each person licensed under this act. The department may post the list on the department's website. The department shall regularly update the list in order to reflect the current status of a licensee.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1064 Transfer of license; prohibition.

Sec. 64. (1) A licensee shall not transfer a license issued under this act to another person. If a licensee transfers or attempts to transfer a license, the license is automatically revoked on that date.

(2) If a licensee transfers a majority interest in a business association other than a publicly-held association, including a corporation, partnership, trust, joint venture, limited liability company, limited liability partnership, or any other business association, the license is revoked on the date of the transfer.

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(3) A licensee who transfers 20% or more of beneficial ownership of a business association shall report the change to the department within 30 days after the date of the change in ownership. The department may also require that a new license be obtained.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1065 Discontinuance, sale, or transfer of business; notice.

Sec. 65. (1) If a licensee discontinues, sells, or transfers its business, the licensee shall notify the department in writing of the discontinuance, sale, or transfer.

(2) The notice shall be provided on or within 3 business days after the date of discontinuance, sale, or transfer.

(3) The notice shall provide the date of discontinuance, sale, or transfer and, if the business is sold or transferred, the name and address of the purchaser or transferee.

(4) A licensee is liable for all taxes, interest, and penalties that accrue or may be owing before the date the notice required by subsection (1) is received by the department.

(5) A licensee is subject to criminal liability for misuse of the license that occurs before the date the notice required by subsection (1) is received by the department.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1066 Final report and payment due.

Sec. 66. Within 15 days after the discontinuance, sale, or transfer of a business licensed under this act, or within 15 days after the cancellation, revocation, or termination by law of a license issued under this act, a licensee shall provide the department with a final report and shall include with the report a payment for all motor fuel taxes, penalties, and interest that are due.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1067 Noncompliance; suspension or revocation of license.

Sec. 67. The department may suspend or revoke a license for failure to comply with the provisions of this act after at least 10 days' notice to the licensee and a conference, if a conference is requested. If the license suspension or revocation is upheld at the conference, the licensee may appeal the determination pursuant to section 22 of 1941 PA 122, MCL 205.22.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1068 Report or statement requirements.

Sec. 68. (1) Except as otherwise provided in this act:

(a) A report or statement required by this act shall be signed by the licensee or an officer or other responsible party of the licensee.

(b) A report or statement required by this act shall be filed on or before the twentieth day of the month following the close of the reporting period for sales, purchases, or other transactions in motor fuel that occurred during the preceding reporting period regardless of whether tax is owed.

(2) For purposes of reporting and determining tax liability under this act, each licensee shall maintain records as required by this act and 1941 PA 122, MCL 205.1 to 205.31.

(3) If the date a report or payment is due under this act falls on a weekend or on a state or banking holiday, the report or payment is due the next business day.

(4) The department may require a report due to the department under this act to be submitted in electronic format after timely notice by the department.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1069 Forms development.

Sec. 69. The department shall develop the forms required under this act after consultation with representatives of licensees and other persons who are required to file a report under this act. In developing the forms, the department shall consider similar federal forms in order to lessen the regulatory burden on licensees and others who file reports under this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1070 Supplier's license; fee; monthly report; violation as misdemeanor.

Sec. 70. (1) A person shall not operate as a supplier in this state unless licensed as a supplier under this act. The fee for a supplier's license is $2,000.00.

(2) A supplier shall file with the department on forms or in a format prescribed by the department a monthly report containing the following information:

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(a) The number of gallons of motor fuel for which Michigan is the destination state.

(b) The number of gallons of motor fuel removed by the supplier from the bulk transfer/terminal system in this state on which the tax imposed by this act has been accrued by the supplier.

(c) A statement as to whether the billed gallons are gross gallons or net gallons under the option provided for in section 28(3).

(d) Any other information that the department determines is reasonably required to determine tax liability under this act.

(3) A person who knowingly violates or knowingly aids or abets another to violate this section is guilty of a misdemeanor.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1071 Tax remittance by supplier.

Sec. 71. (1) Except as otherwise provided by this act, the tax imposed by this act shall be remitted to the state by the supplier who removes the motor fuel, as shown by the terminal operator's records.

(2) A supplier shall list the amount of tax as a separate line item on all invoices or billings.

(3) A supplier shall pay the amount of tax due on gallons of motor fuel removed during a calendar month on or before the twentieth day of the following month.

(4) A supplier shall not claim a deduction from taxable gallons for gallons actually purchased by a customer notwithstanding that the supplier has issued a correction, credit, or rebilling to a customer adjusting tax liability.

(5) In addition to the tax due under this act, a supplier is subject to a civil penalty equal to the amount of the tax if the supplier makes sales for export to a person who is not a licensed exporter and the supplier has not collected the destination state tax on motor fuel other than dyed diesel fuel.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1072 Treatment of removals by licensed supplier; election.

Sec. 72. (1) A licensed supplier or licensed permissive supplier shall treat all removals from all of its terminals within the United States with a destination in this state as shown on the terminal-issued shipping paper as if the motor fuel were removed across the rack by the supplier from a terminal in this state for all purposes.

(2) A licensed supplier or licensed permissive supplier may elect to treat all removals from all of its terminals located outside of the United States with a destination in this state as shown on the terminal-issued shipping paper as if the motor fuel were removed across the rack by the supplier from a terminal in this state for all purposes.

(3) The election provided under subsection (2) shall be made by filing with the department a notice of election.

(4) The department shall release a list of electing suppliers under subsection (2) upon request by any person.

(5) The absence of an election by a supplier under subsection (2) does not relieve the supplier of responsibility for remitting the tax imposed by this act upon the removal of motor fuel from a terminal located outside of this state for import into this state by the supplier.

(6) A supplier who makes the election provided for in subsection (2) shall from the date the election is filed with the department precollect the tax imposed by this act on all removals from a terminal on its account either as a position holder or as a person receiving fuel from a position holder pursuant to a 2-party exchange agreement. The supplier shall precollect the tax without regard to any of the following:

(a) The license status of the person acquiring the fuel from the supplier.

(b) The point or terms of sale.

(c) The character of delivery.

(7) A supplier who elects to precollect tax under subsection (2) waives any defense that the state lacks jurisdiction to require collection on all sales made outside of this state by the supplier on which the supplier had knowledge that the shipments were destined for this state. This state imposes this requirement under its general police powers to regulate the movement of motor fuel.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1073 Permissive supplier.

Sec. 73. (1) A person shall not operate as a permissive supplier unless licensed under this act as a permissive supplier.

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(2) A person who desires to collect the tax imposed by this act as a supplier and who otherwise qualifies as a permissive supplier shall apply for a permissive supplier's license pursuant to section 53.

(3) The fee for a permissive supplier's license is $50.00.

(4) Application for or possession of a permissive supplier's license does not itself subject the applicant or licensee to the jurisdiction of this state for any other purpose than administration and enforcement of this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1074 Collection of tax from purchaser; election.

Sec. 74. (1) A supplier who sells motor fuel shall collect from the purchaser the tax imposed on that fuel by section 8.

(2) At the election of an eligible purchaser, a supplier shall not require the eligible purchaser to pay the tax to the supplier sooner than 1 business day before the date the tax is required to be remitted to the department under section 71.

(3) Notice of an election shall be evidenced by a written statement from the department that the purchaser is an eligible purchaser under section 75.

(4) An election under this section is subject to the condition that the eligible purchaser's remittances of all tax due to the supplier shall be paid by electronic funds transfer on or before 1 business day before the date of the remittance by the supplier to the department.

(5) An election under this section may be terminated by the supplier if the eligible purchaser does not make timely payments to the supplier as required by this section.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1075 Purchaser's election; evidence of financial responsibility or bonding requirements; revocation of election; alternative; appeal.

Sec. 75. (1) A purchaser who desires to make an election under section 74 shall provide to the department evidence that the purchaser meets the financial responsibility or bonding requirements imposed by subsection (2) and this act.

(2) The department may require a purchaser who pays to a supplier the tax imposed by this act to file with the department a surety bond payable to the state, upon which the purchaser is the obligor, or a cash deposit, in an amount the department believes is reasonable but not to exceed 3 times the amount due to a supplier each month. If a purchaser makes an election with more than 1 supplier, the bond amount shall be based on the tax due to all suppliers with whom the elections were made. The department may require, but is not limited to requiring, that the bond be reasonably sufficient to indemnify the department against uncollectible tax credits claimed by the supplier under section 16.

