

# HOUSE BILL No. 5389

December 10, 1991, Introduced by Reps. Alley, Hertel, Ostling and Knight and referred to the Committee on Transportation.

A bill to amend sections 2 and 8 of Act No. 150 of the Public Acts of 1927, entitled as amended

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

section 2 as amended by Act No. 437 of the Public Acts of 1982 and section 8 as amended by Act No. 146 of the Public Acts of 1985, being sections 207.102 and 207.108 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2 and 8 of Act No. 150 of the Public  
2 Acts of 1927, section 2 as amended by Act No. 437 of the Public  
3 Acts of 1982 and section 8 as amended by Act No. 146 of the  
4 Public Acts of 1985, being sections 207.102 and 207.108 of the  
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 2. (1) A specific tax at a rate of 20 cents per  
7 gallon ~~determined under subsection (2) or (3)~~ is imposed on all  
8 gasoline sold or used in producing or generating power for pro-  
9 pelling motor vehicles used upon the public roads and highways in  
10 this state. The tax shall be paid at those times, in the manner,  
11 and by those persons specified in this act. It is the intent of  
12 this act to impose a tax upon the owners and drivers of motor  
13 vehicles using an internal combustion type of engine upon the  
14 public roads and highways of this state by requiring them to pay  
15 for the privilege of using the public roads and highways of this  
16 state, in addition to the motor vehicle license tax.

17 ~~(2) Until January 1, 1983, the tax rate imposed under sub-~~  
18 ~~section (1) shall be 11 cents per gallon. Beginning January 1,~~  
19 ~~1983, and ending December 31, 1984, the tax rate imposed under~~  
20 ~~subsection (1) for each 12 month period after December 31, 1982,~~  
21 ~~shall be 11 cents per gallon or the tax rate calculated by the~~  
22 ~~state commissioner of revenue as follows, with the final result~~  
23 ~~of the calculation being rounded to the nearest 1/10 of a cent,~~  
24 ~~whichever is the greater.~~

25 ~~(a) The latest available maintenance index figure for the~~  
26 ~~most recent preceding calendar year for which a maintenance index~~

1 ~~figure is available shall be divided by the maintenance index~~  
2 ~~figure for 1980.~~

3 ~~(b) The gallonage figure for the fiscal year ending~~  
4 ~~September 30, 1980, shall be divided by the gallonage figure for~~  
5 ~~the fiscal year preceding the 12 month period for which the tax~~  
6 ~~is being calculated.~~

7 ~~(c) The quotient derived in subdivision (a) shall be multi-~~  
8 ~~plied by the quotient derived in subdivision (b).~~

9 ~~(d) The product derived in subdivision (c) shall be multi-~~  
10 ~~plied by 12 cents.~~

11 ~~(3) Beginning January 1, 1985, the tax rate imposed under~~  
12 ~~subsection (1) shall be the tax rate imposed for the 12 month~~  
13 ~~period ending December 31, 1984.~~

14 ~~(4) Notwithstanding any other provision of this section, if~~  
15 ~~the United States department of transportation, federal highway~~  
16 ~~administration, materially alters the component parts of the~~  
17 ~~highway maintenance and operation index described in subsection~~  
18 ~~(10), the tax rate imposed under subsection (1) using the formula~~  
19 ~~prescribed by subsection (2) shall not change from the tax rate~~  
20 ~~imposed under subsection (1) immediately preceding the~~  
21 ~~alteration.~~

22 ~~(5) Notwithstanding any other provision of this section, the~~  
23 ~~tax rate imposed under subsection (1) for a 12 month period shall~~  
24 ~~not be more than 2 cents greater than the tax rate imposed for~~  
25 ~~the previous 12 month period.~~

26 ~~(2) (6)~~ The state commissioner of revenue shall notify  
27 each wholesale distributor and each retail dealer of gasoline in

1 this state of the tax rate imposed under subsection (1)  
2 immediately after the tax rate is determined.

