

# SENATE BILL No. 87

January 30, 2013, Introduced by Senator KAHN and referred to the Committee on Appropriations.

A bill to amend 2000 PA 403, entitled  
"Motor fuel tax act,"  
by amending sections 2, 3, 4, 5, 6, 8, 10, 14, 30, 32, 34, 39, 48,  
63, 94, 122, 130, 143, 151, 152, 161, and 163 (MCL 207.1002,  
207.1003, 207.1004, 207.1005, 207.1006, 207.1008, 207.1010,  
207.1014, 207.1030, 207.1032, 207.1034, 207.1039, 207.1048,  
207.1063, 207.1094, 207.1122, 207.1130, 207.1143, 207.1151,  
207.1152, 207.1161, and 207.1163), sections 2, 5, and 122 as  
amended by 2002 PA 668, sections 3, 4, and 39 as amended by 2006 PA  
277, section 8 as amended by 2006 PA 268, and sections 30 and 94 as  
amended by 2008 PA 26; and to repeal acts and parts of acts.

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

1           Sec. 2. As used in this act:

2           (a) "Alcohol" means fuel grade ethanol or a mixture of fuel  
3 grade ethanol and another product.

1 (B) "APPLICABLE PERCENTAGE" MEANS 10.6%.

2 (C) "AVERAGE WHOLESALE PRICE" MEANS THE STATEWIDE AVERAGE  
3 WHOLESALE PRICE AS DETERMINED BY THE DEPARTMENT BASED UPON A 12-  
4 MONTH ROLLING AVERAGE OF THE WHOLESALE PRICE. THE 12-MONTH ROLLING  
5 AVERAGE PERIOD ENDS ON THE LAST DAY OF THE MONTH THAT IS 3 MONTHS  
6 PRIOR TO THE MONTH IN WHICH THE RATE IS DETERMINED BY THE  
7 DEPARTMENT UNDER SECTION 8(1)(D).

8 (D) ~~(b)~~—"Blendstock" means and includes any petroleum product  
9 component of motor fuel, such as naphtha, reformate, or toluene; or  
10 any oxygenate that can be blended for use in a motor fuel.

11 (E) ~~(e)~~—"Blended motor fuel" means a mixture of motor fuel and  
12 another liquid, other than a de minimis amount of a product  
13 including, but not limited to, carburetor detergent or oxidation  
14 inhibitor, that can be used as motor fuel in a motor vehicle.

15 (F) ~~(d)~~—"Blender" means and includes any person who produces  
16 blended motor fuel outside of the bulk transfer/terminal system.

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

26 (H) ~~(f)~~—"Bulk end user" means a person who receives into the  
27 person's own storage facilities by transport truck or tank wagon

1 motor fuel for the person's own consumption.

2 (I) ~~(g)~~—"Bulk plant" means a motor fuel storage and  
3 distribution facility that is not a terminal and from which motor  
4 fuel may be withdrawn by a tank wagon, a transport truck, or a  
5 marine vessel.

6 (J) ~~(h)~~—"Bulk transfer" means a transfer of motor fuel from 1  
7 location to another by pipeline tender or marine delivery within  
8 the bulk transfer/terminal system, including, but not limited to,  
9 all of the following transfers:

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

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

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

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

18 (K) ~~(i)~~—"Bulk transfer/terminal system" means the motor fuel  
19 distribution system consisting of refineries, pipelines, marine  
20 vessels, and terminals. Motor fuel in a refinery, pipeline,  
21 terminal, or a marine vessel transporting motor fuel to a refinery  
22 or terminal is in the bulk transfer/terminal system. Motor fuel in  
23 a fuel storage facility including, but not limited to, a bulk plant  
24 that is not part of a refinery or terminal, in the fuel supply tank  
25 of any engine or motor vehicle, in a marine vessel transporting  
26 motor fuel to a fuel storage facility that is not in the bulk  
27 transfer/terminal system, or in any tank car, rail car, trailer,

1 truck, or other equipment suitable for ground transportation is not  
2 in the bulk transfer/terminal system.

3 (I) ~~(j)~~—"Carrier" means an operator of a pipeline or marine  
4 vessel engaged in the business of transporting motor fuel above the  
5 terminal rack.

6 (M) ~~(k)~~—"Commercial motor vehicle" means a motor vehicle  
7 licensed **AS A QUALIFIED COMMERCIAL MOTOR VEHICLE** under the motor  
8 carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, **OR A**  
9 **QUALIFIED COMMERCIAL MOTOR VEHICLE SUBJECT TO AN INTERNATIONAL FUEL**  
10 **TAX AGREEMENT UNDER SECTION 2A OF THE MOTOR CARRIER FUEL TAX ACT,**  
11 **1980 PA 119, MCL 207.212A.**

12 (N) ~~(l)~~—"Dead storage" is the amount of motor fuel that cannot  
13 be pumped out of a motor fuel storage tank because the motor fuel  
14 is below the mouth of the tank's draw pipe. The amount of motor  
15 fuel in dead storage is 200 gallons for a tank with a capacity of  
16 less than 10,000 gallons and 400 gallons for a tank with a capacity  
17 of 10,000 gallons or more.

18 (O) ~~(m)~~—"Denaturants" means ~~and includes~~ gasoline, natural  
19 gasoline, gasoline components, or toxic or noxious materials added  
20 to fuel grade ethanol to make it unsuitable for beverage use but  
21 not unsuitable for automotive use.