(3) The department may, after a properly noticed hearing before the department administrator responsible for implementing and enforcing this act or his or her designee, and after a showing of good cause, revoke a purchaser's election under section 74. For purposes of this section, good cause includes, but is not limited to, a showing that the purchaser failed to make a timely tax payment to a supplier as required by section 74.

(4) As an alternative to termination of the purchaser's election, the department may require further assurance of the purchaser's financial responsibility, or may increase the bond requirement for that purchaser, or may take any other action that the department may reasonably require to ensure remittance of the tax.

(5) A purchaser may appeal the department's decision under this section pursuant to section 22 of 1941 PA 122, MCL 205.22.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1076 Sale of motor fuel by bonded or occasional importer; license requirements.

Sec. 76. (1) A person who desires to import motor fuel into this state from another country by transport truck, tank wagon, pipeline, or marine vessel into a storage facility other than a qualified terminal shall be licensed as either of the following:

(a) An occasional importer.

(b) A bonded importer.

(2) An applicant for a license under subsection (1) may choose which license the person shall operate under. The fee for either license is $1,000.00.

(3) A bonded importer or occasional importer who sells motor fuel shall collect from the purchaser the tax imposed by section 8 on that motor fuel.

(4) In addition to the license application information required by section 53, an applicant for an occasional importer's license or a bonded importer's license shall provide a copy of the applicant's license to purchase or handle motor fuel tax-exempt in the specified province, country, or other source jurisdiction for which the

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license is to be issued.

(5) This section does not apply to a person who imports motor fuel if both of the following conditions are met:

(a) All of the motor fuel is subject to 1 or more tax precollection agreements with a supplier as provided in section 72.

(b) All of the motor fuel is expressly evidenced on the terminal-issued shipping paper as provided in section 101.

(6) A person who desires to import motor fuel into a destination in this state from outside the United States, and who has not entered into an agreement to prepay to the supplier or permissive supplier this state's motor fuel tax with respect to the motor fuel, shall obtain an occasional importer's license or a bonded importer's license subject to the special bonding requirements of section 58(2).

(7) A person who obtains a license to import motor fuel pursuant to subsection (5) shall do all of the following:

(a) Obtain an import verification number from the department within 24 hours before entering the state for each separate import into the state but not later than actual entry into this state.

(b) Display the import verification number on the terminal-issued shipping paper required under section 104.

(c) Comply with the payment requirements under section 78 or 80, whichever is applicable.

(8) An occasional importer's license or a bonded importer's license issued under subsection (5) shall be specific to each foreign country or other jurisdiction outside the United States.

(9) If the foreign country or other jurisdiction outside the United States has adopted reciprocal legislation or entered into a compact with this state providing for collection of destination jurisdiction tax by the terminal supplier in accordance with terminal-issued shipping papers designating the intended state or country of destination, then the importer is ineligible for a license to import motor fuel outside of the bulk transfer terminal system from the other country, and a license to so import is canceled.

(10) The department shall not issue an occasional importer's license or a bonded importer's license if the applicant is not licensed in the foreign country or other jurisdiction outside the United States.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1077 Licensed occasional or bonded importer; reporting requirements; waiver; violation as misdemeanor.

Sec. 77. (1) Except as otherwise provided in subsection (2), a licensed occasional importer shall file with the department on forms or in a format prescribed by the department a report containing the following information:

(a) The number of gallons of motor fuel where the tax imposed by this act has been prepaid to a supplier upon removal from a terminal outside the United States.

(b) The number of gallons of motor fuel subject to the 3-day payment rule in section 80 sorted by foreign jurisdiction outside the United States, by supplier, and by terminal or bulk plant location.

(c) Any other information concerning the source state, volume, or method of transportation of motor fuel as the department may require.

(d) Any other information the department considers reasonably necessary.

(2) The department may waive any or all of the reporting requirements in subsection (1) if it determines that jurisdictions outside the United States have adopted and implemented reciprocal terminal reporting requirements adequate to assure the department that it receives complete information concerning motor fuel removed by or on behalf of a supplier from a terminal in a jurisdiction outside the United States which is destined for this state.

(3) Except as otherwise provided in subsection (4), a licensed bonded importer shall file with the department on forms or in a format prescribed by the department a report of its operations within this state. The report shall include all of the following information:

(a) The number of gallons of motor fuel where the tax imposed by this act has been prepaid to a supplier upon removal from a terminal outside the United States.

(b) The number of gallons of motor fuel subject to tax remittance by the bonded importer under section 78 sorted by source state by supplier and by terminal or bulk plant.

(c) Any other information concerning the source state, volume, or method of transportation of motor fuel as the department may require.

(4) The department may waive any or all of the reporting requirements in subsection (3) if it determines that a jurisdiction outside this state has adopted and implemented reciprocal terminal reporting requirements adequate to assure the department that it receives complete information concerning motor fuel removed by

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and on behalf of a supplier from a terminal outside this state which is destined for this state.

(5) A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a misdemeanor.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1078 Tax liability for motor fuel imported from another country.

Sec. 78. (1) Except as otherwise provided in this act, the tax imposed by section 8 on motor fuel imported from another country shall be paid by the licensed bonded importer who imported the motor fuel other than dyed diesel fuel on or before the twentieth day of the month following the month in which the motor fuel was imported. An importer shall report the total number of gallons of motor fuel imported but shall take a deduction from total gallons for dyed diesel fuel before calculating the tax.

(2) If a licensed supplier or licensed permissive supplier precollects tax under section 72(5), that supplier is jointly and severally liable with the licensed bonded importer for the tax and shall remit the tax to the department on behalf of the importer under the same terms as a supplier payment under section 71. In this case, an import verification number is not required.

(3) A bonded importer who sells motor fuel shall collect from the purchaser the tax imposed on that fuel by section 8.

(4) A bonded importer required to remit tax under this act may remit the tax by an electronic funds transfer acceptable to the department. The electronic funds transfer shall be made on or before the date the tax is due.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1079 Diversions into state of imported motor fuel; tax reporting and payment; agreement permitting supplier to assume importer's liability.

Sec. 79. (1) Unless otherwise provided in section 81, a licensed importer shall report and pay tax on diversions into this state of imported motor fuel under section 78 or 80 in accordance with the requirements of this act applicable to any importer.

(2) For purposes of this section, a licensed importer who has purchased motor fuel from a licensed supplier may enter into an agreement with the supplier to permit the supplier to assume the importer's liability and adjust the importer's taxes payable to the supplier. The supplier shall submit documentation reasonably required by the department with the report filed under section 70.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1080 Time period for tax payment on motor fuel imported from another country; precollected tax; importation of undyed motor fuel; penalty.

Sec. 80. (1) Except as otherwise provided in this act, the tax imposed by section 8 on motor fuel imported from another country shall be paid by the licensed occasional importer who imported motor fuel other than dyed diesel fuel within 3 business days after the earlier of the following:

(a) The date that the motor fuel other than dyed diesel fuel was delivered into the state.

(b) The date that a valid import verification number required under sections 76 and 104 was assigned by the department.

(2) If the licensed supplier or licensed permissive supplier precollects tax under section 72, that supplier is jointly and severally liable with the importer for the tax and shall remit the tax to the department on behalf of the importer under the same terms as a supplier payment under section 71. In such case, an import verification number is not required.

(3) An importer is subject to a civil penalty of $10,000.00 for each incidence where the importer knowingly imports undyed motor fuel without possessing both of the following:

(a) Either an importer's license or a supplier's license.

(b) Either an import verification number or a shipping paper showing on its face that this state's motor fuel tax is not due or that the tax imposed by this act has been precollected by a licensed supplier.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1081 Diversion of fuel from out-of-state to in-state by unlicensed importer; importer required to pay tax; terms and conditions; agreement permitting supplier to assume importer's liability.

Sec. 81. (1) If an importer who is not licensed under section 76 or 82 diverts motor fuel from a destination outside this state to a destination inside this state after having removed the fuel from a terminal or a bulk plant outside this state, the importer shall notify and pay to the department the tax imposed by section 8.

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(2) An importer required to pay tax under this section shall provide notice and pay the tax upon the same terms and conditions as if the importer were an occasional importer licensed under section 80 without deduction for the allowances provided by section 14.

