



# SENATE BILL No. 1186

September 25, 1996, Introduced by Senator STILLE and referred to the Committee on Finance.

A bill to amend sections 8 and 22 of Act No. 150 of the Public Acts of 1927, entitled as amended

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

section 8 as amended by Act No. 225 of the Public Acts of 1992 and section 22 as amended by Act No. 52 of the Public Acts of 1995, being sections 207.108 and 207.122 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 8 and 22 of Act No. 150 of the Public  
2 Acts of 1927, section 8 as amended by Act No. 225 of the Public  
3 Acts of 1992 and section 22 as amended by Act No. 52 of the  
4 Public Acts of 1995, being sections 207.108 and 207.122 of the  
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 8. (1) For the purpose of determining the amount of  
7 the specific tax imposed by this act, every supplier shall, on or  
8 before the twentieth day of each month, except when the twentieth  
9 day of any month falls on a Saturday, Sunday, or legal holiday,  
10 then on the next regular business day, file with the department  
11 of treasury, on forms prescribed and furnished by the department,  
12 a verified statement, showing the number of gallons of gasoline  
13 or diesel motor fuel received, as shown by the terminal operator  
14 issued shipping paper or the customs declaration if entered into  
15 the United States, by the supplier in this state, or for export  
16 to this state, during the preceding calendar month; the date of  
17 purchase; the name of the manufacturer or person from whom pur-  
18 chased by the supplier; the date of receipt of the shipment of  
19 gasoline or diesel motor fuel; the terminal of origin; the state  
20 of destination of each shipment as represented to the supplier by  
21 the purchaser or the purchaser's agent, or if shipped on account  
22 of the supplier as shown in the supplier's records conforming  
23 with shipping papers in such form as the department may provide;  
24 the quantity of each of the purchases or shipments; the name and  
25 federal employer identification number of the carrier; the number  
26 of the car in which the purchases or shipments were shipped, if

1 shipped by rail, or the name and owner of the boat, ship, barge,  
2 or vessel, if shipped by water; the owner of the automobile or  
3 truck used in transporting the gasoline or diesel motor fuel  
4 within this state, when the gasoline or diesel motor fuel was  
5 purchased from the manufacturer; the quantity of gasoline or  
6 diesel motor fuel received by the supplier and sold tax exempt to  
7 each wholesale distributor and each other purchaser; and the  
8 exemption certificate number of each wholesale distributor to  
9 which the supplier sold tax exempt gasoline or diesel motor  
10 fuel. If the supplier manufactures or produces within this state  
11 the gasoline or diesel motor fuel in his, her, or its possession  
12 in the state, the report required shall in lieu of the foregoing  
13 information set forth the following: All gasoline or diesel  
14 motor fuel manufactured, stored, used, distributed, and sold  
15 within this state during the preceding calendar month, and date  
16 of each sale, use, or distribution; the quantity of each sale;  
17 the name and address of each purchaser; the name of the carrier;  
18 the number of the car in which the purchases or shipments were  
19 shipped, if shipped by rail; or the name and owner of the boat,  
20 ship, barge, or vessel, if shipped by water; the owner and  
21 license number of the automobile or truck used in transporting  
22 the gasoline or diesel motor fuel; the name and address of the  
23 owner of the means of transportation employed in the delivery of  
24 the gasoline or diesel motor fuel so sold or distributed within  
25 this state, and any other information pertaining to receipts,  
26 manufacture, use, distribution, or sales of gasoline or diesel  
27 motor fuel as the department requires. Each supplier, at the

1 time of filing a report, shall compute the amount of tax payable  
2 on gallons received by that supplier during the reporting period  
3 at the applicable rate of tax per gallon, and shall pay to the  
4 department at the time of filing the report the full amount of  
5 the tax. A supplier shall not claim a deduction from taxable  
6 gallons for gallons actually purchased by the customer notwith-  
7 standing that the supplier has issued a correction, credit, or  
8 rebilling to a customer adjusting tax liability. In computing  
9 the number of taxable gallons, each licensed supplier shall be  
10 entitled to a deduction equal to the number of gallons of taxable  
11 gasoline and diesel motor fuel sold other than gasoline sold to a  
12 retailer by the supplier as to which the amount of tax paid by  
13 the supplier has become uncollectible from a wholesale distribu-  
14 tor, a retail dealer, or an end consumer with whom the supplier  
15 has a sales or other contractual relationship. The department  
16 shall establish the evidence which a supplier must provide in  
17 support of the uncollectible account deduction. Such regulations  
18 shall not require that the supplier specifically identify each  
19 sale giving rise to the deduction for uncollectible accounts.  
20 However, such regulations shall provide that the deduction is  
21 supported by statistical evidence and is consistent with the tax  
22 treatment for bad debts per section 166 of the internal revenue  
23 code. ~~However, in the case of diesel motor fuel the amount of~~  
24 ~~tax payable shall be reduced by the amount of discount allowed~~  
25 ~~under section 22 for each gallon sold by the supplier.~~ A sup-  
26 plier who uses or sells combustible gas used in the generation of  
27 power for the propulsion of a motor vehicle, airplane, or

1 motorboat shall file the monthly return required by this  
2 section.

3 (2) The tax imposed by this act which is measured by gallons  
4 received by a supplier at the time of withdrawal from a terminal  
5 or imported from without the United States shall operate in the  
6 same manner as the tax imposed by section 4081 of the internal  
7 revenue code. In computing the tax all gasoline or diesel motor  
8 fuel while in process of transfer from tank steamers at boat ter-  
9 minal transfers and while held in storage, pending wholesale bulk  
10 distribution by land transportation, or in tanks and equipment  
11 used in receiving and storing gasoline or diesel motor fuel from  
12 interstate pipelines pending wholesale bulk reshipment, shall be  
13 exempt from the payment of the tax.