22 (P) ~~(n)~~—"Department" means the ~~bureau of revenue within the~~  
23 department of treasury or its designee.

24 (Q) ~~(o)~~—"Destination state" means ~~the~~ **A** state, Canadian  
25 province or territory, or foreign country to which motor fuel is  
26 directed for export.

27 (R) ~~(p)~~—"Diesel fuel" means any liquid other than gasoline

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

13 (S) ~~(q)~~ "Dyed diesel fuel" means diesel fuel that is dyed in  
14 accordance with internal revenue service rules or pursuant to any  
15 other internal revenue service requirements, including any  
16 invisible marker requirements.

17 (T) ~~(r)~~ "Eligible purchaser" means a person who has been  
18 authorized by the department under section 75 to make ~~the~~ AN  
19 election under section 74.

20 (U) ~~(s)~~ "Excluded liquid" means that term as defined in 26  
21 C.F.R. ~~CFR~~ 48.4081-1.

22 (V) ~~(t)~~ "Export" means to obtain motor fuel in this state for  
23 sale or other distribution outside of this state. Motor fuel  
24 delivered outside of this state by or for the seller constitutes an  
25 export by the seller and motor fuel delivered outside of this state  
26 by or for the purchaser constitutes an export by the purchaser.

27 (W) ~~(u)~~ "Exporter" means a person who exports motor fuel.

1           Sec. 3. As used in this act:

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

5           (b) "Fuel grade ethanol" means the American society for  
6 testing and materials standard in effect on ~~the effective date of~~  
7 ~~this act~~ **APRIL 1, 2001** as the D-4806 specification for denatured  
8 fuel grade ethanol for blending with gasoline.

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

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

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

25           (f) "Gasoline" means ~~and includes~~ gasoline, alcohol, gasohol,  
26 casing head or natural gasoline, benzol, benzine, naphtha, and any  
27 blendstock additive, or other product including methanol that is

1 sold for blending with gasoline or for use on the road other than  
2 products typically sold in containers of less than 5 gallons.  
3 Gasoline also includes a liquid prepared, advertised, offered for  
4 sale, sold for use as, or used in the generation of power for the  
5 propulsion of a motor vehicle, airplane, or marine vessel,  
6 including a product obtained by blending together any 1 or more  
7 products of petroleum, with or without another product, and  
8 regardless of the original character of the petroleum products  
9 blended, if the product obtained by the blending is capable of use  
10 in the generation of power for the propulsion of a motor vehicle,  
11 airplane, or marine vessel. The blending of all of the above named  
12 products, regardless of their name or characteristics, shall  
13 conclusively be presumed to have been done to produce motor fuel,  
14 unless the product obtained by the blending is entirely incapable  
15 of use as motor fuel. Gasoline also includes transmix. Gasoline  
16 does not include diesel fuel or leaded racing fuel. An additive or  
17 blendstock is presumed to be sold for blending unless a  
18 certification is obtained for federal purposes that the substance  
19 is for a use other than blending for gasoline.

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

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

26 (i) "Implement of husbandry" means ~~and includes~~ a farm  
27 tractor, a vehicle designed to be drawn or pulled by a farm tractor

1 or animal, a vehicle that directly harvests farm products, ~~and~~**OR** a  
2 vehicle that directly applies fertilizer, spray, or seeds to a farm  
3 field. Implement of husbandry does not include a motor vehicle  
4 licensed for use on the public roads or highways of this state.

5 (j) "Import" means to bring motor fuel into this state by  
6 motor vehicle, marine vessel, pipeline, or any other means.

7 ~~However, import~~**IMPORT** does not include bringing motor fuel into  
8 this state in the fuel supply tank of a motor vehicle if the motor  
9 fuel is used to power that motor vehicle. Motor fuel delivered into  
10 this state from outside of this state by or for the seller  
11 constitutes an import by the seller, and motor fuel delivered into  
12 this state from ~~out~~**OUTSIDE** of this state by or for the purchaser  
13 constitutes an import by the purchaser.

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

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

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

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

26 Sec. 4. As used in this act:

27 (a) "Kerosene" means all grades of kerosene, including, but



1 not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K,  
2 commonly known as K-1 kerosene and K-2 kerosene respectively,  
3 described in American society for testing and materials  
4 ~~specifications~~ **SPECIFICATION** D-3699, in effect on January 1, 1999,  
5 and kerosene-type jet fuel described in American society for  
6 testing and materials specification D-1655 and military  
7 specifications MIL-T-5624r and MIL-T-83133d (grades jp-5 and jp-8),  
8 and any successor internal revenue service rules or regulations, as  
9 the specification for kerosene and kerosene-type jet fuel. Kerosene  
10 does not include an excluded liquid.

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

14 (c) "Liquid" means any substance that is liquid in excess of  
15 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch  
16 absolute.

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

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

25 (i) An implement of husbandry.

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

27 (iii) Machinery designed principally for off-road use and not

1 licensed for on-road use.

2 (iv) A stationary engine.

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

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

11 (h) "Permissive supplier" means a person who ~~may~~ **IS** not be  
12 subject to the taxing jurisdiction of this state ~~but who does meet~~  
13 **AND MEETS** both of the following requirements:

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

19 (ii) Is registered under section 4101 of the internal revenue  
20 code, **26 USC 4101**, for transactions in motor fuel in the bulk  
21 transfer/terminal system.

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

1 government.