(3) For purposes of this section, an unlicensed importer who has purchased motor fuel from a licensed supplier may enter into an agreement with the supplier to permit the supplier to assume the importer's liability and adjust the importer's taxes that are payable to the supplier. The supplier shall provide a copy of the agreement to the department at the time the supplier files its monthly report under this act. The agreement shall include at a minimum the following information:

(a) The names of the parties to the agreement.

(b) The date the agreement was entered into.

(c) The type of motor fuel involved.

(d) The number of gallons of motor fuel involved.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1082 Licensure as tank wagon operator-importer.

Sec. 82. (1) A person shall not import into this state motor fuel acquired from a bulk plant in another state by a tank wagon unless licensed as a tank wagon operator-importer under this act.

(2) Licensure as a tank wagon operator-importer under this act is not authorization to acquire nonexempt motor fuel free of the tax imposed by this act at a terminal either within this state or outside of this state for direct delivery to a location within this state.

(3) A person who is licensed as an importer under section 76 may operate as a tank wagon operator-importer without the license required by this section if the person also operates 1 or more bulk plants outside of this state.

(4) The fee for a tank wagon operator-importer license is $50.00.

(5) A tank wagon operator-importer shall file with the department a quarterly report of operations within this state and any other information concerning the source state and the method of transportation of motor fuel as the department may require on forms or in a format prescribed by the department. A person who knowingly violates or knowingly aids and abets another to violate this subsection is guilty of a misdemeanor.

(6) A tank wagon operator-importer shall report the total number of gallons of motor fuel imported but shall take a deduction against motor fuel shown on its quarterly report for the number of gallons of dyed diesel fuel that were removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping paper.

(7) A tank wagon operator-importer who is liable for the tax imposed by this act on nonexempt motor fuel imported by a tank wagon on which tax has not previously been paid to a supplier, shall remit the tax for a particular quarter's import activities with its quarterly report of activities on or before the twentieth day of the month following the close of the reporting period.

(8) A licensed tank wagon operator-importer may retain the collection administration allowance provided for in section 14.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1083 Terminal operator's license.

Sec. 83. (1) A person shall not engage in business in this state as a terminal operator unless licensed as a terminal operator or supplier.

(2) The fee for a terminal operator's license is $2,000.00.

(3) A licensed terminal operator or licensed supplier operating a terminal in this state shall file with the department on forms or in a format prescribed by the department a monthly report of operations for each terminal it operates within the state. The report shall include any information the department considers reasonably necessary to determine the terminal operator's liability under this act.

(4) In addition to the report required by subsection (3), a person operating a terminal in this state shall file with the department on forms or in a format prescribed by the department an annual report of operations for each terminal it operates within the state. The report shall be filed for each calendar year on or before February 25 of the following year and shall include the following information:

(a) The net amount of monthly temperature adjusted gains or losses of motor fuel in net gallons.

(b) The total number of net gallons of motor fuel removed from the terminal in bulk and across the terminal rack during the calendar year.

(c) The amount of tax due as calculated under section 8.

(d) The amount of tax collected during the calendar year.

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(e) Any other information the department considers reasonably necessary to determine the tax liability of the terminal operator under this act.

(5) The department may waive the filing requirement in subsection (3) or (4) if the information required is available in a written or electronic format from the federal government.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1084 Tax liability of terminal operator.

Sec. 84. (1) The terminal operator of a terminal in this state is jointly and severally liable with the supplier for the tax imposed under section 8 and shall remit payment to this state within 30 days after discovering either of the following conditions:

(a) The owner of the motor fuel is a person other than the terminal operator and is not a licensed supplier.

(b) In connection with the removal of diesel fuel that is not dyed diesel fuel, the terminal operator provides any person with a bill of lading, shipping paper, or similar document indicating that the diesel fuel is dyed diesel fuel.

(2) A terminal operator shall be relieved of liability under subsection (1)(a) if it establishes all of the following:

(a) The terminal operator has a valid terminal operator's license.

(b) The terminal operator has a copy of the Michigan supplier license from the supplier as required by this act.

(c) The terminal operator has no reason to believe that any information on the Michigan supplier license is false.

(3) A terminal operator is liable for the tax imposed by this act which is not allocable to any licensed supplier, including, but not limited to, motor fuel that is lost or unaccounted for. However, the terminal operator is not liable for the tax if it can establish by substantial evidence that the motor fuel lost was dyed diesel fuel that was dyed before receipt by the terminal operator.

(4) A collection allowance or a deduction shall not be allowed with respect to payment of the tax under this section.

(5) If the number of gallons of motor fuel lost or unaccounted for exceeds 5% of the total gallons removed from that terminal across the rack, the terminal operator shall, in addition to paying the tax that is due, pay a penalty of 100% of the tax otherwise due with the annual report under section 83.

(6) The terminal operator shall remit the tax and any penalties or interest that is due with the annual report required under section 83.

(7) A terminal operator who fails to meet the shipping paper requirements set forth in this act is subject to a civil penalty of $1,000.00 for the first occurrence. For each subsequent violation, the terminal operator is subject to a civil penalty of $5,000.00.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1085 Exportation of motor fuel; requirements; violation; penalty; exemption.

Sec. 85. (1) A person shall not export motor fuel from this state unless either of the following applies:

(a) The person is licensed as an exporter or supplier under this act.

(b) The person has paid the applicable destination state tax to the supplier, can demonstrate proof of export in the form of a destination state shipping paper, and can demonstrate that the destination state fuel tax has been paid.

(2) A person who negligently violates this section is subject to a $500.00 civil penalty.

(3) A person who knowingly violates or knowingly aids or abets another to violate this section is guilty of a felony.

(4) An end user who exports fuel in the fuel supply tank of a licensed motor vehicle where the fuel is used only to power the vehicle is exempt from this section.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1086 Exporter license; requirements; fee; report.

Sec. 86. (1) A person who desires to export motor fuel shall obtain an exporter's license.

(2) The fee for an exporter's license is $1,000.00.

(3) A person licensed as an exporter shall file a quarterly report with the department on forms or in a format prescribed by the department. The report shall contain information reasonably necessary to determine the exporter's tax liability under this act.

(4) The department may waive in writing the reporting requirement of this section if it determines that the report is not needed to administer this act.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1087 Exporter required to pay tax; fuel diversion number; terms and conditions of payment and notice; agreement permitting supplier to assume exporter's liability; tax refund and credit.

Sec. 87. (1) If an exporter diverts motor fuel removed from a terminal in this state from an intended destination outside this state as shown on the terminal-issued shipping papers to a destination within this state, the exporter shall obtain a fuel diversion number and pay to the department the tax imposed on that motor fuel by section 8.

(2) An exporter required to pay tax under this section shall provide notice and pay the tax upon the same terms and conditions as if the exporter were an occasional importer licensed under section 76 without deduction for the allowances provided by section 14.

(3) For purposes of this section, an exporter who has purchased motor fuel from a licensed supplier may enter into an agreement with the supplier to permit the supplier to assume the exporter's liability and adjust the exporter's taxes that are payable to the supplier. The supplier shall provide a copy of the agreement to the department at the time the supplier files its monthly report. The agreement shall include at a minimum the following information:

(a) The names of the parties to the agreement.

(b) The date the agreement was entered into.

(c) The type of motor fuel involved.

(d) The number of gallons of motor fuel involved.

(4) If an exporter withdraws and exports from a bulk plant in this state motor fuel as to which the tax imposed by this act has previously been paid or accrued, the exporter may apply for and the state shall issue a refund of the tax upon a showing of proof of export and payment of the tax satisfactory to the department.

(5) If a diversion from a destination in this state to another state does not violate state or federal law, the diversion relief provisions set forth in section 108 shall apply and an unlicensed exporter diverting the product may apply for a refund from the department as provided in this act. The allowance provided for in section 14 shall be deducted from the refund allowed under this subsection.

(6) A licensee required to file a report under this act may take a credit for diversions directed by that licensee for its own account.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1088 Failure or late filing of report or tax remittance; payment requirements; penalties and interest.

Sec. 88. A person who fails to file a report or remit tax due under this act, or who files a report or remits tax due after the due dates set forth in this act, shall remit to the department all of the tax for the reporting period and any additional penalties and interest.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1089 Transporter's license; fee; report; failure to submit report; penalty; waiver; importation of undyed motor fuel.