14 (3) In computing the tax, a deduction of 2% of the quantity  
15 of gasoline received by the supplier shall be deducted by the  
16 supplier to allow for evaporation and loss. At the time of  
17 filing the report and paying the tax, the supplier shall submit  
18 satisfactory evidence to the department with respect to sales to  
19 wholesale distributors that the amount of tax represented by the  
20 deduction was paid or credited to the wholesale distributor that  
21 purchased the gasoline from the supplier. The amount of the  
22 deduction shall be paid or credited by each wholesale distributor  
23 to the purchaser at each subsequent sale to a wholesale  
24 distributor. When a wholesale distributor or supplier sells gas-  
25 oline to a retail dealer, the wholesale distributor or supplier  
26 shall pay or credit to the retail dealer the 1/3 of the deduction  
27 on quantities sold to that retail dealer.

1 (4) The supplier and the terminal operator shall be entitled  
2 to rely for all purposes of this act on the representation by the  
3 exporter or the exporter's agent as to the exporter's intended  
4 state of destination, and the exporter and his or her agent, not  
5 the supplier or terminal operator, shall be exclusively liable  
6 for any tax otherwise due to the state as a result of a diversion  
7 of the cargo from the represented destination state.

8 (5) The commissioner may require a taxpayer to remit taxes  
9 by electronic funds transfer if the taxpayer is subject to tax  
10 under this act.

11 Sec. 22. ~~(1) There shall be allowed a discount of 6 cents~~  
12 ~~per gallon of the tax imposed on diesel motor fuel pursuant to~~  
13 ~~section 2(1) if the diesel motor fuel is delivered into the fuel~~  
14 ~~supply tanks of a commercial motor vehicle licensed under the~~  
15 ~~motor carrier fuel tax act, Act No. 119 of the Public Acts of~~  
16 ~~1980, being sections 207.211 to 207.235 of the Michigan Compiled~~  
17 ~~Laws.~~

18 (1) ~~(2) The tax on diesel motor fuel sold and delivered in~~  
19 ~~this state by the retailer into the fuel supply tanks of motor~~  
20 ~~vehicles shall be collected by the supplier and paid over monthly~~  
21 ~~to the department. except that the retail dealer shall pay over~~  
22 ~~monthly to the department 6 cents of the tax imposed under~~  
23 ~~section 2 for each gallon sold for delivery into or supplied into~~  
24 ~~the fuel supply tanks of a motor vehicle that is not a commercial~~  
25 ~~motor vehicle licensed under Act No. 119 of the Public Acts of~~  
26 ~~1980 and eligible for discount allowed under subsection (1).~~  
27 Each diesel motor fuel retailer shall invoice sales of diesel

1 motor fuel as prescribed by the department. Persons operating  
2 passenger vehicles of a capacity of 10 or more under a certifi-  
3 cate of public convenience and necessity issued by the Michigan  
4 public service commission, or under a municipal franchise,  
5 license, permit, agreement, or grant, respectively, and operating  
6 over regularly traveled routes expressly provided for in the cer-  
7 tificate of convenience and necessity, or municipal license,  
8 permit, agreement, or grant, shall be entitled to a refund of the  
9 tax paid in the manner provided in section 12. Refunds provided  
10 for under this section to a state certificated operator of an  
11 intercity motor bus, shall apply only to those gallons of diesel  
12 motor fuel producing mileage traveled by each intercity motor bus  
13 over regular routes or on charter trips or portions of charter  
14 trips within this state. The tax shall apply to diesel motor  
15 fuel delivered in this state into the storage of a user or  
16 acquired by a user in any manner.

17 (2) ~~(3)~~ An end use purchaser who has paid the tax on  
18 diesel motor fuel may claim a refund of the tax paid on diesel  
19 motor fuel used by the purchaser while operating a motor vehicle  
20 at a plant or jobsite while not on the public roads and highways  
21 of this state. The department may determine the formulae, meth-  
22 odology, and documentation necessary to implement this  
23 subsection.

24 (3) ~~(4)~~ A tax is not imposed under this act, nor shall a  
25 tax be collected, on diesel motor fuel used in motor vehicles  
26 owned by or leased and operated by a political subdivision of

1 this state, or motor vehicles owned and operated by this state or  
2 the federal government.

3       (4) ~~(5)~~ The purchaser of diesel motor fuel for use in  
4 school buses owned and operated by nonprofit private, parochial,  
5 or denominational schools, colleges, and universities and used in  
6 the transportation of students to and from school, and to and  
7 from school functions authorized by the administration of the  
8 eligible institution, shall be entitled to a refund of the tax  
9 paid in the manner provided in section 12. This subsection shall  
10 apply to purchases made after December 31, 1994 for which the  
11 documentation required by section 12 is furnished.

12       (5) ~~(6)~~ A tax is not imposed under this act, nor shall a  
13 tax be collected by a supplier of diesel motor fuel if the fuel  
14 is purchased by an end user for any of the following purposes or  
15 for resale to an end user for any of the following purposes:

- 16       (a) For off-highway use.  
17       (b) For use as a home heating oil.  
18       (c) For export in compliance with section 3.  
19       (d) For use as other than motor fuel.  
20       (e) For use in trains.