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

7 (k) "Public roads or highways" means ~~a road, street,~~ **ROADS,**  
8 **STREETS,** or ~~place~~ **PLACES** maintained by this state or a political  
9 subdivision of this state and generally open to use by the public  
10 as a matter of right for the purpose of vehicular travel,  
11 ~~notwithstanding that~~ **EVEN IF** they ~~may be~~ **ARE** temporarily closed or  
12 travel is restricted for the purpose of construction, maintenance,  
13 repair, or reconstruction.

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

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

20 (B) "RATE CEILING" MEANS A CENTS PER GALLON UPPER LIMIT ON THE  
21 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON MOTOR FUEL  
22 UNDER SECTION 8(1)(D). BEGINNING ON THE FIRST DAY OF THE SECOND  
23 CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT  
24 THAT ADDED THIS SUBDIVISION, RATE CEILING MEANS 50 CENTS.

25 (C) "RATE FLOOR" MEANS A CENTS PER GALLON LOWER LIMIT ON THE  
26 TAX RATE DETERMINED BY THE DEPARTMENT AND IMPOSED ON MOTOR FUEL  
27 UNDER SECTION 8(1)(D). BEGINNING ON THE FIRST DAY OF THE SECOND

1 CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT  
2 THAT ADDED THIS SUBDIVISION, RATE FLOOR MEANS 37 CENTS.

3 (D) ~~(b)~~—"Refiner" means a person who owns, operates, or  
4 otherwise controls a refinery within the United States.

5 (E) ~~(e)~~—"Refinery" means a facility used to produce motor fuel  
6 from crude oil, unfinished oils, natural gas liquids, or other  
7 hydrocarbons and from which motor fuel may be removed by pipeline,  
8 by marine vessel, or at a rack.

9 (F) ~~(d)~~—"Removal" or "removed" means a physical transfer **OF**  
10 **MOTOR FUEL** other than by evaporation, loss, or destruction ~~of motor~~  
11 ~~fuel~~ from a terminal, manufacturing plant, customs custody,  
12 pipeline, marine vessel, or refinery that stores motor fuel.

13 (G) ~~(e)~~—"Retail diesel dealer" means a person who sells or  
14 distributes diesel fuel to an end user in this state.

15 (H) ~~(f)~~—"Retail marine diesel dealer" means a person who sells  
16 or distributes diesel fuel to an end user in this state for use in  
17 boats or other marine vessels.

18 (I) ~~(g)~~—"Source state" means the state, Canadian province or  
19 territory, or foreign country from which motor fuel is imported.

20 (J) ~~(h)~~—"Stationary engine" means a ~~temporary~~ **TEMPORARILY** or  
21 permanently affixed engine designed and used to supply power  
22 primarily for agricultural or construction work. Stationary engine  
23 includes, but is not limited to, an engine powering irrigation  
24 equipment, generators, or earth-moving equipment.

25 (K) ~~(i)~~—"Supplier", in addition to subsection (2), means a  
26 person who meets all of the following requirements:

27 (i) Is subject to the general taxing jurisdiction of this

1 state.

2 (ii) Is registered under section 4101 of the internal revenue  
3 code, **26 USC 4101**, for transactions in motor fuel in the bulk  
4 transfer/terminal distribution system.

5 (iii) Is ~~any~~ **1 OR MORE** of the following:

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

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

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

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

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

26 Sec. 6. As used in this act:

27 (a) "Tank wagon" means a straight truck having 1 or more

1 compartments other than the fuel supply tank designed or used to  
2 carry motor fuel.

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

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

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

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

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

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

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

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

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

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

27 (i) "Two-party exchange" means a transaction in which motor

1 fuel is transferred from 1 licensed supplier or licensed permissive  
2 supplier to another licensed supplier or licensed permissive  
3 supplier where all of the following occur:

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

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

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

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

16 (K) "WHOLESALE PRICE" MEANS THE PRICE PER GALLON OF UNLEADED  
17 REGULAR GASOLINE CHARGED BY A LICENSED SUPPLIER TO A PURCHASER AT  
18 THE TIME OF REMOVAL FROM A TERMINAL ACROSS THE RACK, AS DETERMINED  
19 BY THE DEPARTMENT. WHOLESALE PRICE DOES NOT INCLUDE THE TAX IMPOSED  
20 BY THIS ACT, PREPAID SALES TAX UNDER SECTION 6A OF THE GENERAL  
21 SALES TAX ACT, 1933 PA 167, MCL 205.56A, FEDERAL EXCISE TAX UNDER  
22 SECTION 4081 OF THE INTERNAL REVENUE CODE, 26 USC 4081, ANY OTHER  
23 FEDERAL TAX UPON MOTOR FUEL, OR AN ENVIRONMENTAL PROTECTION  
24 REGULATORY FEE IMPOSED UNDER SECTION 21508 OF THE NATURAL RESOURCES  
25 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.21508.

26 (l) ~~(k)~~—"Wholesaler" means a person who acquires motor fuel  
27 from a supplier or from another wholesaler for subsequent sale and

1 distribution at wholesale by a fuel transportation vehicle, rail  
2 car, or other motor vehicle.

3       Sec. 8. (1) ~~Subject~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT**  
4 **AND SUBJECT** to the exemptions provided ~~for~~ in this act, tax is  
5 imposed on motor fuel imported into or sold, delivered, or used in  
6 this state at the following rates:

7       (a) Except as otherwise provided in ~~subdivision~~ **SUBDIVISIONS**

8 (c) **TO (E)**, 19 cents per gallon on gasoline.