Sec. 89. (1) A person who transports motor fuel into this state or out of this state for another person shall obtain a transporter's license. A person licensed as a supplier, an exporter, or an importer under section 76 or 82 who transports motor fuel into this state or out of this state for their own account only is not required to obtain a transporter's license.

(2) The fee for a transporter's license is $50.00.

(3) A person licensed as a transporter in this state shall file a quarterly report with the department by the twentieth day following the end of the quarter on forms or in a format prescribed by the department concerning the amount of motor fuel transported across the borders of this state.

(4) If a transporter fails to submit the report required by this section, the department may require the transporter to pay a civil penalty of $1,000.00 for each violation.

(5) If substantially similar information is readily available to this state from the federal government including a federal terminal report, or if the department determines that the report is not needed to properly administer this act, the department may waive the requirement that a transporter file the report described in subsection (3).

(6) A transporter is subject to a civil penalty of $10,000.00 for each incidence where the transporter knowingly imports undyed motor fuel in a transport truck without possessing either an import verification number or a shipping paper showing on its face that this state's motor fuel tax is not due or that the tax

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imposed by this act has been precollected by a licensed supplier.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1090, 207.1091 Repealed. 2002, Act 668, Eff. Apr. 1, 2003.

Compiler's note: The repealed sections pertained to industrial process reseller license and fuel vendor license.

207.1092 Retail marine diesel dealer license; fee; filing; report; payment date; waiver.

Sec. 92. (1) A person shall not deliver diesel fuel into the fuel supply tank of an end user's boat or other marine vessel or make a bulk delivery of diesel fuel to an unlicensed end user unless licensed as a retail marine diesel dealer under this act.

(2) The fee for a retail marine diesel dealer license is $50.00.

(3) A retail marine diesel dealer shall file with the department on forms or in a format prescribed by the department a quarterly report containing the information the department requires as reasonably necessary for the department to determine the amount of diesel fuel tax due. A licensed retail marine diesel dealer shall report the amount of dyed diesel fuel sold for a taxable purpose.

(4) The report shall be filed and the tax paid to the department on or before the twentieth day of the month following the close of the reporting period.

(5) The department may waive the requirement for filing a report under this section.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1093 Blender's license; fee; filing; report; waiver.

Sec. 93. (1) In order to operate as a blender in this state, a person shall obtain a blender's license.

(2) The fee for a blender's license is $100.00.

(3) A blender shall file with the department on forms or in a format prescribed by the department a monthly report containing the information the department requires as reasonably necessary for the department to determine the amount of tax due.

(4) The department may waive the licensing or reporting requirements described in this section if it determines that either or both are not needed to administer this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1094 Aviation fuel.

Sec. 94. (1) A person shall not purchase for resale motor fuel identified on a shipping paper or invoice as aviation fuel unless the person is registered with the department on a form or in a format prescribed by the department.

(2) Motor fuel upon which the tax imposed under section 203 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.203, has been paid shall be identified on the shipping paper or invoice as aviation fuel and shall be sold only for aviation purposes. A seller shall obtain from the purchaser a statement that the fuel will only be sold or used as aviation fuel.

(3) A person shall not sell, use, or label motor fuel that is exempt from tax under section 30(1)(g) or that has been identified on a shipping paper or invoice as aviation fuel for use other than as aviation fuel.

(4) A person shall not sell, use, or label for aviation purposes motor fuel identified on a shipping paper or invoice as diesel fuel.

(5) A person who knowingly violates this section is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1098 Transportation of gasoline or diesel fuel by pipeline or marine vessel; report.

Sec. 98. A carrier shall file with the department on forms or in a format prescribed by the department a monthly report of all motor fuel delivered by the person during the month and any other information that the department requires as reasonably necessary for the department to determine the liability of a carrier or any other person transporting gasoline or diesel fuel in a pipeline or by marine vessel under this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1099 Cross-border movement of motor fuel; compact.

Sec. 99. If the second state or country involved in a cross-border movement of motor fuel has entered into a compact with this state, the person diverting the fuel shall pay the tax or seek a refund only upon the difference in the amount of tax due in the 2 jurisdictions. The person shall provide notice of the payment made or refund sought to both jurisdictions upon proof of payment to the destination state. The department shall periodically determine procedures for making the adjustment described in this subsection and shall keep and make available a list of those states, provinces, or countries which are members of the compact.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1101 Manually-prepared shipping paper as substitute for machine-generated.

Sec. 101. (1) Except as otherwise provided in this section, the operator of a refinery, terminal, or bulk plant in this state shall prepare and provide to the driver of a fuel transportation vehicle or operator of a train pulling a rail car receiving motor fuel at the refinery, terminal, or bulk plant into the vehicle's fuel storage tank an automated, machine-generated shipping paper setting out on its face all of the following information:

(a) Identification by address and terminal number of the refinery or terminal from which the motor fuel was removed or by address of the bulk plant from which the motor fuel was withdrawn.

(b) The date the motor fuel was removed.

(c) The amount of motor fuel removed, in both gross gallons and net gallons.

(d) The destination state as represented to the refinery, terminal, or bulk plant by the transporter, the shipper, or the shipper's agent.

(e) The appropriate notice described in section 112 or 113 if the notice is required by either of those sections.

(f) Any other information reasonably required by the department for the enforcement of this act.

(2) In the event of an extraordinary unforeseen circumstance, including an act of God, which temporarily interferes with the ability to issue an automated machine-generated shipping paper, a manually prepared shipping paper that contains all of the information required by subsection (1) may be substituted for the machine-generated shipping paper. Before issuing the manually prepared shipping paper, the operator of the refinery, terminal, or bulk plant shall do the following:

(a) Contact the department by telephone and obtain a service interruption authorization number.

(b) Add the service interruption authorization number to the manually prepared shipping paper before the motor fuel is removed from the terminal or withdrawn from the bulk plant.

(3) A service interruption authorization number is valid for a period not to exceed 24 hours. If the interruption has not been cured within the 24-hour period, an additional interruption authorization number may be requested. The department shall issue an additional interruption authorization number if the explanation for the interruption or delay is satisfactory to the department.

(4) If an operator of a bulk plant who delivers motor fuel into a transport truck is unable to provide the truck driver with a machine-generated shipping paper, the operator shall provide the driver with a manually-prepared shipping paper that contains the information required in subsection (1) and that complies with the requirements of subsection (2).

(5) An operator of a bulk plant who delivers motor fuel into a tank wagon is exempt from the requirements of this section.

(6) A terminal operator may load into a single fuel transportation vehicle motor fuel, a portion of which is to be delivered to a location in this state and a portion of which is to be delivered to a location outside of this state. However, the terminal operator shall document the removal of the motor fuel by issuing a separate shipping paper for each destination state.

(7) The operator of a terminal or refinery shall post a conspicuous notice in the area of the terminal or refinery where a fuel transportation vehicle driver receives the shipping paper. The notice shall describe in clear and concise terms the duties of a fuel transportation vehicle operator and driver and the duties of a retail dealer under this act. The notice shall include the telephone number that shall be called if motor fuel is diverted pursuant to this act. The department may establish the language, type, style, and format of the notice.

(8) A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1102 Shipping paper; carrying and producing copy.

Sec. 102. (1) The driver of a fuel transportation vehicle or operator of a train pulling a rail car shall obtain a shipping paper pursuant to section 101 and shall also do all of the following:

(a) Carry the shipping paper on board the fuel transportation vehicle or rail car.

(b) Upon the request of a person conducting an inspection under section 131(1), produce a copy of the shipping paper when transporting, holding, or delivering the motor fuel described in the shipping paper.

(c) Deliver the motor fuel described in the shipping paper to the location shown on the face of the shipping paper unless the driver or operator does all of the following:

(*i*) Notifies the department that the motor fuel is being delivered to a different destination state before the date the fuel is exported from the state in which the shipment originated.

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(*ii*) Requests and receives from the department a verification number authorizing the diversion.

(*iii*) Writes on the shipping paper the change in destination state and the verification number for the diversion.

(d) Provide a copy of the shipping paper to the person that the motor fuel is delivered to.

(e) Comply with any other conditions that the department may reasonably require for the enforcement of this act.

