

Act No. 56
Public Acts of 1996
Approved by the Governor
February 25, 1996
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February 26, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Bodem

ENROLLED HOUSE BILL No. 5307

AN ACT to amend section 12 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," as amended by Act No. 225 of the Public Acts of 1992, being section 207.112 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 12 of Act No. 150 of the Public Acts of 1927, as amended by Act No. 225 of the Public Acts of 1992, being section 207.112 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 12. (1) The state government and the federal government using gasoline in a state or federally owned motor vehicle, and a political subdivision of the state using gasoline in a vehicle owned by or leased and operated by the political subdivision of the state, are exempt from the tax on gasoline levied by this act.

(2) The purchaser of gasoline used for a purpose other than the operation of a motor vehicle on the public roads, streets, and highways of this state, a person operating a passenger vehicle of a capacity of 5 or more under a municipal franchise, license, permit, agreement, or grant, respectively, a person operating a passenger vehicle for the transportation of school students under a certificate of authority issued by the state transportation department pursuant to section 5 of article II of the motor carrier act, Act No. 254 of the Public Acts of 1933, being section 476.5 of the Michigan Compiled Laws, and community action agencies as described in former title II of the economic opportunity act of 1964, Public Law 88-452, which are not a part or division of a political subdivision of this state shall be entitled to a refund of the tax on the gasoline. Community action agencies shall make the refund a state-contributed non-federal share to grants received by such community action agencies from the community services administration under former title II of the economic opportunity act of 1964, by filing a verified claim with the department upon forms prescribed and to be furnished by it, within 1 year after the date of purchase, as shown by the invoice. A claim mailed within the 1-year period, as evidenced by the postmark, when received by the department, shall be considered as filed within the required time. An amount equal to the tax levied pursuant to section 2 shall be refunded to each person operating a passenger vehicle of a capacity of 5 or more under a municipal franchise, license, permit, agreement, or grant, respectively, and operated over regularly traveled routes expressly provided for in the municipal licenses, permits, agreements, or grants and to each person operating a passenger vehicle for the transportation of school students under

a certificate of authority issued by the state transportation department. The retail dealer shall furnish the purchaser with an invoice, showing the amount of gasoline purchased, the date of purchase, and the amount of tax on the purchase, and the dealer shall at the request of the department immediately supply the department with a copy of an invoice issued by the dealer during a 1-year period preceding the request. A claim for a refund shall have attached to the claim the original invoice received by the purchaser and, when approved by the department, shall be paid out of the Michigan transportation fund upon the warrant of the state treasurer. A claim for a refund shall not be assignable without the prior written consent of the department. If the verified claim of the purchaser, in form and content as prescribed by the department, shall show or it shall otherwise appear that the amount of gasoline used by the purchaser for purposes on which the taxes under the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws, are deductible pursuant to section 4a(f) of Act No. 167 of the Public Acts of 1933, being section 205.54a of the Michigan Compiled Laws, is not the total amount included in the statement of the transferee under section 4a(f) of Act No. 167 of the Public Acts of 1933, the department shall deduct from the amount of the refund authorized by this section the rate of sales tax as is established in Act No. 167 of the Public Acts of 1933, applicable to the retail sales price paid by the transferee on that portion of the gasoline not used for purposes described in section 4a(f) of Act No. 167 of the Public Acts of 1933, and shall transfer the sales tax so deducted to the sales tax account of the department. The purchaser of gasoline used for the operation of a snowmobile as defined and regulated by part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws, shall not be entitled to a refund under this section.

(3) The department shall issue to each wholesale distributor who purchases gasoline or diesel motor fuel for an exempt purpose an exemption certificate upon the wholesale distributor filing a request for the certificate. The certificate shall be valid until the end of the calendar year in which the request was filed. On or before the twentieth day of the month following the close of the reporting period, the wholesale distributor shall file with the department on forms prescribed by the department, a report showing the number of gallons of gasoline and diesel motor fuel received from a supplier or purchased from a wholesale distributor for a tax exempt purpose and the number of gallons of gasoline and diesel motor fuel sold for a tax exempt purpose. The wholesale distributor shall maintain records of purchases and sales as prescribed by the department for a period of 4 years. Each wholesale distributor shall at time of filing the report required under this subsection pay to the department the amount of tax payable at the applicable rate per gallon on all gallons received tax exempt but not sold for tax exempt purposes during the reporting period. Any liability for tax on taxable gallons in excess of 15% of the amount of tax actually paid to a supplier shall be treated as an underpayment of tax due as of the earliest date during the 3-month period during which tax is due to the supplier and shall be subject to the interest and penalties prescribed in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws. At the time of the filing of the report required by this section, the wholesale distributor may file a claim for refund for taxes paid to a licensed supplier or the state on gasoline or diesel motor fuel sold during reporting period for tax exempt purposes.

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

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.