9       (b) Except as otherwise provided in ~~subdivision (d)~~,  
10 **SUBDIVISIONS (C) TO (E)**, 15 cents per gallon on diesel fuel.

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

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

25       **(C) SUBJECT TO SUBDIVISION (D), BEGINNING ON THE EFFECTIVE**  
26 **DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION, 37 CENTS**  
27 **PER GALLON ON MOTOR FUEL.**



1 (D) SUBJECT TO SUBDIVISION (E), BEGINNING THE FIRST DAY OF THE  
2 SECOND CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE  
3 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, THE RATE PER GALLON ON  
4 MOTOR FUEL SHALL BE DETERMINED BY THE DEPARTMENT ON AN ANNUAL  
5 BASIS. THE RATE SHALL BE EQUAL TO THE PRODUCT OF THE AVERAGE  
6 WHOLESALE PRICE AND THE APPLICABLE PERCENTAGE, ROUNDED UP TO THE  
7 NEAREST 1/10 OF 1 CENT.

8 (E) THE RATE DETERMINED BY THE DEPARTMENT UNDER SUBDIVISION  
9 (D) SHALL NOT AT ANY TIME EXCEED THE RATE CEILING OR BE BELOW THE  
10 RATE FLOOR AND SHALL BE FURTHER LIMITED AS FOLLOWS:

11 (i) DURING THE PERIOD BEGINNING ON THE FIRST DAY OF THE FIRST  
12 CALENDAR QUARTER IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE  
13 AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH AND ENDING 12 MONTHS  
14 THEREAFTER, FOR THE YEAR DURING WHICH A RATE IS IN EFFECT, THE RATE  
15 SHALL NOT BE MORE THAN 1 CENT GREATER OR 1 CENT LOWER THAN THE RATE  
16 THAT IS IN EFFECT FOR THE YEAR IMMEDIATELY PRECEDING THE YEAR  
17 DURING WHICH THAT RATE IS IN EFFECT.

18 (ii) BEGINNING ON THE FIRST DAY OF THE CALENDAR QUARTER  
19 IMMEDIATELY FOLLOWING THE EXPIRATION OF THE 12-MONTH PERIOD  
20 DESCRIBED IN SUBPARAGRAPH (i) AND FOR EACH YEAR THEREAFTER, FOR THE  
21 YEAR DURING WHICH A RATE IS IN EFFECT, THE RATE SHALL NOT BE MORE  
22 THAN 1 CENT GREATER OR 1 CENT LOWER THAN THE RATE THAT IS IN EFFECT  
23 FOR THE YEAR BEGINNING 12 MONTHS PRIOR TO THE YEAR DURING WHICH  
24 THAT RATE IS IN EFFECT.

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

27 (3) The collection, payment, and remittance of the tax imposed

1 by this section shall be accomplished in the manner and at the time  
2 provided for in this act.

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

10 (5) It is the intent of this act:

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

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

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

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

23 (6) Bills of lading and invoices shall identify the blended  
24 product and the correct fuel product code. The motor fuel tax rate  
25 for each product shall be listed separately on each invoice.  
26 Licensees shall report the correct fuel product code for the  
27 blended product as required by the department. When fuel is blended

1 below the terminal rack, new bills of lading and invoices shall be  
 2 generated and submitted to the department upon request. All bills  
 3 of lading and invoices shall meet the requirements ~~provided~~ under  
 4 this act.

5 (7) Notwithstanding any other provision of this act, ~~all~~  
 6 ~~facilities~~ **A FACILITY** in this state that ~~produce~~ **PRODUCES** motor  
 7 fuel and ~~distribute~~ **DISTRIBUTES** the fuel from a rack for purposes  
 8 of this act ~~are~~ **IS** a terminal, ~~and~~ shall obtain a terminal operator  
 9 license, and shall comply with all terminal operator reporting  
 10 requirements under this act. ~~All~~ **A position holders** **HOLDER** in these  
 11 ~~facilities~~ **A FACILITY** shall be licensed as a supplier and shall  
 12 comply with all supplier requirements under this act.

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

22 ~~—— (a) The refund shall be claimed on a form prescribed by the~~  
 23 ~~department.~~

24 ~~—— (b) The refund shall apply only to:~~

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

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

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

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

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

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

19 ~~—— (10) Beginning on the effective date of the amendatory act~~  
20 ~~that added this subsection, the state treasurer shall annually~~  
21 ~~determine, for the 12-month period ending May 1 and for any~~  
22 ~~additional times that the treasurer may determine, the difference~~  
23 ~~between the amount of motor fuel tax collected and the amount of~~  
24 ~~motor fuel tax that would have been collected but for the~~  
25 ~~differential rates on gasoline pursuant to subsection (1)(c) and~~  
26 ~~biodiesel pursuant to subsection (1)(d). Subsection (1)(c) and (d)~~  
27 ~~is no longer effective the earlier of 10 years after the effective~~

~~1 date of the amendatory act that added this subsection or the first  
2 day of the first month that is not less than 90 days after the  
3 state treasurer certifies that the total cumulative rate  
4 differential from the effective date of this amendatory act is  
5 greater than \$2,500,000.00.~~