(2) The owner or operator of a fuel transportation vehicle or train pulling a rail car shall require the vehicle driver or train operator to comply with the shipping paper requirements in this act.

(3) A person who knowingly violates this section is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1103 Shipping paper; notice requirements.

Sec. 103. (1) Except as otherwise provided in subsections (2) and (3), a shipping paper issued under section 101 shall bear 1 of the following notices:

(a) Concerning dyed diesel fuel, the statement: "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the shipment or the appropriate portion of the shipment.

(b) Concerning undyed motor fuel that is removed tax-free from the supplier at the rack under section 30, the statement: "NOT FOR HIGHWAY USE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE".

(c) Concerning aviation, jet fuel, or other fuel used in aircraft, the statement: "NOT FOR HIGHWAY USE, PENALTY FOR HIGHWAY USE".

(d) Concerning any other motor fuel, a statement that "[supplier name] responsible for [state name] motor fuel tax" or any other annotation acceptable to the department that provides notice that the tax imposed by this act or by the destination state on the entire shipment or the appropriate portion of the shipment has been paid or accrued to the supplier.

(2) Except as otherwise provided in subsection (3), a licensed bonded importer or occasional importer or a transporter acting for the licensed importer is exempt from the notice requirement in subsection (1)(b) if the requirements of section 76 are met.

(3) The department may develop an advance notification procedure to address documentation for imported motor fuel concerning which the importer is unable to obtain a shipping paper that complies with this section.

(4) A person who violates this section is guilty of a misdemeanor for the first offense and guilty of a felony for a second or subsequent violation of this section.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1104 Acquisition of undyed motor fuel or taxes unpaid; conditions; compliance; violation.

Sec. 104. (1) If a licensed bonded importer or occasional importer acquires from a terminal located outside the United States motor fuel destined for this state which has not been dyed in accordance with this act, and which has not had the tax paid or accrued to the supplier at the time of removal from the terminal, an importer or transporter operating on the importer's behalf shall comply with all of the following conditions before entering or transporting the motor fuel by rail car or by transport truck on the public roads or highways of this state:

(a) The importer or transporter shall obtain an import verification number from the department before entering this state, but not sooner than 24 hours before entering this state.

(b) The importer or transporter shall carry on board the transport truck or train pulling the rail car a shipping paper containing all of the following:

(*i*) The import verification number set out prominently and indelibly on the face of each copy of the shipping paper.

(*ii*) The terminal origin and the importer's name and address set out prominently on the face of each copy of the shipping paper.

(*iii*) All of the information otherwise required by this act to be included on the shipping paper.

(c) All tax imposed by this act concerning previously requested import verification number activity on the account of the importer or the transporter has been timely remitted.

(2) A person, including the driver of the fuel transportation vehicle or the operator of the train transporting the motor fuel, who knowingly violates or knowingly aids and abets another to violate this section is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

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207.1105 Delivery of fuel; shipping paper provided or placed in receptacle; violation.

Sec. 105. (1) The driver of a fuel transportation vehicle or operator of a train pulling a rail car shall provide a copy of the shipping paper to the person to whom the fuel is delivered, or place the shipping paper in a secure receptacle at the facility where the fuel is delivered.

(2) A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a misdemeanor.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1106 Retention of shipping paper.

Sec. 106. (1) A retailer, bulk plant operator, bulk end user, or bulk storage facility shall receive, examine, and retain for a period of 30 days at the delivery location the terminal-issued shipping paper received from the transporter for each shipment of motor fuel that is delivered to that location.

(2) The retailer, bulk plant operator, bulk end user, or bulk storage facility shall retain the shipping paper for not less than 4 years either at the delivery location or at another location.

(3) A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a misdemeanor.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1107 Delivery of motor fuel without shipping paper; acceptance prohibited.

Sec. 107. (1) A retailer, bulk plant operator, bulk end user, or the operator of any other bulk storage facility shall not knowingly accept delivery of motor fuel into a bulk storage facility in this state if the delivery is not accompanied by a shipping paper issued by the terminal operator or bulk plant operator that clearly indicates that Michigan is the destination state of the motor fuel or provides a diversion verification number pursuant to section 108, and any other information required under sections 101 to 104.

(2) A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a misdemeanor.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1108 Violation of shipping paper requirements as honest error; relief; coordination for operation of common telephone diversion verification number assignment system.

Sec. 108. (1) The department shall provide for relief where a shipment of motor fuel is legitimately diverted from the represented destination state after the shipping paper has been issued by the terminal operator or where the terminal operator failed to cause proper information to be printed on the shipping paper.

(2) The relief is subject to all of the following requirements:

(a) That the shipper, the transporter, or an agent of either provides notification before the diversion or correction to the department if an intended diversion or correction is to occur.

(b) That a verification number be assigned and manually added to the face of the shipping paper.

(c) That the relief provisions are consistent with the refund provisions of this act.

(3) If a person alleged to be in violation of sections 101 to 107 establishes to the department's satisfaction that the violation was the result of honest error made in the context of a good-faith and reasonable effort to properly account for and report motor fuel shipments and tax, the person shall not be subject to the civil penalties set forth in this act for violating those provisions.

(4) The department may coordinate with other states, Canadian provinces, and the federation of tax administrators for the operation of a common telephonic diversion verification number assignment system.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1109 Reliance by person issuing shipping paper on certain representations; tax liability.

Sec. 109. (1) A person who issues a shipping paper, including but not limited to a supplier, a terminal operator, or a bulk plant operator may rely on the following representations of a transporter, shipper, or the shipper's agent:

(a) A statement identifying the transporter's or shipper's intended destination state for the motor fuel.

(b) A statement that the motor fuel shall be used for a tax-exempt purpose.

(2) An importer, transporter, shipper, and the shipper's agent, and any purchaser, not the supplier or terminal operator, are jointly and severally liable for any tax otherwise due to the state as a result of a diversion of the motor fuel from the represented destination state.

(3) A terminal operator may rely on the representation of a licensed supplier concerning the supplier's obligation to collect tax.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1110 Misleading statement imprinted on shipping paper; prohibition; violation.

Sec. 110. (1) A terminal operator shall not imprint, and a supplier shall not knowingly permit a terminal operator to imprint on the supplier's behalf, a false or misleading statement on a shipping paper.

(2) A terminal operator who negligently imprints a statement that violates subsection (1) is subject to a civil penalty of $50.00 for each violation.

(3) In addition to any other tax, fines, penalties, or sanctions that may be imposed, a terminal operator or supplier who knowingly violates subsection (1) is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1111 Shipping paper tamper-resistant standards; rules.

Sec. 111. (1) A terminal operator or a supplier shall cause a shipping paper to meet the tamper-resistant standards prescribed by department rule, including the inclusion of messages that identify whether a shipping paper has been photocopied, numbering systems, or nonreproducible coding.

(2) Rules promulgated by the department establishing tamper-resistant standards for shipping paper shall not take effect until 12 months after the date the rules are promulgated.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1112 Sale or removal of dyed diesel fuel; notice.

Sec. 112. (1) A notice stating: "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be provided as follows:

(a) By the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that terminal operator.

(b) By any seller of dyed diesel fuel to its buyer if the dyed diesel fuel is located outside the bulk transfer/terminal system and is not sold from a retail pump posted in accordance with the requirements of subdivision (c).

(c) By a seller on any retail pump where it sells dyed diesel fuel.

(2) The notice required by subsection (1) shall be provided on or before the date of removal or sale and shall appear on shipping papers and bills of lading accompanying the sale or removal of the dyed diesel fuel.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1113 Dyed kerosene; notice.

Sec. 113. (1) A notice stating: "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be provided as follows:

(a) By the terminal operator to any person who receives dyed kerosene at a terminal rack of that terminal operator.

(b) By any seller of dyed kerosene to its buyer if the dyed kerosene is located outside the bulk transfer/terminal system and is not sold from a retail pump posted in accordance with the requirements of subdivision (c).

(c) By a seller on any retail pump where it sells dyed kerosene.

(2) The notice required by subsection (1) shall be provided on or before the date of removal or sale and shall appear on shipping papers and bills of lading accompanying the sale or removal of the dyed kerosene.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1114 Diversion of motor fuel from destination on shipping paper; rebuttable presumption.