3 ~~(7) Notwithstanding any other provision of this section but~~  
4 ~~for subsections (8) and (9), a tax is imposed on all~~  
5 ~~alcohol gasoline fuel sold or used in producing or generating~~  
6 ~~power for propelling motor vehicles used upon the public roads~~  
7 ~~and highways in this state. The rates imposed by this subsection~~  
8 ~~shall apply only if the alcohol in the alcohol gasoline fuel was~~  
9 ~~produced or distilled in this state or in any other state that~~  
10 ~~provides a tax reduction, credit, or exemption for the sale or~~  
11 ~~use of alcohol gasoline fuel containing alcohol produced or dis-~~  
12 ~~tilled in this state that is at least equivalent to the per~~  
13 ~~gallon rate reduction provided by this subsection for the appli-~~  
14 ~~cable period from the rate specified by subsection (1). The tax~~  
15 ~~shall be the same as that imposed under subsection (1), except as~~  
16 ~~follows:~~

17 ~~(a) The tax rate per gallon for the balance of calendar year~~  
18 ~~1982, calendar year 1983, and calendar year 1984 shall be 5 cents~~  
19 ~~less than the tax rate imposed under subsection (1).~~

20 ~~(b) The tax rate per gallon for calendar year 1985 shall be~~  
21 ~~3 cents less than the tax rate imposed under subsection (1).~~

22 ~~(c) The tax rate per gallon for calendar year 1986 shall be~~  
23 ~~2 cents less than the tax rate imposed under subsection (1).~~

24 ~~(8) Notwithstanding any other provision of this section~~  
25 ~~except for subsection (9), a tax is imposed on all~~  
26 ~~alcohol gasoline fuel to which subsection (7) does not apply and~~  
27 ~~which is sold or used in producing or generating power for~~

~~1 propelling motor vehicles used upon the public roads and highways  
2 in this state. The tax shall be the same as that imposed under  
3 subsection (1), except as follows:~~

~~4 (a) The tax rate per gallon for the balance of calendar year  
5 1982 shall be 5 cents less than the tax rate imposed under sub-  
6 section (1).~~

~~7 (b) The tax rate per gallon for calendar year 1983 shall be  
8 3 cents less than the tax rate imposed under subsection (1).~~

~~9 (c) The tax rate per gallon for calendar year 1984 shall be  
10 2 cents less than the tax rate imposed under subsection (1).~~

~~11 (9) If, after January 1, 1983, the federal government  
12 increases the tax it imposes upon the sale of gasoline in this  
13 state and if the tax imposed by the federal government upon the  
14 sale of alcohol gasoline fuel in this state is more than 4 cents  
15 per gallon less than the tax imposed by the federal government  
16 upon the sale of gasoline in this state, the amount by which the  
17 difference in the tax per gallon of the fuels exceeds 4 cents  
18 shall be added to the rate per gallon that would otherwise be  
19 imposed upon the sale or use of alcohol gasoline fuel in this  
20 state under subsections (7) and (8). However, the tax on the  
21 sale or use of alcohol gasoline fuel in this state shall not  
22 exceed the tax on the sale of gasoline in this state.~~

~~23 (10) As used in this section:~~

~~24 (a) "Gallonage figure" means the number of gallons of gaso-  
25 line, alcohol gasoline fuel, liquefied petroleum gas, diesel  
26 motor fuel, and any other fuel taxed under this act during a  
27 designated year.~~

1       ~~(b) "Maintenance index figure" means the maintenance index~~  
2 ~~total for a designated year as reported in the highway mainte-~~  
3 ~~nance and operation index published annually by the United States~~  
4 ~~department of transportation, federal highway administration;~~  
5 ~~cost trends highway maintenance and operation.~~

6       Sec. 8. (1) For the purpose of determining the amount of  
7 the specific tax imposed by this act, every wholesale distributor  
8 shall, on or before the twentieth day of each month, except when  
9 the twentieth day of any month falls on a Saturday, Sunday, or  
10 legal holiday, then on the next regular business day, file with  
11 the department of treasury, on forms prescribed and furnished by  
12 the department, a verified statement, showing the number of gal-  
13 lons of gasoline ~~which has been or is in his, her, or its pos-~~  
14 ~~session in the state on September 5, 1927, upon which the tax has~~  
15 ~~not been paid, and all gasoline thereafter~~ received, as shown by  
16 the shipper's invoices, ~~thereof,~~ by the wholesale distributor  
17 in the state from any source, during the preceding calendar  
18 month; the date of purchase; the name of the manufacturer or  
19 person, persons, firm, association, or corporation from whom pur-  
20 chased; the date of receipt of the shipment of gasoline; the  
21 point of origin; the point of destination of each shipment; the  
22 quantity of each of the purchases or shipments; the name of the  
23 carrier; the number of the car in which the purchases or ship-  
24 ments were shipped, if shipped by rail, or the name and owner of  
25 the boat, ship, barge, or vessel, if shipped by water; the owner  
26 and license number of the automobile or truck used in  
27 transporting the gasoline within this state, when the gasoline