~~6 (11) The legislature shall annually appropriate to the  
7 Michigan transportation fund created in 1951 PA 51, MCL 247.651 to  
8 247.675, the amount determined as the rate differential certified  
9 by the state treasurer for the 12 month period ending on May 1 of  
10 the calendar year in which the fiscal year begins. Subsection  
11 (1)(c) and (d) shall not be effective beginning January of any  
12 fiscal year for which the appropriation required under this  
13 subsection has not been made by the first day of the fiscal year.~~

~~14 (12) As used in this section:~~

~~15 (a) "Biodiesel" means a fuel composed of mono alkyl esters of  
16 long chain fatty acids derived from vegetable oils or animal fats  
17 and, in accordance with standards specified by the American society  
18 for testing and materials, designated B100 and meeting the  
19 requirements of D 6751, as approved by the department of  
20 agriculture.~~

~~21 (b) "Ethanol" means denatured fuel ethanol that is suitable  
22 for use in a spark ignition engine when mixed with gasoline so long  
23 as the mixture meets the American society for testing and materials  
24 D-5798 specifications.~~

**25 (8) THE DEPARTMENT SHALL PUBLISH NOTICE OF THE APPLICABLE TAX  
26 RATE CALCULATED UNDER SUBSECTION (1) (D) NOT LATER THAN 30 DAYS  
27 BEFORE THE EFFECTIVE DATE OF THE RATE.**

1           (9) A DETERMINATION OF THE AVERAGE WHOLESALE PRICE, THE  
2 WHOLESALE PRICE, OR THE RATE UNDER SUBSECTION (1) (D) BY THE  
3 DEPARTMENT IS PRESUMED TO BE CORRECT AND WILL NOT BE SET ASIDE  
4 UNLESS AN ADMINISTRATIVE TRIBUNAL OR A COURT OF COMPETENT  
5 JURISDICTION FINDS THE DEPARTMENT'S DETERMINATION TO BE CLEARLY  
6 ERRONEOUS.

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

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

12         ~~—— (b) Previously taxed motor fuel held for sale that is in~~  
13 ~~excess of dead storage.~~

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

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

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

1 ~~—— (b) Deduct the number of gallons of motor fuel in dead~~  
2 ~~storage.~~

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

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

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

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

12 (1) SUBJECT TO SUBSECTION (2), BEGINNING ON THE FIRST DAY OF  
13 THE SECOND CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE  
14 AMENDATORY ACT THAT ADDED THIS SUBSECTION, IN ADDITION TO ANY OTHER  
15 TAX IMPOSED ON MOTOR FUEL UNDER THIS ACT, A SUPPLEMENTAL EXCISE TAX  
16 ON MOTOR FUEL IS IMPOSED.

17 (2) THE SUPPLEMENTAL EXCISE TAX IMPOSED UNDER SUBSECTION (1)  
18 SHALL ONLY BE IMPOSED AND COLLECTED BY THE DEPARTMENT IF THE TAX  
19 IMPOSED BY THE FEDERAL GOVERNMENT PURSUANT TO SECTION 4081 OF THE  
20 INTERNAL REVENUE CODE, 26 USC 4081, IS REDUCED OR DISCONTINUED IN  
21 WHOLE OR IN PART. THE RATE OF THE TAX IMPOSED UNDER SUBSECTION (1)  
22 IS EQUAL TO THE RATE OF TAX BY WHICH THE FEDERAL TAX IMPOSED ON  
23 GASOLINE IS REDUCED IN WHOLE OR IN PART. IF THE FEDERAL TAX IMPOSED  
24 ON GASOLINE IS DISCONTINUED, THE TAX IMPOSED UNDER SUBSECTION (1)  
25 IS LIMITED TO THE MOST RECENT RATE OF FEDERAL TAX IMPOSED UPON  
26 GASOLINE PRIOR TO DISCONTINUANCE OF THE FEDERAL TAX.

27 (3) THE SUPPLEMENTAL EXCISE TAX IMPOSED UNDER SUBSECTION (1)

1 SHALL BE IMPOSED NO LATER THAN THE EFFECTIVE DATE OF THE RATE  
2 DETERMINED UNDER SECTION 8(1)(D) THAT IMMEDIATELY FOLLOWS THE  
3 REDUCTION OR DISCONTINUANCE OF THE FEDERAL TAX, AND SHALL CONFORM  
4 TO THE NOTICE REQUIREMENTS IN SECTION 8(8).

5 (4) THE SUPPLEMENTAL EXCISE TAX IMPOSED UNDER SUBSECTION (1)  
6 IS SUBJECT TO ANY APPLICABLE EXEMPTIONS UNDER THIS ACT AND SHALL BE  
7 COLLECTED IN THE SAME MANNER AND METHOD AND AT THE SAME TIME AS THE  
8 TAX IMPOSED UNDER SECTION 8.

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

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

27 Sec. 30. (1) Motor fuel is exempt from the tax imposed by



1 section 8 and the tax shall not be collected by the supplier if the  
2 motor fuel:

3 (a) Is dyed diesel fuel or dyed kerosene.

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

9 (c) Is sold directly by the supplier to a nonprofit, private,  
10 parochial, or denominational school, college, or university and is  
11 used in a school bus owned and operated or leased and operated by  
12 the educational institution that is used in the transportation of  
13 students to and from the institution or to and from school  
14 functions authorized by the administration of the institution.

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

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

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

22 (ii) ~~(iii)~~—The motor fuel is sold by a supplier to another person  
23 for immediate export to a state for which the destination state  
24 fuel tax has been paid to the supplier who is licensed to remit tax  
25 to that destination state.