Sec. 114. (1) A representative or agent of the department may examine the shipping paper of a fuel transportation vehicle in order to determine whether that fuel transportation vehicle is located outside a reasonably direct route from the supply source to the destination state on the shipping paper. If the vehicle is more than 5 miles from a reasonably direct route, there is a rebuttable presumption that the operator or driver of the vehicle intends to divert the motor fuel from the destination on the shipping paper. If the vehicle is 5 miles or less from a reasonably direct route, there is a rebuttable presumption that the operator or driver of the vehicle does not intend to divert the motor fuel from the destination on the shipping paper.

(2) The operator or driver of a fuel transportation vehicle that is located outside a reasonably direct route from the supply source to the destination state on the shipping paper is subject to the penalties set forth in section 129.

History: 2000, Act 403, Eff. Apr. 1, 2001.

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207.1115 Display of person's name and license number; letters and figures.

Sec. 115. (1) A supplier operating a fuel transportation vehicle on the public roads or highways of this state shall display on the vehicle, in colors that distinctly contrast with the color of the vehicle and in letters and figures not less than 3 inches high, the supplier's name and the license number identified as Mich. Supplier No. ___.

(2) A person other than a supplier operating a fuel transportation vehicle on the public roads or highways of this state shall display on the vehicle, in colors that distinctly contrast with the color of the vehicle and in letters and figures not less than 3 inches high, the person's name and the license number identified as Mich. MFTA No. ___.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1116 Transportation of motor fuel without shipping paper; violation.

Sec. 116. A person who transports motor fuel without a shipping paper that meets the requirements set forth in sections 101 to 104, including but not limited to the owner, operator, or driver of a fuel transportation vehicle or train, is subject to a civil penalty of $1,000.00 for the person's first occurrence. Each subsequent violation of sections 101 to 104 is subject to a civil penalty of $5,000.00.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1121 Dyed diesel fuel or other exempt fuel; use.

Sec. 121. A person shall not sell or use or hold for sale or use dyed diesel fuel or other exempt fuel, including, but not limited to, excluded liquid, undyed diesel fuel that is repackaged into a container that holds 55 gallons or less, or aviation, aircraft, or jet fuel, for any use that the person knows or has reason to know is a taxable use of the diesel fuel under this act or the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1122 Dyed diesel fuel; use in motor vehicle on public roads or highways; exception; penalty.

Sec. 122. (1) A person shall not operate or maintain a motor vehicle on the public roads or highways of this state with dyed diesel fuel in the vehicle's fuel supply tank.

(2) This section does not apply to dyed diesel fuel used in any of the following:

(a) A motor vehicle owned and operated or leased and operated by the federal or state government or a political subdivision of this state.

(b) A motor vehicle used exclusively by the American red cross.

(c) An implement of husbandry.

(d) A passenger vehicle that has a capacity of 10 or more and that operates over regularly traveled routes expressly provided for in 1 or more of the following that applies to the passenger vehicle:

(*i*) A certificate of authority issued by the state transportation department.

(*ii*) A municipal franchise.

(*iii*) A municipal license.

(*iv*) A municipal permit.

(*v*) A municipal agreement.

(*vi*) A municipal grant.

(3) An owner, operator, or driver of a vehicle who uses dyed diesel fuel on the public roads or highways of this state is subject to a civil penalty of $200.00 for each of the first 2 violations within a 12-month period. For a third violation within a 12-month period, and for each subsequent violation thereafter, the person is subject to a civil penalty of $5,000.00. An owner, operator, or driver of a motor vehicle who knowingly violates the prohibition against the sale or use of dyed diesel fuel upon the public roads or highways of this state is subject to a civil penalty equal to that imposed by section 6714 of the internal revenue code.

History: 2000, Act 403, Eff. Apr. 1, 2001;—Am. 2002, Act 668, Eff. Apr. 1, 2003.

207.1123 Alteration of strength or composition of dye or marker; possession, sale, or purchase of dye removal equipment.

Sec. 123. (1) A person shall not with intent to evade tax alter or attempt to alter the strength or composition of any dye or marker in any dyed diesel fuel.

(2) A person shall not with intent to evade tax possess, sell, or purchase dye removal equipment.

(3) A person who violates this section is guilty of a felony punishable by a fine of not more than $50,000.00 or imprisonment for not more than 5 years, or both.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1124 Repealed. 2006, Act 287, Imd. Eff. July 20, 2006.

Compiler's note: The repealed section pertained to compliance with AST standards in use or disposal of motor fuel.

207.1125 Metering equipment; requirements.

Sec. 125. (1) A person who operates motor fuel dispenser equipment accessible by the general public shall provide a metering gallonage totalizer for each dispenser and shall maintain records sufficient to enable the department to determine with reasonable accuracy the amount of motor fuel dispensed by the equipment.

(2) A person shall not exchange, replace, roll back, or otherwise tamper with metering equipment, including a metering gallonage totalizer, without following procedures provided by the department for legitimate maintenance, repair, and replacement of the equipment. However, the prohibition against exchanging or replacing metering equipment shall not take effect until the department has issued a written policy that sets forth the maintenance, repair, and replacement procedures. In developing the policy, the department shall consider other state or federal laws and regulations that govern metering equipment.

(3) A person who violates this section is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1126 Failure to collect or timely remit tax.

Sec. 126. (1) A supplier, permissive supplier, or importer who knowingly fails to collect or timely remit tax otherwise required to be paid to the department under section 71, 72, or 80 or pursuant to a tax precollection agreement under section 72 is liable for the uncollected tax plus a 100% penalty.

(2) A person who fails or refuses to pay to the department the tax on motor fuel at the time required in this act or who fraudulently withholds or appropriates or otherwise uses the money or any portion of the money belonging to the state is guilty of a felony.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1127 False or fraudulent return; amount evaded.

Sec. 127. If a person liable for the tax imposed by this act files a false or fraudulent return, the department shall add to the tax owed an amount equal to the amount of tax the person evaded or attempted to evade.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1128 Liability of officer, employee, or agent of corporation.

Sec. 128. A person, including an officer, employee, or agent of a corporation who willfully participates in any act that violates section 101 is jointly and severally liable with the corporation for the penalty which shall be the same as imposed under federal law.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1129 Violation of shipping paper requirements; presumptive evidence; violation of meter tampering provisions; impoundment, seizure, sale, and forfeiture; request to drive vehicle to impound lot.

Sec. 129. (1) If a person drives or otherwise operates a motor vehicle in violation of the shipping paper requirements in this act, the vehicle, motor fuel being transported by the vehicle, and any other cargo is subject to impoundment, seizure, and subsequent sale and forfeiture.

(2) The failure of a driver of a motor vehicle to have on board when loaded a shipping paper that complies with the requirements of this act is presumptive evidence of a violation sufficient to subject the driver, owner, or operator to the penalties provided by this section.

(3) If a person is discovered in violation of the meter tampering provisions in section 125, the motor fuel, meters, pumps, and any other property used in transporting, storing, dispensing, or otherwise distributing motor fuel and related products are subject to impoundment, seizure, and subsequent sale and forfeiture.

(4) The impoundment, seizure, and subsequent sale and forfeiture shall be accomplished pursuant to this section and section 130.

(5) At the time a motor vehicle or its cargo is seized under this section, the department may request the driver of the vehicle to drive the vehicle to an impound lot. If the driver refuses the department's request, the owner, operator, or driver of the vehicle and the owner or transporter of the fuel are subject to a civil penalty or to license revocation.

History: 2000, Act 403, Eff. Apr. 1, 2001.

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207.1130 Seizure; inventory statement; hearing; forfeiture; appeal to circuit court; agreement to sell fuel; public sale.

Sec. 130. (1) As soon as possible, but not more than 5 business days after seizure of a motor vehicle and its cargo under section 129, the person making the seizure shall deliver personally or by registered mail to the last known address of the person from whom the seizure was made, if known, an inventory statement of the motor vehicle, motor fuel, or other property seized. A copy of the inventory statement shall also be filed with the department.

(2) In addition to notice of the property seized, the inventory statement shall contain a notice that unless demand for a hearing as provided in this section is made within 10 business days after the date the inventory statement was delivered, the property is forfeited to the state.

(3) If the person from whom the seizure was made is not known, the person making the seizure shall cause a copy of the inventory statement, together with the notice provided for in this section, to be published not less than 3 times in a newspaper of general circulation in the county where the seizure was made.