1 was purchased from the manufacturer; ~~the name and address of the~~  
2 ~~owner of the wagon, or other means of transportation, if brought~~  
3 ~~into this state by such mode,~~ and in case gasoline is not so  
4 received and the wholesale distributor manufactures or produces  
5 within this state the gasoline in his, her, or its possession in  
6 the state, the report required shall in lieu of the foregoing  
7 information set forth the following: All gasoline manufactured,  
8 stored, used, distributed, and sold within this state during the  
9 preceding calendar month, and date of each sale, use, or distri-  
10 bution; the quantity of each sale; the name and address of each  
11 purchaser; the name of the carrier; the number of the car in  
12 which the purchases or shipments were shipped, if shipped by  
13 rail; or the name and owner of the boat, ship, barge, or vessel,  
14 if shipped by water; the owner and license number of the automo-  
15 bile or truck used in transporting the gasoline; the name and  
16 address of the owner of the ~~wagon or other~~ means of transporta-  
17 tion employed in the delivery of the gasoline so sold or distrib-  
18 uted within this state, and any other information pertaining to  
19 receipts, manufacture, use, distribution, or sales of gasoline as  
20 the department requires. In addition, the report shall state the  
21 total number of gallons of gasoline sold by the wholesale dis-  
22 tributor to all retail dealers during the preceding calendar  
23 month. Each wholesale distributor, at the time of filing a  
24 report, shall compute the amount of tax payable on account at the  
25 applicable rate of tax per gallon, and to pay to the department  
26 at the time of filing the report the full amount of the tax. In  
27 computing the tax, a deduction of 2% of the quantity of gasoline

1 received shall be deducted to allow for evaporation and loss. At  
2 the time of filing the report and paying the tax, the wholesale  
3 distributor shall submit satisfactory evidence to the department  
4 that the amount of tax represented by 1/3 of the deduction shall  
5 have been paid or credited to the registered retail dealers on  
6 quantities sold to them during the period covered by the report.  
7 ~~Within 1 year after the effective date of section 3b, the~~  
8 ~~department of treasury shall provide a report to the standing~~  
9 ~~committees of the house of representatives and the senate respon-~~  
10 ~~sible for tax legislation. The report shall detail the actual~~  
11 ~~amount of evaporation and loss of gasoline experienced by persons~~  
12 ~~taxed under this act.~~ In computing the tax all gasoline while in  
13 process of transfer from tank steamers at boat terminal transfers  
14 and while held in storage, pending wholesale bulk distribution by  
15 land transportation, or in tanks and equipment used in receiving  
16 and storing gasoline from interstate pipelines pending wholesale  
17 bulk reshipment, shall be exempt from the payment of the tax.  
18 Gasoline refined at a refinery in this state or gasoline stored  
19 at a boat terminal transfer in this state may be sold, shipped,  
20 or delivered to wholesale distributors who are holders of unre-  
21 voked wholesale distributors' licenses issued by the department  
22 as provided in this act without liability on the part of the  
23 seller for the tax imposed by this act but the purchasers shall  
24 be liable for the tax on the gasoline and shall for the purposes  
25 of this act be ~~deemed~~ CONSIDERED to be the wholesale distribu-  
26 tors of the gasoline so received.



1 (2) A wholesale distributor may claim a credit on the return  
2 required to be filed under subsection (1) for prepayments of tax  
3 made under section 6a of the general sales tax act, Act No. 167  
4 of the Public Acts of 1933, being section 205.56a of the Michigan  
5 Compiled Laws. Prepayments claimed on the return filed under  
6 subsection (1) shall be based on the difference in the prepay-  
7 ments made in the immediately preceding month and collections of  
8 prepaid tax received from sales or transfer and shall be for pre-  
9 payments made in the month in which the return is due.

10 ~~Prepayments claimed on the return due in January 1984 shall be~~  
11 ~~based, at the option of the taxpayer, on retail sales for~~  
12 ~~December 1983, or the number of gallons for which tax is due for~~  
13 ~~December 1983.~~ Amounts credited pursuant to this subsection  
14 shall not be deducted from amounts required to be credited to the  
15 Michigan transportation fund pursuant to section 18b. The dif-  
16 ference in actual prepayments shall be reconciled on the return  
17 filed pursuant to section 3b in accordance with procedures pre-  
18 scribed by the department. The department may establish proce-  
19 dures for the election of claims under this subsection and  
20 section 6a of the general sales tax act to avoid duplication of  
21 claims. This subsection shall take effect January 1, 1984.