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

1 feedstock user.

2 (f) Is motor fuel that is sold for use in aircraft but only if  
3 the purchaser paid the tax imposed on that fuel under the  
4 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1  
5 to 259.208, and the purchaser is registered under section 94 if  
6 ~~required to be registered under that section~~ **REGISTRATION IS**  
7 **REQUIRED.**

8 (g) Is aviation fuel upon which tax is not due under section  
9 203 of the aeronautics code of the state of Michigan, 1945 PA 327,  
10 MCL 259.203, and the purchaser has certified in writing to the  
11 seller that the aviation fuel is being purchased solely for the  
12 purpose of formulating leaded racing fuel as that term is defined  
13 in section 4. Aviation fuel qualifying under this subsection shall  
14 be identified on shipping papers and invoices as "aviation fuel  
15 exempt for LRF".

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

21 (3) A person who uses motor fuel for a taxable purpose ~~where~~  
22 **ON WHICH** the tax imposed by this act was not collected shall pay ~~to~~  
23 ~~the department~~ the tax imposed by section 8 and any applicable  
24 penalties or interest **TO THE DEPARTMENT.** The payment shall be made  
25 on a form or in a format prescribed by the department.

26 Sec. 32. If a person pays the tax imposed by this act and uses  
27 the motor fuel for a nontaxable purpose as described in ~~sections 33~~

1 ~~to 47~~ **SECTION 34, 36, 37, 39, 40, 43, OR 44**, the person may seek a  
 2 refund of the tax. To obtain a refund, the person shall comply with  
 3 the requirements ~~set forth~~ in section 48.

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

14       Sec. 39. (1) ~~An end user~~ **A PERSON** may seek a refund for tax  
 15 paid under this act on motor fuel or leaded racing fuel **THAT THE**  
 16 **PERSON** used **OR CONSUMED** in an implement of husbandry or ~~otherwise~~  
 17 used **OR CONSUMED** for a nonhighway purpose, ~~not otherwise expressly~~  
 18 ~~exempted under this act.~~ **EXCEPT FOR USE OR CONSUMPTION IN A MOTOR**  
 19 **VEHICLE LICENSED OR REQUIRED TO BE LICENSED FOR USE ON THE PUBLIC**  
 20 **ROADS OR HIGHWAYS OF THIS STATE. THE DEPARTMENT MAY REQUEST**  
 21 **INFORMATION FROM THE PERSON SEEKING A REFUND UNDER THIS SECTION AS**  
 22 **REASONABLY NECESSARY TO ADMINISTER THIS SECTION.** However, a person  
 23 shall not seek and is not eligible for a refund for tax paid on  
 24 ~~gasoline or~~ leaded racing fuel **OR MOTOR FUEL** used in a snowmobile,  
 25 off-road vehicle, or vessel. ~~as defined in the natural resources~~  
 26 ~~and environmental protection act, 1994 PA 451, MCL 324.101 to~~  
 27 ~~324.90106.~~

1 (2) AS USED IN THIS SECTION:

2 (A) "OFF-ROAD VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION  
3 71101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,  
4 1994 PA 451, MCL 324.71101.

5 (B) "SNOWMOBILE" MEANS THAT TERM AS DEFINED IN SECTION 82101  
6 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA  
7 451, MCL 324.82101.

8 (C) "VESSEL" MEANS THAT TERM AS DEFINED IN SECTION 80104 OF  
9 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA  
10 451, MCL 324.80104.

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

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

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

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

19 (ii) The total amount of tax paid.

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

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

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

25 (c) Comply with any specific requirement described in ~~sections~~  
26 ~~32 to 47~~ **SECTION 34, 36, 37, 39, 40, 43, OR 44.**

27 (d) Sign the claim.

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

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

7 (3) The department may make any investigation it considers  
8 necessary before refunding tax paid under this act to a person. ~~but~~  
9 ~~in any case~~ **THE DEPARTMENT** may **ALSO** investigate a refund after the  
10 refund has been issued, ~~and within~~ **UP TO** 4 years ~~from~~ **AFTER** the  
11 date ~~of issuance of~~ **THE** refund **WAS ISSUED**.

12 (4) ~~In any case where a refund would be payable to a~~ **A**  
13 ~~licensee who files a report~~ **ENTITLED TO A REFUND** under this act ~~7~~  
14 ~~the licensee may claim a deduction on the report filed under~~  
15 section 70 in lieu of the refund. If a licensee claims a deduction  
16 on the report, the licensee shall attach the claim for refund form  
17 to the report.

18 (5) The department shall pay interest on a refund claim ~~in~~  
19 ~~accordance with the requirements of~~ **AS REQUIRED BY** section 30 of  
20 1941 PA 122, MCL 205.30.

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

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

27 (3) A licensee is not required to renew a license and a

1 license is valid unless and until it is suspended, canceled, or  
2 revoked for cause by the department, or discontinued by the  
3 licensee. However, the department may require a licensee to update  
4 the information required under section 53 **AT ANY TIME**.

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

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

14 (2) Motor fuel upon which the tax imposed under section 203 of  
15 the aeronautics code of the state of Michigan, 1945 PA 327, MCL  
16 259.203, has been paid shall be identified on the shipping paper or  
17 invoice as aviation fuel and shall be sold only for aviation  
18 purposes. A seller shall obtain from the purchaser a statement that  
19 the fuel will only be sold or used as aviation fuel.