(4) Within 10 business days after the date of service of the inventory statement or, in the case of publication, within 10 business days after the date of last publication, the person from whom the property was seized or any person claiming an interest in the property may by registered mail, facsimile transmission, or personal service file with the department a demand for a hearing before the commissioner for a determination as to whether the property was lawfully subject to seizure and forfeiture. The person shall verify a request for hearing filed by facsimile transmission by also providing a copy of the original request for hearing by registered mail or personal service.

(5) The person or persons are entitled to appear at a hearing before the department, to be represented by counsel, and to present testimony and argument.

(6) Upon receipt of a request for hearing, the department shall hold the hearing within 15 business days. The hearing is not a contested case proceeding and is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) After the hearing, the department shall render its decision in writing within 10 business days after the hearing and, by order, shall either declare the seized property subject to seizure and forfeiture, or declare the property returnable in whole or in part to the person entitled to possession.

(8) If, within 10 business days after the date of service of the inventory statement, the person from whom the property was seized or any person claiming an interest in the property does not file with the department a demand for a hearing before the department, the property seized shall be considered forfeited to the state by operation of law and may be disposed of by the department as provided in this section.

(9) If, after a hearing, the department determines that the property is lawfully subject to seizure and forfeiture and the person from whom the property was seized or any persons claiming an interest in the property do not take an appeal to the circuit court of the county in which the seizure was made within the time prescribed in this section, the property seized shall be considered forfeited to the state by operation of law and may be disposed of by the department as provided in this section.

(10) If a person is aggrieved by the decision of the department, that person may appeal to the circuit court of the county where the seizure was made to obtain a judicial determination of the lawfulness of the seizure and forfeiture. The action shall be commenced within 20 days after notice of the department's determination is sent to the person or persons claiming an interest in the seized property. The court shall hear the action and determine the issues of fact and law involved in accordance with rules of practice and procedure as in other in rem proceedings. If a judicial determination of the lawfulness of the seizure and forfeiture cannot be made before deterioration of any of the property seized, the court shall order the sale of the property with public notice as determined by the court and require the proceeds to be deposited with the court until the lawfulness of the seizure and forfeiture is finally adjudicated.

(11) During the pendency of any filing for appeal, hearing, or rendering of decision, the aggrieved person and the department may by mutual consent agree to sale of the fuel in order to facilitate release of the vehicle containing the fuel. The proceeds from the sale shall be held in escrow by the department pending the department's decision and an appeal, if any, from the department's decision.

(12) The department may sell fuel forfeited under this act at public sale. Public notice of the sale shall be given at least 5 days before the date of sale. The department may pay an amount not to exceed 25% of the proceeds of the sale to the local governmental unit whose law enforcement agency performed the seizure. The balance of the proceeds derived from the sale by the department shall be credited to the Michigan transportation fund.

History: 2000, Act 403, Eff. Apr. 1, 2001.

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207.1131 Determination of shipping paper violation; inspection.

Sec. 131. (1) An inspection to determine a shipping paper violation under this act may be conducted by the department, the department of state police, the department of agriculture, agents of those departments, motor carrier inspectors, and any other law enforcement officers designated by the department through procedures established by the department including federal government employees or persons operating under a contract with the state.

(2) Upon presenting appropriate credentials, a person described in subsection (1) may do any of the following:

(a) Conduct inspections and remove samples of motor fuel in order to:

(*i*) Determine whether diesel fuel is dyed and the nature and type of the dye or markers including the concentration of the dye.

(*ii*) Test motor fuel in order to determine whether the fuel meets American society for testing materials standards as published in the annual book of standards and its supplements.

(b) Conduct inspections to identify a shipping paper violation at any place where motor fuel is or may be produced, stored, or loaded into transport vehicles.

(3) An inspection shall be performed in a reasonable manner consistent with the circumstances, but prior notice is not required.

(4) An inspector may physically inspect, examine, or otherwise search any equipment, tank, reservoir, or other container that may be used for, or in connection with, the production, storage, or transportation of motor fuel.

(5) An inspector may demand a person to produce for immediate inspection the shipping papers, documents, and records required by this act to be kept by the person.

(6) An inspection may be performed at locations including, but not limited to, any of the following:

(a) A terminal.

(b) A fuel storage facility that is not a terminal.

(c) A retailer's place of business.

(d) On the public roads or highways.

(e) Highway rest stops.

(f) A marina.

(g) A designated inspection site. As used in this subdivision, “designated inspection site” includes any state highway or waterway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the department, whether fixed or mobile.

(7) A uniformed inspector may reasonably detain a person, a motor vehicle, or other equipment transporting fuel in this state in order to determine whether the person is operating in compliance with this act. Detainment may continue for the time necessary to determine whether the person, motor vehicle, or other equipment is in compliance with this act.

(8) The department shall use only uniformed inspectors when making an inspection at a highway rest stop or on the public roads or highways.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1132 Supervision or operation of weigh stations or other inspection points; qualified persons.

Sec. 132. The department may assign qualified persons including persons who are not state police officers to supervise or operate permanent or portable weigh stations or other inspection points. A person assigned under this section may stop, inspect, and issue citations to operators of a commercial straight truck, a truck and trailer with a declared gross weight of 11,000 pounds or more, a marine vessel, or a bus, at a permanent or portable weigh station or other inspection point.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1133 Audit and examination of records, books, papers, and equipment; sampling inspections; availability to department.

Sec. 133. (1) The department may audit and examine the records, books, papers, and equipment of any person, including, but not limited to, terminal operators, suppliers, importers, wholesalers, jobbers, retail dealers, bulk end users, fuel vendors, and all private and common carriers of motor fuel to verify the completeness, truth, and accuracy of any statement or report and to ascertain whether the tax imposed by this act has been paid.

(2) The department may also exercise the general authority described in subsection (1) in performing sampling inspections of a person described in subsection (1). The department may perform sampling

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inspections without providing prior notice.

(3) Any person described in subsection (1) shall make available to the department necessary records, books, or papers with respect to transactions that the department is attempting to verify during normal business hours at the person's physical location in this state, or at the department's office if the person's location at which the records are located is outside of this state, within 3 business days after the request is made.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1134 Refusal to allow inspection or audit.

Sec. 134. (1) A person who refuses to permit any inspection or audit authorized by this act is subject to a civil penalty of $5,000.00, in addition to any other penalty imposed by this act.

(2) A person who, for the purpose of evading tax, refuses to allow an inspection authorized by this act is guilty of a felony, in addition to any other penalty imposed by this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1136 Violation of act; penalty.

Sec. 136. A person who violates this act is guilty of a misdemeanor unless a specific penalty is provided in this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1141 Tax belonging to state; failure to make payment or to defraud as embezzlement; penalty.

Sec. 141. The tax imposed by this act belongs to the state. The tax shall be held in trust for the state and for payment to the department as provided in this act. A person who fails or refuses to pay over to the department the tax collected on motor fuel at the time required in this act, or a person who with intent to defraud withholds or appropriates any portion of the tax belonging to the state, is guilty of embezzlement, and shall be punished as provided in section 174 of the Michigan penal code, 1931 PA 328, MCL 750.174.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1142 Motor fuel tax evasion prevention fund; creation; disposition.

Sec. 142. (1) The motor fuel tax evasion prevention fund is created in the department.

(2) Money deposited into the fund shall only be used for the following purposes:

(a) To fund the development of an efficient and effective diesel fuel enforcement program that shall include, but not be limited to:

(*i*) Oversight of the public roads and highways of this state to ensure that dyed diesel fuel and other untaxed fuel is not being used in violation of Michigan law.

(*ii*) Developing auditing techniques to aid the department in exposing tax evasion schemes and incidents.

(b) To fund the inspection, testing, and sampling provisions in this act, including the funding of additional inspectors engaged in random on-road inspections.

(c) To fund the additional administrative costs associated with the implementation of this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1143 Deposit of money in state treasury; credit to Michigan transportation fund.

Sec. 143. Except as otherwise provided in section 142, all sums of money received and collected under this act, except for license fees, and after the payment of the necessary expenses incurred in the enforcement of this act, are appropriated to and shall be deposited in the state treasury to the credit of the Michigan transportation fund.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1144 Exchange of information.