20 (3) A person shall not sell, use, or label motor fuel that is  
21 exempt from tax under section 30(1)(f) or that has been identified  
22 on a shipping paper or invoice as aviation fuel for use other than  
23 as aviation fuel, except that a person may sell or use motor fuel  
24 identified on a shipping paper or invoice as "aviation fuel exempt  
25 for LRF" under this act for the sole purpose of producing leaded  
26 racing fuel as that term is defined in section 4.

27 (4) A person shall not sell, use, or label for aviation

1 purposes motor fuel identified on a shipping paper or invoice as  
2 diesel fuel.

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

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

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

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

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

15 (c) An implement of husbandry.

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

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

22 (ii) A municipal franchise.

23 (iii) A municipal license.

24 (iv) A municipal permit.

25 (v) A municipal agreement.

26 (vi) A municipal grant.

27 (3) An owner, operator, or driver of a vehicle who uses dyed

1 diesel fuel on the public roads or highways of this state is  
2 subject to a civil penalty of \$200.00 for each of the first 2  
3 violations within ~~a~~**THE SAME** 12-month period. For a third violation  
4 within ~~a~~**THE SAME** 12-month period, and for each subsequent  
5 violation thereafter, the person is subject to a civil penalty of  
6 \$5,000.00. An owner, operator, or driver of a motor vehicle who  
7 knowingly violates the prohibition against the sale or use of dyed  
8 diesel fuel upon the public roads or highways of this state is  
9 subject to a civil penalty equal to that imposed by section ~~6714~~  
10 **6715** of the internal revenue code, **26 USC 6715**.

11       Sec. 130. (1) As soon as possible, but not more than 5  
12 business days after seizure of a motor vehicle and its cargo under  
13 section 129, the person making the seizure shall deliver **AN**  
14 **INVENTORY STATEMENT OF THE MOTOR VEHICLE, MOTOR FUEL, OR OTHER**  
15 **PROPERTY SEIZED** personally or by registered mail to the last known  
16 address of the person from whom the seizure was made, if known. ~~7~~  
17 ~~an inventory statement of the motor vehicle, motor fuel, or other~~  
18 ~~property seized. A~~ **THE PERSON MAKING THE SEIZURE SHALL ALSO FILE A**  
19 copy of the inventory statement ~~shall also be filed~~ with the  
20 department.

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

26       (3) If the person from whom the seizure was made is not known,  
27 the person making the seizure shall cause a copy of the inventory



1 statement ~~, together with~~ **AND** the notice provided for in this  
2 section ~~, to be published~~ not less than 3 times in a newspaper of  
3 general circulation in the county where the seizure was made.

4 (4) Within 10 business days after the date of service of the  
5 inventory statement or, in the case of publication, within 10  
6 business days after the date of last publication, the person from  
7 whom the property was seized or any person claiming an interest in  
8 the property may ~~by registered mail, facsimile transmission, or~~  
9 ~~personal service~~ file with the department **BY REGISTERED MAIL,**  
10 **FACSIMILE TRANSMISSION, OR PERSONAL SERVICE** a demand for a hearing  
11 before the commissioner for a determination ~~as to~~ **OF** whether the  
12 property was lawfully subject to seizure and forfeiture. The person  
13 shall verify a request for hearing filed by facsimile transmission  
14 by also providing a copy of the original request for hearing **TO THE**  
15 **DEPARTMENT** by registered mail or personal service.

16 (5) The person ~~or persons are entitled to~~ **FILING A DEMAND FOR**  
17 **HEARING UNDER SUBSECTION (4) MAY** appear at a hearing before the  
18 department, ~~to be~~ represented by counsel, and ~~to~~ present testimony  
19 and argument.

20 (6) Upon receipt of a request for hearing, the department  
21 shall hold the hearing within 15 business days. The hearing is not  
22 a contested case proceeding and is not subject to the  
23 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
24 24.328.

25 (7) After the hearing, the department shall render its  
26 decision in writing within 10 business days after the hearing and,  
27 by order, shall either declare the seized property subject to

1 seizure and forfeiture, or declare the property returnable in whole  
2 or in part to the person entitled to possession.

3 (8) If, within 10 business days after the date of service of  
4 the inventory statement, the person from whom the property was  
5 seized or any person claiming an interest in the property does not  
6 file **A DEMAND FOR A HEARING** with the department, ~~a demand for a~~  
7 ~~hearing before the department,~~ the property seized ~~shall be~~  
8 ~~considered~~ **IS** forfeited to ~~the~~ **THIS** state by operation of law and  
9 may be disposed of by the department as provided in this section.

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

19 (10) If a person is aggrieved by the decision of the  
20 department, that person may appeal to the circuit court of the  
21 county where the seizure was made to obtain a judicial  
22 determination of the lawfulness of the seizure and forfeiture. The  
23 action shall be commenced within 20 days after notice of the  
24 department's determination is sent to ~~the~~ **ANY** person ~~or persons~~  
25 claiming an interest in the seized property. The court shall hear  
26 the action and determine the issues of fact and law involved in  
27 accordance with rules of practice and procedure as in other in rem

1 proceedings. If a judicial determination of the lawfulness of the  
2 seizure and forfeiture cannot be made before deterioration of any  
3 of the property seized, the court shall order the sale of the  
4 property with public notice as determined by the court and require  
5 the proceeds to be deposited with the court until the lawfulness of  
6 the seizure and forfeiture is finally adjudicated.

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

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

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

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

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

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

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

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

15 (ii) Delivery of liquefied petroleum gas into storage ~~—~~devoted  
16 exclusively to the storage of liquefied petroleum gas to be  
17 consumed in motor vehicles on the public roads or highways.

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

22 Sec. 152. (1) ~~A~~**EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (4)**,  
23 tax at a rate of 15 cents per gallon is imposed upon all liquefied  
24 petroleum gas used in this state. The tax shall be paid at the  
25 times and in the manner specified in this section. The tax on  
26 liquefied petroleum gas fuel sold or delivered either by placing  
27 into a permanently attached fuel supply tank on a motor vehicle, or

1 exchanging or replacing the fuel supply tank of a motor vehicle,  
2 shall be collected by the LPG dealer from the purchaser and paid  
3 ~~ever quarterly~~ to the department **QUARTERLY** as provided in this act.  
4 Liquefied petroleum gas fuel delivered in this state into the  
5 storage facility of any person when the exclusive purpose of the  
6 storage facility is for resale or use in a motor vehicle on the  
7 public roads or highways of this state, shall, upon delivery to **THE**  
8 storage facility, be subject to tax. An LPG dealer shall, upon  
9 delivery of the liquefied petroleum gas, collect and remit the tax  
10 to the department as provided in this act.

11 (2) A person shall not operate a motor vehicle on the public  
12 roads or highways of this state from the cargo containers of a  
13 truck, trailer, or semitrailer with liquefied petroleum gas in  
14 vapor or liquid form, except when the fuel in the liquid or vapor  
15 phase is withdrawn from the cargo container for use in motor  
16 vehicles through a permanently installed and approved metering  
17 device. The tax on liquefied petroleum gas withdrawn from a cargo  
18 container through a permanently installed and approved metering  
19 device shall ~~apply~~ **BE APPLIED** in accordance with measured gallons  
20 as reflected by meter reading, and shall be paid quarterly by the  
21 LPG dealer to the department as provided in this act.

22 (3) **SUBJECT TO SUBSECTION (4), BEGINNING ON THE FIRST DAY OF**  
23 **THE FIRST CALENDAR QUARTER FOLLOWING THE EFFECTIVE DATE OF THE**  
24 **AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE TAX DESCRIBED IN**  
25 **SUBSECTIONS (1) AND (2) SHALL BE IMPOSED AT A RATE EQUAL TO THE**  
26 **RATE PER GALLON FOR MOTOR FUEL UNDER SECTION 8(1)(C).**

27 (4) **BEGINNING ON THE FIRST DAY OF THE SECOND CALENDAR QUARTER**

1 FOLLOWING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
2 SUBSECTION, THE TAX DESCRIBED IN SUBSECTIONS (1) AND (2) SHALL BE  
3 IMPOSED AT A RATE EQUAL TO THE RATE PER GALLON FOR MOTOR FUEL  
4 ESTABLISHED UNDER SECTION 8(1)(D) AND SUBJECT TO THE APPLICABLE  
5 RATE CAP AND RATE FLOOR.

6 Sec. 161. In January of each year, there is appropriated from  
7 the proceeds of the tax levied by this act up to \$3,500,000.00,  
8 that shall be used to pay the principal, interest, and incidental  
9 costs for the outstanding bonds ~~—~~previously issued by the Mackinac  
10 bridge authority. The unexpended amount shall lapse to the Michigan  
11 transportation fund at the end of each fiscal year. Upon retirement  
12 of all outstanding bonds and any refunding bonds hereafter issued,  
13 this appropriation ~~shall cease~~ **CEASES**.

14 Sec. 163. The appropriations made in section 161 ~~shall be~~  
15 ~~considered as~~ **ARE** advances in aid of reducing the bonded  
16 indebtedness of the Mackinac bridge. ~~At such time as~~ **WHEN** all  
17 principal and interest for all outstanding bonds ~~—~~previously  
18 issued by the Mackinac bridge authority and, if the bonds are  
19 refunded in accordance with 1966 PA 13, MCL 254.361 to 254.372, all  
20 principal and interest on the refunding bonds has been paid, the  
21 authority responsible for setting tolls for the Mackinac bridge  
22 shall continue to charge tolls as ~~are~~ considered necessary by the  
23 authority to reimburse the Michigan transportation fund for all  
24 advances made pursuant to this act. ~~At such time as~~ **WHEN**  
25 reimbursement has been made for the sums advanced under this act  
26 and ~~these~~ sums advanced pursuant to section 7 of 1952 PA 214, MCL  
27 254.317, the Mackinac bridge shall ~~thereafter~~ be maintained and

1 operated as a free bridge.

2 Enacting section 1. Sections 33, 35, 38, 41, 42, 45, 47, and  
3 147 of the motor fuel tax act, 2000 PA 403, MCL 207.1033, 207.1035,  
4 207.1038, 207.1041, 207.1042, 207.1045, 207.1047, and 207.1147, are  
5 repealed.

6 Enacting section 2. This amendatory act takes effect on the  
7 first day of the first calendar quarter following the date of its  
8 enactment.

9 Enacting section 3. This amendatory act does not take effect  
10 unless all of the following bills of the 97th Legislature are  
11 enacted into law:

12 (a) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
13 01041'13).

14 (b) Senate Bill No. 88.

15