Sec. 144. In order to administer this act and prevent and detect motor fuel tax evasion, the department may, consistent with this act and 1941 PA 122, MCL 205.1 to 205.31, enter into a cooperative agreement with other states, Canadian provinces, the federal government, or other countries for the exchange of information in hard copy or electronic format.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1145 Administration of taxes.

Sec. 145. The taxes under this act shall be administered pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this act. In case of conflict between 1941 PA 122 and this act, this act shall prevail.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1146 Filing date.

Sec. 146. The filing date of a claim, application, or any other document filed with the department is the date the claim, application, or other document was postmarked by the United States postal service or the date actually received by the department, whichever is earlier.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1147 Report on dyed diesel fuel reporting.

Sec. 147. Eighteen months after the effective date of this act, the department shall submit a report to the legislature on dyed diesel fuel reporting under this act. The report shall include recommendations as to whether reporting of dyed diesel fuel purchases and sales is needed, whether the lack of reporting has resulted in tax evasion, and any other information considered relevant by the department.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1148 Rules.

Sec. 148. The department may promulgate rules under this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1149 Tax credit; ineligibility.

Sec. 149. Except as provided in section 16, a licensee under this act or any other person is not entitled to a credit against the tax imposed by this act for tax the licensee or person has paid but that has not been collected from a purchaser of the motor fuel.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1151 Definitions.

Sec. 151. As used in this section and sections 152 to 155:

(a) "Liquefied petroleum gas" means gases derived from petroleum or natural gases which are in the gaseous state at normal atmospheric temperature and pressure, but which may be maintained in the liquid state at normal atmospheric temperature by suitable pressure. Liquefied petroleum gas includes those products predominately composed of propane, propylene, butylene, butane, and similar products.

(b) "LPG dealer" means a person who is licensed under this chapter to use liquefied petroleum gas.

(c) "Use", "used", or "uses" means any of the following:

(*i*) Selling or delivering liquefied petroleum gas not otherwise subject to tax under this act, either by placing it into a permanently attached fuel supply tank of a motor vehicle, or exchanging or replacing of the fuel supply tank of a motor vehicle.

(*ii*) Delivery of liquefied petroleum gas into storage, devoted exclusively to the storage of liquefied petroleum gas to be consumed in motor vehicles on the public roads or highways.

(*iii*) Withdrawing liquefied petroleum gas from the cargo tank of a truck, trailer or semi-trailer for the operation of a motor vehicle upon the public roads and highways of this state, whether used in vapor or liquid form.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1152 Tax on liquefied petroleum gas fuel.

Sec. 152. A tax at a rate of 15 cents per gallon is imposed upon all liquefied petroleum gas used in this state. The tax shall be paid at the times and in the manner specified in this section. The tax on liquefied petroleum gas fuel sold or delivered either by placing into a permanently attached fuel supply tank on a motor vehicle, or exchanging or replacing the fuel supply tank of a motor vehicle, shall be collected by the LPG dealer from the purchaser and paid over quarterly to the department as provided in this act. Liquefied petroleum gas fuel delivered in this state into the storage facility of any person when the exclusive purpose of the storage facility is for resale or use in a motor vehicle on the public roads or highways of this state, shall, upon delivery to storage facility, be subject to tax. An LPG dealer shall, upon delivery of the liquefied petroleum gas, collect and remit the tax to the department as provided in this act. A person shall not operate a motor vehicle on the public roads or highways of this state from the cargo containers of a truck, trailer, or semitrailer with liquefied petroleum gas in vapor or liquid form, except when the fuel in the liquid or vapor phase is withdrawn from the cargo container for use in motor vehicles through a permanently installed and approved metering device. The tax on liquefied petroleum gas withdrawn from a cargo container through a permanently installed and approved metering device shall apply in accordance with measured gallons as

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reflected by meter reading, and shall be paid quarterly by the LPG dealer to the department as provided in this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1153 LPG dealer; license required; application.

Sec. 153. (1) A person shall not act as an LPG dealer unless the person is licensed under this act.

(2) To obtain a license an applicant shall file with the department an application upon a form or in a format prescribed by the department. The application shall include the name and address of the applicant and of each place of business to be operated by the applicant at which liquefied petroleum gas will be used and other information the department may reasonably require.

(3) At the time of applying for the license, an applicant shall pay to the department a license fee of $50.00.

(4) An applicant for an LPG dealer license is subject to the general licensing and bonding requirements of this act.

(5) A person licensed in this state as an LPG dealer on the effective date of this act shall be considered licensed as an LPG dealer under this act.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1154 Filing report by LPG dealer.

Sec. 154. For the purpose of determining the amount of tax payable to the department, an LPG dealer shall, on or before the twentieth day of each calendar month following the close of the reporting calendar quarter, file with the department on a form or in a format prescribed by the department a report which shall include the number of gallons of liquefied petroleum gas used by the LPG dealer during the preceding calendar quarter, together with any other information the department may require. An LPG dealer at the time of filing the report shall pay to the department at the time of filing the report the full amount of the tax owed.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1155 Liquefied petroleum gas tax; eligibility for refund.

Sec. 155. (1) Each of the following persons is entitled to a refund of the tax on liquefied petroleum gas imposed by this act:

(a) A person consuming liquefied petroleum gas for any purpose other than the operation of a motor vehicle on the public roads or highways of this state.

(b) The federal government, state government, or a political subdivision of this state consuming liquefied petroleum gas in a motor vehicle owned and operated or leased and operated by the federal government, state government, or political subdivision of this state.

(c) A person consuming liquefied petroleum gas in the operation of a passenger vehicle of a capacity of 5 or more under a municipal franchise, license, permit, agreement, or grant, upon which gas the tax imposed by this section has been paid.

(2) To obtain a refund, a person shall file a claim with the department within 18 months after the date of purchase, as shown on the invoice and shall comply with the requirements set forth in section 48.

(3) A claim for refund shall be on a form or in a format prescribed by the department and shall have attached the original invoice that was provided to the purchaser.

(4) A person who sells liquefied petroleum gas shall provide the purchaser with an invoice showing the amount of gas purchased, the date of purchase, and the amount of tax paid.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1161 Outstanding bonds issued by Mackinac bridge authority; payment of principal, interest, and costs.

Sec. 161. In January of each year, there is appropriated from the proceeds of the tax levied by this act up to $3,500,000.00, that shall be used to pay the principal, interest, and incidental costs for the outstanding bonds, previously issued by the Mackinac bridge authority. The unexpended amount shall lapse to the Michigan transportation fund at the end of each fiscal year. Upon retirement of all outstanding bonds and any refunding bonds hereafter issued, this appropriation shall cease.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1162 Mackinac bridge tolls; reduction.

Sec. 162. It is the intent of the legislature that the authority responsible for setting tolls for the Mackinac bridge will use the appropriation provided in section 161 to reduce the tolls to as near as possible to $1.50 per passenger car and pickup and a proportional reduction for all other classes of vehicles.

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History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1163 Mackinac bridge bond indebtedness; advances.

Sec. 163. The appropriations made in section 161 shall be considered as advances in aid of reducing the bonded indebtedness of the Mackinac bridge. At such time as all principal and interest for all outstanding bonds, previously issued by the Mackinac bridge authority and, if the bonds are refunded in accordance with 1966 PA 13, MCL 254.361 to 254.372, all principal and interest on the refunding bonds has been paid, the authority responsible for setting tolls for the Mackinac bridge shall continue to charge tolls as are considered necessary by the authority to reimburse the Michigan transportation fund for all advances made pursuant to this act. At such time as reimbursement has been made for the sums advanced under this act and those sums advanced pursuant to section 7 of 1952 PA 214, MCL 254.317, the Mackinac bridge shall thereafter be maintained and operated as a free bridge.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1164 East-west interstate route in Upper Peninsula; matching funds.

Sec. 164. Upon the designation by the federal government of an east-west interstate route in the Upper Peninsula, the legislature intends to extend the necessary funds to match federal funds available for such purposes.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1169 Repeal of §§ 207.101 to 207.202.

Sec. 169. 1927 PA 150, MCL 207.101 to 207.202, is repealed.

History: 2000, Act 403, Eff. Apr. 1, 2001.

207.1170 Effective date.

Sec. 170. This act takes effect April 1, 2001.

History: 2000, Act 403, Eff. Apr. 1, 2001.

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